

LEGISLATIVE ASSEMBLY OF ALBERTA

Tuesday Evening, November 14, 1972

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

INTRODUCTION OF VISITORS

MR. BENOIT:

I would like to introduce to you and through you to members of the legislature, Mr. Speaker, members of the Council of the Municipal District of Foothills: Mr. Ed Poffenroth, the Reeve, and Councillors, Mr. & Mrs. Carl Christopherson, Mr. & Mrs. Dave Hunt, Mr. & Mrs. John Longson, Mr. & Mrs. Fred Ball, Mr. Alex Hartell, and one of the secretaries, Mr. Tom Motil. They are members of the Council of the Municipal District of Foothills, which spreads not only throughout most of my constituency but throughout part of that of the Minister of Highways and Transport. And I take pleasure in introducing them and ask them to rise to be recognized by the House.

MR. HYNDMAN:

Mr. Speaker, I move that you do now leave the Chair and the Assembly resolve itself into Committee of the Whole for consideration of certain bills on the Order Paper.

[The motion was carried without debate.]

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

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[Mr. Diachuk in the Chair.]

Bill No. 1, The Alberta Bill of Rights

MR. LOUGHEED:

Mr. Chairman, I thought that perhaps we could come directly to the amendment proposed by the hon. Member for Macleod who I am sure, as well as other hon. members, has spent some considerable time giving thought to it over the course of the weekend. As the hon. member put it in his remarks, it is a very personal situation; and I certainly consider that the amendment is of that nature. I have thought about the two sides with regard to the amendment, and I note that it is within the preamble. I note that the same provision is contained within The Canadian Bill of Rights, and I note that it is tied to the concept of a province which is founded upon principles that acknowledge the supremacy of God. I know also that hon. members consider it a very personal matter, and for that reason I am of the view that we should have a vote on the particular matter on a personal basis as each hon. member of the House may so desire. I personally intend to vote in favour of the amendment, but I recognize the views that are expressed by others in the House. These views have been expressed in the past and may be expressed in the course of discussion here.

MR. CHAIRMAN:

No further questions on the amendment. A question has been called on the amendment, and I will read it again. It was moved by the hon. Member for Macleod and seconded by the hon. Leader of the Opposition, that immediately after "upon principles" be inserted "that acknowledge the supremacy of God." All those in favour of the amendment, please rise.

MR. KING:

I am sorry, Mr. Chairman. I wanted to have it right in front of me before I spoke.

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MR. CHAIRMAN:

Fine.

MR. KING:

I will be very brief. I would just like to say that it is my intention to vote against the amendment, and in so doing I would like to make a few points for the consideration of the other hon. members of the House.

I would like to say that in my personal feeling this is not a matter of conscience. If it were, my vote would be different. Many of the hon. members are aware that my father, my grandfather, and seven of my aunts and uncles are ministers of the United Church of Canada. I have been paying that penalty for a long time. That isn't really extraneous, because I want people to appreciate completely that what I say is not on the basis of having been without any association whatsoever with the church. And it is not on the basis of any disenchantment with the church right now, the Christian church, because I continue to be active in it. But I am very much of the feeling that, as the hon. member for Drumheller said last week, our concern in any bill of rights must be not so much with the majority, by whose grace we are here, but with the minority, whether it is a group of people or an individual. I think that what is important for the members of the Legislature in their concern for both the major and the minor portions of the population is not the wellsprings from which we have our beliefs in our own individual conscience, but the fact that those beliefs about the nature of mankind are shared very widely.

Bill No. 1, in its preamble, makes some statements about those beliefs which are held in common, I think, by all members of the Legislative Assembly and, I suspect, by most people of the province. It is one thing to say that those beliefs are held in common, and it is another thing to say that we hold in common the same belief in the origins of those things. And this is what concerns me.

The Interpretation Act of the province says very explicitly that in those cases where a bill contains a preamble, the purpose of the preamble is to give greater clarity and greater understanding to the interpretation of the operative clauses of the bill. And my concern is not with this statement in the preamble, but with what it says about the interpretation of the operative clauses: "We guarantee to every citizen of the province freedom of religion, whether he is a Christian, a Jew, a Moslem, an Indian who worships Animus, a Hindu, a Buddhist or an atheist or an agnostic." And I am very concerned that we have, in the preamble, achieved the effect of restricting the generality of that freedom which we claim to be giving to every person, that is, freedom of religion, whether it involves a belief in God or whether or not it involves a denial of God.

I won't go on in any greater detail. A number of points were made on Friday. I wanted to make those points so that the hon. members will understand that I hold the Bill of Rights to be very important; and that is one of the reasons that, while I personally believe in the sense of the amendment that the hon. member has proposed, I am going to vote against its inclusion in the preamble.

MR. GHITTER:

Mr. Chairman, being one who will also be voting against the amendment, I would like to explain to the Legislative members my reasoning behind such a vote. And may I say to the hon. members, and more particularly the hon. member who made the amendment and the hon. Leader of the Opposition who seconded the amendment, that I recognize that this amendment was made in the highest degree of sincerity and conviction, Mr. Chairman, and was certainly indicative of their own personal, fundamental beliefs that our free and democratic society in the province of Alberta is based on principles that acknowledge the supremacy of God. In the comments I will be making, Mr. Chairman, I hope that I will not be misunderstood on the basis of my respect for the hon. members who have presented the amendment, because I know that to them and, I'm sure, to other members of this legislature that the amendment is a clear expression of a very deep belief and faith. And may I further say, Mr. Chairman, that I am not here tonight to argue in defence of the belief or non-belief of the atheist, or the many more agnostics that we seem to have in our Alberta society today. Nor am I here tonight, Mr. Speaker, to carry the flag of the Albertan who does not acknowledge the rich tradition of most Albertans who historically have acknowledged the supremacy of God. What I am here to say this evening, Mr. Chairman, is that I rise to my feet to support the right of any Albertan, be he an atheist, an agnostic, or whatever he personally wishes to be in his private domain, to have

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his own faith and his individual thoughts and This is the democratic tradition which I believe we speak about in this very important bill. This is the free society that we hold out so fundamentally in our expression of attitude as contained in the Alberta Bill of Rights.

I do not accept the concept, Mr. Chairman, that with Albertans in the past and today there was, and is, a recognition that our free and democratic society in Alberta is founded upon principles that acknowledge the supremacy of God only. And even if I did believe that, Mr. Chairman, I would not be so presumptuous as to place such a concept in the Bill of Rights.

During the weekend while I was considering the debate and the very important amendment, I was reminded of a trial that took place in Dayton, Tennessee during the month of July, 1925. An issue that gained so much attention at that time, and later, and today, was related to an anti-evolution law which made it a crime to teach evolution in public schools. The lawyer for the defence, in a rigorous defence, said a number of things, but the one thing that impressed me was when he stated, "The State of Tennessee, under an honest and fair interpretation of the constitution, has no more right to teach the Bible as the divine book than that the Koran is one, or the Book of Mormon or the book of Confucius or the Buddha or the essays of Emerson or any one of the ten thousand books to which human souls have gone for consolation and aid in their troubles. I know there are millions of people in the world who derive consolation in their times of trouble and solace in times of distress from the Bible. I would be pretty near the last one in the world to do anything to take it away. I feel just exactly the same towards every religious creed of every human being who lives. If anybody finds anything in this life that brings them consolation and health and happiness, I think they ought to have it. I haven't any fault to find with them at all. But the Bible is not one book; the Bible is made up of 66 books written over a period of 1,000 years, some of them very early and some of them comparatively late. It is a book primarily of religion of morals; it is not a book of science, never was, and never was meant to have been."

You might say, "What has this to do with the Bill of Rights?" Then let me explain. Section 1(c) of the Bill of Rights sets forth freedom of religion, a religion all of us, I know, feel deeply committed to. If the amendment to the preamble is accepted, which states that "the free and democratic society existing in Alberta is founded upon principles that acknowledge the supremacy of God," I submit that the implication of freedom of non-religion that was expressed by the hon. Premier at the earlier debate with respect to this third reading will no longer exist, or if it does exist, at least it will be in an area of grey. And I would suggest, on the basis that my learned friend behind me has stated, that any reading of the Interpretation Act that has been quoted by the hon. Member for Edmonton Highlands, Mr. King, would lead one to believe that there is a possibility that some judge, somewhere, under some set of circumstances, could come to the conclusion that when we talk of freedom of religion that we're only talking in terms of the right to have the freedom of religion but not the right not to have religion. I would suggest that the Interpretation Act clearly sets out that the preamble becomes part of the bill from the point of view of clarifying the intention of the Legislature, and it could well be construed and could develop that way. You could say that this is technical, you could say that this is not really a pragmatic approach to the Bill of Rights, but let me also bring to the hon. members' attention another section in the Interpretation Act which talks in terms of an oath. When one takes an oath it can immediately be construed as an affirmation so that everyone has the right to affirm as well as take an oath.

May I suggest, Mr. Chairman, that some legislature at a later time could merely come by and say, "Well, let's get rid of that definition of oath under The Interpretation Act." And then there wouldn't be a Bill of Rights to protect them, and for the person who wants to affirm and not to declare by way of oath. I would suggest that what we are doing here by the Bill of Rights today, Mr. Speaker, is setting a background; we are setting a statute that will be instructive to legislatures in the future, legislatures who will always, I hope, be cognizant of the rights and freedoms which are set out in The Bill of Rights. I would suggest that there is a question now, at least there is in my mind, as to whether or not a legislature looking upon the freedom of religion will have the same interpretation that they may have had before when we were talking in terms of the freedom of not to be religious, the freedom to be agnostic, or the freedom to be whatever one wishes to be in that particular sense.

I would also suggest, Mr. Speaker, that where the bill refers in the amendment to the fundamental principles of society in Alberta, we are not properly taking into consideration many people who came to Alberta under different circumstances, and are not here creating a tradition that is related

basically to the supremacy of God. Whether or not we realize it, over half of the people in the world are living under a totalitarian state where the children are denied the knowledge of the existence of God. And it may well be that many people who are here in Alberta today have come from this type of background. Then picture the people from China or from some of the South American countries or Russia who continually have been denied the feeling and the understanding of the supremacy of God, who are here but who have contributed so noticeably to our environment in the way that the hon. minister, in the multi-culturalism policy statement which was stated today, has so ably expressed.

It is not by mere coincidence that the Universal Declaration of Human Rights, which was passed in the General Assembly of the United Nations on December 10th, 1948, had no mention whatsoever in it with respect to the concept of divinity or the concept of the supremacy of God. The reason to me, at least, is that many, many people in this world have never known or never been trained in this particular area. Some of those people are in Alberta today, and some of those people are contributing richly to the society and the free democratic traditions that we hold so dear in Alberta today. Some of these people came here with the deeply founded principles of courage, of freedom, of overcoming suffering, and all the many other strong attributes that are so important in creating a strong society as we have in this province. The reason they are here, and the concepts and the fundamental foundations of why they are here, may be their belief in the supremacy of God, and indeed with many it is. But it may be something else, and when I read the amendment that is placed before us it seems to me that it sets apart one basic foundation when there may be others. I would submit that anyone who reads the Bill of Rights can see that it glistens with thoughts of Christianity, of Judaic approaches, of any religion one wishes to see, and it is there -- it is there within the Bill for everyone to see -- and it is my submission for the consideration of the legislature this evening, Mr. Speaker, that it is not necessary to place in the preamble an amendment which could be construed -- how little amount it could be construed is a matter for judges to determine -- as something which will abrogate the rights of individuals to be whatever they wish to be in their private domain.

I submit these considerations to the legislature this evening in the expression of a viewpoint that I think is important to all of us, and many will say that the act in no way takes away from the right of a person to be an agnostic or an atheist or whatever he wants to be. In my mind, as I read it, there is an element of doubt, and so long as there lingers the element of doubt I am afraid, with the greatest respect, I must vote against the amendment.

Section 1 in the bill states, "It is hereby recognized and declared that in Alberta there exist ... the following human rights," and then it goes on to enumerate these rights. As was pointed out by an hon. member the other day, this bill is not giving us the rights. This bill is stating that these rights may be practised without discrimination as far as that is humanly possible.

Consequently, when we look at the preamble of this bill, we have to recognize that the preamble is really the basis upon which the bill is built; but more than that, the basis upon which this nation was built and from which the freedoms spring. The recognition of a Supreme Being which was an important foundation in the Canadian nation and in the province of Alberta is simply being recognized, and it does not, in my view, in any way interfere with that right of freedom of religion. It is a recognition of a fact, that this nation was built upon a recognition of a Supreme Being; and that, I think, is a very important item. It doesn't take away from the rest of the bill. It doesn't deny anything that's in the rest of the bill from what's there now but it does provide example, it provides leadership, and it makes it abundantly clear to all and sundry that the government and the people of this province, generally speaking, recognize the importance of a Supreme Being.

We deplore many times, as is done in the Worth Report, the demoralizations and the other items that are mentioned in what Dr. Worth thought the world might be. Here is an example. Here is an opportunity for the legislature of Alberta to tell the world that we believe in this province in a Supreme Being and that does not deny the right to anyone under this bill or any other bill to not believe in religion or to not believe in the Supreme Being.

I plan to vote for this amendment because I think it is one of the foundation stones upon which this nation was built.

MR. KOZIAK:

I too plan to vote in favour of the amendment. I don't feel that the amendment should be approached on the basis that voting for it or voting against it is either an affirmation or a denial of the faith in or the existence of a

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Supreme Being. However, I notice that that reference is made in the federal Bill of Rights, and that the proposed amendment would copy exactly, with certain adaptations to the province, the same reference, and I feel that I must vote in favour of the amendment to make sure that there is no mistake that sometimes in the future there be some suggestion that God is a federal matter only.

I wonder if you would let me think out loud just for a second in this respect. I notice that we have in our bills, and we present these without question, immediately following the preamble, the statement, "Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows."

Now, ladies and gentlemen, Mr. Chairman, just as people coming to this country have brought with them diversities of religions, they have also brought with them diverse national origins and, Mr. Chairman, people from France, people from Germany, people from the Ukraine, people from countries all over this world, have come to Canada and have accepted that Her Majesty, through the form of government that we have, is the ruler in this land. The fact that they accept their common law rights, their constitutional rights, in that manner in no way changes their national origin, in no way changes their cultural identity, and in no way, I would think, upsets anybody.

In the same respect, Mr. Chairman, I would think that the Hindu or agnostic person of whatever religion, or no religion, who comes to this country should be concerned not with the beliefs of the majority of that country, that lead the people of that country to legislate in the form of the Bill of Rights, but that individual's concern should be that he in fact enjoys those rights.

Mr. Chairman, sometimes in the hurry to please everybody we must drop to a common denominator, and a common denominator where you have diversity, or at least this is an interpretation that can be given to this, is of course no religion. So that in order to satisfy people of all various religious beliefs we have no religion. Now, to my mind, Mr. Chairman, this is the reverse approach. In other words we are in effect going to the opposite end of the scale. Because of our diversity at this end we move all the way to no religion. I am not sure that that is the correct direction. And so, Mr. Chairman, as I have said I am thinking aloud on this; but having expressed by thoughts, my feeling is that I will be voting for the amendment.

MR. NOTLEY:

Mr. Chairman, I am going to make several comments but in conclusion I have a couple of questions that I would like to direct to either the hon. the Premier or the hon. the Attorney General, or perhaps both.

First of all, I must confess that when I heard the amendment I was inclined to favour it. The point has already been made that this is already acknowledged in The Canadian Bill of Rights. Mr. Taylor pointed out a moment ago in his discourse that simply putting in that we acknowledge the supremacy of God is in many ways recognizing what the majority of Albertans believe, and also the fact that the vast majority of the people who worked to found the society that we know in Alberta today did, and do, acknowledge the supremacy of God. And so if we are looking at this amendment in terms of setting the historical background, if you like, of the development of contemporary Alberta society, I don't think that any of us could quarrel with the insertion of the proposed amendment. But I must confess that I was rather concerned at hearing the views expressed by the two members who propose to vote against the amendment, in as much as they suggest that perhaps by inserting the amendment, we are going to be weakening the freedom not to have religion. I don't believe that we can talk about a democratic society in this province, if in any way, shape, or form, we weaken the right of Alberta citizens to believe in whatever religion they choose; or alternatively, if they choose not to believe, that too, is a fundamental right.

My question to both the hon. the Premier and to the hon. the Attorney General is to ask them if they could perhaps comment themselves on whether or not they feel that, The Interpretation Act being such as it is, the insertion of this amendment could possibly jeopardize the full play of freedom of religion or not to have religion in the province. And further to that, I am wondering perhaps if the Attorney General could advise the House whether or not there have been any cases, as a consequence of that particular clause in The Canadian Bill of Rights, which have weakened the right of Canadians not to have religion. I am wondering if this has come up in any of the case law that has developed since the passage of The Canadian Bill of Rights and whether there is any evidence then, which could perhaps give us cause for concern; because I think all the hon. members are totally in agreement that we would not want to undercut the important point in the bill, and that is that there should be freedom of

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religion in its fullest context. And that means, also, the freedom not to have religion.

MR. LEITCH:

Mr. Chairman, the question the hon. member raises is, of course, a legal one. It is a question of interpretation of words in a statute that I have earlier indicated in the House, as have others, is very difficult to express views on. I can specifically say that I am not aware of any authorities that have expressed the view that he expressed in his question. On the other hand, the arguments put forward by the hon. Member for Calgary Buffalo certainly have merit. I would certainly agree to this extent, at least, that if the amendment weren't made there is no risk of the result occurring that he has referred to. On the other hand, the fact that it is there does create some risk. But as to the extent of that risk, one person's opinion is as good as another's.

MR. NOTLEY:

I have a question to the Premier. Have you given any consideration to an amendment to Section 1(d), which could somehow, cover the point that worries us; the freedom to have religion or not to have religion?

MR. LOUGHEED:

Mr. Chairman, yes, we did. But we felt that the answer lay more in the explanation that the Attorney General has just given the committee; that although there is a risk about the matter raised by the hon. Member for Calgary Buffalo and the Member for Edmonton Highlands, it is our best judgment. Again, as the Attorney General expressed it, it is very difficult to make such an assessment. Our assessment is that that risk is not great.

DR. PAPROSKI:

Bill No. 1 to me, personally, and I'm sure for the citizens of Edmonton Kingsway, is a very important and major bill. There is no question or debate about that. I think that I am compelled, as a matter of fact I know I am compelled to say a few words about this particular item. This bill acknowledges the human worth. It certainly acknowledges and assures or increases the assurance of rights, including religious rights. By acknowledging and increasing the assurance of these religious rights, it also acknowledges the ethics of religion with these basic rights. It acknowledges the belief in the many religions or no religions. The key here, to me personally, and I'm sure that I speak for many citizens in Edmonton Kingsway -- not all of them -- is that this assurance is in the way of tolerance towards all religions or no religions. If we add the word 'God' here in this preamble -- and I can assure the hon. members here that I am as religious, if not more religious, than many members here; and it is not a matter of religious consciousness so I have no fear of speaking on this -- but I am concerned about the very things that the hon. Member for Calgary Buffalo has mentioned. There is the fostering of a degree, and only a degree, of misunderstanding, and possibly a degree of intolerance.

There is another point to be made here. We speak of the supremacy of God -- G-O-D. I understand this, and I am sure all members understand this very clearly. But there are some religions that do not accept the word 'God' and believe in the concept of a Supreme Being. This is my concern. I say it is a matter of degree. I don't think it need be here in this preamble, and I offer this for consideration.

MR. HENDERSON:

I listened closely to the remarks of the Member for Calgary Buffalo, and it seems to me that we are really pursuing a legalistic argument. That is the crux of the discussion. It isn't what one's personal convictions are on the question of religion. If I follow correctly the argument of the hon. Member for Calgary Buffalo, by putting this amendment in, it raises the question, does this weaken the right of an individual not to subscribe to some form of religion? The corollary of that, it seems to me, Mr. Chairman, speaking in a legalistic sense, is what the courts would do with the question. It seems to me completely inconceivable that a court would try to order somebody to subscribe to a religion: if one suggests that there is a right to interfere with it, then it would follow that the court would have the authority to order somebody to subscribe to it. This seems to me, Mr. Chairman, to be completely inconceivable. I just don't know how on earth any court in this land or in this province could make a member of this assembly believe in something that he

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didn't want to believe on a question such as this, simply by an order from the bench.

This is the way I interpret the argument about the amendment. While I appreciate the question that is raised about whether putting the words in the preamble interferes with the rights of freedom of religion, it is my conclusion -- and I have tried to follow the argument through to its logical conclusion -- that if we accept the fact that this may interfere with the right of the individual to profess no religion, then, talking in a legalistic sense, a court could attempt to order someone to subscribe to a religion. If this is what the legalistic argument is about, I can find no objection in my own mind, in a legalistic sense, to voting against the amendment. I would be particularly interested in hearing some further views on the subject. Maybe I misinterpreted the legal implications of the supposed conflict between the preamble and Section 1, but I find it difficult to pursue the hypothesis that has been presented to a logical and meaningful conclusion in terms of the law.

MR. BENOIT:

Thank you, Mr. Chairman. It may seem presumptuous on my part to say that I think I understand something of the nature of God in this regard. But I would like to express a personal opinion in connection with this bill. In all of my studies of Judaism and Christianity from the Bible and other sources, I have found no reason to believe that at any time in history of mankind has God taken away man's freedom of choice. Of all the things that we have done to deprive men of their rights and freedoms, my understanding of God is that He never has. By putting this in here, given this understanding of God's character, I don't think that we would in any way destroy any privileges or rights of anybody. What people believe about what happens, if we reject or accept God as supreme is one thing. But to suggest that a general belief in God would have anything to do with taking away freedom of men or the rights of men would, I believe, fall short of the true understanding of God. For that reason, I would not hesitate to acknowledge the supremacy of God, Who has always given men the right to make the choice that they want to make.

MR. BUCKWELL:

Mr. Chairman, having proposed the amendment I would like at this opportunity to thank the hon. Premier for the stand that he personally has made, and for the fact that possibly we will have a free vote on this subject. I realize that in bringing this amendment to the House, in no way, and I express this with all the conviction that I have, am I trying to force my ideals or my principles on anyone. And I feel that each one of us must answer to himself and to our people just where we stand on these matters.

Religion, of course, over the centuries has never been either logical or rational, but rather a state of mind or spirit. The opening three paragraphs in the Bill of Rights (and I subscribe whole-heartedly to the Bill of Rights) are to me the foundation upon which the hon. Premier and his government -- and I may be wrong or I may be misconstruing the Bill of Rights, but this is my version of it -- are going to build the government and the course of action for Albertans to follow in the future. In a sense then we are building. I am not a lawyer nor am I a judge, but you might take these three paragraphs and get a legal opinion on them from a learned judge and he might not agree with all or even part of what is there. But we as the Legislature are going to decide when this bill is passed, if it is passed, what we want within the Bill of Rights. So in a sense we are building for the future society. The bills that will pass through this legislature will be built on what is contained in this preamble.

I am not like the hon. Member for Calgary Buffalo or the hon. member, Mr. King. Mr. King, I can't speak in legalistic terms or use 35 or 40 cent words. I am just a farmer, and I am trying to express my own views as simply as I possibly can. That is the only way that I can do it. We are not going to get into legalistic jargon with a group of lawyers, saying that maybe that this is so, maybe it is not. Isn't it wonderful how we can rationalize everything when it comes to a legal point of view. We can even sort of put out of existence anything that we feel is either deep or near to the people.

I must say that I was rather amazed, in a sense, when the question was asked of the hon. Attorney General if anyone had ever been penalized because of this phrase within the Canadian Bill of Rights that he said he didn't think anyone had, but that there was a possibility. There has always been a possibility where the name of the Lord has come in down through the centuries. I respect the opinions of the hon. Member for Calgary Buffalo and the hon. Member for Edmonton Highlands. They don't feel like voting for it, and I

believe they have a right, as legislators, to state their case. I am glad they did.

I am going to go back, in closing, Mr. Chairman. As I say we are building. And this is the foundation on which I believe the hon. Premier wishes to build with his government as long as he stays in power. In this preamble is the foundation on which he is going to build a society, on this and the Canadian Bill of Rights. But the Alberta Bill of Rights we are dealing with in the legislature, is the foundation upon which he feels that a better Alberta can be built. Again, as I say, it is not logical and it is not rational, but I go back to a verse in Scripture which says, "Except the Lord build a house, they labour in vain to build."

MR. HINMAN:

Mr. Chairman, just a word while this goes on. I have appreciated a great deal the contributions made by those members who feel that to put in the amendment may in some way prescribe the bill. I think that if you are going to change it, you would have to add after, "freedom of religion," "freedom to have no religion." But I cannot see that the addition of the amendment in any way affects that particular part of it. I think historically the principles of democracy upon which this Bill of Rights is based arose in Mediaeval England where the word religion actually comes from, although it's Latin in origin. At that time, the supremacy of God was universally recognized. I don't remember having read of any agnostics at that time or of any people who had no belief in religion. All this says is that it is founded on the principles that acknowledge the supremacy of God, and those principles did. And it is on that that it is founded. So I submit that the amendment in no way implies that somebody must believe in God. But it must believe in the principles that arose in a society which did recognize the supremacy of God. If you look in the dictionary you find that over the years the term 'religion' has come to mean not only a faith in God as we interpret it, but, as it says in this dictionary, "A cause or principle or system of beliefs held with ardour." And there are atheists and agnostics who hold with ardour to their particular beliefs. I think all we need to do is to realize that the meaning of words changes over the years, and, given today's interpretation, there would be no doubt that one who finds a firm belief that there is no God or that there may not be a God, or who simply says, "I don't know, and I don't want anybody to try to persuade me," still has a religion. That is it. So I would think that we are in no danger at all of abrogating anybody's rights under this act by accepting the amendment.

MR. TAYLOR:

To advance the argument of the hon. Member for Edmonton-Strathcona just one step further. The hon. member referred to her Majesty enacting as follows. And the thought immediately occurred to me that when a person is crowned the King or Queen of England and the British Empire in a religious ceremony -- not just a religious ceremony, but a religious ceremony that pertains to one church -- that the ceremony guarantees to people throughout the British Empire, the greatest and strongest guarantee that there will be freedom of religion including the right to have no religion. Consequently, when this is enacted by Her Majesty, who herself was made Sovereign by the Grace of God, I think it strengthens the entire picture for everyone irrespective of what they believe with religion.

[The amendment was carried by a count of, 48 for and 17 against.]

MR. LOUGHEED:

Mr. Chairman, there were two other matters that were left over from discussion committee on Friday. One of the matters, relating to a question raised by the hon. Member for Wetaskiwin-Leduc, had to do with the fact that we've added the aspect of age into Bill No. 2 but not Bill No. 1. I think the argument was that we are going to perhaps have an notwithstanding clause from time to time. We thought a great deal about this over the course of the weekend and we feel that it's apt to have an age discrimination division within Bill No. 2. There are some very important and significant aspects involving employment with regard to Bill No. 1, in terms of the Legislature legislating in any way that would discriminate between people insofar as age is concerned. We feel that these are things that should come to us from time to time. In the extreme case, if it's necessary, fine, there should be a 'notwithstanding' clause. We, on the other hand, feel the notwithstanding clause would have to be rare to make the bill effective, and would have to be very, very valid. We think that future Legislatures will hold to the same view. We, on that basis, are inclined to the view that insofar as Bill No. 1 is concerned we can't see the need for the

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additional provision with regard to age. We recognize that there is a point that is made here, and it's one that we're going to have to be on our guard against in relationship to the future and in relationship to our review of the outstanding statutes that we mentioned earlier in the committee.

MR. HENDERSON:

Mr. Chairman, in all sincerity, I really question if putting the words into Bill No. 2 really deals with the basic question of discrimination so far as age is concerned. It isn't a matter of employment that is of basic concern to me, and I would use an example, primarily in relation to the elderly. In my view, on the one end of the problem we have the legislation dealing with The Age of Majority Act, which specifically states in the law now that an individual not yet 18 years of age is not considered an adult and is not able to enter into a legal contract. That is the one end of the argument, and I would hope that there be a 'notwithstanding' going into that bill. Now, I suggest to the hon. members of the House that on the other end of the argument we do have the question of discrimination regarding the elderly. I recall very specifically that ministers of health are trying to rationalize the problem of affording the elderly the opportunity of buying supplementary health care insurance - not medical services, but supplementary health insurance - over and above that which is available to them under the government legislation and medicare and hospitalization, and are trying to make this available at reasonable cost. And at that point in time we did not wish to see the government go directly into the business because of all the problems we had with trying to get that which we had already "bitten off," so to speak, digested and functioning. And we had been in the business. But we couldn't see from a practical standpoint of dealing with the problem in that manner.

You look very squarely at the issue, and it stands as a fact of life that people over 65 years of age in Alberta could buy supplemental health coverage insurance from Blue Cross only because all the other insurance companies discriminated against them. They would sell them a policy, but at a price that was way beyond the reach of the individual. This was done because most insurance companies that are in a group program want a large cross-section of society, young and old, rich and poor, good health and bad health, and so on, and statistically it all averages out. But the people who needed the service the most couldn't get it because they very clearly were discriminated against in the matter of purchasing insurance. I recall debating with myself at the time which way should we go. Should we put it in the insurance act as prohibition against discriminating against any citizen, on the right to insurance on the basis of age or occupation and so forth, and in fact bring about an equalization of insurance rates to everybody in the province regardless of age, occupation and so forth; or should we choose another means to bring the question of this form of insurance within reasonable grasp of the citizens involved? We chose, in the final analysis, to bring in the program of subsidizing the Blue Cross premiums. I just use this as one example. Very clearly, and in the field of insurance in particular, the elderly are discriminated against. In many cases they are the ones who need the services the most and they are the least able to have access to it because of discrimination based on age.

I point out, Mr. Chairman, that on the one end of the problem we have the question of minors, and I feel very strongly it would be an abdication of responsibility not to have a "notwithstanding" clause in that act. But I feel very strongly, just as strongly as a member of this legislature, that we have an equal responsibility to the people on the other end of the age bracket in seeing that they have reasonable protection under the law against discrimination.

I suggest, Mr. Chairman, that the government is simply not withstanding the desire to minimize the number of notwithstandings when it comes to the question of age. They are going to have to look at legislation to deal with the question of discrimination because of age. Simply leaving it to Bill No. 2, where the question of employment opportunities, one problem dealing with age, is dealt with, really does not do justice to it. And I come back to this: If we think that having an age of majority act, which restricts the rights at the one end, is justifiable, I'm at a loss to understand the reason for putting notwithstanding clauses in other statutes relating to age, in particular the elderly, when you're not interfering with the rights of an individual at all except to guarantee the fact that they aren't discriminated against. And this is the very purpose of the bill. So one either needs the question of age in the act, or one is going to have to go over the various statutes in many cases and put specific clauses in the act to deal with the question, like the question of insurance, for example. Instead of approaching it from the standpoint of the Bill of Human Rights, we will have to write into the act that they are not going to be discriminated against because of age.

While I appreciate the desire of the government not to have to put many notwithstandings in, I suggest that the question of age in this day and age, and discrimination in society because of it, simply cannot be conveniently avoided. I'm not suggesting that the government is trying to avoid it. But I think that it should be very clearly in Bill No. 1 as well as Bill No. 2, because it's either notwithstandings that have to go in, or its going to have to be some other language in some of the pieces of legislation that I can think of. I use insurance as one example. It is going to have to, in effect, quote something that paraphrases the Bill of Human Rights in saying that no one shall be discriminated against because of age insofar as having access to these services and facilities and so forth.

I, therefore, beg leave to move, Mr. Chairman, an amendment to Section (1).

Moved by myself, seconded by the hon. Gordon Taylor, that Section (1) be amended by striking out the words "religion or sex" where they appear in the first paragraph and inserting the words "religion, sex, or age."

MR. LOUGHEED:

Mr. Chairman, if I could speak to the amendment firstly. I think the concern that the hon. member raises is certainly one that has to be carefully considered. I tend to think, though, in terms of Bill No 1, that most of the concerns that he raises really are matters of government program and will be resolved by government program rather than by legislation. That's not to say that there may not be the rare case where we will have to find ourselves basing a notwithstanding clause within our legislative framework that deals with the matter regarding age.

I think that bringing age in also raises some other very attendant problems that will arise out of such an amendment, and I certainly wouldn't favour it and I'd appreciate it if the hon. the Attorney General might add to that.

MR. LEITCH:

Mr. Chairman, I think the problems that would be created in inserting age in the first clause of Bill No. 1 are much larger than the hon. members who proposed and seconded the motion may believe. I can quickly call to mind a great number of discriminatory legislation based on age. The hon. Member for Wetaskiwin-Leduc mentioned the age of majority and that is one. There are other statutes dealing with voting; there is school legislation which deals with who can and who cannot go to school. There is legislation dealing with the age of retirement. There are a number of those acts. There is legislation dealing with custody and rulings made by the courts dealing with custody. There is legislation dealing with juveniles: they are treated under the legislation in a different manner than other people. There is legislation covering the custody of property for juveniles. I can go on and on. There is a multitude of pieces of legislation within the province which do discriminate on the basis of age.

Now, with the amendment proposed by the hon. member, it would mean that we would have to insert in all of those pieces of legislation a clause saying, "Notwithstanding The Bill of Rights you shall not go to school until you are six" and so on. What that is going to is this simple: it is going to lead us to a whole lot of notwithstanding clauses. And I thought the hon. Premier's point was very, very valid. What we are trying to do here is pass a piece of legislation that will stand against all other legislation of the provincial government. Now we understand that at some time, because we are not sure exactly where this is going to go, there may be a piece of legislation about which we will say, "This is discriminatory, but it is such a worthwhile, necessary piece of legislation and so acceptable to the entire population of the province that we should pass it in spite of what is provided in The Bill of Rights"; and we then put in a notwithstanding clause. But in my submission, Mr. Chairman, that should be done very, very rarely. What is going to give strength to this bill is that only rarely will we ever pass a piece of legislation that says, "Notwithstanding the Bill of Rights, these shall be the rules." It is going to materially weaken this legislation if we are going to have to pass a multitude of amendments to legislation which we all think is valid and which we think is acceptable to all the people of the Province of Alberta, and insert in it a notwithstanding clause. The business of passing legislation 'notwithstanding the Bill of Rights' is going to become almost automatic and it is going to materially weaken the effect of the bill. Now as you can appreciate from the thick list I have run through discriminatory pieces of legislation based on age, which I think most members of this House would say are valid and things we have to have -- there is a retirement age for judges, there is a retirement age for people within the civil service, and so on, there is an age requirement for people to go to school, there is an age requirement for the public trustee

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taking over the assets of young people, and so on. All of us, I am sure, certainly the vast majority of the members of the House, would say, "Those are necessary and good pieces of legislation," and we would then have immediately to do a notwithstanding clause for them. And in my submission, Mr. Chairman, that would materially weaken the effect of this bill. And I think the cure is when we come to a piece of legislation dealing with age that we feel may be discriminatory, then we simply say in that piece of legislation, "This shall apply to everyone, regardless of age", and remove from that particular piece of legislation discrimination with respect to age. Rather than do it the reverse way, doing it in here and then passing all the notwithstanding clauses, I think it's a much better, much simpler way to simply deal with the particular piece of legislation. If we feel it should apply without discrimination as to age, say so in that particular bill.

MR. KOZIAK:

Mr. Chairman, this point is important enough that I feel that I could add to the comments made by the hon. the Attorney General. Just this spring we passed The Senior Citizens' Shelter Assistance Act, and if this amendment were to be passed my feeling would be that we would destroy that act unless we immediately brought in an amendment to The Senior Citizens' Shelter Assistance Act saying, "Notwithstanding The Bill of Rights, the senior citizens are entitled to this relief." The same goes, I think, again in the spring session, with the elimination of Medicare premiums for senior citizens. Would not the passage of this amendment destroy the elimination of Medicare premiums that was effectively taken care of in the spring session? The examples are innumerable, Mr. Chairman, and I feel that nothing but harm can be expected from such an amendment.

MR. TAYLOR:

Mr. Chairman, I'd like to say a few words in connection with, and in support of, the amendment made by the hon. Member for Wetaskiwin-Leduc. I think we have to remember first of all that this is The Alberta Bill of Rights, and anyone who wants to check what rights he has as a Canadian citizen residing in Alberta, I think would refer to The Alberta Bill of Rights. For that reason I think we should include all of the main rights where we do not want discrimination. In spite of the fact that it may mean a number of notwithstanding clauses in various pieces of legislation, I still think the important thing is that this is the compilation of the rights of Canadian citizens residing in Alberta.

The other point about passing a great number of notwithstanding clauses to various bills -- I can't see where this is particularly objectionable. If a bill is discriminating against the rights that are set out in this bill, then it should have that particular item. The government knew this when they brought the bill in, that this would have to be done. Because every bill we pass -- irrespective of what it does -- restricts or discriminates against somebody. That's why we pass laws, so that the majority will know what the law is, and then they try to comply. But there are always a few who won't comply. Can we say that that's discrimination? Certainly it is restricting the rights of people who think differently than what the majority thinks.

The other point that I'd like to mention -- I mentioned the matter of employment a few days ago -- is that every day we have men and women being discriminated against because they are 48 or 50 or 55, not because they can't do the job, not because they can't do it maybe better than other people, but because they won't be able to be there long enough to build up a pension. So they are discriminated against. There are a lot of men who are supporting families today, a lot of men who are 50 years of age or more who are supporting families, who can't get many jobs that they otherwise could get because the employer is discriminating on account of his age. I have had employers tell me, "We would very much like to hire so-and-so, but he can't build up a pension; he'll only be with us 15 years; we know he'll do a better job, but we want somebody who will be with us for 40 years so he can contribute to the pension fund." This sometimes is found right in government service. It's not unusual to see this attitude right in government service, municipal, provincial and federal.

There is another place where there is discrimination, too. The hon. Member for Wetaskiwin-Leduc mentioned insurance for those who are in the senior years of their lives. There is discrimination at the other end as well. Some of the worst discrimination in Canada today, Mr. Chairman, is against the young driver -- not the young driver who has had an accident or a conviction, but the young driver who has had no conviction and no accident and is still being discriminated against because of the statistics, and because he is under 25.

I've stated many times in this House that this is completely unfair to the young driver who wants to drive a vehicle, who is wanting to drive safely and carefully -- just as well as anybody 10 or 15 or 20 years older -- but who is many times denied that privilege because he can't put up \$400, \$500, or \$600 for insurance. This is discrimination of the worse kind, I think, against not the senior citizens, but the young people, the future citizens of this country. We are building up a lot of enmity among the young people today who can buy a car for \$300 or \$400 and then are asked to buy insurance for \$600 or \$700, not because their record is bad, but simply because they are under 25. This is completely unfair, and if it takes a Bill of Rights to stop that type of thing, I am all for it. If the person's record is bad, then that is a different thing entirely. He then is paying for his own mistakes. But the person who has had a good record, and no convictions, no accidents, certainly shouldn't be shoved in a blanket form with all the others.

Now when it comes to a number of the bills mentioned by the hon. the Attorney General, a number of the items mentioned were people who were under the age of majority and everyone expects that these people are under the control of their parents. This is part and parcel of our way of life in Canada. Now I suppose, in the world -- maybe less in Canada than some other countries -- but no one expects the six or eight or 12 year old youngster to have all the rights that are mentioned in the Bill of Rights. His parents have those rights but certainly it is not suggesting that a six year old can defy his parents with freedom of speech. He is under the control of his parents until he reaches the age of majority or until he leaves home and establishes himself. Really in those cases, I can see no reason to put "notwithstanding the Bill of Rights." I think that is to be accepted. I don't think the act is strengthened by putting in either sex or age.

MR. DRAIN:

I think probably that we are getting a little bit away from the concept of what is intended by the Alberta Bill of Rights. Basically, in my assessment, it fundamentally sets out safeguards in legislation. Pursuing the matter further then, if it then behooves the legislature to look at the question raised, it should be done in a more specific bill. I can think of discriminating against a truck driver for age, rightfully so, because everyone must realize that you peak out in total efficiency and therefore your efficiency deteriorates as you grow older. Hence, by saying that you should not hire a truck driver that is of a certain age, you give realization to the fact that you are protecting the rights of other people.

I can go on and on and quote many other instances, even in the matter of insurance, which the hon. Member for Drumheller dealt with very ably. Here again, you could then say that the medium risk driver, by accepting the premise that the younger and older driver should be given special consideration, then would in effect be discriminating against him, because he, in effect, would be paying for a risk that he has not properly encouraged. Therefore, I suggest to the hon. members it would be much better to deal with this particular area of age in Bill No. 2 or in other forms of legislation. My contention is, or my assessment of this particular piece of legislation as it is herein outlined is that it does not fit precisely in a manner that should deal specifically with age. For that reason I regret that I cannot support this amendment.

MR. HINMAN:

Mr. Chairman, I too had written a log of little sidelines on this particular bill. I had such things as education, state of mental capability, criminal record, financial status. I even had political affiliations. I think when I spoke about this in an earlier debate, I said that the right to discriminate is a very important freedom. I think those who framed this bill, and I know it had a lot of thinking by a lot of people, were really attempting to list a certain group of freedoms which could apply to everybody without fear of discrimination because of certain things. Now I think practically all our legislation in some way discriminates, but not because specifically of these things. Now if you add age in, then I submit that you probably have to add the state of mental or physical capability because you certainly abrogate the freedoms of these people. The more I think about it, the more I think that the clause is very well worded, that it specifies that which does exist without discrimination. I was going to fix this all up by adding some of these other things and putting in after 'without' the word 'justifiable', that there exists in Alberta justifiable discrimination. But then I thought how rich the lawyers would get arguing the word 'justifiable', and that went out the window.

I submit, Mr. Chairman, that the clause, as it is, is as studied and considered and complete as one dare make it without adding any such words as

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'age' and leave it open to abuses that would make a mockery of the idea that certain freedoms as they are listed here do exist. This doesn't say anything about the right to work, it simply says the right of the individual to liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law; the right of the individual to equality before the law and protection of the law, freedom of religion or no religion, freedom of speech, freedom of assembly and association, and the freedom of press -- those only. So I find myself unable to vote for the amendment.

MR. NOTLEY:

I certainly appreciate the administrative problems that would be created if we inserted this amendment and I also recognize, as we all do, that it would no doubt require that quite a number of notwithstanding clauses added to much of the legislation that is already on the statute books of the province. However, it seems to me, Mr. Chairman, that when you look at discrimination in this province, or for that matter in Canada -- I don't suppose that there is an area where people face more discrimination than in the areas of discrimination of age.

The hon. Member for Drumheller has pointed out the problems faced by younger people with insurance rates. We all know that insurance rates for younger drivers are scandalously high, not on the basis of their driving record, just pure and simply on the basis of discrimination because of age.

In terms of our senior citizens, the vast numbers of examples of discrimination based on age are just too numerous to recount or to enumerate at this time. It seems to me that we've got to recognize that perhaps, especially when we're talking about senior citizens, that we're gradually developing a more humane and civilized approach to our senior citizen. This has not been something that has developed quickly. It seems to me when you look over the history of our country senior citizens have been treated very shabbily. Slowly but surely we're groping our way toward a more civilized approach to treating the senior citizens who live in our midst. It seems to me that one of the reasons for inserting this amendment is that we pinpoint the importance of saying clearly and decisively to everyone that irrespective of age there are certain inalienable rights that exist in this society, and that we are saying that we are not going to put up with discrimination in our society any longer because of age. Now as I said when I began, recognize that this is going to cause the government to have to review the statute books for the province and no doubt there will have to be a number of 'notwithstanding' clauses inserted. I submit that the importance of underlining that age will no longer be a cause of discrimination in Alberta, is one that is good enough and strong enough that we should make the change and insert the amendment.

MR. HENDERSON:

Mr. Chairman, I would just like to say in conclusion, that as far as I'm concerned -- I appreciate the remarks that have been made by the Attorney-General. I guess it gets down to my mind which is more important as far as something being sacred, the question of eliminating discrimination where it unjustly exists, or the Bill of Rights. That's what I really interpret the statements as meaning, that the Bill of Rights is to be paramount relative to the problems of discrimination, eliminating the problems of discrimination that would be created by putting this clause in the bill. I don't for a minute underestimate the importance of the ramifications that have been dealt upon by the Attorney-General, but when we're talking about a Bill of Rights and living in a society where we have an increasingly larger numbers of our people who are falling into this category, right now, in recent years the big harp and appeal has been in the area of youth. Those youth represent a lot of elderly people who are going to live a lot longer than their parents did because of the better health services and standard of living they are going to enjoy than in many cases than their parents or their grandparents did. If I felt that if the matter was covered adequately in Bill Number 2 I could certainly rest a little easier on it. I look at Bill No. 2 and I have to suggest that it doesn't deal with the problems. Just looking through at a couple of clauses, if I may quote them. Page 2, "No person directly, indirectly alone or with another person" so on and so forth, "shall deny any person or class of person any accommodation, services or facility customarily available to the public . . ." that basically relates to public accommodation, "because of race, religious beliefs, colour, sex, ancestry, or place of origin that the person or class of persons . . ." and it says nothing about age. I feel quite frankly that there are many cases where young people who need accommodation can't get into places because they have children. I don't know how it relates to age, but it has something to do with age because usually somebody 65 or 70 years old doesn't have a bunch of small

children to worry about. But it discriminates, and there's no mention of age in that clause. It goes on here, the next one is a similar clause, to deny any person or class of persons the right to occupy as a tenant any commercial unit or self-contained dwelling that is advertised or otherwise in any way represented as being available for occupancy by a tenant and it's another second clause, because of race, religion, colour, sex or ancestry, and once again age is missing. I point out there are an unacceptable number of places in society in general where people are discriminated against unnecessarily because of age -- too many places. I suggest that if Bill No. 1 isn't the place to do it, obviously Bill No. 2 does not deal adequately with the problem. Therefore I suggest that although it would mean a large number of notwithstandings, I feel this is probably a small price to pay when it comes to eliminating some of the rank discrimination that now exists because of age. And of course there is discrimination in favour of certain things because of age. There is also discrimination against extending certain rights and prerogatives to people because of age. I am sure most of this the Assembly would support. But I suggest that the government's contention that the question of age is inadequately dealt with and the question of discrimination because of age is adequately dealt with in Bill No. 2 is not supported by a detailed examination of the bill. Bill No. 2 itself, although it deals with the question of age in one or two places but it basically only scratches the surface. I therefore suggest that if we are talking about eliminating discrimination, and there are a number of areas of discrimination that are completely unjustifiable, particularly pertaining to the elderly, that should be examined and if the Bill of Rights is one way of having them examined, I think the cause of social justice in total will be served.

MR. CHAIRMAN:

The question has been called, Section 1 as amended.

[The amendment was defeated by a count of 10 to 48.]

MR. CHAIRMAN:

We therefore have agreement with Section 1 now.

MR. LOUGHEED:

Mr. Chairman, I just would suggest because we are approaching the bill in this way that there was a third item that was outstanding, and we perhaps could deal with that third item. Then we could go over the bill starting with the first preamble, and move in the customary way. The last item was the item raised by the hon. Member for Spirit River-Fairview which had to do with the question of political beliefs, and also brought into play the issue that was raised with regard to the Ku Klux Klan, and organizations of that nature. I would like the hon. the Attorney General to respond to the question.

MR. LEITCH:

Thank you, Mr. Chairman. The presence of the Ku Klux Klan within Alberta puts the government, the legislature, and above all, the people of Alberta, to a difficult task. Mr. Chairman, I am confident that there isn't a member in this House who doesn't find the philosophy, the presence, and the activities of the Klan within Alberta thoroughly reprehensible. Undoubtedly the vast majority of the people of Alberta feel the same way. I said, Mr. Chairman, that the presence of the Klan puts us all to a difficult task because the question is, "Do we tolerate them, or do we endeavour to legislate them out of existence?" Mr. Chairman, I am not going to say very much on that aspect of the issue that has been raised because I was pleased to hear the hon. member who raised the matter say that he wasn't in favour of legislating them out of existence. I hope, Mr. Chairman, that all hon. members share in that view because I believe that the most reliable test of the freedom of the people and the quality of the society in which they live is their willingness to tolerate the unpleasant, the repugnant, and the reprehensible in thought, speech, and philosophy.

Mr. Chairman, if one can make the point in such a contradictory phraseology, I would say that the measure of the people's freedom is the extent to which they will tolerate the intolerable. When we are faced with something unpleasant and undesirable, such as the philosophy of the Klan, it's almost automatic and very understandable to say that we will legislate it out of existence. That, Mr. Chairman, is a very appropriate attitude when we are dealing with acts but I submit that it's not an appropriate attitude when we are dealing with philosophy or the freedom of speech. I think when we are in that area we are dealing with quite a different matter. Such legislation, that is legislation that endeavours to outlaw philosophy, to control the movement of

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people whose views we take violent objection to, really defeats the very purpose which it is intended to serve. It tends to strengthen rather than weaken the organization. It provides for it the excitement of being prohibitive. It tends to drive them underground where their activities are not exposed to the light of day and that again tends to strengthen rather than weaken them. I think of one example in North America. Our neighbours to the south some time ago outlawed the Communist Party. In Canada it wasn't outlawed. I think the feeling in Canada was as strongly opposed to the Communist Party as it was in the United States. I think that everyone will agree that that party in the United States has caused more difficulty, has greater strength, more vitality, than it has in Canada, and I suggest, Mr. Chairman, that a great deal of that difference can be traced to the fact that in one country they were outlawed and in another country they weren't.

In my submission, Mr. Chairman, rather than try to control this kind of activity by legislating it out of existence, we should leave it to the good sense, the decency, and the judgment of the people of Alberta, and I haven't the slightest doubt, Mr. Chairman, that that good sense, decency, and judgment will put the Klan out of existence much more quickly and much more effectively than we can do by legislation.

I do want to call to the hon. member's attention that we have a good deal of legislation that does control and prohibit the activities of the Klan which we have come to regard with such dislike and objection. For example, there's legislation in the Criminal Code prohibiting intimidation and threatening. There is legislation in the Code against burning. There is legislation also in the Code against unlawful assembly. There is legislation against wearing masks while committing an offence. There is legislation against anyone interfering with the lawful use of property. There are a number of other pieces of legislation that would control the actions of the Klan, that is, would deal with their acts as opposed to their philosophy or their speech.

There is one piece of legislation in the Criminal Code which in a sense comes close to controlling their speech or the dissemination of their philosophy and that is the provisions within Section 281 of the Criminal Code which deal with the dissemination of what's there defined as 'hate literature.'

The hon. member for Spirit River-Fairview as I followed his remarks said, "I agree that we shouldn't pass legislation in an effort to outlaw the Klan but we should not let them become incorporated," and, Mr. Chairman, I submit that that is not a valid or logical approach either. What it really amounts to is this, saying that we won't try to control their speech or their philosophy but we will do indirectly what we're not going to do directly. We will try to prevent them from doing the things that other groups within the province can do and incorporation under The Societies Act is merely one of those things. If you are going to accept that argument, you'd be driven logically to saying they shouldn't get licences, they shouldn't be able to register their property under The Land Titles Act, they shouldn't be able to register their property under the provisions of the Central Registry Office, they shouldn't be entitled to liquor licences, car licences, drivers licences. And then when we go down to the municipal government, which gets its legislative authority from the provincial government, we'd find business licences and boarding house licences, taxi drivers' licences. In fact, there's hardly an activity that you can carry on without getting a licence from some level of government, and there is really no logical distinction between prohibiting them from becoming registered under The Societies Act and becoming licenced in any of these other areas. What we would really be trying to do is say, "You do have the freedom to express your views no matter how repugnant they are but we are going to make it practically impossible for you to do so." In short, Mr. Chairman, we are then doing indirectly what we've said we won't do directly.

On the question of incorporation under The Societies Act it has been argued that you are really giving them a benefit, which is the benefit of limited liability and you shouldn't do that. But really, Mr. Speaker, that does not bear close examination, because incorporation does not affect personal liability. Any member of the organization who does a personal act that would impose liability on the organization also incurs the same personal liability. So incorporation never removes personal responsibility for your own acts. Whether you are acting as a member of a corporation or one of its officers, you remain personally liable. All it means is that the members of the association are not liable beyond, in the case of companies, the money they put up for their shares, or in the case of societies, the money they have put up for their assets. But really the personal liability, which is the thing we are interested in, remains there.

Now there is one area, Mr. Speaker, where I would suggest that the people such as the Klan, or organization such as the Klan, could be treated quite properly differently from other organizations whose objectives and philosophy we find acceptable, and that is in the case where they would make some use of the people of Alberta's assets, the assets controlled or administered by the government. For example, I am thinking of the lease of land. There I think it would be quite acceptable and appropriate for the government not to lease land or make available any other government property to associations of this nature, and that is so because I think the people of Alberta are quite justified in saying "We do not want our property being used by people whose philosophy we find so objectionable. I think there is a very sharp and important distinction between that situation and refusing them a licence or incorporation.

Just in resume, Mr. Speaker, I have so much confidence in the judgment of the people of Alberta that I do not think they need any help from this legislature, by way of legislation, in rejecting wholly the presence of the klan in this province.

MR. NOTLEY:

Mr. Chairman, first of all I agree with the hon. the Attorney General when he says that he doesn't think we need to worry about the people of Alberta embracing the philosophy of the Klan. This is clear, no doubt from the rather amazed response of Albertans when they learned that the Klan even existed. For several weeks, as members will recall, most of the major newspapers were deluged with letters stating in no uncertain terms what the people of Alberta thought about the objectives, the aims, and the purposes of the Klan.

So from the viewpoint of the long-term growth of the Klan, I rather suspect it is an academic question. I also agree with the proposition he puts forward, that the basic guarantee in our society is one of recognizing the need to tolerate groups that are advocating unpopular views. He makes the parallel between what we did in Canada and the course the United States adopted when they outlawed the Communist party of the United States. I feel that The McLaren Act, I believe it was, in the United States was a serious miscarriage of justice and an act which was really in conflict with the American Bill of Rights.

One of the most eloquent speeches ever given by the late John F. Kennedy, a speech made to the American University, said that we must make the world safe for diversity. I think that's certainly true, Mr. Chairman. We have to recognize that there are going to be different approaches to pretty fundamentally important questions, and that if we are to have a democratic society, we have to recognize that a certain degree of pluralism exists.

So the question of legislating the Klan out of existence is not really at issue here. The government is obviously not prepared to introduce it. I would not be prepared to support such a move, were it introduced, because I think it cuts clearly against common sense. It would build the Klan out of all proportion, but more important, it would set a precedent which would seriously jeopardize the freedoms of those groups in our society who may be taking unpopular positions now, positions which many people might find objectionable now, but positions which they have every right to advance, and positions which may command a good deal of logic. However, having recognized that point, that we should not legislate, the question then arises of whether or not we should bring groups such as the Klan under the umbrella of provincial legislation such as The Societies Act, or incorporating them through the Companies Branch. Here I find that I just can't quite follow the position advanced by the hon. the Attorney General. I should point out that all the members of this legislature are here representing three distinct groups, none of which are incorporated bodies. The political parties in the province, to my knowledge, are not incorporated under The Societies Act or any other act. And I really don't think that it has restricted the freedom of any of the three political parties represented in this legislature tonight. Therefore, stating that a requirement of incorporation under The Societies Act would be that the group meets the test of the Bill of Rights would not, it seems to me, stop that group from organizing activities, from holding functions, from trying to promote their cause, however objectionable the majority of us might feel that cause to be. They would, Mr. Chairman, be very much in the same position as the political parties. And while perhaps many Albertans find all three of the political parties rather objectionable, the fact of the matter is that we are not incorporated. I don't think that the three groups, or any of the political parties, have suffered adversely because of that.

AN HON. MEMBER:

You forgot the Liberals.

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MR. NOTLEY:

We forgot the Liberals. I'll add the Liberals out of kindness.

In any event, Mr. Chairman, the point that I'd like to leave with the government is that the importance of underlining the fundamental freedoms outlined in this Bill of Rights is such that it does not seem to me to be an unreasonable proposition that we say that any group that wants to come under the umbrella of laws which are secondary to this Bill of Rights must meet the test of the Bill of Rights. They still have the opportunity to function. They still, in almost every case, are going to have the opportunity of enjoying whatever lesser benefits exist, all the way from getting a licence to what have you. The hon. the Attorney General points out that the logical conclusion would be restrictions all the way down the road. I suggest that if we used merciless logic in assessing this Bill of Rights, Mr. Chairman, we would be deleting some very, very important facets. We've just got through passing, by a vote of 48 to 17, an amendment adding a very important clause. We acknowledge the supremacy of God. The member who moved that amendment quite correctly, I think pointed out that it wasn't really a matter of logic. It was a matter of faith and belief. It seems to me that, as a consequence, it is not unreasonable to say that those groups, which are to be incorporated in Alberta, should meet the test of the Bill of Rights. But I do not believe that we should go beyond that and legislate them out of existence. I, like the Attorney General, recognize that the common sense of the vast majority of Albertans will be such that their prudence and their reflectiveness will be our strongest and most stringent guard against any obnoxious minority groups going out of control. But I suggest that having said that we are passing a Bill of Rights, which is fundamentally important, let us make sure that we say to all the people of Alberta that the importance of this Bill of Rights is going to be underlined by asking those groups, "Would you like to come under the umbrella of provincial legislation to meet the test of this fundamentally important document?"

MR. LOUGHEED:

Mr. Chairman, I think that the hon. Member for Spirit River-Fairview has raised an important issue, and I think that we have heard a very good explanation from the Attorney General which I think is well received in terms of its approach to the people of Alberta on a philosophical basis and also in terms of logic; that we shouldn't be trying to stop indirectly what we are not prepared to do directly. Mr. Chairman, since we have dealt with the three items that were left outstanding over the weekend, I move that we revert to the more customary committee approach and deal with the bill starting with the first preamble, without having to vote again on the first preamble as amended.

[The motion was agreed to]

[The preamble and Section 1 were agreed to.]

Section 1

MR. CLARK:

With regard to the phrase "due process of law," not being a member of the legal profession, there are two questions, which I would like to ask the Attorney General arising out of some reading that I have done on the hearing of the House of Commons committee on the Canadian Bill of Rights. My two questions are, first of all, what alternatives to the term "due process of law" did the government consider? My understanding is that this term is rather coming off of the border with not that much, shall I say, legal opinion in Canada. That was the situation, at least, when the Canadian Bill of Rights was being discussed.

Secondly, has the Attorney General checked and can he indicate to the House whether the term "due process of law" has been an important ingredient in the success or the lack of success of the Canadian Bill of Rights and, in fact, there have been court cases where the outcome has hinged on this particular terminology?

MR. D. MILLER:

Mr. Chairman, I have been waiting for a place where I could express myself with respect to this Bill of Rights. On the point of the rights of the individual, I would like to say that the hon. Premier has straightened me out a little in my thinking. And I've enjoyed all the remarks of the debate thus far. I think it has been really educational. I think back on the other day, Friday, when we had such a go-around and everything was in such a tension. But when the hon. Minister of Health and Social Development got through, everything was just

as quiet and still as the waters. I told him so. But there was a thought, which I wanted to express with respect to discrimination against the individual, and I am somewhat familiar with it. It says here in Section 1(a), "enjoyment of property." Yet I am sure it discriminates if we are not allowed to be selective in renting our property. Let us say, for example, that you have several furnished apartments in the same building. If people do not conduct themselves in an orderly fashion they can drive all the others out besides ruining the suite. I would enjoy the property that I have to a greater degree if I didn't rent to anyone in that respect and I have heard numerous complaints about this. I am sure every hon. member knows what I am talking about. Some people abuse the fixtures to such an extent and party to no end until ordinary people who want to live a quiet life want to move out and you find yourself with an empty building. If the hon. Premier or the government would consider some 'whereases' or legislation in the future, and I am as sure as I live that it will come, perhaps that could be ironed to my satisfaction. I would just

I would just like to make another comment with respect to what the hon. Minister of the Environment said the other day; that the government of the nation does not give us freedom. Well, if it doesn't give us freedom, I am sure the country provides an environment for the individual to be free to choose; and after all, that's what it is all about. That's all freedom is about. It is my sincere conviction that the right of choice is what maintains freedom. It keeps us free and assures our continuing freedom. If we make wrong choices; if we make choices that are not good for us or for society, we limit our freedom by degrees and soon we may be behind bars. It is freedom in reason that make us men and keep us free. That is about all I want to say. Let us look at this thing as we go on with the idea of making the adjustments that are necessary to maintain freedom and allow the individual to enjoy his property.

MR. LOUGHEED:

I appreciate very much the remarks of the Member for Taber-Warner. I would just like to say that I really think the question of choice that he points out is really fundamental in starting off a free and democratic society; I mean the basic, real, key choice is the choice of the democratic process and is the very fact that you and I are here. I think that it is that basic overriding choice of the people that you call upon to represent you that comes within that first preamble that sets, I think, the tone for the Bill of Rights. I also appreciate the fact that you don't stop with the Bill of Rights. There is going to be the building process that has to continue to go on as the Member for Macleod mentioned. However, we didn't answer the question that the hon. Member for Olds-Didsbury raised about that difficult phrase, "due process of law." I think the Attorney General may want to respond to that.

MR. LEITCH:

Mr. Chairman, the first question was; what alternatives could we consider to the phrase 'due process'? There were, of course, a number of people who contributed to the Bill of Rights. I speak only for myself. I did not seriously consider any alternate phrases. Some that did come to my mind were natural justice and things of that nature, which are common phrases and are used by lawyers and which have a fairly well understood meaning. But I would think it would have been a mistake to depart from the 'due process' words. For one thing, they have been with us for a long time in those parts of the world that use the legal system based on English common law. They are the words used in the Canadian bill and again we want to be as consistent as we can, especially with the operative clauses.

As I said in some remarks I made earlier on this particular question, there are some areas where the Alberta bill does differ from the Canadian bill. But in that we have not included some things that are in the Canadian bill in the 'due process' clause.

The second part of the question was, as I remember; was I aware of any cases where they had relied on the 'due process' clause? I can't call any to mind at the moment. As I mentioned earlier, it is a little difficult to explain this accurately. I don't think there is a body of law that says, "this is due process." I think you can enact a statute describing how something is to be done, and as long as it is done in accordance with that statute, it's due process. But this does provide that, without the appropriate statute and without the granting authority, you cannot be deprived of your property and so on.

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MR. TAYLOR:

Mr. Chairman, I'd like to say a word or two in connection with Section 1 (b) -- the right of the individual to equality before the law. I suppose the Assembly could probably sit all evening and maybe several days citing cases where this has not been the case. I don't plan to cite many cases or any cases as such. But I feel very strongly that the right of the individual to equality before the law is far from being realized in our society in Canada today, or in Alberta today. We work on the theory that a man or a woman is innocent until proven guilty. Yet, time and time again, the very reverse takes place, and a man must prove that he is not guilty. This is the very reverse of what British justice sets out as an axiom. I suppose the most typical example of where there is not equality before the law is where a person is charged with a very serious offence, say murder, rape or something contrary to the Criminal Code. The prosecuting lawyers have all expenses paid for by the people. The defence must find that money somewhere else. If person charged is a poor man, he has little hope of carrying out investigations and research to prove that he is innocent.

Where the prosecuting lawyers set out under the axiom that a man is innocent until proven guilty, this may well work satisfactory. But in many cases, the very reverse is true, and it becomes necessary for the person to prove that he is innocent. I think probably one of the outstanding cases of this in Canada was the case in Ontario where a 14-year-old boy was convicted of rape and murder even though the answers to many questions were never given, simply because the father was a poor man and couldn't afford to carry out the research essential to provide these answers to the court. The jury heard one side at public expense, and as a result that young man, guilty or innocent, had to spend 14 or 15 years of his life in prison before being paroled. I have read one book and a number of articles by lawyers on that case. While there is no purpose in reviving that case except to make sure that it never happens again, I think the same thing is happening to a lesser degree in the courtrooms of this province and of this country. The defence lawyers just do not have the money or the wherewithal to carry out the necessary defence in order to prove that a man is innocent. When he's not proven innocent, he's assumed or presumed to be guilty.

I agree with the principle that it's better to let ten guilty men go free than to convict one wrongly. But this is not happening in many of our courts today. The very reverse is happening where a person is being required to prove that he is innocent and poor people just don't have the money to do it. I would like to know really of some way of finding out how many men and women are behind the bars in this province and in this country tonight, because they didn't have the money to prove that they were innocent. I have listened to cases in this province, and in other provinces -- not many, but some -- and the thought kept occurring to me, why does he have to prove that he is innocent? It should be the other way around. The prosecuting lawyer should prove that he is guilty, because otherwise the whole basis of our English jurisprudence breaks down. So I would suggest, Mr. Chairman, that if we are going to have the right of individual equality before the law the government has a tremendous opportunity of taking one big step now to make sure that defence lawyers in any serious case have the same opportunity as prosecuting lawyers to secure money to carry out studies, research, etc. in connection with that particular case.

MR. FRENCH:

Mr. Chairman, with respect to Section 1(b), "the right of the individual to equality before the law and the protection of the law," I would like to say that I certainly appreciate the assurance of the hon. Premier and the hon. the Attorney General last week, when they both indicated that the government is very cognizant of the need for legal aid in the province, the possibility of an increase in legal aid in the near future, and the possibility of a sharing agreement with the federal government. I would like to concur with the remarks made by the hon. Member for Drumheller in asking for an increase in legal aid. I think we must appreciate the fact that if we are sincere in our Bill 1, The Alberta Bill of Rights, we must be sincere in protecting the rights due a person irrespective of his financial resources, and in this essence we must increase our legal aid.

I well remember that in second reading of the bill I reminded the members of the Legislature of the program in Manitoba, and I believe it is important enough to repeat it again tonight. Manitoba, in its budget this year, is providing \$1,300,000 in legal aid. Alberta provides \$900,000. Manitoba has a population of just about one million. In other words, the per capita in Manitoba is about \$1.30, and making a corresponding assessment in Alberta it would indicate that our legal aid should be somewhere in the neighborhood of \$2 million. I would hope that as the government is now preparing its budget for

next year, irrespective of whether or not they are able to obtain a sharing agreement with the federal government that very serious consideration be given to increasing our legal aid in Alberta to a sum in the neighborhood of \$2 million. We would then be able to say to the people in the province, "We believe in The Alberta Bill of Rights. We are prepared to provide the individual with the right to equality before the law, and the production of the law." In other words, we are not only saying we believe in The Alberta Bill of Rights; we are telling the people in this province that we are going to make The Alberta Bill of Rights available to the people of the province, because I certainly hope that we never want to have two classes of citizens in Alberta -- those that have, and those that do not have. The trend today seems to be that the rich seem to be getting richer, and the poor seem to be getting poorer, and as these two lines go in opposite directions I think, so far as the protection of the law is concerned, it is our responsibility to see that we have one class of citizen and that we have equality for all. I trust that the government will give due consideration to the approach that I am making in this very important subject.

MR. HENDERSON:

I wonder if the hon. the Attorney General who has been responding to the comments would add to his consideration his interpretation of the implications of this clause, particularly as it relates to settlements before the Courts involving personal injuries in automobile insurance claims. This is one area in which, I'm sure the hon. the Attorney General is more aware than I of some of the difficulties and inequities that occur.

It is my understanding that a study carried out some time ago by Osgoode Hall in Ontario came up with some very convincing statistics and information which showed that when it came to damage claims before the court, particularly relating to personal injuries, the awards that were forthcoming from the court were generally in keeping with the financial capability of the individual that contested the case in court. It quoted a number of instances where individuals with a comparatively, I won't say frivolous, but in a comparative sense they weren't that serious personal injuries, come out of it with some fantastic court settlements whereas individuals who may have lost a limb or an arm or an eye or something like this, or have been almost completely disabled, because of the inequality before the law in effect received essentially no compensation.

In this regard, I think we all realize time is on the side of the insurance companies when it comes to settling these matters. It's in effect your money that they are holding back as a leverage to force the individual to come to their terms in a more expeditious manner, and the individual is often inclined to settle for less than what might be justified, simply because if he doesn't, the insurance company drags it out and out and out and out over a period of several years. It is certainly my understanding, as I recall the report that indicate it very clearly, that redress before the courts in this area certainly very strongly favoured the individual who had the financial resources to pursue the matter to its end, and conversely those who didn't suffered a considerable injustice.

Now, out of this has come the no-fault insurance program which to some extent has minimized it, but at least assured that the individual, regardless of inequality before the law, obtained some reasonable amount of redress. I'd like to know, in the hon. the Attorney General's view, what the practical implications are of this clause in these matters, and I guess we are really talking about civil implications.

MR. LEITCH:

Mr. Chairman, there are a number of questions to deal with. I'll deal with the last one first.

I don't feel that the phrase 'equality before the law' in the bill would have any bearing on the matters the hon. member just raised. Also, I would caution everyone about taking the Ontario experience in comparing the damage awards in Ontario because they use a jury system there much more than we do in Alberta. It's very rarely used in Alberta, for example, and you can get a much wider variation and damage awards before a jury, which would be upheld by a court of appeal because they were made by a jury. I don't think the proposition the hon. member put is true to any appreciable degree in Alberta although you can certainly pick cases and say, this has been dealt with a little differently than some other case; but that really flows from the nature of damage claims and the difficulty of assessing them. There are no two of them the same. They take into account things that are very difficult to assess. Each of us would make a

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little different assessment than the person making the award. So the comparison is very difficult to make on an accurate basis.

I have not found either, and this I can comment on from considerable experience, that there was any appreciable difference in way it was handled as a result of the financial standing of the person taking the action. A much more important factor in determining settlement was the litigant's attitude toward being in court as opposed to their financial resources.

With respect to the legal aid question, again you have to be a little cautious in taking the figure for one province and comparing it with the figure in another province and comparing populations and say "we're not doing as well as that province. You have to look at the program. I can not give an accurate comparison tonight without again checking between the Alberta and Manitoba programs but I can, in a sense, with the Ontario program. The Alberta program is much, much more economically administered than the Ontario program. They spend a much, much higher percentage of their allotment for legal aid administration than we do in Alberta. In addition the most of the legal aid money goes out in fees and how much legal aid you are providing depends on what the profession is being paid. In Alberta we now have a scale under the legal aid plan that is substantially below what are the going rates for legal services. So without examining those things, you can't make a valid comparison between the amount of money that is provided in one province and the amount provided by another.

The point he made about increasing legal aid is, of course, valid. And certainly I would hope that it is increased. As I mentioned earlier when talking on the point, the federal government has now entered the field and there are discussions going on. I think would think it is likely to be increased as a result of their participation in the field.

The last point I would like to comment on is the remarks of the hon. member for Drumheller and I really did not follow him when he said the accused had to prove his innocence, because that clearly is not a part of our judicial system. The accused never has to prove his innocence except in certain cases where there is a presumption in law that is made against him. Possession of drugs, I think, is one and the sale of short-weight in retail products is another but apart from that we are talking about criminal law, where the accused is always presumed innocent until proven guilty. And it is not only proven guilty, but it is proven guilty beyond a reasonable doubt. That is a very, very heavy onus to carry. In addition, of course, the accused is not required to give any evidence as to whether he did or did not do it.

Just as a matter of interest I would think that of all the offences committed in the province, and I am now talking about all of the offences including those that are not reported such as the numerous shopliftings and so on that are never reported, I would think the percentage of convictions is very, very nominal, down in the one percent range, of the total offences committed. Even of those reported the solution rate, which is a term that law enforcement personnel use, not to mean that there has been a charge and conviction, but to mean that they are satisfied they know who did it, is as low as 20 percent. So, I think those factors might be important when considering the relative positions of the accused and the prosecution on any criminal proceedings.

Undoubtedly there are cases where the accused, because of his peculiar circumstances, should have some assistance in preparing his defence. But I should say too that there is an onus on the Crown Prosecutors not merely to bring forward evidence that points to guilt but they are also obligated to bring forth evidence that points to innocence. So it is not merely a one way thing for the Crown.

They carry the added burden of bringing forth favourable evidence. The reverse is not true, of course. The accused is under no obligation to bring forth evidence indicating his guilt.

He raises the point that if there is one person, regardless of the general principle, who is not able to make his defence because of lack of funds, our system isn't functioning properly. There may be areas in which we can improve that. The legal aid vehicle is one that provides for the lawyer, but there may be circumstances where we should go beyond that. My memory is that we do in the hiring of doctors and things of that nature. It may well be that in some circumstances we should enlarge that and provide systems through legal aid for other experts.

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MR. DIXON:

Mr. Chairman, the hon. the Attorney General has partly answered my question regarding legal aid. You mentioned in your talk, Mr. Attorney General, that we are not paying the going rates in Alberta. I've heard the odd person who felt that they sloughed off, in some cases, a student lawyer or someone that usually shouldn't be handling a serious case. Is this true, do you think, in this province, that because of the low fees that we are giving to our legal people we are not getting the type of lawyers that we would get ordinarily if we paid the higher fees?

I often think, too, when we talk about the rich versus the poor when they come before the law, I think most lawyers will agree that in some cases -- especially in civil cases -- sometimes it is an advantage that you are poor, because there is less opportunity for some person to be taking action against you because of the fact that he may not have a hope of getting anything from you even if the court finds that he has a claim against you. Matter of fact, I think it is the very opposite; it is the large corporations or the 'fat cats' as far as people are concerned who have to watch out for civil actions rather than the poor man. But basically, Mr. Attorney General, I wonder if you'd like to comment a little further on what you feel the type of service is that we are getting here in Alberta. This is vital to this bill, as far as legal aid is concerned.

MR. LEITCH:

Mr. Chairman, there are undoubtedly cases where the lawyer who is appointed under legal aid would not be as experienced as a lawyer who might be retained if the person had funds. Wherever that occurs, it should be cured. I think always the legal aid lawyer's training and ability should be fitted to the offense. I say that for this reason, that when people go to a law office, say for a minor theft charge, they never are defended, except in rare instances, by the senior counsel. That would be handled by one of the junior lawyers. Quite frequently, and I can take my own firm as an example, the junior lawyers were much more competent in that area than the senior lawyers because they were doing it and they were experienced at it. Those cases were defended by the lawyer whose training and experience fitted the offense. As you came up the scale to the more serious offenses, you would be inclined to retain the more experienced lawyer. That is true in legal aid. In fact, years back, before they had legal aid, they had a court-appointed system. The federal government did retain the lawyer. As a profession we became concerned because they were retaining lawyers on serious offenses who weren't equipped by training and experience to handle them. The profession, on its own, took some initiative in an effort to correct that. Under legal aid now there is a real effort made -- it may not always be successful, because a vast number of these cases are dealt with under legal aid -- but there is an effort made to ensure that a competent, experienced lawyer for that particular type of crime is assigned to the accused.

MR. TAYLOR:

Mr. Chairman, I'd like to mention one or two points. It appears to me that many times the attitude in the court is to get a conviction. I say all glory to the Crown attorney who acts in the way suggested by the hon. the Attorney General. Too often, the attitude is, "Let's get a conviction." That part is the part that I consider unfair. I would like to see the hon. the Attorney General make a careful study this coming year of cases where people who are charged are required to prove that they are innocent, otherwise they are found guilty by the court. I am hoping to make compilation of some cases too that I will certainly bring to his attention.

The only other point that I would like to mention, and it arises out of what the hon. Member for Calgary Millican said: I many times feel that it is most unfair when a court gives a fine or a jail term. The man that has the money then has the option of paying the fine and not going to jail, the poor man has to go to jail. I don't think that is equality before the law. I always shudder when I read about these things in the paper, where the judge said that the person would either have to pay a fine or go to jail. I would hope that this would be frowned on in this province. If a man is guilty, he is guilty whether he has a million dollars or whether he has 50 cents. It shouldn't make any difference in regard to that punishment and I think when we get to that point maybe it is Utopia but it is the objective towards which we should strive where all men really have equality before the law.

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MR. DRAIN:

The hon. Member for Drumheller touched on a remark that is very close to my heart and that is in relation to a sentence which does occur where a person has the option of a fine or a jail sentence and has not got the wherewithal to pay the fine. We find that the assessment of this is generally on the basis of one dollar, so one day of a person's life has to be given for one dollar because of the simple fact that he has not got the money. Certainly in the deliberations of the Attorney General's department there should be some consideration given to the realities of the present time because certainly these standards and judgments were set out in a time 20, 30, or 40 years ago when the penalties were probably in accord with the amount of money involved. But this is certainly not the case today and it is something which should be considered by the Attorney General's department.

MR. LEITCH:

Mr. Chairman, the hon. Member for Pincher Creek-Crowsnest raises a valid point. The problem is more with the legislature than it is with the courts. The legislature has indicated in a number of pieces of legislation that the fine shall be, say, \$100 or six months in jail, and the court is following what is indicated in the legislation. I think that this point is valid, that the change should be in the legislation, and I am sure that the legislature should indicate what jail sentence should be in lieu of the fine.

On the hon. Member for Drumheller's point, I think everyone who is involved in the judicial system is troubled by the inequities of sentencing. There are some we can cure, there are some we can't cure. For example, he has cited the very troublesome case of the person without money being sent to jail whereas the person with money pays the fine and doesn't go to jail. In part, that is being cured by the courts now giving time to the accused to pay the fine so that the person without money will get a reasonable period of time in view of his financial circumstances within which to raise it. If that is carried to the maximum we can cure that problem.

There are, of course, other inequalities which may not be curable. The kind of thing I am thinking about is the person who is, say, charged with a minor offence and because of the nature of his employment and where he lives and so on, he pays the fine and that is the end of it. Then you get other people, such as professional people, or business people, or persons with a position of trust or high office in the community with the same offence that may lead to their loss of employment, the penalty that they pay is all out of proportion to the fine. That is an inequality in the large sense of the word. It is one that I am not at all sure that there is any practical answer to. But they do exist and we recognize them and we would like to remove them wherever possible.

[Section 1(c) to 5 were agreed to without debate.]

MR. MOORE:

I just wanted to make one or two comments, Mr. Chairman, with regard to the discussion we have had about the bill. There has been a great deal of concern expressed with regard to the interpretation, and rightfully so, of many of the words in the bill as well as many clauses in the bill. It reminded me of some reading that I had done with regard to the various people who throughout the years had tried to place an interpretation on the British North America Act. And I observed that often those people were wondering what in fact the Fathers of Confederation were thinking, and what their debate was at the time they approved the words and meaning of that particular act.

In this legislature, as of last spring, we do have the written word in Hansard which clearly outlines the discussion that was carried on, the intent of the hon. the Premier and the hon. the Attorney General with respect to the meaning of the various sections of The Alberta Bill of Rights. Having said that, I think it would be recognized by most members here that down the road some 10, 20 or 30 years perhaps, judges, legal minds, the general public when asked to make a decision on the interpretation of this act, will be coming back to the discussion that took place in this legislative assembly with regard to the Bill of Rights in both Committee of the Whole and on second reading. Also having regard to the desire of many people within the province of Alberta to fully understand what is meant by this Bill of Rights, what is meant by the various subjects that have been raised by the members on both this side and the opposite side, I want to suggest, Mr. Chairman, to the Speaker, through the medium of the legislature here tonight, that he advise the Hansard office to reprint, if possible in full, all of the debate that took place on second reading and in the Committee of the Whole in a single booklet form, together

with a copy of the act as it has been amended and approved so that it might be available throughout the province of Alberta, to the many libraries that exist within the province; and that it may be reproduced by the Queen's Printer and be for sale to the general public, so that all Albertans might have a better understanding of the deliberations of the Legislative Assembly with regard to the Alberta Bill of Rights.

MR. LOUGHEED:

Mr. Chairman, I just wanted to say two brief words. First of all, I would like to support the suggestions made by the hon. member who has just spoken, Mr. Moore, in terms of the debate for the reason that I think members on both sides of the House, all members, deserve a great deal of credit for their recognition of the historic nature of this particular bill and also the care and attention which they have all taken in terms of the very important questions that have been raised here. There have been a lot of excellent points made. I think there have been many good thoughts expressed and I think that the reading of Hansard on this particular debate would be very significant for Alberta. The hon. Member for Macleod in his remarks today made reference to the preamble as being a basic foundation, and I think it is. I think it is equally important that the members on the other side recognized too, as the hon. Member for Edmonton Gold Bar pointed out, that there are basic rights within our society that have existed, that are part of the tradition of this province, and they, too, should feel a considerable amount of pride and credit in the fact that these traditions have fostered and grown in this province over the years of the administration under their responsibility. Leaving aside either side of the House, Mr. Chairman, I would like to say that I think it has been an excellent review during Committee of the Whole. I would like to make the odd final comment, as I'm sure other members might, on third reading, with regard to the significance of the bill. The only comment I'd like to make is that we've been dealing with specifics, we've been dealing with legal phraseology, we've been dealing with intention, we've been dealing with interpretation, but the heart of this bill is the spirit of the 75 members in this House.

[The title and the preamble were agreed to.]

MR. LOUGHEED:

Mr. Chairman, I move the bill be reported as amended.

[The motion was carried.]

DR. HORNER:

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

[The motion was carried.]

* * * * *

[Mr. Speaker resumed the Chair]

MR. DIACHUK:

Mr. Speaker, the Committee of the Whole Assembly has had under consideration Bill No. 1, and begs to report same with some amendments, 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.

DR. HORNER:

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

[The motion was carried]

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ALBERTA HANSARD

75-25

DR. HORNER:

Mr. Speaker, I move that we do now adjourn till tomorrow afternoon at 2:30 o'clock.

MR. SPEAKER:

heard the motion by the hon. Deputy Premier that the House adjourn till tomorrow afternoon at 2:30 o'clock, do you all agree?

HON. MEMBERS:

Agreed.

MR. SPEAKER:

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

[The House rose at 10:35 p.m.]

