EVENING SESSION

COMMITTEE OF THE WHOLE

Bill No. 105 – An Act to amend The Legislative Assembly and Executive Council Act

Clause 1 (continued)

Mr. Koskie: — Yes, thank you, Mr. Chairman. I just have a few more questions on the general principle and I want to . . The Minister of Justice has been alluding to some of the cases of the British experience, and I think it would be more fitting if we alluded to some of the cases of precedent here in Canada.

I wonder if the Minister of Justice would indicate what happened in the Parliament of Canada in respect to the Fred Rose case. What was the procedure that was followed by the Parliament of Canada where, indeed, Fred Rose was convicted of spying against his own country while he was a member of parliament?

I wonder if the Minister of Justice would, indeed, enlighten and broaden the scope of his reference by indicating to the House what, in fact, was the procedure that was followed by the Parliament of Canada.

Hon. Mr. Lane: — We'll get that . . (inaudible) . . and respond to you. Just referring on the particular matter, I'm advised by my officials that appeals were exhausted in the Rose case. I've given the example earlier of the precedent in the Saskatchewan legislature where the legislature acted before any court determination.

I might add as well that, in the reference in privilege to *Beauchesne's* at page 16, immediately following a very short discussion of the Rose case indicating how it was brought before, and that's the tabling of the documents, Beauchesne then goes on, "It is not necessary for the courts to come to a decision before the House acts," and goes on explaining that. So if your point is that the appeal process went through in that one, yes, I also, as I say, can give you another example in the Saskatchewan legislature where the legislature in 1917 acted before any court resolution on the matter.

Mr. Koskie: — Yes, that's true. In the Fred Rose case in the House of Commons they waited until all the appeals were exhausted before there was an expulsion of the member, and that was with the crime of spying against one's country.

In the Robert Wilson case in Manitoba, I wonder if the minister, just for clarification, would allude to what was the precedent that was followed in dealing with the Tory member, Mr. Robert Wilson, the member who was trafficking in drugs. I wonder if you would indicate, for clarity's sake, because this is a recent case, what precedent was followed with the Robert Wilson case.

Hon. Mr. Lane: — The legislation was put in, and, as we've discussed before, all appeals were exhausted before the matter was dealt with.

Mr. Koskie: — And I want to go to the specific case here today that we have before us, and that is the case of Mr. Thatcher. And as all of us know here today, Mr. Thatcher has been convicted. I'd like to ask the Minister of Justice, if an appeal is launched – and he has indicated that an appeal would be launched – I would like to ask the Minister of Justice if, in fact, the appeal went before the court of appeal, and let us suppose that the court of appeal ordered a new trial for the case in question, the member from Thunder Creek – I'd like to ask the Minister of Justice what would be the position of Mr. Thatcher then, before the law. Would he be as he was when he was initially charged? Would he still be considered as having been convicted?

What would be the position of Mr. Thatcher if, in fact, he appealed it, went to the court of appeal, and the court of appeal, in fact, let's say, ordered a new trial?

Hon. Mr. Lane: — In any circumstance like that, if a new trial is ordered, you go through the presumption of innocence and go through the trial, and it has to be proven again. But I think what the hon. member is missing, and I hope you consider, the question that the legislature must deal is with the fitness of a member to sit as a member, and that does not take away from the necessity of this House to deal with the particular circumstances that may come along.

And it may well be, it may well be that a future legislature says to someone awaiting trial, depending on the offence – and they have that right – that they don't accept the individual as being fit to be a member of the legislature, and can act – the legislature may have the power to act even before charges are laid.

So I'm suggesting to the hon. member, don't equate specific circumstances with the issue which is before this Assembly of the fitness of a member to hold office.

Mr. Koskie: — Is it the position of the Minister of Justice that a determination of the fitness of a member to sit in this legislature is determinate on the fact of conviction and a sentence? Are you indicating that if that circumstance arises, that that precludes the fitness for consideration of allowing that member to subsequently sit?

An Hon. Member: — What was the offence for?

Mr. Koskie: — Well, any offence under your Bill. A conviction under an indictable offence and a two-year sentence. But take it with this particular case with Mr. Thatcher. Let me be specific. You're saying that we are looking at the fitness of the member to sit. And then are you saying that we must look solely at the fact of the first conviction, and on the basis that he was convicted and has not to this date used the appeal procedure which is available to him, that on the basis of what has happened through the judicial system to date, that we must determine here and now that that seat must be vacated, and that his fitness to sit in this House is thereby unsuitable, to the extent that we vacate his seat?

Hon. Mr. Lane: — No. This House could well decide that a member who is guilty of first degree murder is fit to sit as a member of this Assembly. That is a right that this Assembly can make. I would argue with every ounce of strength that I had that that would not be proper. Now if that's the argument you're putting forward . . (inaudible interjection) . . No, I mean that's the argument. I'm not trying to inflame the debate, but you have to look at the reverse of what's being presented. One has to look at the reverse.

This House could decide that a member who is guilty of . . Or let me put it this way. This House could decide that a member who lied before a royal commission, and no criminal charges were laid, is not fit to be a member of this House. We could make that decision.

The question is, that we have indicated on numerous occasions, it is our view that when a member is convicted of an indictable offence and is sentenced to a term of imprisonment, two years or more, the House will have two options: it can expel or it can suspend. I think in a nutshell that's what the legislation does, and we have set out that that specific power to expel, in this case coupled with a suspension, but the special power to expel, because I believe that's the operative part requiring the legislation, should be brought into legislation. We do that on the advice that we have, the advice we were given, and I suggest that the advice that certainly was suggested to each party in the Assembly.

But we have the right – as I say, I disagree, and I'm sure every member would disagree – we would have the right to allow a member convicted of whatever crime you want to mention, no matter how base, but certainly the public wouldn't accept that, and certainly the public would

not accept that as an indication or supporting the concept of the integrity of this Assembly.

Mr. Koskie: — Well, it's very true, Mr. Minister, that this House, as you said, could decide to suspend or expel. All I'm asking you – and let it be abundantly clear and don't' start putting our position – our position is not attempting to have sitting in this House anyone who has committed the crime and has been convicted to the extent of the member form your side, the former Conservative cabinet minister.

So don't indicate that, that you're concerned about that position of ours. Our position is maintaining the integrity of the House, but also maintaining the integrity of the judicial system. And I ask you then, as you said this House has the option to decide to suspend or expel, I ask you under which circumstance, suspend or expel, in a sense, has a greater respect for the following through of the judicial process. Errors are made in law, obviously. And what we're saying, that if we go with the method of suspension, that the due process of law can, in fact, run its course.

In other words, in this instance, Mr. Thatcher would have the right to appeal. And I noted when the member in the Liberal caucus was asking you similar questions, you said but oh, that process, you know, it may take quite a time. I wonder, Mr. Minister, why you are opposed to allowing an individual member, as is available to any ordinary citizen to have, at least, his right to sit here, not expelled but suspended, and to allow the due process of the appeal to proceed with.

I just don't understand, because as you follow it through, and we'll come to it when we get to the resolution, the people that I have been contacting are saying this in this case, they are saying basically: we agree with your position, that is the NDP caucus position, that no member who has been charged and convicted should, in fact, be allowed to sit in the House or should be paid as a member of the legislature. They agree with that. But the people that I talked to, and I've talked to many in trying to formulate a reasonable position on this, they say that the integrity of the House is protected, that the due process of law is also protected, and you have to give to every accused the right of the due process of law. And what they're asking is: is there something sinister about this Act? They're saying: is there something sinister? Is it such a burning desire that the members opposite want to put this case under the rug to such an extent that they want to go beyond what has been followed in the House of Commons with the Fred Rose case and with the Wilson case in Manitoba?

And that's the concern that is out there among the public. They are saying the integrity and the dignity of this House would, in fact, be served by the suspension of the member from Thunder Creek.

An Hon. Member: — By resolution.

Mr. Koskie: — That's right, by resolution. And what I'm asking you, since we have looked at it carefully, no one in this House is going to say that, or accuse you of going soft on a fellow, fellow member, member, colleague of yours, by going the method of suspension. And so what I'm asking you: would you, indeed, consider . . Would you, indeed, consider revising and amending the Act to, in fact, delete the expulsion portion of it, or the vacation of the seat, and going with the suspension and allowing the due process of the appeal to take place?

Hon. Mr. Lane: — I hope the hon. member as a lawyer, and as a member, is not arguing that the due process of law has not taken place to date because it most certainly has. But secondly, secondly, where do you draw your line? What if the court of appeal says that they uphold the jury convictions and then, then the accused decides for leave to go to the Supreme Court of Canada. So you're saying that during this whole process, whether it's a year, 18 months, that the member should only be suspended. That is the argument . . (inaudible interjection) . . Well, not there, and no money. But here is the fundamental point that you miss, with all respect, and that is if, if the accused or the appeal is upheld, or the jury decision is upheld, when you're arguing suspension the point you miss is this, is that he still remains a member of this legislature. And I

really question whether a member of the legislature, under suspension or not, convicted or murder, or I would say rape, should remain a member. Surely we're not arguing that. I can't accept that, I'm sorry.

Mr. Koskie: — Are you, Mr. Minister, disagreeing with the House of Commons procedure then? With the Fred Rose case where, in fact, there was a member of parliament who was actually charged, convicted with spying on his own country, and sitting as a member. Are you indicating that that is an error, and you would do differently in that instance too?

Hon. Mr. Lane: — I am saying that that is a decision for that parliament to make, just like it's a decision of the parliament or the legislature of British Columbia to say that, upon conviction for an infamous crime, the member is expelled. Just as it is the right of the British Parliament to say that upon conviction and sentenced to more than one year, the member is automatically expelled. Just as it is the right of the legislature in Quebec, the National Assembly of Quebec, to say that, upon conviction and sentence for two years, automatic expulsion. Just as it is the right of Manitoba to say that they were going to wait and suspend, during its process. Just as it is the right of the Government of Canada to take the action, or the parliament of Canada to take its action.

It's a decision that each legislature is going to have to deal with. As I said this afternoon, the saving grace for this province is that this is only the second occasion in some 79 years that the legislature has had to deal with it.

Mr. Koskie: — If Mr. Minister of Justice would deal with the present case. A colleague of yours, a former cabinet minister of your government, obviously has been convicted – very, very serious offence. And let us assume that the member appealed, and let us assume that in between the period of time that he appealed it, that we proceeded and we vacated his seat and expelled him. And then a month later he went before the court of appeal and they reversed the decision, would you think that we would have been justified in taking those steps to protect the dignity of the House?

Hon. Mr. Lane: — Yes.

Mr. Koskie: — Would you explain the basis of your reasoning of saying yes?

Hon. Mr. Lane: — I believe that if a member of this Assembly is convicted of an offence and sentenced to imprisonment for more than two years, I would be very hard pressed to argue any situation where the member remains fit to hold that office.

I know what you said, that subsequently it's dealt with in appeal. Well, with all respect to the hon. member, we are dealing with the fitness to hold the office and be a member of this Assembly. It's not a physical fitness and it's not specifically defined. It's a determination, a collective determination of this Assembly that has to be made. And I'm sorry we disagree on that. Supposing that this, that the court of appeal upholds the conviction . . (inaudible interjection) . . Well, I mean if you know the process then I suppose my comment would tend to be of a little more weight. But you now want to leave it to the Supreme Court of Canada, some 18 months, perhaps two years, and during that time a member convicted, if it happens to be a conviction, a sentence, appeal is filed the next day. Within 30 days the court of appeal comes back and says decision "perverse," whatever, that entered a plea of, or directed a plea of not guilty. I would suspect in those circumstances, as a practical matter, any government would pay the price in the ensuing by-election. And I say that, in fairness, I think that there would be a reaction. But I suggest that the suspension argument, the weakness with the suspension argument is that, without the privileges of being here, the individual still maintains the status as a member, and we're really saying that that's all right. And I can't accept that, I'm sorry.

Mr. Koskie: — Well, then don't leave a misinterpretation that the member, under suspension,

continues to have the basic status or privileges of a member, because on suspension that is not what is spelled out in the Manitoba Act. The member does not, in fact, have any of the rights to sit or speak in the House. He does not have the right or any of the privileges or prerogatives.

All that the Manitoba legislation – and similarly followed in the House of Commons and the case of Fred Rose – indicated is that what they were concerned with . . And you seem to have a different definition of how one maintains the integrity of the House. If a member and the legislature has taken away all of the right of that member to sit, or to speak or to be paid, or to have any of the other privileges, it seems to me that that member has been literally stopped. He has not the right to enter the House, to speak on behalf of the issues, and, indeed, is in an impossible situation to do that.

And so what I'm saying to you, Mr. Minister of Justice, having regard to the justice system, it just seems to me that the difficulty that I have is not allowing the right of the appeal. And regardless of whether it goes from the Court of Queen's Bench, where this case was held initially, there's only two sources of appeal, one is to the court of appeal and then to the Supreme Court, and, obviously, that takes some considerable length of time.

But it seems to me that if one takes the other aspect of it and says, that if the conviction were overturned, and if we took the action of the expulsion of the member, that it seems to me that we would not really be looking at the integrity of the House, that really what we are doing is taking further steps because a crime was committed, conviction was, indeed, brought down. And what we're doing is going beyond the purview and taking steps, as is indicated in the Bill, of not only vacating the seat, but, as the Bill indicates, making it impossible even if the member subsequently won on an appeal and the conviction was reversed, innocence was found. We're going to the extent of saying that that member couldn't even run as a member of this legislature, and I find that very difficult to follow.

Without coming to the conclusion as the public has, is that there is a great desire of toughness on the part of the Tory Party to look tough, and get rid of this member once and for all, put it under the rug, and clear the slate.

I am also, you know, really amazed that we deal here with a Bill which we had a special session called to deal with it. But the only issue that was on the tail-end of the last session was this particular issue. And it really surprises me that, in a Bill of this nature, that the Premier has never attended nor voted on any of the proceedings of this Bill. The public, I think, are justified in coming to some conclusions in respect to this, that it is a particular Bill carved to facilitate the needs of the Progressive Conservative Party, rather than the needs, and the integrity, and the dignity of the House.

Hon. Mr. Lane: — Well, the hon. member says that a member, who is convicted of an indictable criminal offence and sentenced to more than two years in prison, should be able to remain as a member pending all processes.

Well, that's what the suspension says. Now, you now say . .

Mr. Chairman: — Order, order. All members get an opportunity to speak in committee, and I would ask them to do it from their feet so it can be recorded.

Hon. Mr. Lane: — Let's take away and let's say what rights and privileges are being stripped. Certainly the right, you're arguing, the right to be paid; the right to get indemnities; the right to sit in this Assembly.

An Hon. Member: — Or speak.

Hon. Mr. Lane: — And he says, "And speak." That's not correct. Because the member would

still have the right to speak as a member from the prison cell. Well, not as a member once expelled. Under suspension, he has the right; under the proposal for suspension, he would have the right to speak from the prison cell as a member. Surely no one can argue that that does anything for the dignity or the integrity of this Assembly. Surely the logic of the position on suspension is a dangerous one.

I think the point made by the Leader of the Opposition . . He said that the provisions were too harsh. And I believe you were referring to the two years, but I stand to be corrected. I myself would be more personally included to the one year. However, we're really saying that someone convicted of a criminal offence and sentenced to more than two years in prison should maintain the right to speak as a member, maybe not in this physical Assembly, but the right as a member to speak from the prison cell. And I suggest most strongly that that is wrong.

Mr. Koskie: — Then, Mr. Minister, if you take that to your logical conclusion and looking at the Bill as it is, which says, and I'm going to be careful on this:

> On the tabling of a certified copy of conviction of a member for an indictable offence for which he has been sentenced to imprisonment for a term of two years or more, the legislature may, by resolution (a) suspend . .

And it goes on:

> Or (b) declare the seat . . vacant.

On the argument that you just put forward, under what conceivable circumstances, or why, in fact, based on what you have just said, would you in fact ever find a case where suspension should be used?

Hon. Mr. Lane: — As I indicated, I would have . .

Mr. Koskie: — Because obviously the individual would be in jail or in the penitentiary, and you have been saying that suspending him will not, in fact, take away the privileges of him being able to speak from the prison cells. And, therefore, what I'm asking you is: based on the arguments which you have just put forward, can you indicate under what circumstances, then, that that member, who is imprisoned, should have that right to speak as a member of this legislature?

Hon. Mr. Lane: — Well, I've indicated that I have difficulty visualizing a circumstance where someone convicted and sentenced to more than two years . . But supposing some future Legislative Assembly, a member is convicted of theft over $200 . . (inaudible interjection) . . Now, I'm just going by what, where sentences can happen of more – and I believe that was the question that was raised – where a person could be sentenced to more than two years. Theft over $200 is one offence. It may well be that some future legislature says that we only want to suspend on that circumstance. I can't visualize it, but I think that should be left up to a future legislature to decide, and I gave you the reasons for the options this afternoon, is that we don't want to bind.

I suppose – what if there is a criminal breach of trust? Perhaps an estate matter, perhaps a banking matter, and an accused is sentenced to more than two years? A legislature may say we will suspend. I don't know. I would have a great deal of difficulty. But you asked for some examples where – what about fraudulently affecting the stock market? Maybe a future legislature will say we will suspend . . (inaudible interjection) . . Well, I – please, I'm trying to respond to the question that was raised. And possession of counterfeit money, injuring or endangering cattle. I mean, I just am taking a glance at indictable offences with a maximum penalty of five years, and I can't tell you what a future legislature would do in those circumstances.

We have to deal with the situation here and now, and I've argued the difference between suspension and vacating the seat, and what we can't get away from is that the member under suspension, even if we take away his telephone credit card, his right to speak in this Assembly, his indemnity, is still a member – is still a member, and is still representing constituents. And I suppose the question is: can they, in fact, carry out their duties representing their constituents from a prison cell? A big difference. And I would hope that the hon. member would reconsider.

Mr. Koskie: — The basic position that you did put forward, though, is that any member, although stripped of the privileges of pay, and telephone, and right to sit and vote in the House, your basic position was that anyone incarcerated would still have the right to speak, and, for the integrity of the House, that that is not proper.

I just want to be clear. Is that the basic position of you and the government, that anyone who is incarcerated is, in fact, should not be suspended because they still are able to carry on as an MLA, be it all speaking from a prison cell. Is that the basic position?

Hon. Mr. Lane: — I'm not sure I believe what I'm hearing, and I hope I stand to be corrected. The position I'm putting forward is that a member of this legislature, convicted of an indictable offence and sentenced to more than two years, should not have the right to speak as a member. As an individual, you know, whatever the prison system allows, and however they communicate, you can – we can speculate on that for a long period of time, including publishing manuscripts, whatever.

But the question is as a member, not talking about anybody else or everybody else, I'm talking about the status as a member of this Assembly. That's what I'm talking about.

Hon. Mr. Blakeney: — Mr. Minister, are you aware of cases in which, not now involving members but involving other people who have been before the courts, who have been sentenced at the first level to, let us say, two years, and who have launched appeals both as to conviction and sentence, and the conviction has been sustained but the sentence reduced to 60 days or something like that. Are you aware of those sorts of cases?

It's very clear that you are anchoring your case on the fact that the first sentence awarded at the first court – the provincial courts across this province ordinarily as handling at least 90 per cent of the cases, criminal cases at the first level – you are anchoring your case on the fact that those sentences, when they are two years or more, brand somebody, brand somebody as unfit to serve in this House, even though the court of appeal may reduce that to 60 days within three months, even though we may have, not with respect to members again, but with respect to many other persons who have been before our courts; and there are many, many instances of that. You would have it that that person, by his original sentence, shows himself to be unfit and therefore ought not to be here; ought to be, at least, subject to expulsion, even though three months later the court of appeal may have said that 60 days was a more appropriate sentence. He then is out. There's no way to get back, and not only that, but he can't contest the by-election. All in the interests of defending the integrity of this House.

Now I understand your argument about it defending the integrity, but if we also want to couple that with full confidence in the judicial system, then I think we ought to let the system display itself a little more fully than just at the provincial court level before we decide that the issue is closed.

And I doubt, I doubt, sir, whether or not, in cases where someone is convicted of an offence and sentenced to one year as in some of the other legislatures, they are automatically out before their appeals have a chance to be heard. And if you are asserting that that's the position in, let us say, Great Britain, I would be interested in your confirming that to the House, that the court of initial jurisdiction sentenced someone to one year, he is out regardless of the process of appeal, regardless of him having been found not guilty by the next court, regardless of him having had

his sentence reduced to 30 days by the second court. If that's what you're saying, I would appreciate your letting the House have that information because I'm surprised if it's so.

Hon. Mr. Lane: — First of all, that was not my argument. It may well be that this legislature says that someone is unfit for office, period, even though a court of appeal may reduce or increase a sentence. And that's a determination we make. It's a determination we make. All that the legislation does is establish one specific grounds for vacating the seat or suspending the member. Okay, it's one. That's not a limiting power, and I'm not arguing that. I say it is one specific power.

If I can quote from the Representation of the People Act (1981), an Act to disqualify certain persons for election to the House of Commons, to make changes in the time table . . etc.:

> 1. A person found guilty of one or more offences (whether before or after the passing of this Act and whether in the United Kingdom or elsewhere), and sentenced or ordered to be imprisoned or detained indefinitely or for more than one year, shall be disqualified for membership in the House of Commons while detained anywhere in the British Islands or the Republic of Ireland in pursuance of the sentence or order or while unlawfully at large at a time when he would otherwise be so detained.

It's simple.

Hon. Mr. Blakeney: — That says that he is disqualified while detained. If he's out on bail – you read it again – while he's out on bail, he is not disqualified. It's only while he's detained if what you read is accurate.

Hon. Mr. Lane: — The balance of it – section 2, subsection 2 says quite simply:

> If a member of the House of Commons becomes disqualified by this Act for membership to that House, his seat shall be vacated.

Hon. Mr. Blakeney: — I would obviously need to look at that with some case. I find that to be a rather remarkable provision if it's there.

What I wish to ask the hon. member again, and I want to preface my question with this comment – it is clear that we're here setting some rules or norms by which we think this legislature should act.

We all know that under the general rules of the House we can exclude a member because we don't like the way he parts his hair. That is within the power of this House. And the fact that we don't abuse this power is enforced by sanctions other than legal sanctions. But here we are reducing to law the precedents and conventions by which this House and other parliaments have been governed, and we are therefore setting out norms by which we think we should act. And when we do that, I think the norm should reflect what our view is as to how legislatures should normally act in the future, always understanding that any legislature in the future can take any position they want – everything from deciding that people convicted of the most heinous crimes should sit here, to a position which says that people with red hair should not sit here. And clearly a parliament or legislature can take those positions.

But we have decided to reduce the law what we think the norm will be. And we have decided that a term of two years or more – a conviction which yields a sentence of two years or more should normally be "trigger action" by this legislature. It doesn't say as I read it that, "the legislature must," but "the legislature may . . ", so it sets a norm. And I am anxious, or I am desirous of this House setting a norm which does not trigger action to expel the member and vacate the seat until normal judicial processes have taken place.

I think that the citizen who has to protect himself must know that the consequences of an initial conviction can be overturned in a court of appeal if he was wrongly convicted. And those consequences should, in my judgement, include the triggering of these provisions of the Legislative Assembly and Executive Council Act.

I thoroughly agree with the hon. member that someone who is under sentence ought not to sit in the House and exercise the normal prerogatives of a member. He . . I believe he should still remain a member of this House until the judicial process has run its course as is set out in the Manitoba and federal government rules. I believe that's the better and proper rule.

I am not as concerned about the fact that somebody may bear the title of a member of the legislature as I am concerned about the fact that that tile and status ought not to be taken away until the full judicial process has run it's course.

After all, we didn't put that member there. He was elected by the citizens of a particular constituency. They put him there. We ought not to take him out of there, or require that he be removed from there, or she be removed from there, until it is clear and certain that he stands convicted and he has exhausted all of his potential remedies. Now that is the position we take. We understand the member feeling that there is something particularly abhorrent about somebody in – who has been convicted of obtaining goods by false pretenses representing himself as a member of the legislature. But I don't find that too upsetting.

If the federal parliament could operate with Fred Rose, saying he was an MP after he had been convicted of treason, I believe, was the offence, without the Parliament of Canada appearing to be damaged by that particular precedent and series of events; if the Manitoba legislature could have one of their members convicted of, as I believe it was, traffic in narcotics, and they not feel that their status was in any way impaired; and if they, as a legislature, suffered any modest indignity that that might involve in order to see that those particularly members got their full day in court, then I believe that they, the Parliament of Canada and the legislature of Manitoba, followed the correct course of action.

And I ask the minister: does he feel that the fact that a member will have the status of a member in some ethereal way, but not in any way that allows him to act as a member in this Chamber, or draw any pay, or emoluments therefore – does he feel that that outweighs the very clear desire that we ought to have to see that any member has the full rights of any other citizen, to believe that a successful appeal will mean that he will not stand convicted, and he will not lose anything? And that's the test.

And I say to you: here's a person who we are – who may well be exonerated in a relatively short time; every penalty which has been imposed upon him will be wiped off the books except the penalty imposed by this House. And we will have taken away his rights, and the rights of the people who elected him, for the sake of, as you say, some belief that to do otherwise would bring disrepute on this House.

Hon. Mr. Lane: — Well first of all, the legislature cannot, and will not, look upon vacating a member's seat as punitive. It's remedial, and that deals with the legislature governing itself. We can make that decision without reference to any court action. We can make that decision, as you've said, and as I've argued, and the precedent in Saskatchewan, without a court resolution of the matter.

Let me just add, with the comparison of Manitoba, and read for the member's benefit British Columbia, in its constitution, provincial Constitution Act, section 54:

> If a member of the Legislative Assembly, without permission of the Legislative Assembly, fails during a whole session to attend the Legislative Assembly, or takes an oath or makes a declaration or acknowledgement of allegiance, obedience or

> adherence to a foreign state or power, or does, concurs in, or adopts an act where he may become the subject or citizen of any foreign state or power, or becomes a bankrupt, an insolvent debtor or a public defaulter, or is convicted of treason, or felony or any infamous crime, or ceases to be a member by operation of section 27, his election becomes void, and the seat of the member shall be vacated. A writ shall issue within 6 months after the time when the seat of the member became vacated, for a new election.

So it is automatic in the province of British Columbia. In the National Assembly Act of the province of Quebec:

> The seat of a member becomes vacant if he dies; resigns; becomes a candidate at a federal election or a provincial election in another province; is appointed to the Senate; is found guilty of treason; is found guilty or charged with corrupt electoral practices; is found guilty of several of the offences . .

Again listed. Or number (8):

> Is sentenced to imprisonment for an indictable offence, punishable by imprisonment for over two years.

In other words, in the province of Quebec it becomes vacant upon conviction.

The argument comes back, not related to the judicial process, because I think that's an extraneous argument. It's an extraneous argument to the extent that we can make a decision governing ourselves without reference to it. We come back to the reason in this case a member has been charged, convicted of an offence. The advice we have, if vacating the seat is the course of action, that legislation is necessary. Well I suppose we could debate that legally we do have – and I think the member will agree – advice that that is a preferable way to go.

Having said that, the issue then becomes: is it a matter of the integrity of this House if a member of this Assembly is convicted of an offence – that particular offence – should that member still have the status as a member? And I say no. If in subsequent times a member is found not guilty, then that member will have the recourse of going back to the electors. Is that unfair? Is that more unfair than perhaps an individual who has gone through a trial, found guilty, perhaps an appeal, found guilty, and then found not guilty by the Supreme Court of Canada after years of costly legal battles? There's no remedy. There's no remedy at law for someone who has gone through that process. You can argue whether it's fair or not. It certainly is accepted as the law, assuming the system is acting properly.

So if I have an analogy, it would be that. I don't think it a fair one because it gets away from our prerogatives as members to determine who is fit to sit in this Assembly or what constitutes the integrity of this Assembly. That is the argument. It is my argument, our argument, that when a member has been so convicted that that status as a member should be taken away as well.

Hon. Mr. Blakeney: — Mr. Minister, we are, of course, not talking about the case of the member for Thunder Creek. That will be covered by the Bill, but the Bill covers a great deal more than that, and, with all deference to the legal advice which you may have received, I believe that we could vacate the seat of Thunder Creek without legislation. I am very puzzled to know how it was done in 1917 without legislation if it was improper so to do. And I note with care, I note with care that you have preserved in this Bill all of the rights of the legislature to expel or suspend a member according to the practice of parliament or otherwise, and I believe that's the situation.

So that would remain. That would remain. What we are doing here is trying to set up a set of rules for people who are convicted of very considerably lesser offences than the one which has been frequently referred to in this House. Two years is, while a significant sentence, can be

awarded for a very lengthy list of offences as we are all aware. And we are saying that anyone who is so sentenced, even at the court of first instance, even when the sentence is overturned and reduced to 30 or 60 days by the court of appeal, shall none the less be subject to be expelled from this legislature. All to preserve the dignity of the legislature. And I think that's overdoing it. I think that's overdoing it. And keep in mind that while we are, of course, interested in the dignity of the legislature, we are also interested in the voters of constituency X – I'll say the constituency of Elphinstone, since that's my own – being able to elect who they think is their best member without us, as a collectivity, saying, "You can't elect that fellow."

And I think that that's an important principle, that the electors have an opportunity to exercise their judgement, and we have seen many, many instances, particularly in British history and even some of our own, where the electors elected people who very obviously the parliament didn't want them to elect. Louis Riel was elected, and he obviously wasn't very welcome, and we have people elected recently in Northern Ireland who obviously weren't very welcome at Westminster.

But we ought not to set up procedures whereby the electors are barred from having, as their representative, somebody who, at a court of first instance, was sentenced to two years, but who subsequently had his sentence, perhaps, reduced or wiped out altogether. We ought not to set up a procedure where we, as a collectivity, can remove the right of those electors to have that person as their member. And this Bill does that. It says that if the conviction is overturned, then it does not reverse the expulsion, and it goes on further to say that while the expulsion will ordinarily result in a by-election, the person so convicted cannot contest the by-election. And that latter point, as you know, will be one we'll debate again, and I don't want to make a point of that because we'll talk about that when it's amendment time. But with respect to the fact that the person who is acquitted has been expelled, and we have, then, it seems to me we have done violence, not only to that person, but to the electors of the Elphinstone constituency.

Hon. Mr. Lane: — Keep in mind what the legislation, as opposed to the resolution, says is that the legislature has the power in that specific circumstance of going either way. Okay, so I think that that then answers your argument as to what a legislature can do. Certainly the power to suspend is there. Okay, whether that's the power we elect to use is not a matter of debate on the legislation. It's on the motion which may follow the legislation.

Okay, so that your argument, if a court of appeal was to reduce the matter below . . I mean you could if you, if any legislature was in that circumstance where they saw the possibility of an sentence being reduced, or certainly in fairness to this particular circumstance not likely to have a reduced sentence if the appeal is upheld because it is a fixed sentence, having said that any future legislature dealing with it will have the power, and we did not want to put in legislation that made it absolute and mandatory. And that is why it was drafted in a way that a legislature could vacate or suspend for that very reason. And I think that answers the member's argument.

I suppose we could debate the legal question as to whether the legislation is needed for the power to vacate. We're both aware that we do have that advice and I, quite frankly, would, as Attorney General, argue that you would move on the question of caution in the normal circumstances and ensure that, in fact, the power is there and not likely to be challenged, and I think that's my obligation.

Hon. Mr. Blakeney: — Mr. Chairman, and Mr. Minister, I agree with all that the Attorney General and the Minister of Justice has just said. However, it does not bear upon the point which I was attempting to make which says that this legislation allows us to, or someone who is sentenced to two years, to vacate the seat forthwith, long before any appeal could be held, if we wished so to do. And that seems to be to be a power which out not to be put in the Bill as a norm.

We ought not to be suggesting, as we undoubtedly do, to future legislatures when we put this in

as a norm that that is in any sense appropriate because it surely is in no sense appropriate. And I could think of virtually no instance where a legislature ought to expel anyone who had been sentence to two years and whose appeal was in process. And we ought not to give ourselves that power. When I say give ourselves that power, I mean put it into legislation. We all know we have the power in the same sense that we can expel people with red hair. But we are talking about establishing a norm. You are setting a norm, or we as a legislature are setting a norm by this Bill, and in my judgement we're setting the wrong norm when we say that someone can be expelled who is sentenced to two years and who has got an appeal under way.

Hon. Mr. Lane: — Except that we have that power in all likelihood anyway. I mean we could expel, right now, someone who has an appeal on a parking ticket . . (inaudible interjection) . . Okay. I mean there is some, and I suggest, and I agree with the hon. member, that the doubt may be small as to the exercise of that power of expulsion.

Having said that, we come back, that yes, we are setting a norm. We are saying that any member convicted of an offence and sentenced to prison for two years or more, the legislature can do one of two things. The legislature can suspend, or the legislature can expel. I fail to see the difficulty with establishing that norm.

Should the norm then be that if a member is convicted of any criminal offence we have the power to expel, or should it be, quite simply, that at any time the legislature has the power to expel any member? Because that would be a statement, what many believe is inherent in the actions of a legislative . . I don't think it would be wise to set that inherent power in legislation. I think that would be terribly, terribly unwise, to state our inherent power, the right to expel, for any reason, exists. And I don't think we should have it in the Act.

So that would be a norm that exists. I do believe we may have dispute as to whether it should be one year or two years or five years. We thought we picked a reasonable, based on other jurisdictions. But a norm – I suggest to the member that a norm does exist, that a norm is inherent. It's the right to expel. We don't put it in because I think we would agree that that would be unwise and dangerous. I don't believe that this norm which is being established is unwise or dangerous because it does give to a legislative assembly the options. They can deal with it at the time, and in the circumstances, and I think that's fairer, and I think that's proper.

Hon. Mr. Blakeney: — Mr. Chairman, and Mr. Minister, I don't want to belabour this debate, but I simply want to state the position that I take, that, yes, we have an inherent right, the legislature has an inherent right to expel a member. That should exist, and we ought not to try to put too many specifications as to when it ought to be exercised. But what we're now doing is something, in effect, lesser than that. We're setting up a set of rules for something, in my judgement, a little less than this power of expulsion which ahs existed according to the precedence of parliament, and while I do not quarrel with the two year threshold (I think it's a little low) but the two year threshold, if it were a threshold for suspension, I think it is far too low, a threshold for expulsion, because it is entirely possible that somebody may be sentenced in the first instance to two years, that that sentence be reduced to quite a small sentence, and the member then be subject to expulsion.

He then, in my judgement, would be the object of an injustice, and his constituents would have been deprived of their right to be represented. And this is – those situations are not difficult to postulate – not difficult to postulate a judge at the lower court level who may say that you are a person in public office, and therefore you have a special responsibility, and therefore I intend to impose a longer sentence. That is, in my judgement, a wrong method of sentencing, but I've heard virtually those words come out from judges before. And he sentenced someone to two years when the court of appeal would say, "Wait a minute, 60 days was about right." And then he is subject to expulsion. I think he ought not to be.

I know the House has a choice, but I don't think they should have a choice in that case. I think

they – not by the rules which we set – if they're going to expel him, then they ought to rely upon the practices of parliament, and they would be hard put to find any precedence for that sort of thing in the practices of parliament. Whereas we are putting it in here that you would be within the four corners of this Bill and say, "Well that's what the legislature has decided. We're doing exactly what we had even put into law." And I therefore think that we ought to have in this Bill – two years if you wish – suspension, but not expulsion.

Hon. Mr. Lane: — I don't know why you would argue a norm or suspension when I expect that suspension is inherent, and we would all agree with that. The question comes about, and I believe it's inherent in the power to expel; however there is some question raised as to how far that power goes, or whether it would be free from challenge. I suppose that's a better way of approaching it.

When we talk about establishing a norm in a situation like this, I believe that it, rightly or wrongly, the norms are developed as a result of the circumstances that cause a legislature to act. And if we go back to sections 31, 32, and 33 of the Legislative Assembly and Executive Council Act, that, I believe, stemmed from the original situation back in 1917 where a member of the Legislative Assembly was found to have accepted a bribe by a royal commission – found by a royal commission to have accepted a bribe.

If the Legislative Assembly, in response to those circumstances, brought in amendments to the legislation, and it made it – and a norm was established that a member having received any fee, etcetera, etcetera, in the circumstances is incapable of being elected to, or of sitting and voting in the Legislative Assembly for the duration of the then current term. So a norm was established in response to the circumstances. And I think it's an expectation that the public believes that the legislature should act.

Having said that, the question of the power, we think, is flexible for future assemblies with either option, and again we could debate this for some time. And obviously the government's intent outside of the Bill has been communicated. And with that area of concern that was raised as to the possibility of a challenge of an order to vacate, or a resolution to vacate, that it was advisable to be correct and make sure that that challenge will likely fall because of the actions of the Assembly.

Hon. Mr. Blakeney: — Mr. Chairman, and Mr. Minister, I follow your arguments, and I don't accept them.

Clause 1 agreed to.

Clause 2 agreed to.

Clause 3

Mr. Chairman: — Clause 41.3(b) of the Act is being enacted by section 3 of the printed Bill is amended by striking out "that" and substituting the following:

> Unless and until, following the disposition of all proceedings in the matter, he does not stand convicted of the offence that.

Mr. Koskie: — Just on section 3, Mr. Minister, much of the debate has been – of the whole Bill has been pretty well pursued. But particularly on section 40.1 subsection 1, as you indicated to my colleague that you have set here, wherever there is an indictable offence and sentenced to two years or more, I just draw your attention to the fact that in the Manitoba legislature they have used five years under the Criminal Code of Canada in references made to that, that is also five years.

I'd just like to ask the minister: is the decision to go with the two years of an indictable offence from the standpoint only of the fact that it is indictable, and it's a penitentiary sentence rather than to the provincial jails. Is that sort of the basis of the demarcation between the two levels of offences?

Hon. Mr. Lane: — Yes, that was the reason that we chose two years. And, of course, it wasn't without precedent in other jurisdictions. We discussed earlier . . Some jurisdictions say one year. Some say five. Quebec says two. We chose the two because I believe, for those that are aware, that seems to be the threshold in the public's mind between sentence . . Two years, of course, as the hon. member knows, you're sentenced to a penitentiary. And two years less a day, you're sentenced to the provincial correctional. So that's the reason that the two years was chosen as the threshold.

Mr. Koskie: — Okay. In respect to that same section, Mr. Minister, on subsection (3), clause (b), is of considerable concern to us in its form. And I know that you have indicated an amendment to that, and I just want to make a few comments on that, get an explanation.

In its original form, subsection (b) states:

> That member is ineligible to be nominated for election to, and is incapable of being elected to or of sitting or voting in, the Assembly for the duration of the then current term of the Legislature.

And we feel that this is a very harsh piece of legislation in the terms that you have it because, as has been alluded to, anyone with a sentence over two years could, in fact, have that appealed and the sentence reduced, or the sentence could be overturned. And what we are doing here then, it seems to me, is going beyond defending the integrity of the House, but basically interference with the right of the member to run because, once he is sentenced, in the form that it's in here, that member is ineligible to be nominated for election to, and incapable of being elected to, or sitting or voting in, the Assembly for the duration of the then current term. And we think that that particular section of far too harsh.

You have indicated that you are proposing an amendment. And I note that you indicate in the amendment: is amended by striking out "that" and substituting for the following: "unless and until the following, the disposition of all proceedings in the matter he doesn't have to stand convicted of that offence." The difficulty that I see in that, and that section isn't moved yet – the amendment I presume – but what that amendment would merely do to it, is to say that all appeals would have to, in fact, be undertaken. Not only an appeal to the court of appeal, but if it's possible go to the supreme court. That appeal also much have run it's course.

I think I of the case of any member who was convicted with indictable offence, sentenced for two years or slightly over two years. What it seems to me here is that once you appeal, and let's say his sentence even was reduced, he would not be eligible – and say he took it to the court of appeal, and the court of appeal changed it to under two years say – he would not be eligible even though he was under the two years in sentence, until yet another 90 days. But better still, if the person went to the court of appeal, had his conviction completely overturned with a sentence with two years, it seems to me you put him back into the same position as he was before when he was convicted and we allowed him to be a member of the legislature that time.

And so what I'm saying here is, our basic objection is that what you're saying is that all appeals have to be run through. And it seems to me that if a member took a conviction to one level of the court and was exonerated – found not to be guilty – you're saying that he still would have to wait at least the 90 days because the Crown could still appeal. And I don't know if that's justified.

Hon. Mr. Lane: — Obviously, the section gave us some difficulty. In your reference to the

earlier . . or the clause in reference, the Bill was put forward; that was primarily taken from section 33, subsection 2 of the Legislative Assembly Act. That's where we got the reference to, "being incapable of being elected to, or of sitting or voting in, etc., in the Assembly for the duration of the then current term." That's where conceptually that proposal came from.

The difficulty was, what happens with the circumstance that the member is found guilty, goes to appeal, maybe a new trial is ordered, but bail is denied. And we have in this circumstance where a member was not allowed to obtain bail. So that caused us a great deal of difficulty, and we came back, and we felt that this was a way to try and, at least, one a member's gone through everything, and if the supreme court . . Supposing there's a new trial, bail wasn't granted, a new trial finds not guilty, and there are no further appeals, and a by-election hasn't been held, or another by-election opens up during the then current term, the individual at that point would then have the opportunity. So that's the difficulty in dealing with those circumstances that we had, but we did want to have that once all matters were completed, and the matter was finalized, and I think in the interests of all it should be finalized, that then the member would have the right at the first available opportunity to seek election. So that's the reason for it.

Hon. Mr. Blakeney: — I think the reason is unsound. I would virtually say spurious.

Let me put this situation: a member, and I'll take the member for Thunder Creek, suppose he appeals and suppose the conviction is struck down, he then stands as innocent as you or I. He ought to have the same right to run in Thunder Creek as you or I. And the fact that the Crown has launched an appeal ought not to be relevant. The fact that he may be subject to a new trial ought not to be relevant. He stands either convicted, or he's innocent. And if he isn't convicted, he's innocent. That's the way the law works. And if his conviction is struck down, then he ought to have the same right to run in any constituency of this province as you or I. Whether he's going to be denied bail is not relevant. That can happen to someone who was not convicted of anything. You can be denied bail, and we don't throw anybody out of the legislature for that, and we don't say you can't run.

The rule ought to be crystal clear. Those who stand convicted do not have the right to contest elections, and convicted of an offence of which we are referring. Those who stand no convicted ought to have the right to contest elections. The fact that the Crown is appealing, the fact that there may be another trial at some future date ought not to deprive any citizen of the right to stand for election. The fact that he might be convicted at some future time, if the Crown proceeds, is no reason for saying that you can't stand for election.

Hon. Mr. Lane: — Given the circumstances that an accused is found guilty of, say, murder, and the court of appeal says guilty, and a supreme court says not guilty or orders a new trial, I think given the circumstances that a denial of bail may be a factor in whether someone runs or not.

There's a big difference between a member who holds a riding and the question of bail. As to what action, although, as we have argued before that legislature could still take action. But once the circumstances are such, I agree with your point as to the status of the individual, but I think in that case that, for the purposes of seeking election, it is a factor. And I leave that argument there that I do think it's a factor. I do think, and I was persuaded by the member from Quill lakes, that once everything has been exhausted, then the member should have the right, or the individual should have the right at the first opportunity. But I do not accept that it's spurious. I do think it is a factor in circumstances like that.

Hon. Mr. Blakeney: — Shortly put, Mr. Minister. Why pick on the fellow who used to be a member? Do you admit that if two people are convicted of armed robbery, one of them was a member of the legislature and one of whom isn't, and they appeal their convictions and are both acquitted, your proposition is that the fellow who is the member of the legislature ought not to be able to contest the by-election, but the one who wasn't the member of the legislature,

certainly, he can contest a by-election, although neither of them get bail.

Now, that's a nonsensical proposition. When somebody is acquitted, they're acquitted, and they ought to be able to have the same rights as anybody else who's acquitted. And the fact that they were a previous member of the legislature ought not to bar them. And the fact that they can get bail or not get bail ought not to bar them.

We don't make . . We don't say of anybody else in this society that you can't stand for office if you are charged with something, denied bail, but convicted of nothing. If I am charged with something and denied bail, I can certainly contest the by-election. And the fact that I was, that shouldn't be taken away from me simply because I might have been a member one time.

Hon. Mr. Lane: — I can respond with a proposal that responds to the hon. member and perhaps brings it in line with the rest of the legislation. I will read it for your consideration and send you a copy, because, as I say, we've been wrestling with it. There's no nefarious motives here; we're just trying to make it workable but what I will propose:

> That after the then current term of the legislature, unless and until his conviction is set aside by a court of competent jurisdiction, or a court of compete jurisdiction reduces the sentence of imprisonment to a term of less than two years.

Which would instigate the other and then the legislature will have to come back and do t. It brings it in line with the two years. It's an extension of the amendment that you proposed and brings it in line with the rest of the Bill. I'm sorry, it's at the beginning of the clause, not the end of the clause.

Mr. Koskie: — Yes, I've had an opportunity, Mr. Minister, to have a look at the . . I guess this is the second amendment that you have submitted. I take it that you will be withdrawing the first amendment. We can through that in the basket, and I notice that after I had submitted my amendment that you have concurred with the essence of our amendment and have added to that, "or a court of competent jurisdiction reduces the sentence of imprisonment to a term of less than two years." I certainly want to indicate to the minister that the provision as it was in the Act without the amendments, I don't know how such a vicious piece of legislation could have been allowed to be presented before this legislature without the considerations which have been brought to the minister's attention. And, certainly, if the minister is prepared to move the amendment as he . . In accordance with the precedent that we set forth, we would be prepared to proceed with that.

Hon. Mr. Lane: — Well, I wonder with leave if we can withdraw the . . Mr. Chairman, if with leave we can withdraw the first House amendment, and I believe – and I don't know if it's been filed by the opposition – their amendment and go with the one that we've proposed, which I've submitted to the table, I believe.

Mr. Chairman: — The Attorney General has asked for leave to withdraw the House amendment, the first House amendment moved by the Attorney General. Carried. Would the opposition also withdraw their amendment?

Mr. Koskie: — We are prepared to withdraw our amendment and to agree with the second amendment of the Minister of Justice, which is basically ours.

Mr. Chairman: — Order! Order! The proposed House amendment moved by the Attorney General:

Clause 40.1(3)(b) of the Act as being enacted by section 3 of the printed Bill is amended by striking out "that" and substituting the following:

unless and until his conviction is set aside by a court of competent jurisdiction or a court of competent jurisdiction reduces the sentence of imprisonment to a term of less than two years, that.

Clause 3 as amended agreed to.

Clause 4

Hon. Mr. Blakeney: — I missed the – I'd like to revert back to the clause 4. No – Yes. I was just wanting to know, what's the issue on credit cards? I didn't understand that section at all.

Hon. Mr. Lane: — The definition that I have is that because there is an election under the credit cards by their taking a certain amount of money in lieu or the use of the credit cards, that if it wasn't specifically in there, the credit cards could still be used if under suspension.

Hon. Mr. Blakeney: — Okay, I could accept that. I will accept that explanation.

Clause 4 agreed to.

Clause 5 agreed to.

The committee agreed to report the Bill as amended.

THIRD READINGS

Bill No. 105 – An Act to amend The Legislative Assembly and Executive Council Act

Mr. Speaker: — When shall the amendment be read a first and second time.

Hon. Mr. Lane: — With leave now, Mr. Speaker.

Motion agreed to.

Hon. Mr. Lane: — Mr. Speaker, I move that this Bill be now read a third time and passed under its title.

Motion agreed to and Bill read a third time.

The committee reported progress.

Hon. Mr. Berntson: — Mr. Speaker, it is my understanding that the Administrator is on his way for Royal Assent, and he should be here within 10 or 15 minutes. And we could agree to an informal recess and a coffee while we're waiting.

Mr. Speaker, can we have a two minute bell to call us back when the Administrator arrives.

Mr. Speaker: — This legislature is now in recess, till the call of the bell.

ROYAL ASSENT TO BILLS

At 9:09 p.m. His Honour the Administrator entered the Chamber, took his seat upon the throne, and gave Royal Assent to the following Bill:

Bill No. 105 – An Act to amend The Legislative Assembly and Executive Council Act

His Honour retired from the Chamber at 9:11 p.m.

Hon. Mr. Berntson: — Mr. Speaker, I ask leave of the Assembly to revert back to government motions on the order paper to deal with item no. 2, the motion by the Hon. Mr. Lane.

Mr. Speaker: — The House Leader has asked for leave to revert back on the order paper to government motions, item 2. Is leave granted?

GOVERNMENT MOTIONS

Expulsion of Member

Hon. Mr. Lane: — Mr. Speaker, it's been debated for some time in the House, and although we've dealt with a specific piece of legislation, I think, certainly, impliedly or peripherally we've been debating or discussing the circumstances that lead to Bill 105 and this motion that I will be moving.

I have some difficulty because I've known this individual for some time, as have other members. I have debated with, and I've debated against, as have other members. The family has made a long contribution, many times a controversial one, to this province and its history, and I don't expect this is easy for any member to deal with.

It's been, frankly, a long couple of years in my capacity as Minister of Justice and Attorney General. However, the House, in my view, the view of the government, must act.

I can only repeat what I said earlier that the events and the incident have been called a tragedy and a life has been lost and, as I say, a man with talent has a career ended. Families have been torn apart, and families have suffered. But we cannot get away from the fact that a member of this Assembly has been found guilty of first degree murder and has been sentenced to live imprisonment with no possibility of parole for 25 years.

I don't believe that, while we will be debating the suspension as opposed to vacating the seat, I really don't believe that the House has any choice. That conviction does stand. And without debating at length, I think I've argued the difference between suspension and vacation, vacating the member's seat.

A suspension, even though the member could not speak in this Assembly, the member may not have some of the rights and privileges of a MLA, the member would still have the right suspended, he is still a MLA, and would have the right to speak as a MLA, even from the prison cell.

And I realize the arguments for suspension, and I regret, and I don't say it in a critical way, I regret that we could not be unanimous. However, we have embarked on a course of action, an action which I believe to be necessary, and the government believes to be necessary.

Mr. Speaker, I move:

> That Wilbert Colin Thatcher, the member for Thunder Creek, having been found guilty of first degree murder and sentenced to life imprisonment, with no possibility of parole for 25 years, as evidenced by the certified copy of the conviction tabled in this House, be expelled from the Assembly, and that his seat be, and is hereby declared vacant pursuant to section 40, clause 1 of The Legislative Assembly and Executive Council Act, and that the Speaker shall immediately give notice of the vacancy to the Chief Electoral Officer.

I move, seconded by the Deputy premier, the member from Souris-Cannington.

Mr. Koskie: — Thank you, Mr. Speaker. I want to begin, Mr. Speaker, to say that this is a sad day for Saskatchewan. No one can possibly rejoice in the business at hand this evening. All of the circumstances surrounding this whole chain of events are a human tragedy of massive proportions.

JoAnn Wilson is dead, and nothing we can say or do will ever lessen the hurt and the suffering that this has brought to her family and her loved ones. Mr. Thatcher's life is in ruins, and that is a source of hurt and sadness to one of the best-known families in Saskatchewan. And perhaps the most tragic aspect of this affair is the large number of children indirectly involved on all sides. Their young lives have been turned upside-down, and no doubt they will be deeply scarred by the events of the past few years, from the start to the finish, a tragedy.

This is also a sad day for our provincial legislature, no matter the partisan feelings that flow back and forth. Once you have been in this House a while, you begin to understand that differing view on public policy are the very essence of our parliamentary democracy. And because of that, you become more tolerant of the views of others. You come to respect the views and the abilities of all members of the Assembly. And even if you cannot always agree with them, you respect their right to put forward their differing views.

And so it was that the member for Thunder Creek, although we did not see eye to eye on the issues of the day, we respected him for his ability to defend his views in an articulate and forceful way. I make that point only to emphasize this – the Saskatchewan legislature is not in session today to punish Colin Thatcher. That is not our job; it is the job of the courts, and the court process has yet to run its course.

Mr. Thatcher has appealed, or had indicated he will appeal his conviction. Through his legal counsel, he has promised this assembly and the people of Saskatchewan that he would, in fact, resign immediately if this appeal is not successful. In light of these developments, the official opposition takes the following position: we agree that the member for Thunder Creek should immediately be suspended from membership and not be allowed to sit or vote in the Assembly, and all payments that might go to him as a member of the House should also be suspended. Mr. Thatcher has been convicted of a first degree murder, and no one with that kind of cloud over his head should be allowed to take part in the proceedings of this House or to receive payments of any kind.

However, it is also our position that the Thunder Creek seat should not be declared vacant until the avenues for appeal have been exhausted. It is only fair and just that this Assembly wait until all appeals are exhausted before embarking on a serious course of expelling one of its members.

And this has been the recent practice as we have alluded to before. For example, in 1980, in Manitoba, another Conservative MLA, Robert Wilson, was convicted on two counts of conspiring to import and traffic in drugs. And he was sentenced to seven years in jail. The Manitoba legislature immediately stripped Mr. Wilson of his salary and his right to sit in the Assembly. However, his seat was not declared vacant until after all avenues of appeal have been exhausted.

Following that affair the Manitoba legislature passed a law which makes any member convicted of a criminal offence and sentenced to five or more years in prison ineligible to sit in the legislature. But the Manitoba law says their seat will be vacated only after the appeals have been exhausted. Why? For the simple reason that if the member has his conviction overturned on appeal, he is not guilty, and he is eligible to sit again in the House. So the procedure followed in other jurisdictions has been to suspend the member after the initial conviction, but to withhold the final penalty of vacating the seat until that conviction has been upheld, and all avenues of appeal exhausted.

And therefore we disagree with the Conservative government's proposed resolution which would vacate the seat – of the Thunder Creek seat – today, before the appeal in Mr. Thatcher's case has even been filed.

And for those basic reasons then, Mr. Speaker, we, as the official opposition, because of those basic concerns, and premising on those basic concerns, we want to indicate that we will not be supporting the resolution.

Hon. Mr. Lane: — Just in closing, I appreciate the sentiments expressed by the hon. member. I do, so that we do have it formally set out, indicate that although the hon. member gave a couple of examples where the appeal process has been allowed to follow its course, that in other jurisdictions, in British Columbia, in Britain, in Quebec, certain conditions, the expulsion of the member is automatic.

And secondly, it is the position of the government that the taking of a human life is, perhaps, the worst crime of all, and that a suspension, so that the member still remains a member, is not appropriate in the circumstances.

Motion agreed to on the following recorded division.

Yeas – 40

Muller	Sandberg	Hampton
Birkbeck	Dutchak	Gerich
McLeod	Maxwell	Boutin
Berntson	Young	Schmidt
Lane	Domotor	Tusa
Taylor	Folk	Meagher
Rousseau	Petersen	Glauser
McLaren	Hodgins	Sauder
Garner	Parker	Zazelenchuk
Smith (Swift Current)	Hopfner	Johnson
Baker	Myers	Martens
Schoenhals	Rybchuk	Weiman
Currie	Caswell	Morin

Nays – 9

Blakeney	Lingenfelter	Shillington
Thompson	Koskie	Yew
Engel	Lusney	Sveinson

Hon. Mr. Berntson: — Mr. Speaker, His Honour, the Administrator is here for the prorogation of the House.

PROROGATION

At 9:33 p.m. His Honour the Administrator entered the Chamber, took his seat upon the throne.

His Honour the Administrator was then pleased to deliver the following speech:

Mr. Speaker, members of the Legislative Assembly:

It is my duty to relieve you of further attendance at the Legislative Assembly. In doing so, I wish to thank you and congratulate you on the work you have done.

In this Third Session of the Twentieth Legislature you have set directions in government policy which will provide for orderly growth and development of our province.

You have passed an Act to promote Regulatory Reform in Saskatchewan by repealing Certain Obsolete Statutes.

You have passed an Act respecting Venture Capital Corporations to ensure that the people of Saskatchewan can participate in the economic development of the province.

In recognition of the importance of the agriculture sector, you have passed an Act to provide Financial Assistance to Encourage and Promote the Development and Expansion of the Agriculture Industry and to establish the Agriculture Credit Corporation of Saskatchewan.

In recognition of the need to examine old and new policies and programs from the perspective of their impact on the women of Saskatchewan, you have passed an Act to establish the Women's Secretariat.

In order to address the need for a comprehensive solution to water management, you have passed an Act to incorporate the Saskatchewan Water Corporation.

In recognition and appreciation of the contribution that science and technology have made on the expansion and diversification of our provincial economy, you have passed an Act establishing the Department of Science and Technology.

You have passed an Act respecting the Protection and Management of Crown Lands Critical for the maintenance of Wildlife Populations.

In taking leave of you, I thank you for the manner in which you have devoted your energies to the activities of the session and wish you the full bless of Providence.

Hon. Mr. Lane: — Mr. Speaker, and members of the Legislative Assembly, it is the will and pleasure of His Honour, the Administrator, that this Legislative Assembly be prorogued until the 29th day of November, 1984, at 2 o'clock p.m., and this Legislative Assembly is accordingly prorogued.

His Honour then retired from the Chamber at 9:36 p.m.