

Re: Notice of Motion on Subsection (5) of Section (8) of Bill 85.

Alderman Mercier proposed the following resolution at the June 17, 1974 meeting of Council:

"WHEREAS Subsection (5) of Section (8) of Bill No. 85 cites as the 'Public Officials and Employees Disclosure Act' which reads:

'Where, in a prosecution under this section, it is alleged that a person was a trustee on behalf of a Provincial official, municipal official, public employee, or municipal employee, the onus is upon the Provincial official, municipal official, public employee, or municipal employee to show that the person was not a trustee on his behalf'

presumes guilt until innocence is proven;

AND WHEREAS this presumption is contrary to the normal laws of justice;

THEREFORE BE IT RESOLVED that the Attorney-General for the Province of British Columbia be petitioned to amend subsection (5) of Section 8 of Bill No. 85 cited as the 'Public Officials and Employees Disclosure Act' to remove such presumption of guilt from Bill 85."

Further consideration of the subject motion was deferred pending a comment from the Solicitor as to whether, in his opinion, the above interpretation of Bill 85 is correct.

The Solicitor advises that in any prosecution the entire burden of proof is on the prosecution. However, it is not unusual to find reverse onus sections in Statutes. Section 8(5) of the Bill places such a reverse onus on the Provincial official, municipal official, public employee, or municipal employee.

This is for the information of Council.