

LEGISLATIVE ASSEMBLY OF ALBERTA

Title: **Monday, November 23, 1981 2:30 p.m.**

[The House met at 2:30 p.m.]

PRAYERS

[Mr. Speaker in the Chair]

head: **PRESENTING REPORTS BY STANDING AND SELECT COMMITTEES**

MR. MACK: Mr. Speaker, I am pleased to file with the Legislature the report of the Select Standing Committee on Legislative Offices for 1980-81.

head: **ORAL QUESTION PERIOD**

Constitution — Aboriginal Rights

MR. R. SPEAKER: Mr. Speaker, both my questions today were to the Premier, but I could ask the House leader or Acting Premier at this point in time. The first question is with regard to the new proposal of the government with regard to aboriginal rights in the constitutional package. Over the weekend, specifically on Friday, I felt the government made a rather radical change in their stance. I wonder if the hon. Attorney General could clarify why the government made that change on Friday and over the weekend.

MR. CRAWFORD: Mr. Speaker, except in a matter of emphasis and a slight change in the language used, there was no change in the position the government had long maintained. The Premier has made it clear on a number of occasions, in both the constitutional conference and meetings with native delegations, that the government of Alberta was interested at all times in the preservation of existing rights. I think the key words may well be "existing rights". The government took some objection to the possibility that one form of the constitutional declaration, which was inserted without any consultation with the provinces, could create new rights that had not previously existed. But there was no question of our support for treaty rights and existing aboriginal rights in all respects. We were always fully supportive of those.

What occurred on Friday — and I can provide the hon. leader with a copy of the statement, although it was made public on Friday and perhaps the leader already has a copy — was that as a result of several meetings involving the Metis Association of Alberta, an alternative wording to what was previously Section 34 was proposed and brought forward. I think careful examination will show that the only aspect of it that's different from earlier proposals is the stipulation that it deal only with existing rights and therefore take away some of the uncertainties there might have been about the possibility of creating new and unknown rights.

MR. R. SPEAKER: Mr. Speaker, a supplementary question to the Attorney General with regard to the acceptance by other governments in Canada. As is indicated in

the press release, the 10 governments would have to agree to this change in the accord. Could the minister indicate at this time what agreement has been reached? From a statement of the Prime Minister and, as well, the hon. Mr. Chretien, I understand there seems to be agreement at this point in time. Could the minister comment on the sequence of events following the suggestion of Alberta?

MR. CRAWFORD: Mr. Speaker, about all I could cover on that is that discussions or at least exchanges of positions by the various governments are continuing to take place today. The federal government has suggested that they hope by tomorrow a consensus might occur as a result of these exchanges. I don't know whether that will occur, but my strong belief at this point is that it's most likely.

MR. R. SPEAKER: Mr. Speaker, a supplementary question to the Attorney General — it's more for clarification; I think I understood the answer — on the differentiation between endorsement by the Alberta government of existing rights versus endorsement of any new rights that may be requested through the amendment in the constitution. One of the greatest concerns in terms of new rights is in reference to property rights. Could the minister indicate if that's the concern of the government of Alberta at this time?

MR. CRAWFORD: Mr. Speaker, I don't think it would be possible to go through a sort of catalogue of what the concerns would be. That is one of the real overall difficulties in this matter. If I can put it this way, our concern always was that no one knew what rights were being referred to if it was stated in a sufficiently vague and uncertain way. It was the vagueness and uncertainty that caused concern. Therefore, we could see the possibility that any number of rights might at some point be claimed to have been created by the particular wording suggested. Our view was and is that so long as it's clear that existing rights are the ones all parties speak of, that would be adequate and satisfactory, and certainly supported by Alberta. But to go beyond that and say of those uncertainties that there is a list or catalogue of what our specific concerns were, that's not the case. The real concern was the absence of any clarity about what might be involved.

MR. R. SPEAKER: Mr. Speaker, a supplementary question to the Attorney General with regard to Metis people being aboriginal, using the definition that "aboriginal" means the first people, or that a person was in a land at the dawn of history. I wonder if the Attorney General could comment on that definition as it applies to the Metis people of Alberta or Canada. What special rights will be awarded to Metis people by their inclusion in the constitutional amendment?

MR. CRAWFORD: Mr. Speaker, I'll do my best to interpret what I believe is really involved in the sense of Metis people. Over a period of years, certain well-known representations or public positions have been taken by the Metis people, in which they have said that certain rights were an entitlement for various reasons that pre-date the present time. In giving careful attention to those representations and expressions on the part of Metis people, we have always taken the position — and I think any other government in a similar position has done the same — that certain types of rights do exist. We have

often said that those matters may well be interpreted one day by a court. In other words, if there's a right, there must be evidence of it, and it must be something that can be presented and convincingly argued. So the rights that are, in effect, being fully recognized in regard to Metis people are any rights that from this point on they would succeed in establishing. And there's always the alternative to the court procedure; that is, by way of agreement. There may be other ways, but it seems to me there are two ways of establishing the basis for the representations. One would be a decision in a court and the other would be by way of agreement, no doubt following discussion and consultation.

Whatever the rights would be at that point, our position, as described on Friday, is that those would be treated as rights that were in existence at this time. So the passing of a new constitution and the coming of future events and new laws as a result of the constitution would leave the Metis people in the position that if, after all those events, the right were established, we would still come back to the present time and say, because it is clear that a right had been established and was in existence in 1981, that is the right we would recognize.

MR. R. SPEAKER: Mr. Speaker, a further question to the Attorney General with regard to the constitutional conference that will be held later in 1982. If the other governments of Canada as well as the government of Alberta endorse the concept that existing rights will be protected, could the minister indicate the purpose of this new conference? Would it be to add rights to the various aboriginal groups such as the Metis, Inuit, and Indians of Canada? Would that be the function of the conference? If Section 34 is put into the constitution at this time, or this suggestion of Alberta is inserted into the constitution, is that assurance enough to the aboriginal groups that their rights will be protected? Will the conference then be seen as a conference to look at new rights for these specific groups in Canada?

MR. CRAWFORD: Mr. Speaker, I'm sure it is not in the mind of any one of the parties — by that, I mean the native people in their capacity as potential participants, as is intended in such a conference — nor is it in the minds of any of the governments of the provinces or Canada that new rights be created that have not previously existed. I think that is entirely clear. What is involved is that because of uncertainties, there should be some benefit from sitting down and discussing what is really involved in a further definition of aboriginal rights. Everyone hopes that such an attempt to give that further definition would succeed, although my understanding of the position of the government of Canada has long been that what really is involved is a conference with an agenda, of which this would be one of the important items, and that the native people would at that point be directly involved — which they aren't always at such conferences — and *bona fide* efforts would be made to carry the question of uncertainty a little further toward agreement and greater certainty.

Edmonton Area Road Systems

MR. KNAAK: Mr. Speaker, over the last several weeks, some of the constituents of Edmonton Whitemud have expressed their deep concern regarding the expansion of the Whitemud freeway from a four-lane to a six-lane dangerous truck route. My question is to the Minister of

Transportation. Can the minister advise whether the government of Alberta has contributed directly to the cost of the expansion of the Whitemud freeway? If so, has the minister given any directions with respect to the use of the Whitemud freeway as a dangerous goods route?

MR. KROEGER: Mr. Speaker, we've contributed to that particular road in the same sense that we contribute to transportation corridors generally in the cities. We cost share, but we do not designate exactly how that funding is used. Certainly we haven't been part of designating that road in a specific way.

MR. KNAAK: Is the minister advising that he has had no influence whatsoever on how the funds were used, whether they were used for light rail transit or for expansion of the Whitemud freeway or some other road in another part of the city?

MR. KROEGER: Mr. Speaker, for many years we've had discussions with municipalities and cities about funding and the formulas we use. It has been pretty clearly established that they would like the jurisdiction on how they spend funds provided by the province. We have honored that as a commitment. So the decision on how funds are expended, but more specifically on what routes, is totally in the hands of the city administration. Our planning people have had discussions with the city planning people to assist. But when it comes to the final designation, apart from perhaps designating the proportion that would be used for operation as opposed to capital investment — as an example, some suggestion that a certain amount might be beneficially allocated to LRT — we do have that sort of discussion between our planners. But we do not try to influence the cities and the administration on how they use each dollar specifically.

MR. KNAAK: A supplementary, Mr. Speaker. Can the minister advise what progress is being made in planning and constructing a road through the greenbelt which, if completed, would constitute an outer ring road?

MR. KROEGER: Mr. Speaker, I don't know that I can give a very detailed report, other than to say that we are still in the process of acquiring land in the RDA, that a good deal of land remains to be purchased, and finally that the purchase of the right of way for this corridor, which will include a transportation utility corridor — which means there will be uses other than straight transportation — has been carried by the Department of the Environment.

MR. KNAAK: Supplementary to the Minister of Environment. Can the minister advise the House what progress he is making in acquiring sufficient land in the southwest portion of the greenbelt to permit construction of an outer ring road to take some of that heavy traffic off the Whitemud freeway?

MR. COOKSON: Mr. Speaker, I missed the earlier question from the Member for Edmonton Whitemud. To review what I think the question is, it has to do with the responsibility for acquisition of what we now call the utility corridor around the city. In terms of the circumference of the city, we have acquired approximately 40 per cent of the total land required for utilities and road construction in the future. I'd have to look specifically at