

LEGISLATIVE ASSEMBLY OF ALBERTA

Thursday Evening, May 16, 1974

[Mr. Speaker resumed the Chair at 8:00 o'clock.]

MR. GETTY:

Mr. Speaker, I wonder if we could have leave of the House to revert to Tabling Returns and Reports.

HON. MEMBERS:

Agreed.

TABLING RETURNS AND REPORTS (CONT.)

MR. GETTY:

Mr. Speaker, inadvertently today we did not table the document from which the Premier read, and I'd like to table four copies now. Each of the members will receive a copy as well.

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

[Mr. Speaker left the Chair.]

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COMMITTEE OF THE WHOLE

[Mr. Diachuk in the Chair]

MR. CHAIRMAN:

The Committee of the Whole Assembly will come to order.

Bill No. 55 The Northeast Alberta Regional Commission Act

Section 8 (Cont.)

MR. CLARK:

Mr. Chairman, dealing specifically with The Improvement Districts Act, I would just like to ask the Minister of Municipal Affairs if he could give us one situation during the period of time he has been Minister of Municipal Affairs when he would have used Section 8 to throw out The Improvement Districts Act in light of his experience as minister in the last two and one-half years in the Port McMurray area?

MR. RUSSELL:

No, Mr. Chairman, I can't. I think we were just getting on to this topic last night. I indicated during my remarks at that time that I would hope Section 8 would have to be used very infrequently. However, in discussing the problem and the intent in the format of the act, I did discuss with Legislative Counsel the various situations which could possibly arise with respect to local elected boards or local advisory committees, or anything to do with local development of the kinds of programs this act is involved with. It was our idea to list these Acts. I know that some of the similar situations which have been named as precedents, The Northern Development Act or The Human Resources Development Authority Act, simply include the phrase "or any other act". We didn't want it to be that broad.

We've tried to list specifically the acts we think might be affected should such a case ever arise. I think the obvious ones which would probably be affected are The Municipal Government Act and The Planning Act. Those might be affected in two ways, Mr. Chairman. If you revert for a moment to Section 7 (1) (a), we did not want a local councillor if there was such a one, or a local school board trustee, to be disqualified from office for some legal technicality as a result of transferring his authority under Section 7(1) (a) under the terms of the act; or otherwise to lose his eligibility as a result of a reverse action under 7(1) (b). So really, the specific references there are as much a protection as anything to the other people who might be involved.

The other thing - and I started to talk about this last night - was The Planning Act, and there it's very easy to think of several situations or examples where, because of the urgency of time, it might be desirable for the commissioner to get an order in council that would have the effect of condensing time. I'm thinking of time periods that are stipulated with respect to receiving planning approvals, notice postings or that kind of thing, which might cause serious delay in any number of developments.

DR. BOUVIER:

Mr. Chairman, yesterday at just about the close of the afternoon the hon. minister in speaking brought up certain things and read a letter, I believe. He read from the Fort McMurray paper an argument in support of Bill No. 55. Of course, he didn't read all of the article from the Fort McMurray paper, so I thought I should also read part of the same article from which he quoted. And I quote:

In Fort McMurray, Jean Davidson, town board member, is violently opposed to the legislation. "It is the most vicious bill ever debated by legislature", is how Mrs. Davidson describes the government's intention to install a tar sands Commissioner.

MR. KING:

Would the hon. member permit a question?

DR. BOUVIER:

I haven't even started yet.

This is the same article the hon. minister quoted from yesterday.

MR. KING:

... [Inaudible] ...

DR. BOUVIER:

Wait until I'm finished and then you can ask your question if you still want to ask it.

There are other parts in that article. It talks about their MLA also being opposed to the bill.

Then, on the other hand, the hon. minister also read a letter from the Chamber of Commerce which stated that they had a special meeting - and I'd like to point out that it was a special meeting - and that they were unanimously in favour of Bill No. 55. Well, the minister didn't say whether this was a free letter that had been sent on their own or whether this had been solicited. Now, the minister can correct me if I'm wrong, but it is my understanding that the Premier personally phoned the Chamber of Commerce and asked for the endorsement.

SOME HON. MEMBERS:

Oh, oh. Shame, shame.

DR. BOUVIER:

I understand that at the same meeting the Chamber of Commerce wanted to qualify the endorsement by stating that at least two board members should be on the advisory committee, and that this was defeated by a vote of 15 to 12 - hardly an indication of unanimity.

MR. KING:

Mr. Chairman ...

DR. BOUVIER:

I've already stated that you can ask a question at the end. If it's a point of order ...

MR. KING:

It was a point of order.

Rather it was a point of privilege. A point of privilege is equally legitimate, Mr. Chairman. I have certain knowledge that the Premier did not phone anyone in Fort McMurray asking for an endorsement and, as a few nights ago, I would invite the hon. member to substantiate his remark or to withdraw it.

SOME HON. MEMBERS:

Agreed.

DR. BOUVIER:

I said it had come to my attention ...

[Interjections]

... or I had been told that this was the case. I also stated ...

MR. HENDERSON:

Did the Member for Edmonton Highlands make the phone call for the Premier?

MR. KING:

No, Mr. Chairman, I did not.

MR. HENDERSON:

How, then, does the member know that he didn't make the phone call?

MR. CHAIRMAN:

Order. Dr. Bouvier, please continue.

DR. BOUVIER:

I suppose the Member for Edmonton Highlands spends a lot of time with the Premier, because he seems to know whether he did or didn't make the phone call.

DR. BUCK:

Let's get the tapes.

[Laughter]

DR. BOUVIER:

Mr. Chairman, I invite the hon. minister, if this isn't correct, to clarify it. I understand that the letter was solicited and I further understand it was solicited by the Premier himself. That may not be right, and I didn't say it was. I didn't make a hard and fast statement that this was right, but I understand that it was solicited.

I also understand that it was not as unanimous as was indicated in the letter.

[Interjections]

From the reports that are coming out of Fort McMurray and from press questionnaires, it would appear that some of the people in Fort McMurray are split on Bill No. 55. Those who seem to be in favour appear to be those on some boards, some of the business people as represented by the Chamber of Commerce, but the ordinary person on the street would appear to be more opposed than in favour of the bill.

One has to wonder just why this is so. Are they perhaps afraid to oppose the legislation in view of the fact that they know they are going to have a 'super czar' in Fort McMurray in a very short time anyway, regardless of what happens?

Well, I think we have to give some consideration to this thought. I'd like to give just two examples why they might be a little concerned, especially the town board and others. You know, everybody knows, the town of Fort McMurray and the area are very dependent upon the government being there and are very dependent on the government for the development of Fort McMurray. There's no way they can do it on their own. Everybody realises this. They also don't seem to want to antagonize the government too badly.

Now, to give two indications where the government has allowed the people of Fort McMurray to make free decisions, I'd like to quote or bring to the attention of the members the decision to drop Area 5 and go to Areas 2, 4 and 6. This was a free decision by the town board which had already decided they were going to develop Area 5. But the minister said, you're free to do what you want. If you go into Area 5 you're on your own. If you go into Areas 2, 4 and 6, of course we will help you, there will be government involvement. Now this was a free decision.

Then at a meeting in June of 1973 - here I'm really quoting from memory because this was at least a year ago, and I'm sure if I'm wrong the minister will correct me - there was a letter under discussion from the Minister of Municipal Affairs suggesting that town planners from the department would no longer be in a position to carry on the planning of Fort McMurray, and that if the town of Fort McMurray hired Cohos and associates to do the planning the government would make available a grant to the town of Fort McMurray to pay for them. It didn't say any planner, so again they made a free decision and decided to go ahead with Cohos.

So, Mr. Chairman, I am not surprised the people of Fort McMurray are kind of reluctant to come out four-square against the bill, especially those in positions of responsibility.

Now, I understand in this section we are also dealing with the amendment proposed to Section 8(1) which says the Commissioner will not have the power to tax. But when you read Section 7(2) (a) (iii) which says "by his signature alone, execute any agreement or other document to be signed on behalf of the local authority," this to me does not include the commitment of the town board, school board or whatever board he is representing at that point, having taken the authority either voluntarily or by order of the Lieutenant Governor in Council. If he can execute any agreement, some of them are going to cost money. Therefore he doesn't have to have the power to tax in order to commit them to spending money. So actually Section 8(1), which came as a response to a point raised by one of our members on this side, to me does not really change anything. It's an eyewash and could be referred to as something much worse than that, Mr. Chairman.

However, I would like to make it quite clear that I support the amendment that we strike out Section 8. I don't really see its necessity. I still think the commissioner could act without having to get the laws of this province suspended or amended as the case may be. If the situation arises where he must have this authority then a special session of the Legislature could deal with it.

I can't think of a situation whereby the commissioner has to have the power this very minute.

MR. COOKSON:

What are you worried about?

DR. BOUVIER:

Why give somebody the power? No, Mr. Chairman, I can't see any reason for this Section 8 and I am opposed to it. Putting Section 8(1) in there doesn't mean a thing as far as I am concerned.

MR. NOTLEY:

Mr. Chairman, I have several questions. I am not going to get into the debate on whether or not the Premier made a call to the Fort McMurray Chamber of Commerce to solicit a motion or not, but I certainly was advised last night by one of the town board members that a motion at that particular meeting was put - as the Member for Lac La Biche-McMurray pointed out - that the motion of support be qualified to the extent that at least two members of the advisory board be appointed by the local town board. That was

defeated by a margin of 15 to 13, so I think there is some uncertainty in the Chamber of Commerce.

This morning I met with the executive board of the McMurray Independent Oilworkers Union and I found among the approximately 15 people attending that executive board meeting a great deal of concern. They had read the act, they had considered it carefully, and they are by no means convinced the sweeping powers which Bill No. 55 provides to the Executive Council and indirectly to the commissioner are necessary. I think all of us on this side of the House recognize that there is some division of opinion in Fort McMurray. I also think it would be completely misleading for anyone on the government side to try to suggest the people of that community are solidly behind the bill.

It is a mixed bag. People are uncertain. They are troubled about the powers and, Mr. Chairman, I think properly so, because this act provides far too much in the way of all-encompassing powers.

Mr. Chairman, the questions I would like to pose to the minister relate to the consultation, the steps taken to consult with the various levels of local government in the area, specifically the town board and, as well, the separate and the public school divisions. It is my understanding that the minister advised the town board there would be no change in their status as a result of this bill. But as one of the town board members pointed out to me last night, if that is true, fair ball, then why have Section 7(1)(b) in the act, which gives the Executive Council power to transfer from the town board or any other level of local government all the rights, privileges and powers of those levels of local government? So there is some concern over that question.

I would specifically like to ask the minister whether or not he, a member of the Tory caucus or someone from his department met with the levels of local government between the time this bill was given first reading - I'm not suggesting that he would discuss the formal contents of the bill before first reading was made - but between first reading and second reading? I think it is important to ascertain whether or not the government took any specific steps in that period to formally gain some feedback from the local levels of government as to their views.

MR. RUSSELL:

Mr. Chairman, just to respond to that, my recollection is that as soon as the bill was tabled in the House - I believe the mail strike was on at the time - I arranged through a GCOS courier to have information kits delivered through the chairman of the board to all board members. Those kits contained what I tabled in the House: the organization chart, a copy of the bill and the estimate of expenditures in the Fort McMurray townsite for the next few years. After several days I again phoned Mr. Knight, the board chairman, who at that time had still received no reaction to the act.

Insofar as local consultation, of course one of the seven board members is an appointed employee of the Department of Municipal Affairs. He is there for a very specific reason, to try to improve liaison and communication between the provincial government and the new town board, because this had been one of their complaints. During the past few months when several vacancies occurred on the board, this was an agreement we had reached, that one of the vacancies would be filled by an appointee. I think there is much better communication and liaison with the new town board of Fort McMurray than perhaps any other board or council in the province.

I also think it is a little important to remember that the beginning of this act specifies a region. I tried to point out in my opening remarks at second reading that this is really a regional commissioner we are appointing, and quite frankly I see the bulk of his work occurring in the region. You are all aware of the pressures being generated as a result of specific applications for ongoing additional plants, development in the subsequent services and improvement of transportation centres which will have to occur in the region. I also said during second debate that it was my hope the town board of Fort McMurray would continue to function as a locally autonomous board. I believe the main hurdle in Fort McMurray is over, and the things which remain to be done are really items that refer to logistics and technical matters insofar as physical development is concerned. I really believe that.

I'm not naive enough to believe that this bill would receive unanimous agreement by over 9,000 people in Fort McMurray. What I did read last night, I think, was an indication that the Chamber of Commerce, the local newspaper and some of the elected people on the various boards at least had the attitude that they would support the bill, that they thought that if a spirit of cooperation was carried out perhaps the big jobs they felt inadequate to cope with themselves might be solved.

MR. NOTLEY:

Just a supplementary question.

Did the government or the minister give any consideration between first and second reading to having a meeting which would bring together all the representatives of the various levels of local government? I'm not just talking about the town board, Mr. Minister. I'm talking about the two school boards and all the other authorities in the region, [about] bringing them together for a day or a couple of days so that either the minister, some senior person in his department or one of the backbenchers could gain input from people from the various levels of local government. I agree that this sort of thing couldn't be done in any formal way prior to first reading. But I think between first reading and second reading there would have been an opportunity for that kind of, if you like, regional conference.

MR. WILSON:

Mr. Chairman, the other day I asked the minister if he would advise what constitutional investigations had been carried out in regard to Section 8 in particular of this bill, what precedents the minister had quoted [and] if any other provincial governments had acted on legislation outside the constitutional system to find solutions to problems they may have had.

Also, I'd like the minister to advise what attempts have been made to resolve the problem within the democratic system. Why this route? Why not go for a local improvement district in The Municipal Government Act [for] solutions to the problem, rather than through the dictatorial route as has been presented before us?

I'd like to know, Mr. Chairman, if the minister plans to answer those questions I've just re-asked and some of the new ones I've just asked?

MR. RUSSELL:

Mr. Chairman, I don't believe there are any constitutional implications involved in this act. Insofar as any legislation that is being undertaken, it's undertaken by way of the authority vested in the Legislature of the Province of Alberta. Of course, under the constitution any of the acts that deal with municipal government in any way are all delegated.

Insofar as the member's other comments referring to dictatorship and why this way - after three days of debate if the hon. member still doesn't understand the spirit and objectives of the government in bringing in this act, there's nothing more I can add.

MR. WILSON:

Mr. Chairman, the minister said that he didn't think there were any constitutional problems. Do I take it from that that the minister says no constitutional investigative work has been done at all in regard to this bill?

MR. RUSSELL:

Mr. Chairman, I don't know how many times I've mentioned the consultation that took place with Legislative Counsel who's responsible for preparing government bills in a proper manner. Of course there was that consideration given. I've tried to outline the confines in the line of authority under which this kind of legislation occurs.

MR. WILSON:

Well, Mr. Chairman, will the minister give us some precedents that he's used in the preparation of this bill?

MR. RUSSELL:

Mr. Chairman, The Human Resources Development Authority Act, The Northern Alberta Development Council Act.

I'd like to ask the hon. member if he can think of the precedent of a similar situation occurring in Canada?

MR. LUDWIG:

Mr. Chairman, when I look at Section 8 and the powers they are taking unto themselves to virtually repeal a number of the major acts in this province, it would be an easy step from this position - once they have this as a precedent - the next time around not to say, as in Section 8, "any of the provisions of the following Acts". It would be easier for them to say, any of the provisions of the legislation of the province, of the entire legislation of the province.

It's a much greater step now to vote unto themselves, with their majority, the right to ignore legislation without dealing with that legislation. When we pass a simple repeal

of a simple act that has been dead for many years, we go through three or four stages of readings. There's a certain procedure followed to show that there is supremacy of the Legislature, that no legislation is delegated. The powers of legislation belong to this body, not to, can we delegate it? I say that we might be able to delegate a certain amount of our responsibilities as legislators, but we can't abdicate our responsibilities. I'm saying that once you get to that position you get into a dispute as to whether we have the right to do it. Can we, can a strong majority government - like the position here today - state that we're going to move that the cabinet can change, alter, suspend, ignore, repeal or do anything it likes with all the legislation of the province?

Now you might say, why stretch this thing? I'm stretching it to emphasize the problem. Once we do that, we go back into the Middle Ages in Britain where they had people fighting. I remember - I don't remember too well - but I know that there was first the fight about Magna Carta, about no taxation without representation. I don't remember the details but I think I remember a lot better than any of the hon. members do. Then there was the Bill of Rights ...

[Interjections]

... in Britain. I'm talking about the Bill of Rights in Britain, where the cabinet could not ignore legislation. There was no way they could repeal or ignore legislation. If the hon. members feel my memory isn't that good, let them refresh their own. There are some here who know it - that cabinet, the Executive Council, cannot just ignore legislation. When they tried, they were in real trouble. And as time developed, that was the situation in Canada.

I think you will find judgments, decisions, or at least comments - I shouldn't say judgments because I'm not prepared to read one here at the present time - but there have been comments made that those rights and those things that were won through the centuries, through bloodshed and through a lot of parliamentary struggles in Britain, and which we inherited entirely, exist in parliament and also exist here under The BNA Act.

So I'm saying that when we pass Section 8 - and I'm not going to make too much of an issue of this tonight because there will be another opportunity to debate it - but when we read in Section 8(1):

In order to enable the Commissioner to carry out his functions with the diligence and dispatch that the circumstances may require the Lieutenant Governor in Council may make regulations, with respect to the Region, varying, substituting, adding to or making inapplicable any of the provisions of the following Acts ...

it would be a shorter step, if they need this power in the future, to make inapplicable any of the provisions of the legislation of this province.

Now you might feel that this is not what you want because we don't need those powers. The hon. Minister of Municipal Affairs gets up and says, well, we really don't need this. Well, I'm not so concerned what they will do. They might just happen to do the right thing. But it's what they can do that we have to be concerned about. I'm saying that I'd like to urge the hon. Attorney General to make a review of the situation. This thing doesn't crop up very often, because I am of the opinion that a real precedent for this kind of legislation simply does not exist. And if it does, there must have been one terrible fight before it was passed.

Perhaps the hon. Attorney General can review to see whether we are abdicating our responsibilities as a legislative body. Can we vote ourselves out of existence by saying, well, we've given the government all that power. If you give them power to waive one act you can give them power to waive two. If you give them power to waive, suspend and change - in other words, power to legislate - with regard to a dozen of the major acts of this province, I say there is nothing barring us at all, should someone in the cabinet sell them this bill of goods, from turning around and saying, we want it on record that we can do this with any legislation if we deem that necessary.

I had the opportunity to read some of the harangues and exchanges they had with regard to the War Measures Act when the emergency arose in Quebec. At that time at least they had what the public would accept as an emergency. I say under the legislation of the hon. Deputy Premier, the EMO legislation, there could be an emergency of the type that something has to be done. The public would not be concerned about some red tape you cut through because we're talking about lives.

There has been no effort made at all to establish urgency. We're saying, well, we're going to put money before people. We're not even sure that this new proposal is going to work better than we do everything else. Nobody will argue that sometimes the democratic process takes a little more time. At least in the process we don't step on the necks of people and crush them out of existence. That's a pretty reliable test. We can find short cuts, we can find means of ignoring people, we can find means of doing things without giving anybody notice. When we suspend all this legislation we can probably take property

and let them know much later. I'm using extreme examples to emphasize the point I'm trying to make. I'm sure some hon. members on that side must have some concern about this.

If the hon. Minister of Municipal Affairs says this whole thing is quite innocuous, it's quite proper and no constitutional problem to ask the Legislature to grant a blank cheque to the Executive Council to do anything it likes with our legislation, then I would say they may just as well not waste time enumerating these things but say, all the legislation of the province.

What would the public think if we did that? They wouldn't think much of any representative they've got because there are a lot of people who know what is going on. Certainly a lot of people in constituencies are not acquainted with the details of this act. We talk about the people in northeastern Alberta. A lot of them haven't seen this act and perhaps haven't heard of it. So for the minister to state that there appears to be a fair amount of support - well, it's the wrong thing to say, that there is a fair amount of support. Those people - had the local authorities sat here and listened and started asking their own questions - let the minister satisfy them. I'm saying the minister doesn't dare call a public hearing of all the local authorities to show them, we're not concerned about you right now, we're concerned about the northeast, but sit here and see what can happen to you.

We can find an oil field perhaps in the central part of Alberta and decide this is the right step to follow. The next step is easier. It is this first step that is difficult. You want a precedent and lawyers will quote precedents no matter how insignificant a precedent is. They are already saying, well, you've done it in another instance, why kick up a fuss now? But if this is done we'll have a precedent, not for Alberta but for all of Canada, and I personally object to it. I think there is a difference between limiting the powers of cabinet, say between this time and that time, and within these specific bounds you can do this and this and this. You can make regulations, you can do this. I think there is a constitutional problem to give them the authority to veto legislation. I might be wrong.

MR. GHITTER:

You're wrong.

MR. LUDWIG:

Yes, and the hon. Member for Calgary Buffalo is sure I'm wrong.

MR. GHITTER:

Mr. Chairman, on a point of order. He clearly is wrong. It's a well known legal maxim, delegatus non potest delegare, which applies perfectly in this legislation. If he spent any time at law school he'd know it.

MR. LUDWIG:

Mr. Chairman, I spent my time in law school and I spent time reading some very, very interesting remarks by Bora Laskin who is now the Chief Justice of Canada. To say I'm wrong could be a good debatable point. It could be that this issue has not been decided. If the hon. member is so cocksure that it's wrong, let him cite legislation to show this has been sanctioned. But for him to say it isn't wrong, that we can give a blank cheque to the cabinet to veto legislation, if it's wrong in principle it's wrong politically, and I'm saying it's wrong legally.

You know, Mr. Chairman, when I hear the hon. Member for Calgary Buffalo flaunt the fact that he perhaps spent a few days longer in law school than some other people, I remember that at a public function we all got up and touted the merits of our respective constituencies. He got up in public and said that his was a horny constituency. I can tell now by looking at him why that is so, Mr. Chairman. If he wants to start some low blows I'll give him one or two myself. So, horny constituency - that's a credit to his legal training, Mr. Chairman. So he can sit in this House and feel that because I'm making a few remarks he can stand up - that because Ghitter said I'm wrong that is the end of all things.

[Interjections]

Well, Ghitter has been awfully wrong before, and it could be that he is utterly wrong this time, Mr. Chairman.

I still urge the hon. Attorney General to make a statement on this issue and see whether he can stand up and say that he is convinced, after reviewing the authorities, after reviewing the views of perhaps very many outstanding people, as to whether somebody might question this legislation, that it is not within the power of the Legislature to

abdicate its responsibility. I'm saying it is not, that the Legislature cannot abdicate its responsibility to the Executive Council in vetoing and altering legislation. We can't legislate any minor amendment in here without the proper procedure. For us to stand up in this House and say that all the major legislation of this province can be tampered with by the cabinet at its will is, in my opinion, wrong. We will see whether the experts are right or not, Mr. Chairman.

MR. YOUNG:

Mr. Chairman, the Member for Calgary Mountain View has me extremely concerned about the possibility that I may vote incorrectly on this matter.

MR. LUDWIG:

It's about time.

MR. YOUNG:

As a relative innocent in the matter of law, the honourable gentleman opposite could set my mind at considerable rest. He has it within his experience to do that since, Mr. Chairman, he was a member of the cabinet - I may be mistaken as to his position in the Executive Council, if not I'm sure he was a member of the government benches on that occasion - at the time The Human Resources Development Authority Act was instituted. I wonder, since he obviously would have had it researched, if could tell me whether or not any challenge occurred, any major uprising occurred on the occasion of the passage of that legislation, and whether in fact the Legislature went down the drain on that occasion?

MR. LUDWIG:

Mr. Chairman, the hon. member's explanation and his question are as vague as everything else he does. I can't even follow what he is trying to get at. Would you repeat the question and try to express yourself a little more clearly so that I can understand what you're saying?

MR. YOUNG:

Well, Mr. Chairman, I don't think I shall bother, since the hon. member doesn't understand Latin, apparently, and now he doesn't understand English. I'm not going to spend any more time trying to get an answer for my question, Mr. Chairman.

MR. RUSSELL:

Mr. Chairman, I hope the hon. members will put this in the right context if we go over it again. We've got the position of the region, we've got the position of the new town, we've got the delegation of authority and how it has to happen, we've been asked for precedents and we've been asked, you know, how can this happen.

I'd like to read The New Towns Act which was passed by the Government of Alberta which was in a position of authority in 1969. The last section of that Act says:

- (1) The Lieutenant Governor in Council may make regulations to provide for any matter not provided for or insufficiently provided for in this Act.
- (2) The Lieutenant Governor in Council may exclude any Act or provision thereof from application to a new town.

Now Fort McMurray at the present time is a new town by choice. So the application of any Act, any Act on the Statutes, can be excluded from provisions of the Act or the regulations in the new town by order in council. You ask for a precedent. The Government of Alberta in 1969 passed that piece of legislation.

Mr. Chairman, I'd like to point out another thing, because I think probably the specific wording of this legislation and the chain of events as to how these regulations might occur are very important.

First of all, if we refer to Section 8(1) it says, "In order to enable the Commissioner to carry out his functions with the diligence and dispatch that the circumstances may require ...", and that phrase, "with the diligence and dispatch that the circumstances may require", is very important. But more important are the opening words, "In order to enable the Commissioner to carry out his functions ...". What are his functions? You go back to Section 4 and it says, "The functions of the Commissioner are:", and the concluding words in Clause (a) of that section refer to services and facilities for the benefit of the residents of the region.

Now it must be proven before Section 8 is invoked that the commissioner is acting and carrying out his functions for the benefit of the residents of the region. I think the

motives in there are good. I also think we've tried to add extra insurance - not following the precedent of the three Acts we've named - that can exclude the provisions of any Act. But we've tried to list the very specific Acts we think may be involved.

We have also put in subsection (2) [Section 8] which says, "Any regulations made under this section cease to have any effect after the last day of the next ensuing session of the Legislature." So those regulations must come back for ratification by the entire elected Legislature.

Now I've been over this process several times. I've tried to explain how I think it will work. We accepted, I think, as quickly as we could the suggestion that there may be indirect taxation involved by doing that. We've brought forward the amendment dealing with that specific item and it will be included as a clause in the act. I can't understand why the hon. Member for Lac La Biche-McMurray calls it dishwater when it will become part of the act.

Now, to me, bearing in mind the extraordinary circumstances, the fantastic programs that are going to have to be carried out under very difficult circumstances, I believe that the method we're proposing is reasonable.

SOME HON. MEMBERS:

Agreed.

MR. NOTLEY:

Mr. Chairman, first of all, dealing with some of the minister's comments, I don't suppose many of us would be too concerned if the powers under Section 8 were to be kept in the hands of the Legislature and we had this matter dealt with by a special legislative session either during the spring or the fall session, but when you consider the functions under Section 4 - and the minister says that Section 8 is only going to apply as it relates to the functions under Section 4, and that's true - the functions are rather broad, Mr. Chairman. It not just a case of (b) to coordinate the programs, or (c) to administer and supervise, but - and this is a point the Member for Cypress raised when this matter first came to committee stage - the commissioner has the power to initiate or organize the development of plans, programs for the provision, et cetera. So there is the power of initiation and organization, Mr. Chairman, which is rather substantially more all-encompassing, important and significant a power than just coordination and administration.

I notice also, when the minister referred to Section 4 he commented on "services and facilities ..." for the benefit of the "... residents of the Region;" but he didn't point out, to "... expedite the provision of such programs, services and facilities for the benefit of the residents of the Region."

That's rather a broader power or authority which the commissioner has under Section 4. When you read Section 4, Mr. Chairman, the commissioner who was referred to the other day as merely a project coordinator is going to be a very powerful individual indeed. When you read Section 4(a) (b) (c), and you consider these powers and relate them to Section 8, I think we have a right to be concerned in this Legislature.

Now, Mr. Chairman, the point to be made is that the authority we are granting here is the right of the cabinet to vary, to change and to throw away Statutes passed by this Legislature. Mr. Chairman, that members across the way will rise and say, look we've got precedents in the form of Acts already passed, doesn't impress me in the least. Mr. Chairman, in my judgment that is not an acceptable argument. Two wrongs will never make a right.

AN HON. MEMBER:

Agreed.

MR. NOTLEY:

I don't care who passed this legislation. The minister can very well go to other provinces, and he might even be able to find the same type of legislation in Manitoba, Saskatchewan, or British Columbia, but that doesn't make it right. I think the test to be applied in the Legislature, Mr. Chairman, before we surrender the powers of the Legislature, is whether or not the Executive Council needs the power, in each particular case, Act by Act, Statute by Statute, not all 12 acts bundled together.

But we as a Legislature must insist on an explanation which is on the record for every single Act.

AN HON. MEMBER:

Agreed.

MR. NOTLEY:

Mr. Chairman, nothing less than that will do. As I see it, the power to vary, change and amend statutes should rest with this Legislature. I find it difficult to imagine circumstances so unusual that it won't be possible to call a special session of the Legislature. It seems to me if we're going to be changing acts, if we're going to be taking over powers of local levels of government then the test should be the calling of the Legislature. At least then the government will be forced to show why the action is necessary. It won't be a case of an action undertaken which will create hard feelings and where there will be all sorts of accusations about under-the-table dealings - whether they exist or not - or closed-door decisions. It will be a decision made by the Legislature. I see nothing wrong with calling the Legislature in July or August for a few days to deal with amendments to Acts, if these are necessary.

Mr. Chairman, coming back to the point I was making a moment ago, I think the test has to apply, under Section 8, to every single Act.

Now, the Leader of the Opposition, in closing the debate yesterday, referred to The Improvement Districts Act and I believe the minister answered that question. He has discussed The New Towns Act but I would ask him for the record now to advise this Assembly why it is necessary to put The New Towns Act in Section 8?

MR. KING:

Mr. Chairman, I would like to make a few comments because I personally can't let the remarks just made go unchallenged.

The test, Mr. Chairman, of what is good legislation, what is workable legislation, is not some abstract measure which we, the 75 legislators of this province, develop while we sit or stand in our places and talk. The test is not what we think is convenient for ourselves or what we think is right in light of what our predecessors have done in this Legislature, because this Legislature is not sacrosanct and the position of this Legislature is not the same as the position of legislatures 50 years ago. We are not in the same position as our Legislature is going to be in 20 years from now. The test of legislation is not whether it abuses our sensibilities or not. The test is whether or not it works for people of the province, for the citizens we represent. It is their interests we are to protect, not our own privileges as members of this Legislature.

The test is first of all whether it works, and secondly, whether or not in the process of making it work we hurt people. Those are the tests, not the philosophical arguments we banter back and forth here in this Legislature.

Mr. Chairman, while I can often disagree with the hon. Member for Calgary Mountain View, I think he has a point in asking about the precedent in the law which has been applied and how that law has worked in terms of the job that it was designed to do for people, whether of this province or of any other province.

There has been a good deal of bantering and frivolity about some legislation previously passed in this Legislature and in effect in this province. I think we should look at it seriously, and I would really like to for a moment answer or attempt to answer the question of the hon. Member for Calgary Mountain View.

I have a copy of The Northern Development Act of 1971 in front of me. It was adopted by a Legislature in which many of the honourable gentlemen opposite were the government. When I make some comments about it, I don't want it to be thought that they're disparaging because it is legislation enacted after careful thought. It has been on the books for three years and continues to be on the books today.

2. (1) There is hereby established a corporation ... consisting of
 - (a) the Minister, and
 - (b) not more than 10 ... members ... appointed by the Lieutenant Governor in Council.

Now, Mr. Chairman, they didn't say one of those had to be appointed by the Metis Association of Alberta, the Indian Association of Alberta or a labour group up there. They simply said the commission would be "... appointed by the Lieutenant Governor in Council" and left it at that, on the assumption I presume that they were going to exercise enough political expertise to recognize the various interests which existed in the community and have them represented on the authority or on the commission.

Now, Mr. Chairman, Section 5(1) of The Northern Development Act says:

With respect to the Northern Development Region

- (a) the Commission has all the powers, duties and functions conferred ... on a county or the council of a county, and
- (b) [the minister] has all the powers, duties and functions conferred ... on the reeve of a county,

You go on to Section 5(3) and it says,

The Lieutenant Governor in Council may by regulation make inapplicable the whole or part of any provision of The County Act, The School Act and The Municipal Government Act or any other Act under which a county has powers or duties ...

And that includes The Municipal Taxation Act, The Municipal Election Act and many of the Acts enumerated in Bill No. 55. I presume they felt secure in enacting that kind of legislation because they knew it wasn't being done in any abstract way, they knew it wasn't power exercised in a vacuum and they knew they had to exercise the power of this legislation in terms of the then Opposition, in terms of the media and in terms of the public.

Mr. Chairman, in Section 6 of that Act they create an area of jurisdiction. They don't define it explicitly in the legislation as has been done in this bill. They say that the Lieutenant Governor in Council may expand the area of jurisdiction. You could make an academic argument that that gives the Lieutenant Governor in Council the theoretical right to create the entire province of Alberta as part of the northern development area. I don't think the argument was made at that time because it wasn't a reasonable argument. I don't think that some of the arguments being made here this evening are any more reasonable. To say that the Lieutenant-Governor has the power to do that, does not by any stretch of the imagination mean that the Lieutenant Governor in Council, exercising some measure of political reason, would be so stupid as to do it.

Section 7 of The Northern Development Act says,

... the Commission shall provide for the investigation, planning, promotion and co-ordination of measures ...

including such as may

... facilitate and assist in ...

- (a) industrial development;
- (b) transportation facilities;
- (c) agricultural improvement and diversification;
- (d) Metis social and economic development;
- (e) health, educational and social services;
- (f) local administration.

That's a pretty broad ambit that the commission can work within in terms of the Northern Development Council. Yet the fact of the matter is, Mr. Chairman, there were no great cries in 1971 that that was unconstitutional or anti-constitutional or that it was going to create a dictatorship. And the experience of the people of that region and of this province has demonstrated, since 1971, such is not the case. That, Mr. Chairman, seems to me to be far more reasonable a measure of the validity or otherwise of legislation than for us, with our interest as MIAs, to stand here and talk in an abstract and arbitrary way about what might, from a philosophical point of view, be good, bad or indifferent.

The test, Mr. Chairman, as far as I am concerned, is going to be whether or not it gets the job done and whether or not in getting the job done it is going to hurt people. I believe it will get the job done. I believe if we exercise as much sagacity as the hon. members opposite did when they were the government, we can do it without hurting people. As I have said before, we are going to be back in this Legislature one year from now to accept the responsibility for the success or otherwise of this legislation. It seems to me that we would be much more reasonable to debate the merits of the legislation a year from now when we have the performance to look to rather than as we're doing this evening.

Thank you, Mr. Chairman.

MR. HENDERSON:

Well, Mr. Chairman, I don't know what we're gaining by rethreshing old straw. We heard the same speech last night but in a somewhat condensed version as compared [with that] tonight from the Member for Edmonton Highlands. I feel obliged to stand up and make the same response, and point out to the member once again that if the government were following the same principles enunciated in the human resources bill, we wouldn't be having the debate we are having here. The government is not following the same principles. They can by order in council, by cabinet decree, rewrite any of a number of

Statutes and then delegate that power to one man who, on his own authority, can do anything. The hon. Member for Edmonton Highlands is not accountable for what he does because he's not going to be exercising any of the powers.

I sat and listened to the Member for Edmonton Highlands for about 15 minutes, so you listen to me for five. That member will not be ...

MR. KING:

You've got the wrong Act. I didn't second that Act.

MR. HENDERSON:

It's the same principle in both Acts that you cited. We covered them last night. There's a minister or a committee of ministers, there's a minister in one and a committee of ministers with a director in the other.

AN HCN. MEMBER:

That's your interpretation.

MR. HENDERSON:

There's a minister in charge who's accountable to this House and when the government talks about setting aside legislation established by this Assembly and writing new laws in private, I don't care if they're only for a year, and delegating those power to one man who's not accountable to this House, that's what we're objecting to. There is not an element of accountability, in spite of the member's self-esteem about his position in the government. The commissioner will not be accountable to this House. There is no way, without the consent of the government, that the members of this Assembly could even question the commissioner. We covered all that in the exercise about having the commissioner appointed by the Legislature. So the principle we're talking about is substantially different. There was an element of accountability in the previous legislation. There is not in this legislation. That's one of the main concerns we have.

Now as I say, Mr. Chairran, we're back rethreshing the same old straw all over again. I don't know what we're gaining other than the fact that when somebody opposite stands up to state the one side again, I'm obliged to stand up on my part and state the other side of the case again. There is a substantial extension of power in this legislation that has not been contained in previous legislation in this province when one takes the contents of the act in total. That's what the concern is about.

A number of propositions have been put forth to try to deal with the question of accountability and retain a question of accountability, and the government has consistently rejected all of them. The long citation of procedure that the Member for Edmonton Highlands was talking about does not deal with the basic issue we're talking about in this legislation, and that is the fact of delegating extreme powers to one man who will not be accountable to this House, who, in private, in secret members' Executive Council can write new laws and delegate those powers to one man. That is a [more] significant difference, I think, in the issue of accountability than has ever been presented before in this House.

This brings up the question and concern about the argument of precedent. Once this precedent is on the books and establishing one step further this principle of power of the cabinet to do these things, then that's just a stepping stone to another step. Pretty soon we're back to the point, as I said earlier, [where] we might as well just have the public elect a 12-man cabinet and forget about the Assembly. The question of accountability and the supremacy of the Legislature is a very fundamental one. This bill does not retain that principle. That's the primary objection to it. It's been stated again and again and again. Obviously the government is not prepared to bend on that. The power of the cabinet is to be absolute and the power of the Legislative Assembly is to be secondary.

MR. CLARK:

I'd just like to make two comments.

One is that we've been over the argument of whether there's going to be a minister or whether or not there's going to be direct accountability to the Legislature. There have been a number of amendments put forward. The government, with monotonous regularity on every occasion, has voted as a block against every one of the amendments.

As regrettable as that is, let's get on to the item at hand. The item at hand is Section 8. We've indicated we want to ask the Minister of Municipal Affairs under what circumstances in the past would he have exercised this power with each of the Acts that

apply to Section 8? What kinds of situations does he see in the future where he's going to have to use this extraordinary power in Section 8?

We can stay here until tomorrow or Monday or Tuesday or, on the other hand, we can get on with the business here tonight and get the Minister of Municipal Affairs to give us some sort of answer as far as The New Towns Act is concerned, the same as he did for The Improvement Districts Act. Then we'll go on to the next Act systematically until we've gone through all 12 of them.

I suggest, Mr. Chairman, that the best way for us to proceed would be to allow the Minister of Municipal Affairs to respond on the question of The New Towns Act. Then we'll go on to the next.

AN HON. MEMBER:

Agreed.

MR. RUSSELL:

Well, Mr. Chairman, trying to present logic or reason or facts to the hon. members opposite is really quite extraordinary.

You know, we just listened to quite a nice speech about accountability, the delegation of power and authority and all that. We've tried to show how it would work, under what circumstances it would work and the fact that it must come back to the Legislature.

Let's go to The New Towns Act - and Fort McMurray is a new town - if you want to talk about accountability. I'm reading from the Act now: "A new town shall have a board of administrators." They're appointed by the minister. They can be:

- (a) employees of the Government;
- (b) residents within the area of the new town;
- (c) representatives of agencies, organizations, companies ... having jurisdiction near the new town.

They have all the authority of an elected council. I read to you the previous Act [stating] that the Lieutenant Governor in Council may exclude any Act or provision thereof from application to a new town.

So the facts are there. If we wanted to, we could simply appoint a new town board consisting entirely of government employees, wipe out the provision of any Act - any Act, not the 12 we've listed - on the Statutes of Alberta, and get on with the job and not bother bringing this legislation in front of us. So that is there. I think our system of listing the acts, of delegating the authority by way of order in council, with a check back to the Legislature in the next ensuing session, is a far more acceptable method of proceeding than the one in The New Towns Act.

What else is in the area? - an ID. And who is the council of an ID? The Minister of Municipal Affairs. And he has all the authority of an elected council to act in an ID.

So I suppose we could save ourselves a lot of trouble and verbiage if we let the Minister of Municipal Affairs act as a one-man elected council in the ID, if we went back to the provisions of The New Towns Act and simply appointed seven members, seven government employees to the new town board, used the provisions of the legislation passed by the previous government and did not bother with Bill No. 55. I don't think that is an acceptable alternative.

I've given the hon. Leader of the Opposition our undertaking, and it's in Hansard, that we will try to accommodate his suggestions or others with respect to the advisory committee. We've put the vote of the commissioner in the department. If the Legislature is further concerned - they say they don't get a chance to talk to this gentleman - they can bring him up before the Standing Committee on Public Accounts. There is no attempt to hide what he's doing or what he may want to do. There is this annual accountability.

I will say again, for purposes of the record, I hope Section 8 never has to be used.

SOME HON. MEMBERS:

Take it out.

MR. RUSSELL:

I've also tried to explain very carefully to the hon. members what might happen to certain parties if it is used - whether they are existing elected people - and the

other circumstances when it may have to be used where time is of the essence, and there I have specific reference to The Planning Act.

Now, Mr. Chairman, I simply cannot explain it any further. I don't think the hon. members opposite want to know answers. They ask for precedents - I list them. Here's another one: The Willmore Wilderness Park Act. Who passed that Act? Look at Section 8 in there. You know, I suppose if we wanted to, we could go through those green Statutes and pull out dozens of precedents. In each case it's easy to imagine why the government of the day brought forth a piece of legislation like that. Presumably there were circumstances which the government felt, with justification, merited special consideration or special kinds of legislation. And it's the opinion of this government that there are going to have to be extraordinary circumstances and actions taken in the oil sands region for the benefit of the residents of the region.

It's easy for the hon. members to get up and say, our town hasn't got water or, there's a shortage of housing or, why didn't the government build such and such a highway - to name those complaints. We are trying to deal in an effective manner, as expeditiously as possible, for the benefit of the residents, in a way which is accountable to the members of the Legislature, at least once a year, for the circumstances that are going to occur in the oil sands region.

Mr. Chairman, this is the third session we've had on this act. I simply have no more explanations to offer. If the hon. members cannot accept the act, then let them vote against it.

MR. STROM:

Mr. Chairman, I wonder if I might ask the minister a question. Can the minister outline any particular incident in the past that could not have been handled under one of the existing Acts, and that would require the special powers that are going to be granted under this act?

MR. RUSSELL:

No, I can't, Mr. Chairman. Again, I repeat I'm hopeful that Section 8 won't have to be used. Notwithstanding that it may have to be.

MR. STROM:

Mr. Chairman, if I might just pursue it. I don't intend to make a speech - I think that just about everything that can be said on it has been said - but I would like to raise another question for the minister. Is it not true that generally speaking, legislation is brought in as a result of a need that has arisen? I want to be very clear on it - as a result of a need that has arisen. Now, I grant you the other because I don't want to get into a harangue that I'm not understanding something, that the second area in which the government can move in is in new legislation to promote a new program.

I have to say, Mr. Minister, I don't see a new program. I see a need that has been there in a greater or lesser degree since the province started. I simply ask, is it not true that legislation is, generally speaking, brought in to fill a need that has arisen. I ask you again just as calmly as I can, what is the need that has arisen?

MR. RUSSELL:

Mr. Chairman, I would agree that the hon. member is partially correct, that sometimes or in many instances legislative does look back to needs that have arisen. This is an act that is trying to look into the future. We're looking into the future with the experience that governments have gained as a result of what has happened in Grande Cache and as a result of what has happened in Fort McMurray to date.

In my opening remarks in second reading of the bill I tried to outline as clearly as possible what I thought were the unique circumstances of the region. I have explained the discussions I've had with Legislative Counsel about the objectives of the government, about circumstances that may arise and about the protection that is necessary for both existing bodies and government. That's how we have arrived at this act.

MR. STROM:

Mr. Chairman, I appreciate the minister's frank statement on anticipating a problem. I would like to pose this question because this is a matter of real concern to me. The minister and others on the government side have been pointing out legislation that provides for the setting aside of legislation. I submit, Mr. Chairman, and to you, Mr. Minister, that in my evaluation of each point that has been raised there was a minister who was responsible.

Let me say just as carefully as I can that as near as I can recall, in any of the legislation that has been raised it was clearly understood that the minister had to accept the responsibility for anything that was done. Now, I want to say again, Mr. Chairman, and I say this just as carefully as I can, that in listening to the debate I can only arrive at one conclusion, Mr. Minister, and that is that there isn't a single minister sitting on the front row who is prepared to individually accept the responsibility for the decisions that are going to be made in the northeast area of Alberta in the development that is going to take place.

Now I make two points. One, the problem is a large one. Everybody agrees. Secondly, the potential for a mistake I think is horrendous. We all agree with that.

Let me say again just as clearly as I can, I do not believe, Mr. Minister, that you or your colleagues on the front row can set aside your responsibility by creating an individual with tremendous powers who can be made the scapegoat for the mistakes within the area.

This I have to say, Mr. Chairman, that as I analyse it, it's the only way that I can interpret it. I would have been much happier had the front row said, we're going to set up a committee of cabinet. You will say, I now am trying to defend our Northern Development Council concept or our Northern Development Act. Mr. Chairman, I'm not really concerned with trying to defend anything we've done in the past. I've said many times that I think - and I think the hon. Member for Edmonton Kingsway expressed it quite well when he said legislation is made to fit a particular need at a particular point in time.

But I think we have to remember that the responsibility for the action that is going to be taken cannot be avoided. It is for that reason, Mr. Minister, through you, Mr. Chairman, that I was very anxious to know if the minister could name me an example that has happened up until today, if you will, where you could point specifically and say to me, that condition could not be dealt with except by Bill No. 55.

You haven't been able to say that. You say we're looking forward. It is dangerous, Mr. Chairman, for this reason, that I think as legislators we have a tremendous responsibility to try to outline to the public in the best way we can what our intention is.

I have to say that Bill No. 55 permits too much flexibility. It permits, by placing powers in the hands of one man, the kinds of pressures that quite frankly I wouldn't want to place on any one man. I can visualize individuals, companies, who will come to him and say, you know, Bill No. 55 gave you the power to set this aside. What are you trying to give us? Why don't you set it aside and get on with the job?

Many a time, Mr. Chairman, I quite frankly say tonight, I sought the protection of legislation for taking a stand that I did. This, I say, is one of the things we are now moving away from. It is a matter of concern to me. I would have been happy, Mr. Chairman, had the minister been able to rise in his place and give us one concrete example of what has arisen in the past. We haven't had it.

For that reason, I say that I just cannot go along with Section 8 of Bill 55.

SOME HON. MEMBERS:

Question.

MR. HENDERSON:

I'm not yet ready for the question. Maybe the other members are. I know the government members are.

I'd like to ask the minister, though, as to how Fort McMurray got new [town] status. I understand they asked for it. It wasn't forced on them by executive decree. I'd like to ask the minister, has The New Towns Act been used in any case where a town is established and functioning and has the new town legislation been forced on them? To my knowledge it's been asked for in every case.

In the case of Grande Cache there was no town. In the case of Willmore Park I'd like to ask the minister how many people and how many towns and communities were in Willmore Park? To my knowledge there were no communities in Willmore Park. I don't know whether it would be considered an ID, or just what it was, but this is the basic issue. They keep quoting precedents. The precedents being quoted do not fit with the powers vested in this act.

Am I right or wrong, Mr. Minister, that The New Towns Act, with the exception of Grande Cache - put it the other way around - has not been used except in a case where the community has asked for it, or there was no community in existence to start with and it was used to get a town built and functional?

MR. RUSSELL:

Well, that's perfectly correct, Mr. Chairman. The New Towns Act is used either where there is no community, for example in Grande Cache, or in the case of an old established community that requested to go under new town status, such as is the case with Fort McMurray. I should ask the hon. Leader of the Opposition this very direct question. Would he rather we proceed under the terms of The New Towns Act; that is, appoint seven government employees and ignore all existing Statutes on the book insofar as Fort McMurray is concerned?

MR. CLARK:

Let me say to the minister in response to that question, that for the town of Fort McMurray to continue to operate under The New Towns Act it isn't compulsory at all for the minister to appoint seven of the employees from the department by choice. Frankly, as an individual, I would far sooner see you continue to operate as far as Fort McMurray is concerned under new town legislation than have this legislation passed.

MR. RUSTE:

Further to what the hon. Leader of the Opposition mentioned, I think the minister was quoting from The New Towns Act. What he didn't quote was Section 8(2) which reads as follows:

The members of a board of administrators shall be appointed by the Minister, except for such number of members as the Minister may decide shall be elected by the electors of the new town.

And I submit, Mr. Chairman, that's an entirely different situation.

MR. LUDWIG:

Mr. Chairman, I just wanted to follow up an observation I made a little earlier dealing with the difference between delegation and abdication of legislative responsibility. I'm going to quote a couple of sections from the Canadian Constitutional Law, third edition, by Bora Laskin who is now the Chief Justice. On Page 44 is a reference: "The Mineral Property Taxation Act, 1957 (B.C), C.60 delegated power to the executive to fix the rate of tax, not to exceed 10 per cent."

Now I am not quoting this to determine whether we are, in fact, legal or not but to indicate there is a problem here and it may well be a legal problem. It says,

This unusually extensive delegation of authority to the executive to fix the rate, subjects and areas of the tax ... is a radical and disturbing departure from the settled constitutional principle, ...

This is in this text and I am just stating the problems that do exist. This may well be only a political issue but on the other hand it may be a legal issue and as far as I am concerned until somebody from the other side, and there are a lot of very learned people there - some know everything, except perhaps one or two things - unless they come up and convince us with a good argument that we have no problem at all, I am stating there could very well be a problem. It's my privilege to say this. And I am going to read further on. It states here, on abdication:

Two additional problems arise in connection with delegation. First, there is the intimation in a number of cases, including the Scott case ...

with which I'm not familiar,

... that even where delegation is permitted, whether it be between legislative bodies or from a legislative body to a subordinate agency under the Hodge rule, it must stop short of "abdication".

It's a question of fact we're abdicating our legislative authority by giving a subordinate body the right to repeal legislation.

Second, accepting such limitations as exist on inter-delegation ...

That is between Parliament and the Legislature.

... some of the cases have been concerned with determining whether particular legislation really involves unconstitutional delegation or whether it is an example of permissible referential legislation

But the next portion is what I believe is relevant.

The "abdication" argument was raised in *Re Gray* (1918), S.C.R. 150, ... and accepted by Fitzpatrick C.J. who in a concurring judgment agreed that while "Parliament cannot, indeed, abdicate its functions, ... within reasonable limits at any rate it can delegate its powers to the executive government." He distinguished abdication from a delegation of unlimited powers to meet a war emergency.

There was a reason, which he called a situation, where it was referred to as delegation of authority not obligation.

Anglin J, with whom the Chief Justice and Davies J. agreed, met the issue by asserting that "a complete abdication by Parliament of its legislative functions is something so inconceivable that the constitutionality of an attempt to do anything of the kind need not be considered."

So I am saying it's a matter of opinion whether in giving the government the right to deal as it sees fit, to ignore and completely treat as non-existent some of the major legislation in this province, there is a grave distinction between delegating them certain rights to make regulations and giving them the right to ignore the major portion or all of the province's legislation. It is an abdication in my opinion.

This is not something that just came out of the clear blue, this is something that has been discussed, argued and fought in the courts of this country on many occasions. I am saying I'm not taking the stand that I'm absolutely correct. It may well be a political issue. Nobody on that side, nobody certainly of any background, has stated that we have absolutely nothing to worry about because the oracle has spoken. It's all right, we don't even have to bother making an argument of it, it's just that straight-forward. I'm saying we ought to look at it. This is not a simple matter.

This is not an everyday kind of occurrence in legislation. It is an unusual step. When I mention the Bill of Rights of Britain of 1689 they were fighting these very things where the executive council - it wasn't called the executive council then but what was comparable to the cabinet now - would ignore legislation. I am saying we can't treat this thing lightly and later on feel, well, we agreed with that. There is no way I am going to agree to this. I'm just going to quote a couple of sections from the Bill of Rights, 1689, only the details of the measure which concerns us here. This is in the story of the British constitution. Number two says the dispensing power, that is the power to dispense with the operation of a statute in certain particular cases, was declared to be illegal.

I am saying this is not the same situation we have here, because this was the cabinet declaring a statute to be unoperational without the authority of the Legislature. I am saying this happened once when the hon. Minister of Municipal Affairs decided unilaterally, without consulting anybody, to suspend an Act. I am saying that was illegal. I am not taking the hard stand that what we are doing here is entirely illegal. I think politically it's wrong. I am saying it's possible that it can be challenged. I think it certainly behooves the hon. Attorney General, in his position to advise and assure the House he is satisfied on the review of authority, some [authority] exists and that this is not a problem.

I am rather amused by the fact that someone who perhaps learned a Latin expression in school, could quote it and feel that that's the end of all things on authority. It is rather amusing but I don't think it is authoritative, and I hope he wouldn't resort to that level in the future.

Chief Justice Bora Laskin, wrote a lot of outstanding texts on constitutional law. These are from his latest edition on the matter of delegation. It is a nice problem. As I have stated many people can go to the Supreme Court of Canada and no one knows who is absolutely right until the decision has been made. It might appear rather innocuous and simple, but there is a problem here and I'm thinking the hon. members on the other side would choose to ignore it because they want that power. I am quite convinced that if this issue were subjected to a public committee hearing, a hearing of the Committee of the Whole, [and to] the people of this province they would be embarrassed into backing off long before the hearings were over.

MR. BUCKWELL:

Mr. Chairman, I would just like to ask the minister a question. In all of these Acts - there are twelve of them - seven are under his department, three under education and two under health and social development. Allowing for questions in the future in the House, members may want to question the government on this act or the work of the commission. Which minister is responsible for answering these questions?

MR. RUSSELL:

I would certainly say the Minister of Municipal Affairs, Mr. Chairman.

SOME HON. MEMBERS:

Question. Question.

MR. CHAIRMAN:

Question has been called.

First the amendment. The bill is amended by adding the following section after Section 8 of the proposed new act.

MR. CLARK:

Mr. Chairman, we're dealing with the amendment raised to delete Section 8 which was moved by the hon. Member for Drumheller, Mr. Taylor.

MR. CHAIRMAN:

I'm sorry, I did not get that amendment in writing.

MR. CLARK:

It's the one we've been debating for two days.

MR. CHAIRMAN:

It's very well, Mr. Clark. There have been sections not dealt with in this big presentation you made and I'm sorry I did not realize Mr. Taylor made an amendment.

SOME HON. MEMBERS:

Oh, oh.

MR. CHAIRMAN:

No, this is true. The Chair did not realize this.

MR. TAYLOR:

Mr. Chairman, the amendment is very simple, that Section 8 be struck out. Just before I did that you referred to the amendment to the government motion about taxation, but you didn't put the question at that time, so I will simply resolve the matter ...

MR. CHAIRMAN:

We're dealing then with page 4, (g), Section ...

MR. TAYLOR:

Section 8 be struck out.

MR. NOTLEY:

Mr. Chairman, speaking on a point of order. Clearly, here on Page 2189 of Hansard Mr. Taylor says, "I would, Mr. Speaker, move that Section 8 be deleted."

MR. CHAIRMAN:

Ready for the question on the amendment presented by Mr. Taylor, that Section 8 be struck out?

[The amendment was lost.]

MR. CLARK:

Would you please have a ... [Inaudible] ...

MR. CHAIRMAN:

Very well. Would those in favour of the amendment please rise for the Clerk Assistant to count?

MR. LUDWIG:

Mr. Chairman, for proof of clarification, was it correct that the government members all voted against the amendment?

MR. CHAIRMAN:

Order. Order, Mr. Ludwig. The amendment is defeated.

AN HON. MEMBER:

What number?

MR. CHAIRMAN:

For the benefit of the members: against, 35 and for, 25.

Now the next amendment as presented by the hon. minister:

The Bill is amended by adding the following section after section 8 of the proposed new act:

8.1 No assignment of any power, duty or right under section 7 and no regulation under section 8 shall authorize the Commissioner to levy a tax or impose a licence fee in the Region.

[The amendment was carried.]

[Section 8 as amended was agreed to.]

[Section 9 was agreed to.]

Section 10

MR. WILSON:

Mr. Chairman, I think it's sad that after all the debate we've been through in the last few days on this bill, not one constructive amendment or one constructive suggestion has been accepted ...

MR. CHAIRMAN:

Mr. Wilson, I'm sorry. Are you speaking on title and preamble? I haven't called that. You're speaking on Section 10?

MR. WILSON:

Mr. Chairman, the Opposition has made many attempts to democratize this bill and all these attempts have been spurned by the government. The government knows this is not democracy, Mr. Chairman. Mr. Chairman, this bill is an admission of defeat by the government. They can't cope with the problems. They've resorted to appointing a dictator to bail them out. When trouble arises, Mr. Chairman, they want a fall-guy to take the blame. If he does anything good, they'll take the credit.

Mr. Chairman, this is a shameful attitude. If the government can't govern, it should resign. They've abandoned the principle of democracy for expediency again. They've said time after time that they're doing it reluctantly. But that does not make it any more right, Mr. Chairman. They've failed to identify what salary level or government classification this 'super czar' will fall into. They've failed to say if the civil service classification will be followed. They've failed to say how the government will maintain local initiative. They haven't mentioned any concern about the negative effects on volunteer organizations, service clubs, churches and things of this nature within the region. They haven't said anything about the budget, Mr. Chairman.

I would like to give all hon. members opposite an opportunity for one last chance to save face, one last chance to stand up for democracy, one last chance to get out from supporting a dictator or 'super czar', a last chance to retain the supremacy or the Legislature by amending the bill as follows. Mr. Chairman, I move that we strike out Sections 1 to 8 inclusive.

MR. HYNDMAN:

On a point of order. I believe the House has already dealt with Sections 1 to 8. We're looking at Section 9. The motion is out of order because the committee has already made decisions on each of sections 1 to 8.

SCME HON. MEMBERS:

Agreed.

MR. CHAIRMAN:

The Chair would have to rule that the amendment proposed by Mr. Wilson is out of order because the Chair has had agreement to Section 9 and has called for Section 10.

MR. HENDERSON:

... [Inaudible] ... Section 10, Mr. Chairman, then I'd like to move an amendment.

[Laughter]

I move this quite sincerely in spite of the levity with which the suggestion is greeted. [I move this] with the view that hopefully after the session is over they get off this pride-of-authorship kick they're on where not a word in the bill is to be changed unless they change it, and to give them an opportunity to reconsider some very hasty decisions they've taken in this House in the course of debate. I would simply move that Section 10 be struck out and the following words be substituted therefor: "This Act comes into force on a date to be fixed by proclamation."

MR. NOTLEY:

I just want to rise and point out first of all to the members of the committee that we already have one example of this very type of amendment that was proposed by the Minister of Agriculture with respect to Bill No. 17, The Coarse Grain Marketing Control Repeal Act. While some of us had differences over that particular act, nevertheless I think we all agreed that the minister needed the time to consider it and perhaps look at some of the other options it might be necessary to consider before the act comes into force.

Quite frankly, all this amendment does is, as the member who moved it has said, give the government an opportunity to think through the thing again, to consider it carefully, to consider not only the arguments raised in the last three days in the most controversial debate that has taken place in this session, but also to take cognizance of the concern expressed by a large number of people, Mr. Chairman, outside of the Legislative Assembly, including a number of the major newspapers in the province, other groups, and a number of people in the community affected.

I'm sorry the minister, between first reading and this committee stage, did not take the opportunity to convene a conference of all the local government officials in the region to maximize the local input before we got to this particular stage of the bill's passage through the Legislature. In my judgment, Mr. Chairman, the input such a conference would have given the minister would have probably made it possible to bring in amendments which would have achieved the same objective and strengthened the purpose of the act. It probably would have altered some of the provisions so they were less obnoxious to the democratic concept.

I was a little concerned - I just want to take a moment now - at the comments made by the hon. Member for Edmonton Highlands when he was talking about the need for legislation and the test is that it must work. We all agree with that. But there is a test which is as important as whether or not it works, Mr. Chairman, and that is whether or not it is consistent with the parliamentary system and the rule of law. When you start talking about theoretical material that is just the gist for a political science lecture. We are talking about two of the basic cornerstones of our whole system of democratic government in the British parliamentary countries.

So, Mr. Chairman, the argument, simply whether or not it works, is only partly valid. Even here, even here, we have insisted or attempted to insist that the government show us why this kind of extraordinary power is needed, why the cabinet has to possess it, why it isn't possible for the Legislature to continue to exercise that authority and be called into special session if necessary. Unfortunately while this is going over ground that has already been trod, the fact remains that the government has still not satisfactorily explained the reasons why they need this extraordinary power.

Therefore, Mr. Chairman, I would just simply conclude by saying that if this amendment is passed it gives the government members an opportunity to listen to the people of Alberta, to give some thought as to whether or not it wouldn't be wiser to hold this matter over and bring in some very substantial amendments during the fall session.

[The amendment was lost.]

AN HON. MEMBER:

Well, you're consistent anyway.

[Section 10 was agreed to.]

Title and Preamble

MR. CLARK:

Mr. Chairman, in concluding what's been, from our standpoint, a very fruitless exercise, I'd just like to make two comments and then ask the minister one last question as far as the bill is concerned.

I'd just like to emphasize the point once again that the minister has not been able to give us an example of a situation where he would see himself recommending to the Executive Council the use of the powers under Section 8. The minister has given us no indication why he wouldn't be prepared to ask the Executive Council to convene a very immediate and very urgent session of the Legislature if things in that area get to the stage that Section 8 of the act is needed.

The other point I'd like to make, Mr. Chairman, is simply this: despite all the examples put forward by a variety of members on the government side about legislation that they consider to be somewhat comparable to this, there hasn't been one instance pointed out where there isn't direct accountability through a minister in every example they've used. The Human Resources Development Authority Act and The Northern Development Act were the two examples used the most. There is no question at all in my mind that regrettably we're treading on new ground in Alberta as a result of this legislation, ground that it would have been better for us never to tread upon at all.

I'd like to ask the minister, in light of the fact that he hasn't met, as he has indicated, collectively with the local authorities in the area, would he be prepared to recommend to his colleagues in cabinet, in fact to the Assembly, that before the Assembly concludes its spring session we take one day and we ask people from northeastern Alberta and other people interested to come before the Assembly and give us the benefit of their judgment on this legislation and some of the problems they see facing that area? So at least before we have third reading of this legislation we have that kind of an opportunity provided to people from that area of the province.

MR. RUSSELL:

Mr. Chairman, I would respond very briefly to that. I can, of course, name one specific example where this kind of order in council would have been passed. That deals with trying to condense the appeal procedure with respect to development in a neighbourhood known as Area 5. We lost a great deal of time during the past summer while the time necessary for an appeal procedure to elapse under The Planning Act occurred. That's one specific example.

I've tried to name what I think might be others. They are primarily for the benefit of other local people who may be in elected office and jeopardize their elective position as a result of that order in council.

Insofar as the last suggestion the hon. Leader of the Opposition made, I repeat what I said to his earlier amendments: we will certainly take all positive suggestions under consideration and give them very careful review before there are any appointments [made] or any action taken with respect to this bill.

I didn't want to leave the debate without acknowledging the Independent member's last amendment, Mr. Chairman. That was something that was the subject of fairly lengthy discussion with Legislative Counsel, whether or not the bill would be more effective or work better if it came in to date on proclamation, or whether it followed the traditional manner of coming into effect on the date of assent. We chose the latter in conjunction with the permissive "may" in Section 3 of the act. If that was "shall", of course it would be very necessary to hold the bill, proclaim it and then immediately after proclamation appoint the commissioner. It would be mandatory. We chose the route because we are in the process now of interviewing and reviewing interested candidates for the position. We would like to be able to use the permissive section under Section 3 of appointing him as soon as we are able to select him. We would therefore like to have the act in effect. That is the reason we would like to pass the act under the normal assent process.

In concluding, Mr. Chairman, I would like to repeat very briefly my remarks that we will take into consideration the comments made by hon. members from both sides of the House. I appreciate very much the comments received from Fort McMurray, especially as outlined in the McMurray Courier. There is a spirit, at least, of cooperation there to try to share pretty heavy duties, to try to provide services that will benefit the residents of the region and get on with the job in a way which we hope will be successful.

MR. CLARK:

If I could ask the minister very specifically, is the minister prepared to recommend that we do take one day before this spring session concludes and make the opportunity known to people in northeastern Alberta, so that in fact they could come before either the Standing Committee on Public Affairs or one of the other committees of the Assembly, and that we not give the bill third reading until that has happened? Is the minister prepared to recommend that?

MR. RUSSELL:

Mr. Chairman, I'm not. I said we would give that suggestion plus those of the hon. Leader and the other members very careful consideration, but of course tonight I'm not ready to give a firm commitment on that particular one.

[The title and preamble were agreed to.]

MR. RUSSELL:

Mr. Chairman, I move that Bill No. 55 be reported as amended.

[The motion was carried.]

MR. LUDWIG:

Mr. Chairman, on a point of order, there were some noes and some ayes, and there was no indication of how many there were. I'd recommend that you call ...

MR. CHAIRMAN:

The procedure has been that in committee the Chair can just initial when the Chair is of the opinion that the agreements have approved it. If you wish to call for a vote, Mr. Ludwig, I would be prepared to consent to that.

AN HON. MEMBER:

Agreed.

Bill No. 29 The School Election Amendment Act, 1974

MR. CHAIRMAN:

Some amendments have been circulated.

MR. GRUENWALD:

Are you going to deal with the amendment that was passed out first? Is that what you said?

MR. CHAIRMAN:

Has that been circulated? Very well. There are two sheets of amendments, Dr. Paproski? Dr. Paproski, two amendments?

DR. PAPROSKI:

Two amendments, on two sheets. The ladies and gentlemen have them?

The first amendment is regarding Section 3, amending the proposed Section 3(1) by striking out Clause (b) and substituting the following clause:

Require all boards, at the same time that a general election is held, to conduct a vote or referendum of the electors in their districts or divisions on any matter or question specified by him.

Mr. Chairman, the purpose of this amendment, as brought up during second reading, was that the referendum could be held only when there is a general election held every three years.

It also makes it clear that the referendum must be for all Alberta school boards and not selectively. In other words, it would probably be less expensive and there would be time to consider the various aspects on matters of general public interest such as school year, school days, kindergartens and general provincial school matters. Local issues could, of course, also be brought in at the same time.

With respect to the other section which is amended - and which the hon. members have - this is in relationship to the request of the Edmonton and Calgary school boards regarding the desirability of having computer voting. The necessary amendments have been made to make this possible upon the application of a board to the Lieutenant Governor in Council, and the Lieutenant Governor in Council, of course, may make regulations regarding the forms, procedures and systems.

I so move, Mr. Chairman.

MR. GRUENWALD:

Mr. Chairman, I would just like to comment briefly on the amendment which is proposed.

First of all, on the first one regarding referendums. I'm not going to move any amendment, but I don't subscribe to the idea that referendums or plebiscites settle issues of any importance. I've never yet seen a referendum that wasn't won or lost on the basis of emotions, not on practical knowledge. Because, generally speaking, when a referendum is held people are not well-acquainted with the issue at hand. The elected people, the people who have studied it from both sides, are the people who should be making that decision. So as far as I'm concerned I don't believe that the section is even necessary at all.

As far as the other one, regarding - there's 33. The only thing there that I take exception to is the penalties. Is that the one that you're dealing with, Dr. Paproski?

DR. PAPROSKI:

Yes.

MR. GRUENWALD:

Yes, the only thing there is that I think the penalties for in any way interfering with the orderly process of a democratic election at any level of government should be dealt with much more severely than is pointed out here. I think the maximums set out here probably should be the minimums. I think we have seen enough on this continent of the frustrations, the interference of the democratic procedure with elections, that in no way should [these] be treated lightly.

So I think that is far too lenient. I just think that the hammer should come down hard on those who deliberately interfere with democratic elections.

AN HON. MEMBER:

Agreed.

DR. PAPROSKI:

Thank you, Mr. Chairman. I have two comments, one with respect to the first amendment. I don't think there's any doubt that interest will increase if the issues are well chosen on a province-wide basis. And recognizing, as I stated initially, that local issues can also be put in on the referendum basis - and we know the percentage of voters who participate in school elections is very low - this is another reason to attempt at least to increase the interest. Having said that - and the hon. member opposite makes his point so well regarding his concerns - it will remain to be seen in the following year and the years to come if the interest has actually increased and some matters may be more clarified, more uniform across the province.

With respect to the penalty, if that is not satisfactory at this time, maybe this could be reviewed again next year or the year after.

MR. BENOIT:

I'd like to get this clear from the minister if I may. Is this saying only those issues which the minister approves may be put on a referendum basis?

DR. PAPROSKI:

It's the ministers decision. He may give directions, but usually the issues come - and I suspect they will - from local boards or interested groups and/or agencies across the province. For example the ASTA may very well bring up a major issue of concern at one of their meetings that would certainly provide a high degree of interest across the province on educational matters. I am sure the minister then would in his judgment make a decision on that basis.

MR. BENOIT:

But if there were a problem in one school division, this wouldn't prevent that one school division having a referendum of it's own?

DR. PAPROSKI:

Indeed that is a very vital point. They could have our own referendum in addition to that province-wide one.

[All sections as amended, the title and preamble were agreed to.]

DR. PAPROSKI:

Mr. Chairman, I move that Bill No. 29 be reported as amended.

[The motion was carried.]

Bill No. 31
The Alberta Art Foundation Amendment Act, 1974

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

MR. GHITTER:

Mr. Chairman, I move that Bill No. 31 be reported.

[The motion was carried.]

Bill No. 33
The Provincial Parks Act, 1974

MR. CHAIRMAN:

There are some amendments that have been distributed.

DR. WARRACK:

Mr. Chairman, I believe debate was adjourned on one of the late sections. We could proceed from there or go back to Section 9 where we have a section that was held. There was an amendment at the time.

As you might decide, Mr. Chairman.

MR. CLARK:

In light of the fact that it was the hon. Member for Wetaskiwin-Leduc who raised the amendment, would it be possible to hold the bill for just a few minutes until he is back in the House?

DR. WARRACK:

... [Inaudible] ... proceed with the other sections because we had held Section 9 and gone to an ongoing section from there. I believe that the debate was adjourned by someone at the time.

[Sections 14 through 18 were agree to.]

Section 9

DR. WARRACK:

Mr. Chairman, I have discussed the amendment contemplated by the member for Wetaskiwin-Leduc and it's agreeable, so even though he is not here I have no hesitation in proceeding to accept the amendment and ...

MR. CHAIRMAN:

The Chair will read the amendment. It was moved that we amend Section 9 of the bill by adding the following subsection after subsection (3). It would be subsection (4). Any regulations under subsection (2), that various substitutes add to or make inapplicable any provisions of any of the acts listed in subsection (2), "cease to have any effect after the last day of the next ensuing session of the Legislature" following the making of the regulation.

Have we got an agreement to this amendment?

DR. WARRACK:

Mr. Chairman, I might, just for the benefit of all, mention that Legislative Counsel does point out that the words following "Legislature" are not necessary. All of us want to get rid of extra words and extra paper. We might wish to delete it. It also does no harm. As far as I am concerned I have no hesitation in accepting it as it stands. Do you want it as it stands? Fine.

MR. TAYLOR:

Mr. Chairman, I don't want to precipitate the whole debate over again, but I did register some objections to this section when we were in second reading and I still want to register those objections.

MR. CHAIRMAN:

Mr. Taylor, which section?

MR. TAYLOR:

Section 9. I still want to register those objections to Section 9(2). I think we are going too far entirely in varying and changing, substituting and adding, and making inapplicable acts that have been passed by the Legislature. Each department can do that under the regulations with very little difficulty, as a matter of fact no more difficulty than they have to vary or change or make inapplicable. I am not going to repeat the arguments I used before or the arguments used in the last bill. I do think that this is unwise and I hope the government will think very carefully about this point, because I think it would eventually lead to an erosion of the supremacy of the Legislature.

MR. LUDWIG:

Mr. Chairman, I also wish to lend my support to the remarks made by the hon. Member for Drumheller. It can only happen in this Legislature, I believe. I don't think we should stand here and witness this type of legislation, particularly with the unanimous support from the government side. This kind of legislation is only possible with the Executive Council having every hon. member on that side committed to it, in their pockets as it were. As far as I am concerned I want to go on record that if they took the proxies from the ir backbenchers and sent them home and never heard from them again they would be no different than they are right now.

This is an attitude that the first step was easy. We had permitted one small innocuous looking section in this act we are debating now, this section we are debating now. Of course the principle didn't matter very much to the hon. members. But they did it. It wasn't long before this was, in fact, passed when one hon. member on that side already quoted this as a precedent to support his argument for a similar step. I will be surprised if this doesn't happen. It will be only because they are afraid of public opinion, that they will say, well, why go through this rigmarole? We should have it in every act that any statute can be amended, any section can be ignored, or any new regulations made without authority because it suits the purpose of the Executive Council.

I am saying that there is a dangerous situation here. It might well not appear to be so, but it is wrong in principle. If it is wrong in principle then it ought not to be lightly dealt with. I am surprised that certainly out of all that very learned body on the other side not a single solitary one is concerned. They are quite content that if the Executive Council says it is good it has to be good. I am saying that this government will get into trouble with the people a lot faster than anything that has happened in this country before.

Thank you, Mr. Chairman.

[Section 9 as amended was agreed to.]

MR. BENOIT:

Mr. Chairman, when we were on Section 10, did we do the amendment there?

MR. CHAIRMAN:

Yes. The amendment was carried.

[The title and preamble were agreed to.]

DR. WARRACK:

Mr. Chairman, I move that Bill No. 33 be reported as amended.

[The motion was carried.]

Bill No. 34
The Municipal Election Amendment Act, 1974

MR. BATIUK:

Mr. Chairman, I move the amendment to Bill No. 34, The Municipal Election Amendment Act, 1974, ...

MR. BENOIT:

Mr. Chairman, are we making reference now to the amendment in Section 11?

MR. CHAIRMAN:

Possibly we could deal with the amendment first, Mr. Benoit.

Section 11

MR. BENOIT:

Well, Mr. Chairman, with all due respect we're running into that same problem. Here again we have,

Notwithstanding anything in this Act, the Lieutenant Governor in Council may make regulations

- (a) prescribing for the conduct and procedure of an election that is not provided for in this Act or that is a modification of the system ...
- (c) with respect to a system prescribed by regulations under this subsection, ...

And then when I get to Clause (d) they have,

- (d) providing that any person who contravenes any provision of the regulations under this subsection is guilty of an offence ...

And so on.

We have regulations upon regulations. Then we get down to Section 39.2(3): "Subject to regulations under subsections (1) and (2) ..." which are regulations, " ... the provisions of this Act apply ...".

All the way through we have again the same problem of regulations varying the act. If regulations carry out what is in the act, then I don't have objections. But when we have regulations which vary the act itself, then I think we're in trouble. I'm not going to say any more than that except to point out that it is becoming a habit. In some bills we have as many as three separate and distinct sections providing for regulations for a variety of purposes, but almost invariably one of them says that the regulations can vary the act itself. This is the thing I take exception to.

If the regulations carry out the act it's one thing, but when the regulations vary the act itself then I think - and, Mr. Chairman, you know as well as I - that this is one of the problems that has arisen among the citizens of the land, trying to figure out what the regulations are saying when they are contrary to the act.

In this particular instance we also have a regulation that provides for both a fine and imprisonment. I am of the opinion myself that fines and regulations should be kept within the act and not be a part of the regulations. When regulations can provide for

imprisonment and fines, there's no way that the citizens can be made aware of what the regulations are when the regulations are made by order in council and very often come into effect a month before they are advertised. What opportunity has the citizen to know whether he is violating the regulations? In this case he could violate them and be imprisoned for six months or have a fine of \$500 or both the fine and imprisonment. I think it's too much authority to put into the regulations.

MR. BATIUK:

Mr. Chairman, the purpose of this bill was to bring some uniformity with The School Election Amendment Act and also the municipal, and this is very much similar to the amendment to The School Election Act.

MR. TAYLOR:

Mr. Chairman, that is the point that bothers me a little bit. The municipal elections have been going on for a long, long time. We don't have the argument the hon. Minister of Municipal Affairs had, that he's trying to look into the future and this is always difficult. Municipal elections have been going on for years and years. Is this because the Legislative Counsel didn't have time to research or is it just doing something to make sure there's going to be authority later on? Or was the bill done in a hurry and carelessly? The thing that's difficult to understand is why we don't know the requirements and the changes required in the municipal election at this time.

MR. RUSSELL:

I wonder if I could just intercede for a moment because there's a very straightforward explanation for this. I was trying to get the eye of the hon. Member for High River when he was reading because if he'll read subclause (ii) under that act, this only happens when the municipality passes a by-law. This request for this kind of change was received from the City of Calgary after the act had gone through our legislative review process for amendment and we were approaching a printed form. The City of Calgary came up with a proposition that they would like to use a combined computerized assessment roll and enumeration card for the purpose of carrying out enumeration for municipal elections. The card would be used for registration on election day.

Meanwhile, the Minister of Education and myself had been trying to bring The School Election Act requirements and The Municipal Election Act requirements into conformity so that electors under both acts went according to the same regulations. The amendments that we tried to work out to meet the requests of the City of Calgary ran to several pages. This was the advice we got from Legislative Counsel: to allow Executive Council, upon application by municipality, if that municipality passes a subsequent by-law adopting the procedure they wanted, that this could happen. That's why these sections are in. To keep the two the same and meet the requests of the City of Calgary.

MR. BENOIT:

On a point of order, I'm wondering if I'm looking at the same page as the hon. minister is. This is an amendment and the main part of it deals with four sections on regulations. Is that the one you're looking at, Mr. Minister?

MR. RUSSELL:

I'm looking at the xerox amendment that was distributed after the bill was distributed to the members.

MR. BENOIT:

... [Inaudible] ... 14?

MR. CHAIRMAN:

That's the one, Mr. Benoit.

MR. RUSSELL:

If you read subclause (ii), that's the important clause in this Section.

MR. BENOIT:

That's not the clause that I was dealing with. I was dealing with subclause (i) that has to do with the making of all the regulations.

MR. RUSSELL:

But subclause (ii) refers to the regulations under subsection (1).

MR. TAYLOR:

Mr. Chairman, the computer point raised by the hon. minister indicates to me that there is some reason for this.

SOME HON. MEMBERS:

Agreed.

[Section 11 as amended was agreed to.]

Title and Preamble

MR. RUSTE:

The one they were discussing here, the matter of - yes, residence in the municipality on nomination day. Now, I can't see anything in The Interpretation Act spelling out what a resident is. Would the minister enlarge on that or would the member who is carrying the bill enlarge on that? Would it mean for one hour? Would he check into a hotel and then become a resident? What is the score on that?

MR. BATIUK:

Mr. Chairman, an elector would have to be a resident prior to nomination day. One day would be good enough.

MR. RUSTE:

But I'm just getting back to the definition of a resident, for that purpose.

MR. BATIUK:

Would you repeat your question please?

MR. RUSTE:

Well, Mr. Chairman, what I'm getting back to is: what is the definition of a resident in that case?

DR. PAPROSKI:

Mr. Chairman, if I may make a comment on that. As I recall reading some of the background information on this - and I believe this is correct - his name must appear on the last revised assessment roll in respect to land or business liable for taxation, or he holds a mobile unit licence under The Municipal Government Act.

MR. RUSTE:

Mr. Chairman, when you look at "Section 34 is amended as to subsection (1) by striking out" and so on, it goes on to say, "(b) he is a Canadian citizen" and goes on and on and then says, "and was resident in the municipality on nomination day." What I'm asking is, what is the definition of resident on that nomination day?

MR. BATIUK:

Mr. Chairman, a resident of Alberta for 12 months immediately preceding nomination day and a resident of the city, town or village for six consecutive months preceding nomination day, by striking out clause (d), where he had to be a resident, and substituting: a resident in Alberta for 12 consecutive months immediately preceding nomination day, and a resident in the electoral division of the municipal district for which he is nominated. If he is nominated, it would have to be for six consecutive months immediately preceding nomination day.

[All sections as amended the title and preamble were agreed to.]

MR. BATIUK:

Mr. Chairman, I move that Bill No. 34 be reported as amended.

[The motion was carried.]

Bill No. 35 The Common Parties Contracts and Conveyances Act

MR. TAYLOR:

Mr. Chairman, during second reading I endeavoured to point out the case where there is an easement on a title which had been there for many, many years. I asked the hon. Attorney General if he would check and see if at the time it has to be removed it could be done at the expense of the assurance fund, providing it is satisfactory with the registrar.

It seems to me there is a very unsatisfactory situation existing where an easement is put on property and that property still has the easement 30 years after the company that put it on is defunct. Even in the Land Titles Office there doesn't appear to be any reason for it. Yet it may take a court action, because everybody who was involved in it has passed away. It seems to me there should be some consideration given to the removal of an easement of that nature.

I'm wondering if the hon. Attorney General has had a chance to look into that.

MR. McCRAE:

Mr. Chairman, if I may just comment on the question or one aspect of it. The mechanics for getting an easement removed - an easement put on by a defunct company - appears to be a provision of The Companies Act whereby you can apply to the court or the judge of the Supreme Court for an order of the court restoring the company to its former status for the sole purpose of removing the easement from the land titles records.

That can be done. It's a rather simple process. I wouldn't think it's particularly expensive. The question of the expense and whether the assurance fund should bear that - certainly there is no provision for it right now and whether or not we can handle that in this bill would be questionable. As to whether the policy might be adopted at some future date, I'll give that to the Attorney General.

MR. TAYLOR:

Fine, as long as you look into it.

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

MR. McCRAE:

Mr. Speaker, I move that Bill No. 35 be reported.

[The motion was carried.]

Bill No. 38 The Agricultural Pests Act, 1974

MR. CHAIRMAN:

There are some amendments?

MR. APPLEBY:

There are four amendments. I think the amendments have been circulated, and I would move the amendments.

[All sections as amended, the title and preamble were agreed to.]

MR. APPLEBY:

Mr. Chairman, I move that Bill No. 38 be reported as amended.

[The motion was carried.]

Bill No. 40 The Alberta-British Columbia Boundary Act, 1974

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

MR. LEITCH:

Mr. Chairman, I move that Bill No. 40 be reported.

[The motion was carried.]

Bill No. 42 The Wage Assignments Act

MR. LEE:

Mr. Chairman, I move the amendment as circulated.

AN HON. MEMBER:

We just got it.

MR. CLARK:

Mr. Chairman, would the hon. member explain the amendment. We just got it on our desk a short while ago.

MR. LEE:

The amendment to Section 1(b) corresponds with the definition of wages in The Alberta Labour Act. This was brought to our attention after first reading by the Board of Industrial Relations. The suggestion was that since this act applies to employees, we make the definition of wages consistent with The Alberta Labour Act. It's to conform to that request.

[All sections as amended, the title and preamble were agreed to.]

MR. LEE:

Mr. Chairman, I move that Bill No. 42 be reported as amended.

[The motion was carried.]

Bill No. 43
The Nursing Homes Amendment Act, 1974

MR. CHAIRMAN:

There are some amendments? Mr. Young, do you wish to move them?

MR. YOUNG:

I move the amendments, Mr. Chairman.

MR. CHAIRMAN:

Any questions or discussion on the amendment?

MR. CLARK:

Mr. Chairman, before we deal with this bill, could I ask the Government House Leader if the government would be prepared to deal with the amendments, then hold this bill in committee, very specifically for the member for Calgary McCall who is involved with the board in Calgary. He has done a great deal of work on some amendments and isn't able to be here this evening.

MR. HYNDMAN:

In light of that, Mr. Chairman, I would adjourn debate on Bill No. 43 and move the committee rise, report progress and beg leave to sit again.

MR. CHAIRMAN:

Is it agreed?

HON. MEMBERS:

Agreed.

[Mr. Diachuk left the Chair.]

* * * * *

[Mr. Speaker resumed the Chair.]

MR. DIACHUK:

Mr. Speaker, the Committee of the Whole Assembly has had under consideration the following, Bills No. 55, 29, 33, 34 and 38, and begs to report same with some amendments; Bills No. 31, 35 and 40 and begs to report same. The Committee of the Whole Assembly has had under consideration Bill 43, begs to report progress on same and asks leave to sit again.

MR. SPEAKER:

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

HON. MEMBERS:

Agreed.

MR. HYNDMAN:

Mr. Speaker, tomorrow morning we will continue with committee study of bills, beginning with No. 43, The Nursing Homes Amendment Act, 1974, and continuing with No. 45, The Coal Mines Safety Act, and Nos. 48, 49, 50 and 53. And if there's time, maybe second readings.

Mr. Speaker, I move the House do now adjourn until tomorrow morning at 10:00 o'clock.

MR. SPEAKER:

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

HON. MEMBERS:

Agreed.

MR. SPEAKER:

The House stands adjourned until tomorrow morning at 10:00 o'clock.

[The House rose at 10:26 o'clock.]