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**Official Report of  
DEBATES OF THE LEGISLATIVE ASSEMBLY  
(Hansard)**

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FRIDAY, MARCH 24, 1972

**Afternoon Sitting**

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FRIDAY, MARCH 24, 1972

The House met at 2:00 p.m.

**MR. SPEAKER:** The Honourable lady Minister without Portfolio.

**HON. I.P. DAWSON (Minister without Portfolio):** Mr. Speaker, in the galleries today we have a group of 30 students and their two teachers Mr. Arnold and Mr. Ross. They journeyed here to Victoria from Texada Island Secondary High School. I'm sure the Members would wish to join with me in welcoming them today.

**MR. SPEAKER:** The Honourable first Member for Vancouver East.

**MR. A.B. MACDONALD (Vancouver East):** Mr. Speaker, we have gracing the House today a former Member — the former Dean of the House, my old running mate who graces any House that he sits in — Mr. Arthur Turner.

**MR. SPEAKER:** The Honourable the Premier.

**HON. W.A.C. BENNETT (Premier):** Mr. Speaker, may I join in that warm welcome because I sat in the House with him for many years. He was always a very good Member of the Legislature and a good representative for his constituency in Vancouver.

Also while I'm on my feet I also want to wish the family well — the new child of the second Member for Vancouver East (Mr. R.A. Williams). I know you were over visiting your family — that's exactly right for a family man to do. I'd just like to know, Mr. Speaker, how the mother and child are getting along.

**MR. R.A. WILLIAMS:** Very well. Thank you very much.

**MR. SPEAKER:** The Honourable the first Member for Vancouver Centre.

**MR. H.P. CAPOZZI (Vancouver Centre):** Mr. Speaker, I'd ask the House to join with me in welcoming a group of 53 students and their teachers from one of the truly great schools in the Province of British Columbia. They have produced probably more people for this House from Britannia Senior Secondary, 53 students with their teachers, Mr. Grant and Mr. Minichiello.

**MR. SPEAKER:** The Honourable Member for Richmond.

**MR. E. LeCOURS (Richmond):** Mr. Speaker, I would ask the Members of the House to join me in welcoming 40 students and their teacher, Mr. Commons from the Hugh McRobert School in Richmond.

**MR. SPEAKER:** The Honourable the Leader of the Opposition.

**MR. D. BARRETT (Leader of the Opposition):** Mr. Speaker, on behalf of the Honourable Member from Nelson-Creston (Hon. Mr. Black) the second Member for Vancouver East (Mr. R.A. Williams) and myself I want to warn the students from Britannia that if they don't behave themselves, they may end up like the three of us did here in this House from that school.

Introduction of bills.

## FIRST READINGS

The following bills were introduced, read a first time, and ordered to be placed on orders of the day for second reading at the first sitting after today:

Bill No. 108 intituled *The Automotive Repair Act*.

Bill No. 109 intituled *An Act to Amend the Supreme Court Act*.

Bill No. 110 intituled *An Act to Amend the Landlord and Tenant Act*.

Bill No. 111 intituled *An Act to Amend the Court Rules of Practice Act*.

Bill No. 112 intituled the *Environmental Bill of Rights Act, 1972*.

Orders of the day.

**HON. W.A.C. BENNETT (Premier):** I move leave be granted for the House to proceed to public bills and orders.

Leave granted.

**HON. MR. BENNETT:** Adjourned debate on second reading of Bill No. 78, Mr. Speaker.

## AN ACT TO AMEND THE INSURANCE ACT (continued)

**MR. SPEAKER:** Adjourned debate on second reading of Bill No. 78, intituled *An Act to Amend the Insurance Act*. The Honourable Member for Yale-Lillooet.

**MR. W.L. HARTLEY (Yale-Lillooet):** Mr. Speaker, on this bill, Bill No. 78, speaking to the principle of the bill I find there are certainly two interests and possibly best stated, two very great conflicts of interests.

The interests of the car driving public — particularly the young people of this province and their right to be able to buy car insurance at a reasonable rate, or the right of the car insurance industry to gouge those children — to gouge all car drivers. This is the conflict that I find in this legislation.

Of course, Mr. Speaker, I'm not too surprised to find that in any legislation of this government or any government that has accepted moneys from insurance vested interests.

**SOME HON. MEMBERS:** Oh, order, order!

**MR. HARTLEY:** Now, as one and the only elected Member that attended the insurance hearing of the B.C. Insurance Board on January 12 I received a copy of the brief that was presented by the Insurance Bureau of Canada. What did they ask for?

They asked for precisely what is being brought down in this legislation. I won't read it word for word because I realise that is something that we will have to discuss when we are considering it clause by clause. But, Mr. Speaker, you will recall, as all the Members that were here in 1969 will recall, that when the no-fault insurance legislation came down, Mr. Burns from the Insurance Bureau of Canada was sitting up there in the gallery.

He was here and must have known that legislation was

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coming down before anyone else did. Because as a Member of the House and a member of the committee that had worked on car insurance I didn't know that that insurance was expected that day.

But Mr. Burns knew. Mr. Burns must have had an advance warning and I suggest that just as the Insurance Bureau of Canada from Bay Street, Ontario, had a hand in writing these amendments, Mr. Burns, the Insurance Bureau of Canada, the insurance barons from Bay Street had a hand in writing that legislation in 1969. This is why there is a conflict of interest.

This House, and I hope this province knows very well the position that the New Democratic Party has taken. They know very well that we feel that something that is compulsory as is no-fault car insurance, something that is monopolistic in nature as is the insurance industry should be offered to all of the people at the lowest possible cost.

As you have heard us argue before that if this government can see fit to save the government, to save the Department of Finance of this province, close to \$1 million this year by self insuring some 6,500 motor vehicles, if we can do that for the vehicles that the taxpayers own through government, then surely that same principle will apply to the 600,000 vehicles owned by the people of this province.

Now there is a basic principle at stake. Do we want corporate control and the great insurance industry putting up campaign funds for political parties and then...?

**MR. SPEAKER:** Will the Honourable Member please get back to the subject of this bill? You've been called to order now twice.

**MR. HARTLEY:** Mr. Speaker, I'm speaking to the basic principle of whether this amendment that is before the House is in principle in the best interest of the people of this province, if it will do something to reduce insurance costs or will it increase insurance costs. I submit that this amendment asked for by the Insurance Bureau of Canada at the insurance hearing on January 12, will cause and give them excuse to demand increased costs, an increase in the price of car insurance to the average car driver of this province.

This is the basis of my premise. We saw yesterday when the Leader of the Opposition read the bulletin from the insurance agents of B.C. that right now they are collecting campaign funds to make certain....

**MR. SPEAKER:** For the last time unless the Honourable Member is prepared to discuss with the House the contents of this particular bill and the principle thereby being established by this bill, I'm going to request him to take his place and call another speaker. Now would you please get onto the principle and the content of this particular amendment?

**MR. HARTLEY:** I submit as I see it the principle is whether we should have publicly-administered car insurance or we amend it to give the insurance monopolies and great corporations a greater stranglehold on the industry. Now, am I being unfair in...?

**MR. SPEAKER:** It's not a question of being unfair, but being in order, and one must look at the contents of

this particular amendment and speak to the principles contained in those particular amendments. This is not a time for politicking if this is what the Member has in mind.

**MR. HARTLEY:** Very good. Now, as far as the details if I were to go into the wording you would ask me to do that when we go through it section by section. Correct, Mr. Speaker?

**MR. SPEAKER:** Yes. I just want you to discuss the principle. If there's more than one principle here in your view you're welcome to discuss the principle in any section you wish to discuss without naming the section.

**MR. HARTLEY:** Yes. Well, one of the other principles that is involved is the fact that someone injured in a car accident — pedestrian, passenger, driver must — must claim their no-fault benefits. If by some oversight they just fail to claim their no-fault benefits this is charged against them regardless. The account is charged just as though they had received the full benefit of no-fault benefit. If they do not make this claim with any given length of time then they lose the right to these benefits.

I think this is very, very unfair. I think everyone should be free to claim these benefits or not claim them depending whether they wish to sue for a far greater amount. If they do choose to sue for a far greater amount then this should be their prerogative.

Now, this is the other principle that I see in the bill. You are changing this to make it further compulsory that if a person doesn't claim those no-fault benefits and they lose a legal suit or they win a liability suit later on they will lose any benefits that they could have claimed. This will be deducted, their net claim would be less. So, I think this is wrong in principle. Thank you, Mr. Speaker.

**MR. SPEAKER:** The Honourable the second Member for Vancouver–Point Grey.

**MR. G.B. GARDOM (Vancouver–Point Grey):** Thank you, Mr. Speaker. I would like to address a few remarks to this statute.

I'm interested particularly in the protection of the rights of those who are insured and in the protection of the rights of those who are claimants.

This bill has blocked some of the areas of concern. Particularly it has taken care of the conflicting case which I spoke of in earlier debates wherein a pedestrian may be an insured person by virtue of his or her own car policy and who is struck down by another vehicle which is similarly insured. There was a great deal of contradiction within the industry of interpreting the statutes and it appears this bill has cured that aspect.

I do feel though, with every respect to the Attorney General who is the person who has the carriage of this bill, that it should have gone farther. We still have in the Province of British Columbia essentially taxation without representation in the insurance industry because we have a compulsory policy. Everyone has to have it and yet those people who are over 65 years of age are unable to make claims, though they still have to pay the premiums for the no-fault.

Again we have the situation of a person who's a housekeeper. This individual might be very seriously hurt and might have under her care and control three or four children — she may be a common law wife. That person is without remedy under the Insurance Act of the Province of British Columbia even though — I think this is very unfair — even though that person has to have a policy or keep off the road.

I do wish that the Attorney General — and we still have a few days in the session — that he would give thought perhaps

to maybe even hoisting the bill today and bringing in an amendment to give these people the kind of protection they should be afforded.

Failing that he could at least indicate very clearly that these people are being penalised themselves and the people receiving the benefits of that penalty, I suppose, is the rest of the motoring public in the fact that these other people are contributing to premiums out of which there's no possibility of them ever receiving any kind of benefit at all.

I also had wished that the Attorney General had included in this bill the direction as was followed by the State of Massachusetts not too long ago when they found that the companies had grossly overcharged on the no-fault benefits as has happened in the Province of British Columbia — that he had included in the bill, a mandate or a caveat to the insurance companies that they had to decrease their rates for the no-fault benefits.

This could have been done by \$7.50 a year for this year and \$7.50 for next year because the insurance companies have over-collected to the extent of \$15 million which is a lot of money.

I had also hoped, Mr. Speaker, that the Attorney General had included in the bill a more definitive role for the automobile insurance board and particularly that, among its many duties, it adopt the one of becoming an ombudsman to insureds within the provisions of the Act.

I gave the illustration to the House and I think it really and truly is worth repeating and particularly in view of the fact that the Honourable the Premier is here.

We had a situation of a young man who was married and he had two children and his motor vehicle policy premium was \$135 a year. Then his little wife died of cancer and he was left to support his two children. His policy went up to \$286 a year and I think this is very, very wrong indeed.

I think that this man should be able to approach the automobile insurance board with this kind of a complaint because he has no redress against the industry and by virtue of the fact that we have compulsory insurance in the Province of British Columbia, these people are getting really, a pretty rough deal.

The saving that has never been passed on, oddly enough, by the industry to the motoring public — and out of our 2 million people, we've got 1 million cars, we have 1 million drivers, we have 1 million insurance policies, we have roughly \$135 million worth of insurance revenue in the Province of British Columbia — but the saving could be passed on in this and I would hope that the Attorney General would have included this in the bill, which he did not.

It should be a direction to the insurance companies that if they insist upon prepaid premiums they should give the motorist the opportunity of a discount of bank interest for one year on that amount of money because insurance is a prepaid trust.

You take bank interest at \$135 million at 8 per cent and it's not too difficult to work out what that would amount to in savings which could be passed on to the motorist if the motorist chooses not to pay his premiums in advance, fine and dandy, he would not be entitled to that discount.

Two more points before I would sit down, Mr. Speaker. I would again have hoped that there would have been a direction in here for the licensing of all insurance adjusters, which there is not. Again as a protection to the public, I'd hoped that the Attorney General would have said in this bill that if insurance companies wish to rely upon the one-year statutory limitation and I do hope that this message gets across to the people in British Columbia because there are no end of injured people, Mr. Speaker, who are absolutely out of court and out of remedy because the year goes by.

I feel that the insurer if he wishes to rely upon the one-year limitation, it should be mandatory that he furnish notice to the claimant or to his own insured that he is going to rely upon it. In other words, give him a month's notice and then he could rely upon the statutory limitation in the eleventh month or failing that, that defence should not be open to them. Because you have the situation of insurers dealing with claimants throughout the total year and then sometimes walking away.

The industry will say, "well, those were not the best kind of insurers," and indeed they're not but they're living and practising in British Columbia and selling compulsory insurance in British Columbia so I think that something should be done with them.

Finally, I think the last speaker, in the New Democratic Party, made a very good point when he talked about one aspect in the bill....

Interjections by Hon. Members.

**MR. GARDOM:** One aspect in the bill. He's a good Member. He always works hard. A very hard working, industrious Member. A little long-winded at the end of the session, but apart from that....

But the point that he raised, Mr. Speaker, in this bill — one section of the bill — and I'm going to address myself to it now and not in committee. In one section of the bill we find that it is mandatory that claimants first of all make use of the no-fault Provisions. I think that this is perhaps not correct because claimants today....

Mr. Speaker, if the Members across would be just a little bit quieter, I'd finish a great deal earlier.

**MR. SPEAKER:** Would the House come to order?

**MR. GARDOM:** The claimants today already have the rights that are purported to be granted under this bill and by compelling them to go first of all to the no-fault side probably will only serve the industry and not necessarily the people of British Columbia.

I think the balance should be on the side of the claimant because the making available of these no-fault benefits may be an attempt perhaps on the part of the industry to justify this \$15 million bonanza that they have enjoyed.

It could also well increase the number of claims in this particular category and finally in the situation here that I believe there's a 30-day limitation for an individual to make a no-fault claim. So you have the situation in a certain type of accident case — a whip-lash case — sometimes that does not present itself as a medical problem until 60 days, 45 days even 90 days after the mishap. These kind of people may — and I'm not sure that they would because it's not too clear within the statute — they will be in a position of finding themselves statute-barred.

I think that the points that I have raised are very valid ones and I would greatly appreciate it if the Honourable the Attorney General maybe would put the bill over to say next Tuesday and see if he can come up with a slight improvement along the lines that I have suggested.

**MR. SPEAKER:** The Honourable the first Member for Vancouver Centre.

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**MR. H.P. CAPOZZI (Vancouver Centre):** Mr. Speaker, I would like to speak briefly on one phase of the bill. There is of course, the intent of the bill to try and speed up some of the claims that are paid particularly under the no-fault section.

Once again I point out, Mr. Speaker, that there are some very grave acts of injustice or lack of justice in the handling of many of the payments which are supposed to be made under insurance claims. The present regulations enable insurance companies to put off or to stall off the actual procedure in a court case so that at the end of that time the payment which is made does not bear any interest. The claimant as such, therefore, is not entitled to receive payment or interest on it.

**AN HON. MEMBER:** It's covered, it's covered.

**MR. CAPOZZI:** No, it doesn't cover this, Mr. Speaker.

Interjection by an Hon. Member.

**MR. CAPOZZI:** Mr. Speaker, I'm referring to cases in regard to automobile accidents specifically and only. For example there's one here of an automobile accident that took place November 24, 1966, a teenage girl in the rear of her father's pick-up had a large disfiguring scar. There was a claim paid of \$7,000. It was not paid until five years later.

The interest on that \$7,000 which went to the insurance company, amounted to \$2,200 which the insurance company received and the girl did not even though she was entitled to that money since the claim was hers from the very moment of the accident.

A similar case in 1967 where a husband was killed. The wife was in her early 40's and she was obliged to sell the farm and had to wait for three years for the recovery of the moneys, a total of \$47,000 was paid at the end of three years but the interest on that money was approximately \$10,000 which again the insurance company received, not the claimant. So that money, while the insurance company is delaying the case, they receive all the benefits of those funds, the claimant receives absolutely nothing.

In 1968, a young boy 17 years old delivering papers, finally gets paid in 1971 — \$58,000 but his loss on interest is \$7,200.

There's case after case. An example of a young boy, 11 years old, a lacrosse player, he was involved in a motor accident. The accident was on August 2, 1968, the claim is finally paid in July, 1971. He received \$27,500 but the interest at 8 per cent on that money is \$7,000 which the insurance company gets, not the claimant.

I suggest that this type of withholding of funds is not in the true sense of the type of justice that should prevail for everyone. I'm pointing out as I've pointed this out half a dozen times, I've brought this in, suggested it to the Attorney General, that what we are really doing is making it profitable for insurance companies to delay settlement.

Interjection by an Hon. Member.

**MR. CAPOZZI:** Making it profitable for them to delay settlement. I can say it — very clearly I'll say it. I've said it enough times, Mr. Speaker, that it should be clear even to the Member from Yale-Lillooet (Mr. Hartley) that this is one of the things....

Interjection by an Hon. Member.

**MR. CAPOZZI:** I appreciate that this is part of a federal statute and a federal responsibility, yes it is. It would take an introduction of a complete new section in all documentation written in the Province of British Columbia, but it could be done. I do suggest that it could be done.

Interjection by an Hon. Member.

**MR. CAPOZZI:** It just arrived on my desk. I'm sure that it's like most documentation from the other side, it's probably incompletely worded. I suggest that he's still wet on his rather incomplete bill.

I would ask you, Mr. Speaker, through you to the Attorney General, to consider this very valid point, that we can hardly consider this very valid point, that we can hardly consider it justice when dollars are withheld, large sums of money are taken out of the pockets of the actual claimant and left in the pockets of the insurance companies. I suggest that there is injustice.

**MR. SPEAKER:** The Hon. Attorney General.

**HON. L.R. PETERSON (Attorney General):** Mr. Speaker, several of the Honourable Members — or at least I should put it, the last two Honourable Members — have taken advantage of this particular debate to advocate features that are not in these particular amendments.

I would want to say that the amendments put forward in this particular bill are not the result of any comprehensive survey of insurance and I'm not suggesting for a moment that these are the only amendments that should be considered in respect of automobile legislation. However, these are the four immediate and rather simple amendments that I felt we should take action on at this particular session.

They result from meetings of the superintendents of insurance on a national basis, they having agreed to propose these amendments or amendments similar in principle for enactment in respect of the insurance legislation. So I don't suggest for a moment the other matters raised by the Honourable Members are not worthy of consideration.

The only speaker I wish to take issue with is the Member for Yale-Lillooet (Mr. Hartley) because his enthusiasm for the New Democratic Party and for their particular brand of Socialism has far outweighed their judgment or their ability to deal with the principles of this bill. That he did not do.

Interjections by Hon. Members.

**HON. MR. PETERSON:** Thirty-seven years as a political party, 12 elections, still batting zero. It's time to come up with more than propaganda — it's time to come up with facts, Mr. Speaker, and deal with the bills that are before the House and not this theory of Socialism that they advance at every possible opportunity.

The Honourable Member has said that these amendments are going to increase the costs of insurance. There's a bald statement — they didn't advance one single argument in support of that statement, Mr. Speaker.

Interjections by Hon. Members.

**HON. MR. PETERSON:** I think it would be easier calculation for you to try and tell us when you've been right.

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Interjections by an Hon. Member.

**HON. MR. BENNETT:** Never right, always left.

**HON. MR. PETERSON:** Far left, I'm afraid Mr. Premier, and certainly insofar as any matters of rates are concerned, as I've already indicated to the Honourable Members, these are matters that are quite properly before the British Columbia Automobile Insurance Board.

Mr. Speaker, I move second reading.

**MR. SPEAKER:** The question is that Bill No. 78, *An Act to Amend the Insurance Act*, now be read a second time.

Motion approved: second reading of the bill.

Bill No. 78 ordered to be placed on orders of the day for committal at the next sitting after today.

**HON. MR. BENNETT:** Adjourned debate on second reading of Bill No. 92, Mr. Speaker.

AN ACT TO AMEND THE MUNICIPALITIES  
ENABLING AND VALIDATING ACT  
(continued)

**MR. SPEAKER:** Adjourned debate on second reading of Bill No. 92. The Honourable Member for Burnaby Willingdon.



**MR. J.G. LORIMER (Burnaby-Willingdon):** Mr. Speaker, I have now read the bill and I find myself in agreement with the Honourable Minister and believe it would be better to discuss it in committee stage.

**MR. SPEAKER:** Are you ready for the question? The question is that Bill No. 92, *An Act to Amend the Municipalities Enabling and Validating Act*, now be read a second time.

Motion approved: second reading of the bill.

Bill No. 92 ordered to be placed on orders of the day for committal at the next sitting after today.

**HON. MR. BENNETT:** Second reading of Bill No. 25, Mr. Speaker.

## GIFT TAX ACT

**MR. SPEAKER:** Second reading of Bill No. 25. The Honourable the Minister of Finance.

**HON. MR. BENNETT:** Mr. Speaker, the Honourable Members will recall the Government of Canada withdrew from the estate and gift tax field effective January 1, 1972. The province levies its own succession duties, and as I mentioned previously does not propose to increase its rates to cover the estate tax field vacated by Canada.

However, to protect its present succession duties, it is necessary for the province, along with most of the other provinces, to levy a gift tax. I would point out, Mr. Speaker, that the government expects very little revenue from the gift tax itself, but it is necessary to protect the *Succession Duty Act*.

This bill exempts the following:

(1) Up to \$10,000 a year to the spouse of the donor. Up to \$10,000 a year to other persons with a maximum of \$2,000 per person free of tax and up to \$10,000 once in a life time to a child of the donor to be used in farming operations carried on by the child.

The rate of the tax starts after exemptions at 15 per cent when the total taxable gifts made in a year does not exceed \$25,000 and it rises to a maximum of 50 per cent.

Public announcements were made by all the provinces concerned in late 1970 to the effect that the gift tax would be introduced in 1971 and commence as of January 1, 1971, when the federal government vacated their field.

As the Minister of Finance for this province I consider it in the public interest that the kind of legislation in mind be presented as soon as possible. I therefore introduced the *Gift Tax Act* being Bill No. 25 on budget day, February 4, 1971. Since that date the Government of Canada and the provinces have met several times and produced a bill.

I therefore have withdrawn Bill No. 25, *Gift Tax Act*, which was introduced for public information only and substituted by unanimous consent of the House the amended Bill No. 25 *Gift Tax Act*. I move second reading, Mr. Speaker.

**DEPUTY SPEAKER:** The Honourable second Member for Vancouver-Point Grey.

**MR. GARDOM:** Will the Honourable the Premier accept an adjournment?

**HON. MR. BENNETT:** No thank you.

**MR. GARDOM:** Very well. I would mention, Mr. Speaker, that we have this bill coming in today which is 29 pages long. We find 64 changes between it and the bill that was presented a few days ago and the amended bill. I'm getting a little tired here. I believe it came in on Thursday night or Wednesday night and I think with every respect to the Premier he's being rather small in not agreeing to an adjournment.

I suppose that in order to save the time of the House, Mr. Speaker, I could say that my remarks during the succession duty bill, which was Bill No. 23 could apply here *Mutatus Mutandus* — with all the necessary changes being made. However, this gift tax bill apart from being practically and philosophically unnecessary is without parallel an example of hastily, ill-considered sloppily-prepared and needlessly drafted legislation.

For a statute to come in in the shoddy form that this has from the Minister of Finance makes one well question his continuing competence in this field.

Surely at the very best it very clearly illustrates the need in this province for legislative reform. There's no question of a doubt that the government has the responsibility to govern and to bring forth legislation. But it has an equal responsibility to ensure that it is fair legislation, that it is equitable legislation, and that it is workable legislation and this thing here is neither of the three.

For any law to be effective it's got to be clear, it's got to be concise and it has to be certain. This is not. This bill should have been sent to a committee of the House for examination by experts in this field which is a very, very complicated and indeed duplicating branch of the law. It should be sifted and screened and washed and dusted and

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polished and housecleaned and housekept and I'd say even fumigated in the way that it's come in right now before it will ever effectively do the job.

In short, Mr. Speaker, it's gobbledygook of the very first order and it's just a twin throwback to the death tax bill that the House has already approved.

It's an example of one more taxation duplication in B.C. Another example of harassment of the B.C. taxpayer and another tax maze that the Minister of Finance appears to be daily creating for the long-suffering public that we have in B.C.

I would hazard the guess and I say this with all respect to all of the Members, I'd hazard the guess that you wouldn't find two or three per cent of the Members of the House has even read the thing and probably even less that understand it.

One section here it's just incapable of any kind of understanding:

Before the making of the gift, neither the donor nor his spouse had made a gift the whole or any part of the value of which was, by virtue of this clause, not subject to tax under this Act, or was, by virtue of paragraph (b) of subsection (2) of section 112 of the *Income Tax Act* (Canada) as it was before the first day of January, 1972, and after the twenty-second day of October, 1968, not subject to tax under Part IV of that Act as it was before the first day of January, 1972, or was, by virtue of paragraph (ba) of subsection (4) of section 112 of the *Income Tax Act* (Canada) as it was before the twenty-second day of October, 1968, exempt from tax under Part IV of that Act as it was before the twenty-second day of October 1968.

Okay, what's it mean? (Laughter). I hope the Minister of Finance is going to tell us what that means when he stands up and he closes this very, very interesting debate. Really and truly.

Trying to give the long-suffering public in B.C. any kind of a logical explanation of this thing would be like trying to attempt to teach a Sasquatch the A + B theorem. (Laughter).

Interjections by Hon. Members.

**MR. GARDOM:** Really woolly.

**AN HON. MEMBER:** Is that a reflection on the theorem or on the Sasquatch?

**MR. GARDOM:** Where's the Sasquatch running this time? Does anybody know? (Laughter). Well, at least we'll know what banner he'll be running under. (Laughter).

Interjections by Hon. Members.

**MR. GARDOM:** This is not needed. It's a double penalty. It's a double jeopardy. It's more confusion and it's just one more tax hammer on the B.C. taxpayers.

As I said, Mr. Speaker, for any kind of a law to be effective it has to pass a four-point test. It's got to be clear. It's got to be concise. It's got to be certain. It has to be capable of being intelligently enforced. This is neither on all four points.

In the long run the only thing that it is going to serve to enhance is the fact that the permanent and the lasting reputation of this Minister of Finance will be that of the most severe and grossest complicator and over-taxer in this province's 100-year history.

Everything that has been included in this bill has previously been taken care of in the new federal tax bill — the new federal *Income Tax Act*. This Minister of Finance should have given it a chance instead of bringing in this duplicating legislation. But he's run headlong, uncontrolled and wide-eyed and wall-eyed and uncertain into the new tax Act philosophy of Canada.

This thing is precipitous. It's uncalled-for. It's not asked for by anybody that I know in B.C. and this great man of plebiscite, who's he going to take to the general public for a plebiscite on this thing?

Interjection by an Hon. Member.

**MR. GARDOM:** You? Ha! Well, I can certainly tell you the way I'm going to vote so you've lost your plebiscite right now. Now if you're going to withdraw the bill and get on with some intelligent and humane business of the House that perhaps would be very, very interesting indeed.

There's all sorts of woolly aspects of this bill and I would like to refer to some of them that even stand out worse than do others.

Under the bill that was introduced a couple of days ago there was a tax-free gift allowed to the federal government. But that section has now been deleted. So in British Columbia it's impossible for anyone to make a gift to the Government of Canada. That again to me is a parochial, small, mean kind of attitude as we had with the changing of the name of the Trans-Canada Highway. Exactly the same kind of thing.

Under the earlier bill which this one replaced two nights ago there was also certain tax-free gifts to charity. But this new Act permits only gifts of charities who spend moneys totally within the province.

Now, O.K. That really and truly is a pretty silly thing. You know, great strides that have been made in the world in science and, say, in preventive medicine have resulted from the contributions from people in all walks of life and all societies.

Look at Mayo. Mayo receives donations from British Columbia — receives donations from the rest of the world and look at the fabulous work that has happened there. Look at the fabulous work that has occasioned in the research, say, in the field of drugs.

But no, no. In B.C. we're just going to close it up within our own little tight little tax island. Why if you want to become parochial to the point of being totally obscene why don't we go ahead and say that the only giving could occasion, say, in the riding of the Honourable the Premier?

I use that as an illustration because this is a very small-minded kind of an approach to anything. It's going to serve to encourage the erosion and the exodus of capital from the province and there's no question of a doubt about that. Capital is what we're short of, it appears, in B.C. and anything that we could do to encourage its retention here and to encourage the participation of those individuals or corporate people who have those kind of funds in the province to do their jobs here and live in the community, contribute to the community wellbeing would be an

excellent thing. But no, no this is not possible at all.

Probably the definition of the tax collector here is ultra vires. But one thing that is absolutely glaring, Mr. Speaker, is there is no longer a gift between spouses possible.

A gift between a husband to a wife or vice versa has been tax free in Canada since October, 1968. A husband will turn

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over his interest in a home or vice versa one to the other. But this is now abandoned under this statute and that is not possible.

I say this is a very, very stupid provision because the family units are family units. The husband and the wife both contribute to the wherewithal of the family unit and to suddenly find out that you wish to transfer your interest in your home from your husband to yourself or the husband provides that the wife become registered say as the joint tenant as is practically the main custom in the Province of B.C. and he puts up funds for that purpose those are taxable funds.

This is silly. It's absolutely nonsensical. You know, I really and truly don't think it's the policy of the government. I think it is the policy of the Minister of Finance and maybe the Minister of Health who is a great man at complicating things and this looks like a bit of his background stuff here too. I say that very fairly to him because I think it is.

I think he may be the ghost-writer of this hodge podge, Mr. Speaker. Are you the ghost-writer? The second Member for Vancouver East (Mr. R.A. Williams) is getting a little excited. Maybe he's the ghost-writer but I tend to think it would be more likely the Minister of Health.

Now, I would certainly recommend that, apart from not voting for this bill, if the government Members continue to have their convictions blinded in this House they probably will back the thing in the same way they've always done before. Just put blinkers on to truth and blinkers on to reality and back the bills.

There's got to be a bit of a hamper, though. In most of these bills is the explanatory note so the people get a little bit of an inkling what's in the silly thing. But they don't even have this in this one so I think their knowledge of it is going to be exceptionally limited — exceptionally limited indeed.

The federal system has worked very well insofar as treating the husband and wife of the family unit. Ontario has brought in a gift tax — as we know. I don't think they did the right thing in doing that either. But they certainly excluded husbands' and wives' gifts which you have not done here.

Just from a sociological or social point of view this is very, very silly indeed. Oddly enough, under the *Succession Duty Act*, and this is the twin Act to that Act, it contemplates that family homes can be gifted by the husband to the wife or vice versa but they are not exempt within this thing. So apart from it being very wrong as I've illustrated and really destroying the accepted concepts which have existed in this country for four years now it's just plain stupid that you have one of the statutes in B.C. contradicting another one.

There's one item that is absolutely appalling. That is this: under the definition of "gift" under this particular bill — it's I believe section 18 or so — it's pathetic. It's absolutely pathetic. It compels B.C. residents to annually file gift tax returns whether they happen to have a taxable gift or not. Now, this thing is so silly I don't know whether to laugh or cry about it. Because as it now reads every man, woman and child in B.C. would be compelled to file a gift tax return if they gave their child a pair of roller skates or the wife a new house dress or the husband a pipe for Christmas.

Interjection by an Hon. Member.

**MR. GARDOM:** Who read this thing? Who indeed read it? It would be pleasant if we'd even seen the deputy Minister of Finance in here. This has gone through his desk. I certainly can't give him any gold stars for efficiency.

Apart from the utter ridiculousness of this, you'd need an administrative empire in the Province of B.C. to handle the thing. These returns would absolutely clog up the works. Maybe there'd be one saving grace. We'd be a little too busy in the point of view of the government to give any consideration to building any Moran dams or anything along that line but Lord love a duck, when you have Christmas gifts, birthday gifts and anniversary gifts subject to filing under this particular bill what have you done, friends?

Interjection by an Hon. Member.

**MR. GARDOM:** You know, we're all tired, we're getting towards the end of the session but gee whiz!

Now the search and seizure provisions under the statute are exceptionally wide. Under the *Income Tax Act* there could only be forceful searching and seizure upon court approvals. But in this bill as in most bills that come through from the Social Credit side and certainly most bills that come from the Minister of Finance and the Premier's side, we don't find the courts have any power at all and here they're totally emasculated and there's no reference to them whatsoever.

The Minister of Finance has the right, under this statute, to trot into a person's home or office or place of business and forcefully seize records as, if and when he chooses, without any kind of administrative or legal check at all. An unlimited discretion. I think myself that's 1984 come to B.C. about 12 years early.

We have here double taxation. There's no allowance for the *Income Tax Act* payments in most situations. Dealing, say, with the situation of a capital gains you'd get into the ludicrous deal of where a person can make a gift in cash but if he gives it in specie it will be subject to tax.

In summary, Mr. Speaker, I say without hesitation that we have here a bill that is unnecessary. That is uncalled for. That is incapable of any intelligent interpretation, I would tend to say, by anyone. It's creating the most blank, blank, censored, censored tax maze we've probably ever had in B.C. It appears from the statute itself that the Minister or his ghost writer who is now champing at the bit to stand up either hasn't read the thing or had sufficient time to comb it out and to prepare a workable bill.

If you're going to go ahead and bring in a gift tax bill — which I think is philosophically and practically very, very unnecessary for B.C. and a duplication as I've said — for goodness' sakes bring in something that can be understood.

I would very much like to ask who, who in the community, in this very, very complicated field has had an opportunity to peruse the 68 changes that came in on Wednesday evening. Nobody. Absolutely nobody.

Where do these things start from? The changes are even worse than you had in the first statute. You just try to cram this through or rain it down the throats of the Legislature on the final days of the session and I think is very, very wrong indeed. You have here a fiscal, a financial and administrative abortion.

**DEPUTY SPEAKER:** The Honourable Minister of Health and Social Welfare.

**HON. R.R. LOFFMARK (Minister of Health and Social Welfare):** Mr. Speaker, it might be worth while to take a few minutes to bring a certain degree of objectivity and perspective to some of the remarks that have been made by

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the Honourable the second Member for Point Grey (Mr. Gardom).

He made something in his opening remarks about the complexity of this legislation, and I don't think it would improper to disagree with him on that. Because undoubtedly there are sections of this revenue bill that do tax one's

patience in reading through them.

However, I think that one should also remark that probably among the English-speaking nations of the world there is no legislation more complicated, more complex, than the revenue legislation in Britain, and particularly the death duty legislation in that country — followed very closely of course by the complexities of the internal revenue code in the United States.

But make no mistake, Mr. Speaker, when it comes to the outrageous language so difficult to interpret, in this contest for first place in this area the draftsmen who are endorsed by the Liberal Government in Ottawa are not amateurs....

Interjection by an Hon. Member.

**HON. MR. LOFFMARK:** Just a moment now. I say that the revenue legislation in Ottawa takes second place to no jurisdiction when it comes to a matter of interpretation, and it's a matter of looking at the revenue legislation in Ottawa, to see something really complex. There is a certain element of ingratitude in this Honourable Member, having in mind that there may come a time when he might be able to augment an otherwise satisfactory income with a gracious supplement — derived from an interpretation of this. Now please....

Interjections by Hon. Members.

**HON. MR. LOFFMARK:** The Honourable Member also suggests that the legislation we're considering here is something that has been generated out of the minds of British Columbia officers without reference to other jurisdictions.

This of course is not the case. Because, Mr. Speaker, it is well known in Canada that there is a considerable liaison in communication between the revenue ministers in all of the provinces, and the revenue department in Ottawa. I would assure you, Mr. Speaker, that in this case this bill represents to a very large extent the combined judgment of the revenue officers of all the offices throughout Canada.

If you look at the Liberal administration in some of the Atlantic provinces, you will find that the legislation that they have either enacted or proposed to enact is not substantially different in principle from this. I think too, Mr. Speaker, a very short examination of the legislation in those two progressive provinces of Manitoba and Saskatchewan, that there again the legislation in principle follows pretty much what we're considering here today.

Now, the point I make is this, Mr. Speaker, that when the Honourable Member from across the way, the second Member for Point Grey (Mr. Gardom), suggests that there is something a little different in this legislation than the other provinces there's no substance in what he says.

There are minor changes that reflect local circumstances and to bring it in line with other revenue legislation in the province. But by and large it is the same in broad principles as to be found elsewhere.

Now then, that is the second red herring that the Member attempted to distract our attention with. Now, the third one relates to his discussion and his suggestion that where a father intends to give a bicycle or a pair of roller skates to his children that this constitutes a gift, or that when a husband buys his wife a gift or Christmas present or something. This of course is not the case at all either in fact or in law.

Because for these purposes one must always recognise that there are parental duties to children, which involve the transfers of property, there are marital duties between husband and wife and of course by definition and by long, long practice both in the courts and elsewhere, it is very well-recognized that these things do not constitute gifts.

So now then, that leaves us with the broad principle of the bill. Now the principle of this bill is a very simple one, and that is that through cooperation between the federal government and the provinces there has been a mutual agreement between the 10 provinces and the federal government that there should be a realignment of revenue

producing areas, and one of these of course is the withdrawal by the federal government from the estate tax field, and the introduction of succession duties in the provinces. And certainly the second Member for Point Grey knows as well as anyone, and I hesitate to refer to his professional standing and his position, which when I look at the....

Interjection by an Hon. Member.

**DEPUTY SPEAKER:** Will the Honourable Member extend the same courtesy to the Honourable Member that is speaking, that was extended to him?

**HON. MR. LOFFMARK:** When I recall the eminent position that the Honourable Member occupies in his own profession, I'm sure that he recognizes and knows as well as anyone that if we are going to accept the transfer of succession duty revenues from the federal to the provincial field that accompanying that must be a gift tax provision.

What this really represents is an amicable transfer of revenues from the federal to the provincial field, and while the substance of the revenue is reflected in our *Succession Duty Act* the gift tax is an accompanying provision. Thank you, Mr. Speaker.

**DEPUTY SPEAKER:** The Honourable first Member for Vancouver East.

**MR. A.B. MACDONALD (Vancouver East):** Mr. Speaker, the last speaker is quite correct — that if you're going to have death duties and no gift tax then a donor can give \$1 million or \$100,000 or whatever it is while he is living and you might as well tear up your *Succession Duty Act*. Now the Liberal Party respond to that, and they say: "We don't believe in death duty." And the practical effect of that is that the rich, the big, get bigger, and bigger, and the small shrink smaller, and smaller.

That's exactly what we're talking about. This bill will not bother Vancouver East, Mr. Speaker. I don't know too many people. But the ordinary people of British Columbia who are going to every year in their lives — or for even three or four years, or one year — be giving away up to \$10,000 and that's the exemption up to \$2,000 for any one gift for a total of \$10,000 in any one year, this is not going to hurt the common people, this bill will hurt the fat cats. The fat cat protection party is defending the landed aristocracy, and the wealthy aristocracy of British Columbia. This is the voice from the wealthy waterfront suburbs that we have been listening to today. We are against....

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**AN HON. MEMBER:** What waterfront suburb do you live in? You don't live in Vancouver East.

**MR. MACDONALD:** That's right. This is a very serious bit of legislation, Mr. Speaker, because it's a very small attempt to introduce a bit of social equality and equality of opportunity into our society that's so sadly lacking. This goes such a short distance toward achieving any such social equality of opportunity for generations to come after us, it's really a shame. But it's a step in that direction, and those who oppose this kind of a bill, believe not perhaps in the old aristocracy of birth, but they do believe in the hereditary aristocracy of wealth. And that's not the kind of legacy that we in this party intend to see passed on to the children who come after us.

**DEPUTY SPEAKER:** The Honourable the first Member for Vancouver Centre.

**MR. CAPOZZI:** It surprises me in this House again to watch a splitting of opinions on what stands up and sounds like a defence of the small, but really ends up as the cry of Socialism. Because those who pounded on this side, I must point out to the Members of this side of the House, that you are really saying that initiative shall be taxed, not once, not twice, but three times.

I suggest that I have supported the succession duties and the *Gift Tax Act* in the past, believing that it was a very necessary part of the tax structure. But certainly, Mr. Speaker, the present tax adjustments which have taken place, which have eliminated the method by which people may accumulate estates without taxation, by the elimination of the capital gains tax, have now said that a person who accumulates an estate of whatever size, has paid

his price to the government, has paid his price to society.

What really is the motivation behind individuals? And those of you who have supported the Member from Vancouver East who speaks the Socialist line, and you heard him speak the Socialist line: "Tear down the top," not "build the small." Tear down the top, that's the exact statements which are involved when we move from succession duties into the *Gift Tax Act*.

I suggest to you, Mr. Speaker, that what we are saying about the past has been correct. Because there was no tax on purchase and sale of land, no tax on purchase and sale of securities, no tax on purchase of property that accumulated in value, no tax on any of those goods which eventually rose in value you were capable and you were able to sell — that is past Mr. Speaker.

There is now very definite taxation on people who will attempt to accumulate and build estates. And why does a person build an estate? Fundamentally it isn't a question of throwing words like "millionaires," and like "the rich" and so on. Part of the right of living in a free country is to accumulate within the framework of the proper taxation those things which a person works for. Certainly that is a very key part of what I assumed many of the people on this side were in favour of.

I spoke out against the succession duty. I have always, and it's not a question of stepping across and being with the Liberals because I don't feel that your policies are that correct, I'll tell you my friend, and so much of what's involved in the taxation legislation you are putting through.

But, there is at the present moment a capital gains tax. That capital gains tax has opened a completely new framework. Why did the federal government step out of the field? Because they felt that there had been fair taxation at the levels of capital gains and income tax.

I feel, and I've said this, Mr. Speaker, through you to the Minister that we make an error. Because what do we do? We say to so many people "accumulate so that you can invest and help build the Province of British Columbia." So many of the estates have been responsible for a great amount of the charitable work that has been done in the Province of British Columbia.

**AN HON. MEMBER:** Name them, name them.

**MR. CAPOZZI:** They can go on and on. They're names of the past — Malcolms, Woodwards, you name them. Many of them. Very, very responsible people, Kerner, and you keep going on all these people. And the odd Macdonald is in there too if you want to take a look at the names that have contributed in the past to the development of the Province of British Columbia.

I suggest, Mr. Speaker, that what we are talking about is a limitation of the eventual investment possibilities in the Province of British Columbia.

I don't suggest that people are suddenly going to fly, leave British Columbia because we impose this type of thing. But certainly we are putting a pressure on those people who are endeavouring to accumulate a correct and proper accumulation of wealth after having paid the price legitimately, and I think that is the point.

We are being pushed more and more into a Socialist concept where the state has the right to take everything above the bare minimum. And I for one do not accept that. I do not accept that, Mr. Speaker. I am suggesting to you that the edge starts and moves down, constantly moves down under your basic philosophy. And that's the real question of what we're dealing with when we deal with succession duty and the *Gift Tax Act*.

There are several things, I'm not going to go into depths because I am opposed to the principle of the Act, not the question of whether we say British Columbia or donations to Canadians et cetera. I do point out that if a donation or gift made to a charitable organization can be spent in the Province of British Columbia, what about donations to an organization such as the Society of Christians and Jews which takes youngsters from the Province of British Columbia, sends them to Quebec? It isn't as if it's spent outside the province. It must be spent within the framework



of the Province of British Columbia. Someone who takes youngsters and takes them to Montreal and Ontario, and sends them to Eastern Canada, is spending money outside the Province of British Columbia to charity. I suggest although it sounds like a rather exaggerated case, it does exist.

But the basic point I am making, Mr. Speaker, is that I oppose in principle the start of this. I oppose the extra taxation. It is unfair, at the succession level and therefore, Mr. Speaker, I intend to oppose the bill on the gift tax.

**DEPUTY SPEAKER:** The Honourable Member for Burnaby-Edmonds.

**MR. G.H. DOWDING (Burnaby-Edmonds):** Mr. Speaker, I'm sure that the views that were expressed by the last

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speaker can only be described as a silver-spoon philosophy. And I want to point out that the Member who now represents them on that point.

Because the people of Vancouver Centre certainly believe that there should be more equality in this province than there is. And they believe that this Member is protecting a privileged position, and a privileged class when he speaks as he does on this question in this House.

I can understand why the Member for Richmond (Mr. LeCours) wanted to hand out seat belts yesterday because the philosophy expressed by that Member just now is more in the keeping with the Liberal philosophy in this House, which is that privilege must be protected, at any cost.

So for anyone to say that a capital gains tax is double taxation under the gift tax is absolutely ridiculous. Now I would urge on the government consideration for a wider application of exemption when it comes to charity. I don't see why a charity must be entirely limited within British Columbia when many things in the way of charity from the rest of Canada are spread into British Columbia. And they gain exemptions in other places for their usage, or they should if they don't.

I would urge the government to make that wider as long as some of the charity is spent here. But you know, people who are making charitable bequests often have particular charities that they have particular reason to single out and it would be unfair to deprive those charities of the opportunity of advancement, particularly in fields of research, medicine and so on.

**DEPUTY SPEAKER:** The Honourable Member for West Vancouver–Howe Sound.

**MR. L.A. WILLIAMS (West Vancouver–Howe Sound):** Mr. Speaker, it was interesting to hear the last Member for Burnaby-Edmonds (Mr. Dowding) speak of widening the exemptions for gifts to charity. He doesn't seem to realize that if we pursue this kind of taxation policy which the government has brought before us today there's not going to be anybody left in the province who's got any moneys left to give to charity.

You see, what the Members on my right, the New Democratic Party, fail to realize and what I'm surprised the Honourable the Premier fails to realize as well is that when you destroy the initiative and the opportunities for the accumulation of wealth then you also destroy that segment of society who are in a position to invest that wealth back into the province and make it work.

To do this means that we will have to look outside our borders always for the investment capital and even the borrowing capital. The continuation of this kind of taxation policy makes this a certainty.

The second Member for Vancouver–Point Grey (Mr. Gardom) has spoken of the failure of this government to understand the unity that exists between a man and his wife in the production of the family fortune. Missing entirely from this Act. As a matter of fact, it's even worse. You can pay moneys to a spouse with whom you are not living, free of tax, but you can't pay moneys which might be deemed to be a gift under the laws of the land to a wife with

whom you are living without having to pay tax. If there ever was anything unfairer than that in the application of this statute I don't know what it would be.

The Minister of Health Services and Hospital Insurance (Hon. Mr. Loffmark), who has a great background in tax laws, offers the suggestion that because there is a bad piece of tax legislation offered some place else in this country then this one's O.K. too. In other words a multiplicity of bad legislation each makes the other all right. The fact of the matter is that you can never accept that argument.

The bill, as the Minister said when he introduced the bill for second reading, gives a great break to the farming community — \$10,000 exemption from anything in respect of a gift which may be in the form of a producing farm from a father to a son. It's ridiculous. That's no exemption at all.

That doesn't take into account the problem that faces the agricultural people of British Columbia. The only thing, Mr. Speaker, that it does take into account is that the politics of this particular government are ending up so no farm is worth more than \$10,000. Maybe that's the justification.

You know, Mr. Speaker, the Minister's way off the track here. He really should pull this bill and have it reconsidered. He's failed to take into account those matters that really should be taken into account in legislation of this kind. We've already got an *Income Tax Act* now which will be brought into play as soon as the gift is given. Capital gains become effective upon the making of a gift. Double taxation right away. The possibility that every donor of every gift will have to file a return — you know, the simplest way would be to set up a wicket so that when Santa Claus comes down on Christmas Eve he can stop and you can take a list of all those gifts that are being given and make him pay a tax in advance.

We're going to build up a multiplicity of returns. Heavens to Betsy, Mr. Speaker, this Department of Finance can't handle the Act we've got now. When you put this *Gift Tax Act* on top we're going to multiply the problems. As the Minister himself said when he opened the debate this isn't going to produce that much revenue. Get out of the business. Get out of the succession duty business as well and allow the people in this province to develop their initiative to provide economic power and strength in this province.

Let us grow with that and then we will have the position where we can stand off the impact of those who would come from outside, place their investments here and take their profits back home.

**DEPUTY SPEAKER:** The Honourable Member for New Westminster.

**MR. D. G. COCKE (New Westminster):** Mr. Speaker, I can well sympathize with the Liberals for taking the position that they've taken. The fact is the Liberal Government of Canada didn't do the job that it should have done in the first place. They left the doors open and the government had to close that particular door. They left the door open with respect to not having a proper new *Income Tax Act*.

Now, if they had followed more closely the advice of the Carter Commission, there would have been no need for this kind of legislation. But, Mr. Speaker, they decided not to follow that course. So therefore the door is open.

Mr. Speaker, the Liberals tell us that we should vote against this bill because there's the odd mistake in it.

**SOME HON. MEMBERS:** Odd?

**MR. COCKE:** Mr. Speaker, if we voted against bills in this House because they have the odd mistake in them we would not pass one single solitary bill that comes before the House. So let's not use that as an excuse. I would hope that the amendments will come in to take care of those mistakes.

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There's one area, Mr. Speaker, that I would hope that the Minister of Finance will look at before committee stage and that is section 49 where the Minister appoints or retains someone to assess the valuation and so on and so

forth. I would hope that should not be a charge to the person making the gift. I would think that if the Minister feels that there should be some expertise brought in I think that it's up to the government to pay for it.

But other than that, Mr. Speaker, this is a bill aimed at filling up some gaps left by the federal government and it was just unfortunate that they couldn't even adopt the Benson changes. Mr. Speaker, we'll support the bill.

**DEPUTY SPEAKER:** The Honourable Member for North Vancouver–Seymour.

**MR. B. A. CLARK (North Vancouver–Seymour):** Mr. Speaker, this has been an interesting debate of the lawyers in the House. I've sat back trying to follow some of the legal niceties of this very complicated Act. I enjoyed the contribution of my colleague who sits behind me. I tried to understand the contribution of the Minister of Health but I think his speech was even more complicated than the Act.

But what interested me mostly, Mr. Speaker, and I intend to be brief, is the attitude of the New Democratic Members in the House which I find really quite disillusioning. I can appreciate differences in philosophy and differences in techniques. In principle those can be appreciated and there's legitimate arguments on either side.

I happen to support the argument of my two colleagues that this is double taxation and that if those who are earning the most or accumulating wealth more rapidly in this country should be more severely taxed then they should be so taxed through federal income tax legislation and the capital gains tax which is now introduced in Canada and that we should not attempt to come in the back door with this sort of law.

I'm particularly disappointed, Mr. Speaker, in the contributions to this debate by two very confident lawyers who sit with the N.D.P. And despite the fact that my colleague pointed out over 65 errors in the Act these two lawyers chose to address themselves solely to one simple matter of principle — what they described as principle — totally ignoring the blatant errors that exist in the legislation.

**AN HON. MEMBER:** Wait for committee stage.

**MR. CLARK:** I can only assume, Mr. Speaker, that they haven't read the Act because the errors that are now prompting the Member for Burnaby (Mr. Dowding) to jump up and down are errors not in wording that we might reasonably discuss in committee, but errors in principle.

Mr. Speaker, the Member for New Westminster (Mr. Cocke) who just sat down who said just because there's the odd mistake in the bill....

**AN HON. MEMBER:** Put your amendment on the order paper.

**MR. CLARK:** Cast your mind back, Mr. Speaker, to other years in this House when we've had bills with 200 sections in them — 199 of which we all jumped up and down with joy for but in one section we saw our friends here say: "Because that one section is worded improperly we will oppose the entire bill."

Now, I support that. When that one section is that important Mr. Speaker, we should oppose the bill. But we've got 67 sections here and yet my friends say there's just a few odd mistakes down here therefore we can overlook those. I think what the Member said was we hope the government will introduce the amendments. Well surely, surely down there you want to at least have the assurance that the government is no longer going to tax gifts to wives while it will not tax gifts to the common-law spouse not living with the man, I mean is that a principle you can accept? Is that a principle you as a lawyer can accept, Mr. Member, and still vote in favour of this bill? And when you vote in favour of this bill you do vote for double jeopardy.

Another point, Mr. Speaker. Let the Members rise in support of this bill of retroactive legislation. I thought I heard you Members down here stand up against the principle of retroactive legislation. This is another one. Overlook that one too as you support the government with this bill. Retroactivity. Bad law. Double jeopardy. Taxation of gifts to wives. Some principles to support! Stand up and be counted.

**DEPUTY SPEAKER:** The Honourable Premier will close the debate.

**HON. MR. BENNETT:** I want to say this. I explained it very thoroughly when I opened. I'll say this, that this party, while the Socialist party supports this bill and I'm glad to see that, this party which I have the honour to lead is not a Socialist party but it is a social reform party. It is for the great masses of the people. We're not for the extreme left and we're not for the extreme right.

I want to say this. It wasn't without cause that the great master said it'll be hard for the rich to go through the eye of the needle, my friend, because he knew....

**AN HON. MEMBER:** That was a camel in there.

**HON. MR. BENNETT:** That's right. That's right. You know, the eye of the needle in the holy land is a very small, narrow gate.

Interjections by Hon. Members.

**DEPUTY SPEAKER:** Order, please!

**HON. MR. BENNETT:** I want to say this. They talk about double taxation. You pay sales tax and you pay income tax and the same thing. You talk about big bills, federal income tax was that deep — went through the House without going through every section.

Interjection by an Hon. Member.

**HON. MR. BENNETT:** 600 pages. Talk about different governments in Canada. The Liberals in Nova Scotia have a similar bill. The Conservatives in New Brunswick have a similar bill. The Liberals....

Interjection by an Hon. Member.

**HON. MR. BENNETT:** I want to say to the Liberals of Canada that a few little Liberals in B.C. think that all the rest of the Liberals in Canada are dummies. Are dummies. Then when they have such ego as that, when they have such ego as that...

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Interjection by an Hon. Member.

**HON. MR. BENNETT:** ...no wonder people won't vote for the provincial Liberals when they have such terrible ego. We know who they represent. They represent the special classes.

I want to say this. That as long as I lead this party, it will never be a party of the classes; it will be a party of the masses for the benefit of everybody.

I want to say this. That whether it's my family or any other family that makes money and develops partly on their own benefits, through their own abilities, but partly because of economy established by this government and by the great people we have in this province who come from everywhere, without them they could not make this money. I say they should pay a part of it to the state because the state has that money in trust for all the people of the province — all the people. This is a fair tax because without this tax our succession duties would be worth nothing because you could give it all away and therefore your succession duties would be of no value at all.

I want to say that this is a fair tax and I move second reading.

**DEPUTY SPEAKER:** The question is that Bill No. 25, *The Gift Tax Act*, be now read a second time.

Motion approved on the following division:

YEAS—42

Ney	Dowding	Fraser
Merilees	Nimsick	Campbell, B.
Mussallem	Barrett	Wolfe
Cocke	Dailly, Mrs.	Smith
Hartley	Vogel	McDiarmid
Lorimer	Jefcoat	Chabot
Hall	Tisdalle	Skillings
Williams, R.A.	McCarthy, Mrs.	Chant
Calder	Jordan, Mrs.	Loffmark
Wenman	Dawson, Mrs.	Gaglardi
Kripps, Mrs.	Kiernan	Campbell, D.R.J.
Price	Bennett	Brothers
Macdonald	Peterson	Shelford
Strachan	Black	Richter

NAYS—6

Brousson Clark    Williams, L.A.  
Gardom    McGeer Capozzi

PAIR:

LeCours Wallace

Bill No. 25 read a second time and ordered to be placed on orders of the day for committal at the next sitting after today.

**HON. MR. BENNETT:** Second reading of Bill No. 68, Mr. Speaker.

AN ACT TO AMEND  
THE LEGAL PROFESSIONS ACT

**DEPUTY SPEAKER:** Second reading of Bill No. 68. *An Act to Amend the Legal Professions Act.* The Honourable the Attorney General.

**HON. L.R. PETERSON (Attorney General):** Mr. Speaker, the contents of this bill were referred to the select standing committee on standing orders and private bills. If you refer to your *Votes and Proceedings* you will find a report of the committee which was adopted. That report only contains one very simple amendment which will be dealt with when we're in committee of the whole House.

The select standing committee on standing orders and private bills has recommended that the bill be proceeded with and therefore for this purpose I move that the bill be read a second time.

**MR. DOWDING:** You need leave of the House because it's not printed as amended.

**HON. MR. PETERSON:** Not printed as amended, but it is printed and the amendment is also on the *Votes and Proceedings*. I don't think it requires leave for second reading. It would require leave if we were dealing with it

in committee when the amendment itself was going to be dealt with. So I therefore move that the bill be now read a second time.

**DEPUTY SPEAKER:** The Honourable Member for Kootenay.

**MR. L.T. NIMSICK (Kootenay):** Mr. Speaker, I sat in on the committee dealing with this bill. And it is *An Act to Amend the Legal Professions Act*, and I find within the bill that it's sort of setting themselves up, a group within the legal profession, as both judge and jury when it comes to admitting people to the legal profession.

There is a section in this bill where a committee is being appointed to investigate and bring a report about an applicant to enter the legal profession. And that committee according to this bill has got to be members of the bench. It's got to be made up of benchers.

**HON. MR. PETERSON:** They're not members of the bench.

**MR. NIMSICK:** No, it's members of the bench. "The bench shall appoint among their members a credentials committee."

Interjections by Hon. Members.

**MR. NIMSICK:** Yes, the benchers. The benchers are the fat cats in the law society. But anyway if an applicant makes application to enter the law profession, and he's heard by this credentials committee, and the report of that credentials committee has got to come before the benchers, before it can be accepted or discredited.

Now the same people that heard the application, and investigated the application are going to sit as to whether they'll accept the application or not.

This is the reason I say that they're acting both as judge and jury on the applicants. I feel that the credentials committee should be appointed from the members at large, outside of the benchers. So that when a committee reports then it can come before the benchers, and the benchers can act upon it but they have not already acted on it before.

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We just had a similar case, just to give you a parallel, we had a case with the chartered accountants. I will give the chartered accountants credit that they came forward asking that the credential committee be outside of the executive. So that the executive could act as an appeal to the committee more or less, when that application comes before them. I feel that this should be amended to make this credentials committee elected from the members at large outside of the benchers.

**DEPUTY SPEAKER:** The second Member for Vancouver Point Grey.

**MR. GARDOM:** Mr. Speaker, the essential principle of this bill is the step that is being taken by the legal profession in the Province of British Columbia to attempt to make some more funds available for legal aid. Within the terms of this bill, Mr. Speaker, there's a provision whereby a portion of trust accounts of lawyers — which of course are not their funds but the funds of their clients — would become interest-bearing accounts and that interest would be paid to the law foundation.

I support that measure. However, I do feel that it is really and truly just a tiny, tiny step along the way. We find that the legal profession here are trying to do what they can to preserve the dignity of the individual and in respect for law and order. Really and truly it's their responsibility, but it's also the sacred responsibility of all of society to do that particular thing. And what we need in the Province of B.C. instead of just nibbling at the cheese we need policy action on legal aid and I'd say this very instant.

We find here we have a billion dollar budget yet we do not have legal aid — a province-wide legal aid plan in the Province of B.C.

Now, one of the characteristics of the law which has unfortunately burdened it from the outset, and which this bill is attempting to alleviate to a degree, has been its inaccessibility to those who are economically underprivileged.

This gap is closing by this kind of a measure, but far from significantly. And I say the time has come for British Columbia to accept legal aid and bring it in not as a social measure but as a democratic right.

We know the maxim that justice must not only be done but appear to be done, and there's little quarrel with that fact, Mr. Speaker, of it being done within the walls of law courts. But that is little comfort to those people who cannot get through the door. And I'd say how justifiably brutal that criticism is with this affluent government, and its billion dollar budget, and its terrific surpluses, that it has not provided province-wide legal aid.

For anyone to say in B.C. today that there is equal access to the courts in B.C. I would say would be rank hypocrisy. This is no criticism of the lawyers or the courts. They are trying, but the poor are still unable to afford the due process of law. You know there was a very stark statement and a very dramatic one in my view by the Economic Council of Canada. It said this:

Poverty in Canada is real. It is more than simple income deficiency. It carries with it a sense of entrapment and hopelessness and the poor tend to be collectively inarticulate.

These people, Mr. Speaker, view legal redress as a luxury, and we say it is everybody's right. It is everybody's right. There must be equal justice to all and relegated not to the charities of some, but government-supported for all people. We should have a comprehensive province-wide legal aid system in British Columbia and I'd say fashioned along the line of the Ontario programme. Because the gap of the undefended and the non-advised has got to be closed, and make no mistake of that.

There's one other aspect that I'd mention here. It's gratifying to see that the legal profession has on its own been prepared to take this step to provide some degree of assistance. Very gratifying.

But the largest amount of moneys that are lodged in trust in the Province of British Columbia — and I'd say they would be millions and millions of dollars — are those that are lodged with the real estate concerns. And I think it would be most heartening indeed if the real estate profession, however they're described in B.C., would come along with this kind of a situation.

Because unless the government proposes to accept its responsibility and do the job — and it has given absolutely no indication of accepting that responsibility in B.C. — if the citizens are prepared to carry on with the government instead of turfing them out, and have the measure I'm talking of, legal aid, legal care shall we say, for those in need, not for everyone along the lines of medicare, unless the government is prepared to do it people outside of the government I think should have the responsibility, and the energy, and the initiative to try to bring in that kind of a measure, as the lawyers are doing.

I would say to the real estate council in the Province of B.C. you have more money lodged in trust than any other comparable group of people in the Province of B.C. and you similarly should put a portion — and I would suggest 50 per cent of your trust funds — into interest-bearing accounts and make that interest available for the law foundation in the Province of B.C. in order to provide some degree of better access to the courts for those who are the poor.

**MR. DOWDING:** Mr. Speaker, on a point of order. Under standing order 79 and 80, we really are jumping the gun by continuing second reading without the bill having been shown on the order paper as reprinted, nor indeed on the bill itself. I note that the bill we have before us is the one that we got in committee but does not appear to be any different with the amendments made in committee.

I read standing order 80, and I think we should observe some of the legality involved in this, for the simple reason that if we don't then in time these distinctions end up being blurring so badly that when the House wants to deal with the matter it can't.

Standing order 80 says:

When a bill has been amended in committee of the whole House, or by any select or standing committee it shall be reprinted as amended; and when the bill has been sent to be reprinted it shall be marked on the orders of the day thus, NOT REPRINTED; and shall not be further proceeded with until that mark has been removed and the word PRINTED substituted (signifying that the bill has been reprinted and distributed).

This has not happened, as far as I can see in the bill because I was on the committee that dealt with this.

**HON. MR. PETERSON:** May I just speak to the point of order, Mr. Speaker? The bill has been printed, it's available to the Members, and perhaps with leave we could continue the debate and dispose of this piece of business. It's only one

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simple amendment and the amended copies have not been distributed in your books apparently. It has been printed and the Honourable Member can have one if he so wishes.

**MR. DOWDING:** Mr. Speaker, my point is simply this. I asked that there be leave granted to debate the bill and I was told that no leave was required. But I say that leave is required and I am certainly for my part willing to grant that leave and willing to finish second reading of the bill. We can deal with committee....

**DEPUTY SPEAKER:** Considerable discussion ensued at the beginning of this discussion of this bill, and the Chair could only assume that unanimous leave was given. The point....

**MR. DOWDING:** No, Mr. Speaker. The matter was discussed and we were told that leave was not required. Remember, I stopped the Attorney General and asked him to ask for leave. I would like to see the niceties of this House preserved but with that condition certainly there are....

**HON. MR. PETERSON:** I would ask under the circumstances for leave for the debate on second reading to continue, Mr. Speaker.

**DEPUTY SPEAKER:** Shall leave be granted?

**HON. MEMBERS:** Aye.

**DEPUTY SPEAKER:** The Honourable Member for West Vancouver–Howe Sound.

**MR. L.A. WILLIAMS:** Mr. Speaker, I will be very brief and I wish with these few remarks to draw the attention of the Honourable Attorney General to the amendment that was adopted in the committee. I haven't seen the reprinted bill but am I to understand that the number of the persons comprising the board is to be increased from 17 to 19? If you could just tell me that, because the wording that is in the *Votes and Proceedings* from the report on the committee appears to add a further sub sub-section, which increases the committee numbers by two. So it becomes 19, and if I could just be assured that the reprinted bill now says 19 members, then my question is answered.

**HON. MR. PETERSON:** The number is the same, it's just the method of appointment that is different.

**MR. L.A. WILLIAMS:** Well is sub-section (C) now 11 members?

**HON. MR. PETERSON:** Eleven by society, and two by the Canadian bar.

**MR. L.A. WILLIAMS:** Thank you very much.

**DEPUTY SPEAKER:** The question is that Bill No. 68 be now read a second time.



Motion approved: second reading of the bill.

Bill No. 68, *An Act to Amend the Legal Professions Act* ordered to be placed on orders of the day for committal at the next sitting after today.

**HON. MR. PETERSON:** Second reading of Bill No. 99, Mr. Speaker.

## AN ACT TO AMEND THE PODIATRY ACT

**DEPUTY SPEAKER:** Second reading of Bill No. 99. *An Act to Amend the Podiatry Act*. The Honourable Minister of Health Services.

**HON. MR. LOFFMARK:** Mr. Speaker, there are a number of professional Acts that deal with matters peripheral to the activities of the medical profession. These include chiropractors, naturopaths, podiatrists and so on. What this bill proposes to do is to define with greater clarity and certainty the professional activity permitted by the podiatrist.

There are also minor matters dealt with relating to names. But in the main the substance of the bill is a definition of the activities properly carried on by podiatrists. I might say that the wording that you are considering here, Mr. Speaker, is the result of quite some negotiation between the medical profession and the podiatrists and I believe it has been during the last two years that they've spent some time working out these terms.

I move second reading.

**DEPUTY SPEAKER:** The Honourable Member for North Vancouver–Seymour.

**MR. CLARK:** Mr. Speaker, I wish to use the opportunity of this bill in second reading to not oppose the Act but to point out to the Members one principle which is contained in it with which I personally disagree most firmly.

That is the principle that from time to time in this Legislature and indeed in this Act too, Mr. Speaker, we make it possible for certain groups of people in our society not to advertise their profession. This is definitely within the principle of this bill. I'll be very brief.

I don't think that is proper in a free society — and to illustrate my point, because of legislation of this chamber, a man in the City of Vancouver today was sent to jail for advertising. I don't think that is what this assembly intended to do.

Interjection by an Hon. Member.

**MR. CLARK:** This happened to be the same provision under the *Hairdressers Act*. The man is spending 30 days in Oakalla. His offence — advertising his profession. I use the opportunity to raise the point, Mr. Speaker, because I'm totally against the principle which puts such restrictions on groups of professions and makes it impossible for them in my opinion to compete or make their products known.

**DEPUTY SPEAKER:** The Honourable Minister will close the debate.

**HON. MR. LOFFMARK:** I wonder if the Honourable Member would be kind enough to give me a little more in the way of details at a later time on this because I think the point is an important one and we would like to consider it a little further.

**DEPUTY SPEAKER:** The question is that Bill No. 99, *An Act to Amend the Podiatry Act*, now be read a second time.

Motion approved: second reading of the bill.

Bill No. 99 ordered to be placed on orders of the day for committal at the next sitting after today.

**HON. MR. PETERSON:** Committee on Bill No. 3, Mr. Speaker.

**DEPUTY SPEAKER:** Committee on Bill No. 3, intituled *An Act to Amend the Public Schools Act*.

Bill No. 3 was committed, reported complete with amendments, to be considered at the next sitting after today.

**MR. CHAIRMAN:** Mr. Speaker, divisions occurred on section 10 and the amendments to section 16 and 21, and the committee asked leave for these divisions to be recorded in the *Journals*.

**MR. SPEAKER:** Recording of the divisions in the committee will require leave of the House.

Leave granted.

Hon. Mr. Bennett moves adjournment of the House.

The House adjourned at 6:07 p.m.

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