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Speaker: The Honourable Donald Taylor

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Mr. Speaker: I will now call the House to order. We will proceed at this time with morning prayers.

Prayers

Mr. Speaker: We will proceed at this time with the Order Paper.

ROUTINE PROCEEDINGS

Mr. Speaker: Are there any documents for tabling?

Are there any reports of committees?

Petitions?

Introduction of Bills?

Notices of motion for the production of papers?

Notices of motion or resolution?

NOTICE OF MOTION

Mr. Lengerke: Mr. Speaker, notice of motion, moved by myself, seconded by the Member from Pelly with respect to adjournment.

Mr. Speaker: Are there any further notices of motion or resolution?

Statements by Ministers?

STATEMENTS BY MINISTERS

Hon. Mrs. Whyard: Mr. Speaker, I wish to announce this morning to the House that the Government of Yukon has approved the establishment of a system of awards to be presented to citizens of this Territory for outstanding or exceptional deeds of service to the public.

From time to time, Yukoners have demonstrated outstanding bravery, determination or achievement, which merits some kind of official recognition by this Government. One recent incident involved an act of unselfish bravery on the part of a staff member in a senior citizens' residence and this has been recognized in a meaningful way.

But in past years, unless the accomplishment was recognized at a national level, there was little appreciation shown officially here in Yukon to Yukon citizens.

This matter has now been considered by the Executive Committee and the Permanent Advisory Committee of Department Heads and approval has been granted for the establishment of a system of citizens' awards by the Yukon Territorial Government.

A committee of citizens will be asked to consider nominations for the Yukon Award and nominations will be welcomed from the public.

It has been suggested that we follow the system of awards established in the Northwest Territories in 1965, which recognizes two categories: bravery and public service.

There are three classes of presentation used in the Territories. The first level, to receive a large medal, accompanied by framed scroll; the second, to consist of the framed scroll only; and the third, in the form of a letter of commendation and appreciation from the Government.

No fixed number of awards will be established annually, Mr. Speaker, but will depend entirely on the nominations received from the public and the recommendations of the Citizens Awards Committee.

Members of the public service, as well as all other citizens of Yukon will be eligible for this award.

Mr. Speaker, it gives me great personal pleasure to make this announcement, and I hope that many Yukoners will be nominated for suitable recognition of outstanding deeds of bravery or service in the years to come.

Thank you, Mr. Speaker.

Hon. Mr. Lang: Mr. Speaker, colleagues, in any other

jurisdiction in the free world, the government is responsible to the Legislature and must at all times enjoy its support. The chief executive officer, which, in the provinces, is the premier, selects his cabinet, which forms the nerve centre of government, whereby policy is developed and implemented to ensure that the needs of the people they represent are met.

In order that the cabinet can function, the members of the cabinet must have mutual respect for one another and must also be able to discuss all matters openly.

To exemplify the importance of this necessity, I quote from a statement, made by the present Prime Minister's Secretary to the Cabinet, Mr. Gordon Robertson:

"During policy discussions, there comes a time when the Ministers must be alone. Candor is required. There must be no restraints on frank talk. This occurs in Cabinet when the ultimate decisions are made."

The description that I have just outlined is the procedure followed throughout Canada, both Federally and Provincially. The architect of the Executive Committee, the present Commissioner's predecessor, designed the quasi cabinet along the lines of the Provinces and proved that it could work, no matter who the elected Members were and no matter what their political persuasion.

This fact is grudgingly admitted by Judd Buchanan in his letter of instruction to the present Commissioner. I quote:

"The development of this concept has worked well and its introduction into Yukon affairs met with a sufficient degree of success to warrant the appointment of a third councillor to the Executive Committee in late 1974."

In my view, the concept is no longer working well. You may wonder why I say this and I would like to refer you back to the statement that I made to this Legislature last November. At that time, I made it very clear that the elected Members of the Executive Committee had no knowledge of the laying or withdrawing of charges of professional misconduct against Mr. Lueck until the matter had been made public in the news media.

Also, I made it very clear that when we asked what was going on, we were told that the situation was a routine proceeding and advice was sought on how to handle the media in view of the fact that a man's professional credentials were in question.

Since that time, we have had the Stratton Inquiry, and the public have been told, under oath by the Commissioner, that the major reason for his action was because of the political sensitivity of the land claims and the relationship between this Government and the native organizations.

The question that no one really has addressed is why did the Commissioner tell the elected Members of the Executive Committee it was routine proceeding and then, at a later date, swear under oath at a public inquiry, that his decision was made because of the sensitivity of a political situation?

Mr. Speaker, one does not have to be a lawyer to conclude that either information was deliberately withheld from the elected Members of the quasi Cabinet, or that we were lied to. Either way, it is unacceptable, and I want to reiterate once again Mr. Gordon Robertson's assessment.

"During policy discussion there comes a time when the ministers must be alone. Candor is required. There must be no restraints on frank talk. This occurs at Cabinet when the ultimate decision is taken."

Mr. Stratton may not have found a breach of duty, but, in my opinion, there definitely has been a breach of trust at the Cabinet level.

It is my opinion that this breach is irreparable and mistrust will always be there until the Chief Executive Officer of this Government has been removed.

A month has passed since the results of the public inquiry were handed down. The present Minister has chosen to overlook the errors in judgment of his appointed Commissioner and

it would appear that the present Commissioner is here to stay.

Under these conditions, I find it unacceptable to remain any longer as a Member of the Executive Committee. I hereby tender my resignation as the Minister responsible for Education, Housing and Recreation.

Mr. Speaker: Are there any further Statements by Ministers?

We will then proceed to the Question Period. Have you any questions?

QUESTION PERIOD

Hon. Mr. Hibberd: Mr. Speaker, I have for tabling a legislative return in response to Mr. Fleming's oral question of June 26th, regarding telephone service at Tagish.

Hon. Mrs. Whyard: Mr. Speaker, I would like to table an answer to a question by Mr. Lengerke, concerning discussions that have taken place regarding Clinton Creek Mine.

Hon. Mr. Lang: Mr. Speaker, yesterday, I asked the Commissioner a question in respect to the Constitutional Review Process and the rejoinder at that time was that I should bring a position to the Executive Committee and then, subsequently, the question could be put to the Minister of Indian Affairs and Northern Development.

Later on in the Question Period, a supplementary was asked in respect to Mr. Loyd Barber, whether or not, and I quote here from Mrs. Watson: "Is the Commissioner aware that Mr. Loyd Barber is presently here in the Yukon Territory meeting with the CYI for their consideration to have him as a special representative of the Minister of the Constitutional Development Review?"

Mr. Speaker, I would like to address a question to the Commissioner. Mr. Loyd Barber was apparently in the Territory approximately a month ago. Did you meet with him at that time?

Mr. Commissioner: Mr. Speaker, yes, Mr. Barber was in the Territory and he did come to my office.

Hon. Mr. Lang: Mr. Speaker, why was not the Executive Committee not advised about it?

Mr. Commissioner: Mr. Speaker, Mr. Barber came to my office, as do probably four or five people a day. He did not come to inform me of anything that would be considered of a level that the Executive Committee should be alerted to. He visited with me on general issues.

Ms Millard: A question for Mr. Commissioner following up on this. Was the Commissioner made aware that there might be a possibility that this gentleman was being approached to be appointed as the special representative on constitutional development in the Yukon?

Mr. Commissioner: Mr. Speaker, no, I was not.

Ms Millard: Mr. Speaker, a question for the Minister of Local Government. A couple of days ago he stated in the House that he, in reply to a question from the Member from Klondike, that he would bring us information on the Dawson water and sewage postponement. Does he have that information today?

Hon. Mr. McKinnon: Yes, Mr. Speaker, I found the legislative return in my office this morning. It will be tabled in the House tomorrow morning.

Hon. Mr. Lang: Mr. Speaker, earlier this week there was correspondence tabled in this House in respect to the correspondence between Mr. Musgrove and Mr. Stratton. I would like to address another question to the Commissioner, if I may.

In one particular piece of correspondence it states, "You have indicated you will require counsel in the conduct of the inquiry. In this regard, you have asked me to recommend three names of Yukon lawyers." Did Mr. Musgrove recommend a name of a lawyer to Mr. Stratton to be the legal counsel to the Stratton enquiry?

Mr. Commissioner: Mr. Speaker, I will have to get the answer and bring it back to the Honourable Member.

Mr. Fleming: Yes, Mr. Speaker, question for the Minister of Consumer Affairs. There was some item on the news last night, I did not hear it all, I just heard a small portion of it, as to something to do with Yukon River, patrol on the Yukon River, and also there were so many employees to be hired to build campgrounds, and so forth, on the river. There was something said about the Minister of Consumer Affairs when they were speaking of it. Does the Minister know of anything that is going to happen, or maybe happening now on the Yukon River, to this extent?

Hon. Mr. Hibberd: Mr. Speaker, some time ago, I announced in this House that there was a joint program being entered into between Parks Canada and this Government for a program to develop the Yukon River between here and Dawson City.

It has the primary aim of protection of the river as it is becoming used more and more frequently by people travelling the river. We wish to protect the resources of it. We wish to develop sites where they may camp on their way down the river and this was the essence of the announcement that the Member was referring to.

This program is jointly funded by this Government and by Parks Canada.

Mr. Fleming: Yes, Mr. Speaker, a supplementary to the Minister: I was interested in the fact, whether true or not, on the news media, you might hear anything but there was seven patrolmen, possibly seven patrolmen. I was very interested in this and the eight or nine people that may be working, as the Minister has said, to develop the camp grounds and so forth, that is very good, but I am interested in how many patrolmen might be on that river between here and Dawson City.

When I heard the word "seven", I am wondering just how much money we do have and if this is true, that they plan on putting seven patrolmen, this number or maybe more on the river—

Mr. Speaker: Does the Honourable Minister understand the question?

Perhaps the Honourable Member could more clearly state the question.

Mr. Fleming: Yes, Mr. Speaker, if I may, because this is what was on the news, that the plan was to have seven, and they said, I think, I am not definitely sure but I believe they did say seven patrolmen on the river and the way they said it was as if they would be patrolling, which I realize, they must have a boat, each one and you know, it is quite an expensive operation. I am just wondering, if this is the truth, the plan is to have seven actual patrolmen running up and down that river?

Hon. Mr. Hibberd: Mr. Speaker, the area in question has been divided into three areas, each of which will have a patrolman, between here and Dawson City, each of which will have a patrolman who, is to assist people travelling the river, to assist in the protection of Historic Sites and these people have now been hired and they are now undertaking these duties.

Question re: Visit of Mr. Lloyd Barber

Hon. Mr. Lang: Mr. Speaker, a further question to the Commissioner, and I refer back to the letter of instruction that was given to the Commissioner when he first took the post from the then Minister, Judd Buchanan. It states: "I am sure you will agree that it is most important that the residents are kept fully informed of your Government activities and conversely that you are kept fully informed of the needs and aspirations of the people."

Mr. Speaker, could the Commissioner outline just exactly what was discussed with Mr. Barber when he attended his office?

Mr. Commissioner: Mr. Speaker, Mr. Barber was visiting

the Yukon, he told me, as a personal friend of the Minister's. He was talking to as many people as he could and had talked to a number of people, according to what he told me.

He wanted to know, just generally, what the situation was in Yukon with regard to land claims, with regard to constitutional development, and we chatted for about forty minutes.

I cannot recall the exact substance. He wanted to know what the position here was with regard to constitutional development and I simply reiterated to him the position of this Legislature, that they wanted to get together with the native organizations, through their Standing Committee on Constitutional Development, to work out a common position formed by Yukoners, with regards to constitutional development.

Mr. Barber was then going to speak to more people. I asked if he wanted to speak to people on the Executive floor and he said, do not worry, I will get in touch with people myself.

That was the last I had heard from Mr. Barber.

Question re: Special Representative for Constitutional Development

Ms Millard: Mr. Speaker, following up on that, did Mr. Commissioner make it clear to Mr. Barber that both the CYI and this Legislature have rejected the idea of a special representative for constitutional development?

Mr. Commissioner: I cannot recall whether I did or not, Mr. Speaker, but certainly I knew that and I think, if I recall correctly, Mr. Barber knew that as well. But I cannot recall whether we discussed that specifically.

Mr. Speaker: Are there any further questions?

Question re: Application in Yukon of Federal Telecommunications Act

Ms Millard: Mr. Speaker, a question for the Minister of Consumer and Corporate Affairs: the new Federal *Telecommunications Act* allows for some sharing of federal regulatory functions with provincial agencies. Could he find out for us if that applies in the Yukon Territory?

Hon. Mr. Hibberd: Yes, I could, Mr. Speaker.

Mr. Speaker: There being no further questions, we will proceed now to Orders of the Day, Motions and Resolutions.

ORDERS OF THE DAY

MOTIONS AND RESOLUTIONS

MADAME CLERK: Item Number 1, standing in the name of the Honourable Mr. McKinnon.

Mr. Speaker: Is the Honourable Minister prepared to deal with Item 1?

Hon. Mr. McKinnon: Yes, Mr. Speaker.

Mr. Speaker: It has been moved by the Honourable Minister of Highways and Public Works that:

BE IT RESOLVED THAT this House recommends that John W. Ferby, of Whitehorse, Yukon Territory, be named by the Governor-in-Council as the representative of the Yukon Territory on the Federal Provincial Consultative Council, established pursuant to the *Northern Pipeline Act*.

Hon. Mr. McKinnon: Mr. Speaker, as all Members are aware, this is one of the few changes that our representation brought about in the *Northern Pipeline Act*, whereby our representative on the Federal/Provincial Consultative Council in the original Bill was to be appointed only by the Governor-in-Council, bypassing the elected Members of this Assembly.

We were successful in our representations before the Standing Committee in having that section changed so that this appointment would be made by the Members of this Assembly.

Mr. Ferby, who all Members are well aware, has been appointed as our Pipeline Coordinator, at least for an interim period of time. I got in contact with as many of the Members as I possibly could at the time that he was appointed, telling

Members that he would also be our nominee as our representative on the Federal/Provincial Consultative Council. Now that the House is in Session, Mr. Speaker, I think that we should formalize any such appointment by motion of this House.

I know that there is an Order-In-Council awaiting the Prime Minister's signature as soon as this motion is passed by this House, formally appointing Mr. Ferby as our representative. Regardless of that Order-In-Council not having been signed to this point in time, he is presently representing us with full authority, Mr. Speaker, at the first meeting of the Federal/Territorial/Provincial Consultative Council presently underway in Calgary.

Mr. Speaker, I am positive that Mr. Ferby will serve the Government of Yukon well in this position. He has been active in pipeline related matters since the inception. He knows and is well respected by most of the major players in the great pipeline game and I know, Mr. Speaker, that he will bring the same type of ability to his work as Pipeline Coordinator as he has in his work as the Superintendent of Education, Mr. Speaker.

Mr. Speaker: Is there any further debate?

Mrs. Watson: Mr. Speaker, I certainly will be supporting the motion and with the remarks that I am going to be making certainly should not reflect upon the confidence I have in Mr. Ferby's ability to represent the Yukon on this Council.

I am disturbed in two areas that we lobbied, through our appearance before the standing committee and also through our MP in the House of Commons when the Bill was discussed. The appointment was to be, not by the Commissioner or by the Government of Canada, I believe that was in the first draft, but by the Commissioner-In-Council, which is quite a significant change from the Government of Canada and just the Commissioner. Yet, here today, we have almost had it finalized, and I would have hoped that some time ago, quite some time ago when this Bill went through and was passed by the Government of Canada, that the Members of this Legislature would have been given the opportunity to express their views on what sector of the society or the community should have representation on this Board, whether it should be from within Government service or whether it should be someone from outside of Government service.

Possibly, we should even have had the opportunity to submit names or even select a committee to look at it.

Now, today, we are being told that the appointment is almost completed and finished. All it needs is our little rubber stamp and I am not going to withhold my little rubber stamp. I think that Mr. Ferby will represent us well. Mr. Ferby, I know, is a very, very hard worker and will certainly do his homework.

But I wish that some effort had been made to be able to select someone outside of Government, who would have been able to continue in this position until the project is completed, and this is where I have some reservations. I think Mr. Ferby is needed by the Government of the Yukon within the Department of Education.

If I thought that he would be on this Committee for ten years, which could well be, or nine years or eight years, I would say no, I do not think that we should make this appointment because I think Mr. Ferby's value is greater to us within the Department of Education.

So, I have some disappointments within this resolution and I do differ with the resolution itself, but I will certainly support it because at this late stage, when Mr. Ferby arrived, and because he did not have a formal appointment, was not going to be allowed to sit on the Committee, I think it would be very bad for us not to formalize it at this time.

But I do not like being asked to rubber stamp.

Mr. Speaker: Is there any further debate?

The Honourable Minister of Highways and Public Works, who will close the debate, having spoken twice.

Hon. Mr. McKinnon: Mr. Speaker, I just would like, in

closing debate, to clarify a few points which were raised by the Honourable Member from Kluane.

I think she has got her committees mixed up and I do not blame her because there are so darn many committees forming out of this pipeline that it is difficult to keep them all in place.

This committee, the Federal/Provincial Consultative Council, is composed of the deputy minister from every province, B.C., Saskatchewan, and Alberta, who is concerned with the pipeline. It is a deputy minister level consultative council. Only one, one from each province.

Yes, Mr. Speaker, I think the Honourable Member is confusing it with the Yukon Advisory Council, which is also going to be set up under the terms of the *Pipeline Act*, which will consist of up to ten members from all segments of society within Yukon.

Mr. Speaker, there was no other appointment that could have been made, except a person at the same level and status of his political confreres at these meetings, at the political, at the Provincial/Territorial Consultative Council level.

This is the type of appointment that was made from all of the provinces and, of course, the one that would be made from Yukon also. With the appointment of Mr. Ferby as co-ordinator, it would just be normal for him to fit in as the deputy minister responsible for pipeline at that level, with the other deputy ministers from the provinces responsible for the pipeline at that level, Mr. Speaker.

So, I do not think that we are really, as the Honourable Member says, being rubber stamped and being placed into the *fait accompli* type of position. It is just a normal appointment that would have been made, Mr. Speaker, in any respect.

Mr. Speaker, the Advisory Council is presently being worked on and the Members of the Executive Committee are, at this time, trying to put together, from different groups, organizations from around the Territory, a representative list of Yukoners. This is also going to be a Governor-In-Council appointment but we are trying to get our input into those Governor-In-Council appointments by suggesting names which we feel the people of the Yukon would be served well, if the Governor-In-Council saw fit to appoint them as members on the Advisory Council, separate and totally apart from the Federal/Provincial Consultative Council, Mr. Speaker.

Motion agreed to

Madam Clerk: Item Number two standing in the name of the Honourable Mr. McKinnon.

Mr. Speaker: Is the Honourable Minister prepared to proceed with item two?

Hon. Mr. McKinnon: Yes, Mr. Speaker.

Mr. Speaker: It has been moved by the Honourable Minister of Highways and Public Works THAT the instructions given by the Minister of Indian Affairs and Northern Development to the Commissioner respecting the Executive Committee be amended as follows:

"In all matters pertaining to areas in which the *Yukon Act* gives Legislative authority to the Yukon Legislative Assembly, the Commissioner must seek the advice of the Executive Committee and be bound by that advice."

Hon. Mr. McKinnon: Mr. Speaker, I would like to preface my remarks to this motion this morning, I think it is an extremely appropriate time for this motion to come before this House once again, to say how sorry I am that the Honourable Member from Porter Creek has chosen to resign from his portfolio responsibilities on the Executive Committee.

Mr. Speaker, I know from the day that he was elected that the last thing that he expected, at some pretty tender years, would be to be thrust into the executive responsibility of a portfolio on the Executive Committee. Mr. Speaker, all of us who worked with him knew the rough rides that he had at the beginning of his portfolio responsibilities, but those of us who

worked with him, watched him grow, Mr. Speaker, into his job and we respected his counsel and we respected his ability and needless to say, Mr. Speaker, that that ability will be missed at the Executive Committee level.

Mr. Speaker, I am sure that the events of today probably would have never happened if the unanimous support that was given by all Members of this House, that the first report of the Standing Committee on Constitutional Development for Yukon had have been heeded by the Minister of Indian Affairs and Northern Development.

Mr. Speaker, we said in that report, which was on April 20th. of 1977, that the instructions given by the Minister of Indian Affairs and Northern Development to the Commissioner respecting the Executive Committee be amended to read as follows:

"In all matters pertaining to the areas in which the *Yukon Act* gives legislative authority to the Yukon Legislative Assembly, the Commissioner must seek the advice of the Executive Committee and be bound by that advice."

Mr. Speaker, I am not going to go into the history of what has happened in the Yukon since first Standing Committee report was accepted, unanimously, by this House. As I say, Mr. Speaker, none of the events leading up to the resignation of the Honourable Member from Porter Creek, I think, would have taken place, and that resignation would have been unnecessary. If the Honourable Minister had listened, and heeded, the advice given to him openly and candidly by the Standing Committee on Constitution, and accepted by all the Members in this House. Mr. Speaker, I just find it appalling - I just cannot find the words to say how odious it is that in 1978 in the Yukon Territory, for all of the minor advances that have been made in constitutional development over the years, that this is still, without a doubt, a colonial system of government, ruled absolutely by the King of the Yukon, the Minister of Indian Affairs and Northern Development. And Mr. Speaker, the saddest thing I think, in the life of this Assembly, has not to be able to convince that Minister that the most important single act that he could have accomplished in the career of either Mr. Buchanan, Mr. Allmand or Mr. Falkner, would have been a simple written change in the instructions to the Commissioner that he must heed and be bound by the advice of the elected members on the Executive Committee. What a small token, Mr. Speaker, to change the total life, the political life, of this territory around. And what a positive action that any minister of the Crown, would be hailed nationally for having the logic and the common sense to terminate such an appalling and colonialistic system of government, that all of the people of the Yukon still struggle under. Mr. Speaker, I find no value, nothing but negativity, in attacking personalities of people filling the role, the incumbent of Commissioner. It is not the person, Mr. Speaker, it is the office of the Commissioner, that all of us just have to attack, tear down, take every opportunity to see that there are meaningful changes made in the office of the Commissioner. That the political people, that the elected members on the Executive Committee are in fact, as in every other province of this country, the governing force and the executive authority of this government.

Mr. Speaker, I could go even further with this resolution, and I find it so important that I do not think that the life of this House should terminate on a negative voice, I think it should be in a positive declaration, as I see the Honourable Member's executive authority being, and in a reaffirmation of this motion being. But I think Mr. Speaker, that further than this the Members of the Constitutional Committee, are representation from this House, and should be instructed by the House to adjourn to Ottawa and present once again, in a face to face dealings with the present incumbent, the Minister of Indian Affairs and Northern Development, the unanimous feelings of this House, and the feelings of the people of Yukon.

Not to make one more kick at the cat and not to make one

more concentrated solid attempt before the life of this House expires, I think is doing a disservice, Mr. Speaker, to the people of Yukon and I really believe that there should be some method of dealing directly, once more, with the Minister of Indian Affairs and Northern Development and having a simple yes or no answer to a unanimous opinion of this House that if it had have been accepted and if it have been accomplished, as the people of Yukon wanted it to be, that many of the events that have transpired over the last few months would never have taken place, Mr. Speaker.

Hon. Mr. Lang: Mr. Speaker, it sounds like a record. I think we have been around three or four times during the life of this Legislature, where we have passed the same resolution, time in and time out, and the only thing that changes is the Ministers of Indian Affairs and Northern Development.

I would like to refer all Members to the letter of instruction to the Commissioner, which the Executive Committee did not see until it was tabled in the inquiry. This letter states: "I have already touched on the need for you to seek the advice of the Executive Committee in the exercise of your responsibilities. I leave to you the manner in which you will do this and the frequency with which you will accept this advice.

"You will have to keep in mind the instructions you will undoubtedly receive from me from time to time, and you should, in addition, be guided by other indications of the government policies and priorities that will come to your attention in a variety of ways.

Within this frame of reference, I should like you to accept the advice of the Committee to the fullest extent possible."

Well, Mr. Speaker, I think it puts the concept of Executive Committee in its proper context. When you need the political support, you go looking for the political support, and if you can do it arbitrarily, you go and make the decisions arbitrarily.

Mr. Speaker, it is quite obvious that it is going to be necessary to have this resolution accepted by the Minister of Indian Affairs and Northern Development, if our evolution of government is going to change.

It is quite obvious that the people of Yukon should be guided by the elected Members who are elected to these Chambers every four years. I would imagine that they should have no problem accepting it, Mr. Speaker. I think they call it federalism, and they all talk about freedom, but, when it comes right down to biting the bullet, the Federal Government, at the same time, maintains the status quo of colonialism, which they condemn other parts of the world for.

The only other recommendation that I would like to make, and it is a serious recommendation, Mr. Speaker, I think a copy of this resolution should go to Mr. Jeff Carruthers, correspondent for the *Toronto Globe and Mail*.

Hon. Mrs. Whyard: Mr. Speaker, I think we are all aware in this House that Mr. Trudeau has recently unveiled his new try at constitutional revision for this country.

He calls this new attempt "Time for Action" and I think, Mr. Speaker, that we all agree that it is time for action and I cannot understand how the Prime Minister of this country can face the rest of the civilized world with a proposal for a revised constitution while he still condones one-third of the Canadian territory being controlled, not by their elected Members in their own Legislative Assembly, but by an appointed official, appointed by Ottawa, who has the authority to veto the decisions of elected government.

And then, Mr. Speaker, I do not know of any other places in the world who are still submitting to this kind of government.

I had the pleasure on Monday evening of sitting next to the representative of Papua and New Guinea, who was visiting the Yukon with a group of diplomats, and who has promised to send me information which will help the Yukon obtain their independence as Papua and New Guinea did from Australia, without any financial discrimination. Mr. Speaker. There was

no threat of financial blackmail as this House has had to submit to year after year, in its dealings with the Federal Government. The threat has always been there. "If you get too rambunctious in this little Territorial Council, we will not give you the money you need out of your own resource revenue which we are pleased to call a Deficit Grant."

I really resent, as a Canadian, having to take lessons from Papua and New Guinea, on how to run my own country, Mr. Speaker.

I have no problem whatsoever in supporting this resolution.

We spent a great deal of time and effort trying to get the number of elected Members in our Government increased in the past year or two. It would not matter if you had 16 members on your Executive Committee, until you have this basic piece in position, your puzzle will never be completed, Mr. Speaker. It would not matter if there were a hundred elected members on Executive Committee, if they are still going to have to deal with an appointed authority whose jurisdiction is more powerful than theirs, they might as well go home and pick up their knitting.

Mr. Speaker, I welcome this resolution. I would like to point out to all Members of the House that it is exactly the same resolution approved by your sister Territory in their Session in the past few weeks, in the Northwest Territories Legislative Assembly. They have asked for exactly the same authority for their elected members on their Executive Committee, and I have to also pay tribute to a Member of the Executive Committee there, Mr. Dave Nickerson, who followed the same regrettable line of action as my colleague has today, in the same frustration, having to deal with an appointed official whose decisions countermanded his in his own department.

Mr. Speaker, I know that the Members of the Legislative Assembly of the Northwest Territories regretted very much losing Mr. Nickerson from their mini-cabinet because he was a very competent working Member.

I do not think that I need to say any more, Mr. Speaker. This is a resolution that must be given unanimous consent in this House, and I would certainly second the additional corollary motion of the Minister of Public Works, that this Committee should, once again, discuss this in person with the Minister responsible in Ottawa.

Thank you, Mr. Speaker.

Mr. Lengerke: Mr. Speaker, I am not going to add too much more to what has already been said, as seconder of the motion. Certainly as Chairman of the Committee on Constitutional Development, I think certainly it is clear how I feel about this.

It is so, so important that those instructions should have been changed a long time ago. I think that, really, had I been in the position of being a Commissioner, or anybody else being in that position of taking over that role, coming newly to Yukon, and at that point should have done his utmost to try and have those instructions changed, because it would certainly have made life a lot easier for anybody in that position.

It is too bad that the situation has got to this point, where it is just about the end of the life of this Legislative Assembly, and then we will be facing an election soon, and maybe it is a good thing that there is an election coming on, and that there will be new faces and there will be some new ideas on how to deal with this matter, but I am sure the same situation will prevail, that people will not want to take part in such an Assembly if, really, they are going to sit here and not have the final say, or at least, certainly the say, and that we are going to be dictated to by people from Ottawa.

I think, Mr. Speaker, that, certainly, as seconder of that motion, the motion before us, that I have to agree and I will advance the fact that I think we should make one more attempt, that Members should, face to face with the Minister of Indian Affairs, we should discuss the situation in total once again and

try to see if we could at least prevail on him to look at the situation again and do something about it, because, certainly, we cannot operate the way we are.

I must say, in closing, that I am sorry to see the Minister of Education resign from his portfolio and I know I have had many discussions with him and I know what he faced. All I can say to you is that I respect your action, that probably you should have done it a long time ago, and I think it would have made the situation a little easier for Members in this House to cope with a certain situation that we have to deal with today. I think it would have changed the course of events quite significantly.

Mr. Speaker: Is there any further debate.

Mr. Fleming: Yes, Mr. Speaker, I am not going to dwell on the subject too long. As a Yukoner, and as a person who was born in Canada and has been here for fifty-some years and spent half of that in the Yukon Territory under a colonial system, I do not have to make a speech to know what I am going to vote on a motion such as this.

Mr. Fleming: I have no personal feelings one way or the other as to a Commissioner nor anybody else, but I have a personal feeling for the people of this territory and myself included, and it is not to be under a colonial system. So therefore, I have no problem with the motion, and I sincerely hope that something will be done about it. I hope that our children today on the street in Whitehorse and all over the Yukon Territory do not grow up under a system such as we have here now, a colonial system of that type. And if we cannot change it with this resolution, and I hope sincerely that every person in this room votes for that motion, this resolution, to change it, because I think he would be a hypocrite if he did not, to the people who put him here. And I sincerely hope that our children do not have to get up with another resolution some day to try and change that, fifteen or twenty years from now. Let us do it today and let's get it over with.

Mrs. Watson: Yes, Mr. Speaker, I would agree with the Minister of Education that this sounds like a broken record. The same thoughts have been expressed time after time. The same resolution, basically the same resolution. He said the only difference was that there was a different Minister of Indian Affairs.

There is another difference too, the names that were bringing in the resolution of the motion changed, because I have been a member of this assembly for eight years, and this went on for a long time before I ever became a member.

Mr. Speaker, I sometimes think we get into a rut. And we are in a rut in addressing this problem, and we use two basic routes. Resolutions and Motions to the Minister, unanimous or even just the bare simple majority. The Minister probably does not see them. Probably does not even know they came, and could not care less. So we are wasting our time.

The other route we know, is to send a delegation to Ottawa. I say, save your money, because that is not going to make any difference at all. The Constitutional Committee has sat face to face with Buchanan, Allmand, Faulkner and it will go on and on and on. Whether it be here in Whitehorse or whether it be in Ottawa, I think that it is not going to make that much difference.

I really feel that our political maturity can only be measured in the methods and means that we ourselves use to solve our own problems. Not ask someone else to do it for us, they are not going to. We have to be innovative, look at loopholes and see what we can do for ourselves. Mr. Speaker, I hope the same sentiments of unanimous support are given to the next item, our Private Members bill which is an innovative approach of just a little difference than the resolution, and that everyone supports that bill as I hope that everyone is going to support this motion.

Mr. Berger: Yes, Mr. Speaker, I really have no problem

supporting that resolution, but I would like to warn this House that I can see the way the wording of the resolution is right now, that this House, can change instructions given by the Minister of Indian Affairs and Northern Development.

I think what the resolution should read, at the beginning of it, "Be it resolved that this House recommends to the Minister that his instructions be changed", because what we are doing right now is assuming the power over the Minister and I think we are assuming a little bit too much.

I think we have been told many, many times where we stand in Canada. We have been told by the Prime Minister that he would not make provinces out of the two northern territories in his lifetime. I think, if we face reality and live with reality, I think we would get along much better.

One of the realities in the Territory right now is that we have an Indian Land Claim going and as long as this is not resolved, we can bang our heads against a brick wall and we are not going to get anywhere. We can come up with resolutions. We can come up with all sorts of things. We frustrate ourselves but we are not going to get anywhere.

Just for clarification to the Minister of Human Resources, Mr. Speaker, Papua, New Guinea was given by the League of Nations to Australia as a mandate. It was never a territory of Australia. Australia still has a northern territory governed exactly the same way as this Territory is and the Australian government has no intention of making it a province, exactly the same way as Canada.

Ms Millard: Mr. Speaker, I did not want to stand up and repeat the things I have been saying for the last four years, but I have to, in response to that of my colleague from the same community.

If we are going to face reality as he says, we cannot hide behind the *Yukon Act*, or little details on what a resolution says. We have done this several times. We have got nowhere.

I fully agree with the Member from Klune that if we are really going to do something, we must support Bill 103 completely, take courage in hand and do something. We cannot pretend we are doing something with a motion like this and say, something we have done so many times, go to Ottawa, talk to them, beg for some kind of independence.

A colony can only be colonized by consent of the colonized and we are doing that all the time by finding reasons for not doing what we can do within this House. Take the power that we can take, and do it today.

Mr. Speaker: Is there any further debate?

Mr. McCall: Thank you, Mr. Speaker. I have been listening to many of the Members supporting the resolution, which really has no entity, and, as the Honourable Member from Klondike has already stated, it means nothing, another lesson in futility.

I suppose the Minister that sponsored the resolution is seeking unanimous support, which he probably will get, which includes my own, but I am not one of those individuals like the previous speaker just stated, it is like the blind leading the blind.

I think what the Honourable Member from Klondike said is absolutely correct about Australia and these particular resolutions, this is not the first resolution. The Minister made reference to previous resolutions of a similar kind which were passed by this House unanimously. What difference is it going to make with the Minister for Indian and Northern Affairs. You are living in a colony, we will always be a colony.

I mean what you try and tell the Government, the Federal Government, makes up its mind once and for all if Canada is Canada as a whole and stop playing games with the people of Canada, I do not see any changes whatsoever coming about, whether it be in this motion or any future motions of this House. It is illogical to me why we are wasting all this time to keep coming up with these sorts of resolutions.

I can see the sincerity behind it, but the mover of this particular motion knows full well, as one of the senior elected persons of this House, that it is not going to go anywhere, only in a trash can. He knows that and I know that and, as the Member from Klondike stated, let us be a little realistic and stop playing games, because this will never be a province, for a hell of a long time, because the Federal Government has no intention of making this into a province, or even the Northwest Territories, because it is too much of a treasure chest for the federal coffers to change it into a province.

Mr. Speaker: Is there any further debate?

Hon. Mr. McKinnon: Thank you, Mr. Speaker. I do not know what happened to the members of the NDP last night and why they woke up in such a pessimistic mood this morning, but I do not disagree with what the Honourable Members say, any of the statements that have been made here this morning, that sometimes you really get so damn frustrated you say, what is the use of it all anyway? We are not only batting our heads against a wall, it often seems we are often picking up bricks to build the wall to bat our heads against, for goodness' sakes.

But, how can you stop? Even with the pessimistic overtones of the Members that have spoken, that nothing will come from the resolution, I know they will be supporting it because I know that they know that the public of Yukon do not want the Members of this Legislature to quit trying, regardless of how frustrating and how futile it gets.

Mr. Speaker, that is exactly what we are doing. We recognize how many times that we have gone to the well and come back dry, but, certainly, I think that the public expect it. I think that all Members of this Legislature really want to at least one more attempt with the present incumbent before we lay down this fight and allow the members of the new Legislature, once again to pick it up. If anybody knows how frustrating it is, it is the Honourable Member from Watson Lake who sits in the Chair, and myself, who have spent four or five terms, with almost the same resolutions going forward, and seeing the miniscule, really miniscule advances that have been made towards responsible government in all that time.

Thank you, Mr. Speaker.

Mr. Speaker: The Honourable Minister, having twice spoken, has now closed the debate.

Motion agreed to

Mr. Speaker: We will now proceed to Private Member's Public Bills.

PRIVATE MEMBER'S PUBLIC BILLS

BILL 103

Madam Clerk: Bill 103, *Executive Authority Ordinance*, Mrs. Watson.

Mr. Speaker: Before proceeding with this Bill, it is the clear duty of the Chair to bring to the attention of the House any evident irregularity in relation to bills or resolutions introduced, from time to time, to the Assembly.

I have therefore given consideration to the provisions contained in Bill 103 in this context. The Bill would appear to involve itself with matters related to the exercise of powers, authorities and discretions in the administration of the Ordinances of the Yukon Territory by the executive function of Government.

It would further appear to the Chair that Bill Number 103 may possibly be in conflict with provisions contained in the *Yukon Act* and could ultimately be determined to be *ultra vires*.

It has been held that if a matter is brought before the House that is absolutely and undeniably beyond its jurisdiction, the Speaker's duty to the House should be to declare it a matter not properly before the House but if the matter is, however, one where jurisdiction is in doubt, even if in grave doubt, the Speaker must nevertheless avoid making a judicial determination that could have the effect of substituting his judgment for

perhaps, ultimately, the judgment of the courts who would be the proper and ultimate arbiters of the Bill's constitutionality if it were not refused Assent or disallowed by the House.

In such cases, the Speaker should always draw the attention of the House to the issue and allow the House to decide whether or not it should proceed to pass the Bill or the resolution. The House has the responsibility to decide whether they will move that the Bill not be proceeded with or pass it and put the decision in the hands of the Commissioner or the Governor-In-Council or ultimately, the courts.

In so doing, Members will have to bear in mind the possibility of refusal of Assent or disallowance.

In as much as the Bill does not appear to involve itself with the procedures or privileges of the House itself, it must be considered to be beyond the authority of the Speaker to rule in this obvious constitutional matter and therefore, I must leave the question as to whether or not to proceed with the Bill to the decisions of this House.

Mrs. Watson: Thank you, Mr. Speaker, I was beginning to wonder if you had set yourself up as a constitutional court or were setting up the Members of this House—

Mr. Speaker: Order please. I will ask the Honourable Member to kindly keep her remarks to the matter at hand.

Mrs. Watson: Thank you, Mr. Speaker.

Mr. Speaker, my Bill, I am sure, has all the constitutional experts, and the would-be constitutional experts, in a flap. It is quite obvious, the remarks—

Mr. Speaker: Order, please. Is it the Honourable Member's intention to proceed with Private Member's Public Bill 103?

Mrs. Watson: Yes, Mr. Speaker.

Private Member's Bill—

Mr. Speaker: Order, please. Would the Honourable Member kindly indicate to the Chair how she wishes to proceed with Private Member's Bill 103?

Mrs. Watson: Second reading, Mr. Speaker, I am sorry.

Mr. Speaker: Would the Honourable Member proceed.

Mrs. Watson: Thank you, Mr. Speaker.

Mrs. Watson: Mr. Speaker, I plan on speaking to the principle of this Bill.

Mr. Speaker: Order, please. Would the Honourable Member indicate to the House how the Honourable Member wishes to proceed with this Bill. It has been called for second reading at this time.

Bill Number 103: Second Reading

Mrs. Watson: Mr. Speaker, I would move that Bill Number 103 entitled *Executive Authority Ordinance* be given second reading at this time.

Mr. Speaker: Is there a seconder?

Mrs. Watson: Seconded by the Honourable Member from Ogilvie.

Mr. Speaker: It has been moved by the Honourable Member from Kluane, seconded by the Honourable Member from Ogilvie, that Bill Number 103 be now read a second time.

Mrs. Watson: Mr. Speaker, are the decks all clear?

Yes, Mr. Speaker, this Bill, the principal of this Bill, I am sure, has all the constitutional experts, or the would-be constitutional experts in a tizzy.

There are remarks flying around it is completely *ultra vires* to the *Yukon Act* and we cannot do what we are proposing to do in the Bill. My remarks to the motion, to the resolution which we have voted on previously, indicate what I am planning to do with this Bill. That we have to take a different route, other than resolution, and we have to look at every aspect of the *Yukon Act* and see whether there are areas within that act that we are not performing a function that we have the ability to perform.

I feel that this Bill is not contrary to the instructions and the thought and the spirit and the law of the *Yukon Act*. It only enlarges upon what we are doing now. When you look at it in that perspective, you wonder why it has taken us so long to perceive it. Because Section 4 of the *Yukon Act* does, in fact, give the Commissioner the authority to administer the Government of the Yukon, upon instructions from the Minister or from the Cabinet.

But the Commissioner cannot administer Yukon under any other power than the power that is given him by law. Those are federal laws and territorial laws.

If he has an instruction from the Minister, asking him to do something that he cannot do by law, then he cannot do it. The laws that govern local things in Yukon are covered under Section 16. That is the area that this Bill is hitting.

We, in this House, pass the *Land Ordinance*, which gives the Commissioner the authority, we delegate to the Commissioner the authority to set up an administrative function to dispose of land.

We, in this House, pass a Bill, the *Schools Ordinance*, which gives the Commissioner the authority to set up the administrative structure, and we define that administrative structure, to establish and operate schools in the Territory. In that *School Ordinance*, we not only delegate that right to the Commissioner, that power to the Commissioner, but we also delegate some of that power, we split it up, and we delegate some of that power to the Superintendent, to the Regional Superintendent, to the principals. We are delegating powers.

These people, the Commissioner, the Superintendent, the Director of Game, the Treasurer, these people could not exercise the powers that they do in fact exercise until we, in fact, delegate that power to them.

So, we have the power to pass laws which, really, we are passing, delegating that power to someone else.

Often we are delegating a judicial power in our legislation. We have the *Legal Professions Ordinance*, where we delegate the power, to discipline lawyers, to a committee. We have the *Transport Public Utilities Ordinance*, where we are delegating the power, to determine who should have PSV licences, to a board. We have the *Electrical Public Utilities Ordinance*, where we are delegating the power to a board.

We delegate powers, legislative powers and that is hard to understand, but we delegate the power, to make regulations and rules, to the Commissioner. We say "the Commissioner may make regulations". But in our *Judicature Ordinance*, we delegate that legislative power to the Judge of the Supreme Court of Yukon to make up his own rules for the courts.

We delegate vast blocks of power, under the *Municipal Ordinance*. We have passed a law, the *Municipal Ordinance*, which sets up another structure of government and we tell them what they can do. We have set up the *L.I.D. Ordinance*, which establishes another structure of government and we have delegated the power for them to deal with some certain local matters.

Why then, Mr. Speaker, can we not, when we delegate the power to the Commissioner to make regulations, not delegate it to him solely, but to delegate it to him to work with a committee of four people from this House to make regulations?

You can call that committee an executive authority, you can call them the black committee, the red committee, whatever you like, but they are four people that are elected in this House, selected, recommended to the Commissioner, appointed, and when we say in our legislation, when we have said it, this is what this Bill proposes, when we have said it before and when we say it from now on, when we say, "the Commissioner may make regulations", we mean that the Commissioner, with the advice and consent of these four people who are responsible to us here, they have that power that we are giving everywhere in our legislation where there is discretionary power given to the

Commissioner. The Commissioner may approve of this, the Commissioner shall appoint members to this board, the Commissioner shall do this.

We are giving the Commissioner that power. We are. He cannot do it unless we give it to him. Why do we not give it to him on a condition and that condition being that he cannot exercise that power solely. He must seek the advice of our representatives and must act on that advice.

If we are going to put this in law, we should also say that if we are delegating that power and it is not used in the spirit of this legislation, then that power is null and void. It must be used by the Commissioner working in concert with that executive authority.

Really, you have some people were saying that the Bill tries to enshrine the Executive Committee. Not completely, Mr. Speaker. It is enshrining a responsibility to this House. In the past, all our laws are passed, we delegate the power to the Commissioner and that is it. We can review regulations, but once we tell the Commissioner that he can make regulations, we cannot legally change those regulations unless we repeal that section. If there are regulations on the books that we do not like, we do not have the legal authority. We cannot do anything about it, other than repeal the section which gives him the power to make regulations.

If we go this route, then we have got four people there that are a part and a party to how that power is used.

So, Mr. Speaker, I personally, and I certainly am not a constitutional expert, and really constitutional jargon bores me, but it is such a basic, rational and reasonable approach to the *Yukon Act*, to our role, our legislative role, that I think it would be wrong if we did not use this route and attempt to enshrine this in law.

I do not think that we should be discouraged by the people who say it is ultra virus. I do not think we should be discouraged by the possibility that it might not be given assent. I think we should proceed, and I think, for a change, we should also bear in mind that refusal of assent is not the last course of action open to us to see if in fact it is constitutionally valid.

We have always accepted, across the board, the decisions of the legal people within the Department of Indian Affairs, and some of them have no more legal training than you and I, and you know what their opinion is going to be. We have always accepted the ruling of the Department of Justice, when it is referred to them, but we, not like the provinces, we sit back and accept it. The provinces do not. They have the courts determine the validity of the constitution.

That is why there have been very, very, very few bills, at the federal or provincial level, that have been refused assent, because they do not refuse assent on them. They are then tested by the judicial system.

I think we have to look at all of these methods, not just sit back and say the assistant deputy minister's clerk decided that it was ultra virus, and accept it.

So, there is a basic principle here, Mr. Speaker, and I think it is, and only if we support it, improve on it if necessary and, if possible, but let us be innovative and a little daring and see whether we can, in fact, resolve some of our problems ourselves.

Thank you Mr. Speaker.

Mr. Lengerke: Mr. Speaker, I am certainly in support of Bill 103. I can assure the Honourable Member from Kluane that I do not think it has got too many people in a tizzy. I think that it is right down to earth, it is something we should have been doing a long time ago. It certainly is innovative. It is a simple method that was sitting there before us on many occasions. I think we talked about it, we talked about it certainly in Committee two years ago, and we just passed it over.

I like the idea and I really do not particularly care what obstructions are going to be thrown up in its way, but I think it

truly and clearly indicates the feeling of the people here, and how they would like the Executive Committee to operate, how they would like this particular government to operate.

Mr. Fleming: Yes, Mr. Speaker, I have no problem with this Bill whatsoever. The only thing that comes to my mind is that if the Bill is passed, we are and would be going a little further than we normally have gone, as the Member who has put forth the Bill has said, we have delegated a power to all committees in the Yukon in such things now.

However, with this Bill, if we delegate this power to these people, it will be slightly different and that concept, I have to agree with, because we delegate the authority for housing committee, any committee, to the committee with the Commissioner being above that committee and having the final say as to what that committee says or does do, always the Commissioner has the final say.

If this Bill was accepted and Assented to, we would have a committee who would have as much, possibly a little more power than the Commissioner, in that he would have to agree with that.

If that came from this Assembly, he would more or less be in a position to have to act upon it and not say no, which he can with other committees, no matter what they bring forth.

In that concept, I am pleased to see the bill here and I am pleased to see that some Member has the guts, let us say, to stand right up and bring it forth, and let us try and do something as she said this morning.

I would like to read this Bill, I would like to see it go through third reading, I would like to see it passed and see what happens when the Minister sees it, because if the Minister refuses it, it is just one more point where we know that there is no intent then to give us any authority in the Yukon Territory. If the Bill passes we will have a certain sense of security in that area.

Ms Millard: Mr. Speaker, I will simply be brief. As second of the Bill I would just point out to Members that second reading is on the principle of a Bill, and the principle of this Bill is a long, overdue, democratic process which, in 1908 or 1907, should have been given to us, or we should have taken it at that time. It is long overdue.

It is a reasonable Bill, it is a logical Bill. I have no problem with the *ultra vires* problem, I do not think it is *ultra vires*. It is something that has been sitting in front of us and we have finally grasped it. Most people would support it because it is representative and responsible to Yukoners, and that is what we must show.

If anyone disagrees with the principle of this Bill, they disagree with the principle of democracy and we can sit here and remain a colony forever if that is the case.

Mr. Speaker: Is there any further debate?

Hon. Mr. McKinnon: Mr. Speaker, I agree totally with the principle behind the Bill. In fact, it fits hand in glove with the resolution and the only thing that I would say in answer to the Honourable Member from Hootalinqua, I know what is going to happen to the Bill, I think we all do, that the Minister is going to say that it is *ultra vires* of Section 4 and not give his Assent to it but are we willing to go further than that, as the Honourable Member from Kluane has said, Are we willing to accept the ruling from justice or the ruling from the legal beagles within the Department of Indian Affairs and Northern Development or are we prepared now to be united, to go the step further, which we have never been prepared to go before, whether it has been by resolution or by this type of an act, which has been declared to be beyond the powers of this Assembly to do.

I think, Mr. Speaker, if we are resolved that we are going to go that one step further which we have not been prepared to do up until this point in time, then we are not really attempting to accomplish something on behalf of the people of Yukon and to further the cause of responsible, democratic institutions in Yukon, Mr. Speaker.

Mr. Speaker: Is there any further debate?

Hon. Mrs. Whyard: Mr. Speaker, in my capacity as Chairman of the Subcommittee on Legislative Programming, I had just received information from the Department of Justice in Ottawa, that their initial reaction to this Bill 103 is that it is in conflict with Section 4 of the *Yukon Act* and is therefore *ultra vires* and that further information would be forthcoming.

Mr. Speaker, I felt it my duty to report that information to you at this time, but that in no way, prevents me from saying that I have no problem with the principles and objectives of this Bill.

Mr. Speaker: Is there any further debate?

Motion agreed to

Mr. Speaker: Shall the Bill be referred to Committee of the Whole.

Some Members: Agreed.

Mr. Speaker: So ordered.

Madam Clerk: Third Reading of Bill 102, *An Ordinance Respecting the Council of the Yukon Territory*, Mr. McIntyre.

Mr. Speaker: Is the Honourable Member prepared to deal with item one today?

Mr. McIntyre: Yes, Mr. Speaker.

Mr. Speaker: May I have your further direction in this matter?

Amendments to Bill Number 102: First and Second Reading

Mr. McIntyre: Mr. Speaker, I move, seconded by the Honourable Member from Whitehorse South Centre, that the amendments to Bill Number 102 be now read a first and second time.

Mr. Speaker: It has been moved by the Honourable Member from Mayo, seconded by the Honourable Member from Whitehorse South Centre, that first and second reading be given to the amendments to Bill Number 102.

Motion agreed to

Mr. Speaker: When shall the Bill be read for the third time?

Mr. McIntyre: Now, Mr. Speaker.

I move, seconded by the Honourable Member from Whitehorse South Centre that Bill Number 102 be now read a third time.

Mr. Speaker: It has been moved by the Honourable Member from Mayo, seconded by the Honourable Member from Whitehorse South Centre, that Bill Number 102 be now read a third time.

Mr. Fleming: Mr. Speaker, may I speak to the principle of the Bill at this time?

Mr. Speaker: Proceed.

Mr. Fleming: I, Mr. Speaker, will be voting against this Bill because I think the principle of this Bill, in the first place, was to make sure that in the Yukon Territory, we had a just system of Government and a just system in our elections and justice for all the Members in this House and all the people of the Yukon Territory.

There are two sections in this Bill which I do not think I have to dwell on. I have now, in the past two or three days, many times, and even brought in an amendment to try to change that situation and had it defeated in this House. There is no good principle in any Bill that will allow some segments of society to sit in such a place as this House and allow that certain segment of society to vote, or not vote necessarily, but, yes, vote in the House and also to be in position a whereas they can influence corporations, companies who have directors, chairman, so forth, in those companies because of a small percentage that they own of nine or ten percent that we were passing here, while the other segment of society is not allowed that privilege.

I say this because of (b) and (c) in Section 8.(1) of the Bill which allows a Member to be elected in this House and own at

least, nine, ten percent, ten percent exactly, of the shares of a corporation and that corporation be allowed to contract with the Yukon Territorial Government in any amount of figures and anything else, while that person has the opportunity to pass on information to sit on a board of that company or corporation, to be chairman of that corporation, officer, shareholder, member or employee, and will have information that may be very well used by that company and these corporations, and whereas, there are probably 20 thousand people in the Yukon Territory who could possibly sit in this House, who cannot deal in contracts and so forth with the Government because they are not a shareholder in some corporations, but just a private business.

Therefore, I cannot vote for the Bill, the principle of the Bill. It is shot right down the drain.

Mr. Speaker, anybody, and I am going to look across at the Executive Committee because I do not believe that anybody in this House is doing anything that is wrong in any way, shape or form, but if this Bill passes this House and people say "yea" to it, I have got to just wonder how they can possibly pass a Bill with that type of discrimination in it that will allow a segment of this society, and corporations to boot, which has been practically the ruination of this country already, to be able to be in that position where people like private people cannot.

Hon. Mr. McKinnon: This did not come from the Executive Committee, it came from your committee.

Mr. Speaker: Order, please.

Mr. Fleming: I sympathize with that committee very much so, because in Canada today they have not been able to come up with the proper ordinance to this yet. And the Government of Canada, unless the newspaper is wrong, and I hope they are not, and I read it last night, is now in the process of coming up with this very same legislation. So we know it is very, very touchy, but being touchy does not mean that we should just say, okay that is fine, we cannot find a solution to this problem so we will just let those corporations have the right to work in contact with the government and so forth and so on, and still sit in that House. Or their Chairman, or their members, or their employees can sit in the House, while private people on the street cannot do that and still deal with the government.

If the members in this government cannot understand that problem, there is really something wrong. Because, what you are saying to about twenty thousand Yukoners today, possibly, is that you, sir, as an individual and as a person who has a business, can run for council and can sit in these chambers but do not touch your name to a contract or anything in the government or else, you are wrong and you are jeopardizing your position. So therefore, that person, probably will not run.

In this context, I am going to repeat what the Minister of Local Government said yesterday, that we are going to maybe not have as good a council because, if this was taken out, and if you could not sit here with ten per cent in the committee, I will agree with that. You might not get as good a member in here. You might not get the business sector of society sitting in this House. You might not do that, but passing this bill the way it is, what about the other twenty thousand out there who are in business too, and who are probably just as smart as those business people and those directors, so forth, in the corporations. Me, I will agree, because I happen to be one of them, but I am not alone. There are many more of us than just myself. And there are many more of us than corporations in this country, that are in private business. If anybody has ten percent of a corporation in this country can sit in this House and be allowed to go back with information, or do anything of that type, and not be ruled out, I say no, that we should not allow them to do that. One way or another, we are allowing that, and I would hope and I would surmise, too, that the Government of Canada, when they come up with an ordinance, which they are doing today, or working on, hopefully will not have a situation like that in it, I am sure they will not. Thank you, Mr. Speaker.

Mr. Speaker: Any further debate?

Are you prepared for the question?

Some Members: Question.

Mr. Speaker: Are you agreed?

Some Members: Agreed.

Some Members: Disagreed.

Mr. Speaker: Division has been called.

Hon. Mr. McKinnon: Agreed.

Hon. Mrs. Whyard: Agreed.

Hon. Mr. Lang: Agreed.

Hon. Mr. Hibberd: Agreed.

Mr. McIntyre: Agreed.

Mr. Berger: Disagree.

Mr. Fleming: Disagree.

Ms Millard: Disagree.

Mr. McCall: Disagree.

Mrs. Watson: Agree.

Mr. Lengerke: Agreed.

Madame Clerk: Mr. Speaker, the results of the division are seven yea, four nay.

Motion agreed to

Mr. Speaker: Are you prepared to adopt the title to the Bill?

Mr. McIntyre: I move, seconded by the Honourable Member from Whitehorse South Centre, that Bill Number 102 do now pass and that the title be as on the Order Paper.

Mr. Speaker: It has been moved by the Honourable Member from Mayo, seconded by the Honourable Member from Whitehorse South Centre, that Bill Number 102 do now pass and that the title be as on the Order Paper.

Motion agreed to

Mr. Speaker: Bill 102 has passed this House.

Mr. McCall: Thank you, Mr. Speaker, I would move that Mr. Speaker do now leave the Chair and that the House resolve into Committee of the Whole.

Mr. Fleming: I second it.

Mr. Speaker: It has been moved by the Honourable Member from Pelly River, seconded by the Honourable Member from Hootalinqua, that Mr. Speaker do now leave the Chair and that the House resolve into Committee of the Whole.

Motion agreed to

Mr. Speaker leaves the Chair

COMMITTEE OF THE WHOLE

Mr. Chairman: Would Committee please come to order.

Our intention was to go ahead with Bill Number 18, *Pioneer Grant Ordinance*, after our morning recess, but time has gone on now to 11:30 and we have a caucus immediately after recess for two purposes and I think that we will not be able to get back before 12 o'clock to continue with the *Pioneer Grant Ordinance*.

Two of the Ministers are attending an opening of the Golden Age Society's quarters at 2 o'clock and therefore I am declaring a recess until 2:30.

Hon. Mr. McKinnon: Everybody is invited.

Hon. Mrs. Whyard: Everybody.

Recess

Mr. Deputy Chairman: I call Committee to order. We were dealing with Bill Number 18, *Pioneer Grant Ordinance*, and there was information requested and amendments were asked to be stood over for the Minister to look at.

There was a document just passed out and this document looks like an amendment but it is information only and the

Minister will clarify the reasoning behind this particular document that you have just received. It is only information, it is not a proposed amendment. That is correct, yes.

Before we go into these sections that are still stood over, I would like Mrs. Whyard, if you would, to clarify the information which was passed out just recently.

Hon. Mrs. Whyard: Mr. Chairman, I would like to thank all Members for their indulgence in allowing us some time at noon. We were able to attend the formal opening of the Golden Age Drop In Centre which was a very pleasant occasion and I actually got made an honorary member and since I will soon be retiring from public life, all honorary positions are greatly accepted.

Mr. Chairman, we have already cleared section 1, therefore, I am not bringing in an amendment to section 1 which you have before you in the form of an amendment. I am merely explaining, because of the Honourable Member from Kluane's question regarding tenure and terms of this definition of "Director", that we have examined this point and the information before you is what we would like you to realize is the intent of this definition. "Director" means the member of the public service responsible for the administration of the Department of Human Resources. I think that clarifies the question which was raised on section 1, part (ii).

Mr. Deputy Chairman: Thank you, Mrs. Whyard.

Are there any questions arising from that comment?

Okay, we turn to Section 4, or Clause 4. These were stood over, the proposed amendments brought forward.

Mrs. Whyard, do you wish to comment on these? Give reasonings and considerations, that were left with you overnight?

Hon. Mrs. Whyard: Mr. Chairman, it was my understanding that the amendments, as considered yesterday, caused no problem. There had been a question or two raised by Members, however, and if we could have Mr. O'Byrne and Mr. O'Donoghue join us, we have additional information to answer those questions.

Mr. Deputy Chairman: Very well. Is Committee agreed?

Some Members: Agreed.

Mr. Deputy Chairman: Mr. O'Byrne has joined us, for the record, and we are seeking some clarifications on Clause 4 and proposed amendments, at this point in time, as to questions that were raised yesterday, dealing with the same clauses.

Hon. Mrs. Whyard: Mr. Chairman, the Honourable Member from Ogilvie had questioned an off-hand remark, I think, from the Administrator regarding what it would cost if this was made a universal grant, rather than being restricted to people who are paying utilities in their own homes.

I think that there has been an opportunity to look at the actual costs involved in such a situation.

Mr. O'Byrne: Yes, Mr. Chairman. We have looked into that part and if the clause was amended to have the owned or rented section deleted, the additional cost to the Government would be, depending how you look at it, (a) if you do not pay an additional \$300 to anyone in a subsidized situation, approximately \$15,000 per year. But, if you extend it to all seniors in the Territory, the additional cost would be approximately \$100,000 per year.

Hon. Mrs. Whyard: When you say "additional", that would be in addition already to the estimated cost of approximately \$90,000 per year as we viewed it in the original terms of the Ordinance, so we are looking at, Mr. Chairman, a possible \$200,000 a year if you make it universal.

Mr. Fleming: I just hate to stand and belabour the question but I certainly do not want to badger the witnesses in no way, shape or form as they are absolutely telling the truth in that sense, in the concept of what they are speaking about, that if you made it a universal program and give every individual \$300

in the Yukon, it would probably cost us what they say. I would think so. But if you changed and took that out of the Ordinance, the principle here of the rental or the ownership, cannot possibly change how much money you are going to give to the old age pensioners in any way, shape or form because yesterday, you said yourself, and the Minister of Local Government has said, and everybody else has said, that if you live in a home, it does not matter whether you own it or what it is, you can consider it your residence and you are going to give \$300 to each residence, to one resident in that home, even if there is four or five there. So the residency covers the whole situation.

To say now that that is not true and say that it is a program change due to taking that little word out of there, is going to change this program is absolute fallacy. There is no such thing that it can change this program. The people are going to apply and they are going to get it anyway. They may have to go and get themselves a little slip of paper saying that they owned something that they probably do not, or whatever. They will not be doing anything wrong, they will be just applying for what is rightfully theirs and they can get it.

I am sure that the Legal Advisor can see this. I am sure that the witnesses can see it too. I am very dumb but, you know, I can see this so clearly that I know that I am right and I will fight for as long as I live to say I am right and I cannot understand that the Government cannot see that. Is it honestly that you cannot see it or is there something behind your attitude that you do not want this changed?

Mr. Chairman, really, in all sincerity, I cannot accept the insinuation of the Honourable Member that I am hiding something or trying to put something over.

This grant ordinance was designed to offset utility costs to senior citizens who are paying those costs in their own homes, whether they rent the home or own the home. It is not designed to pay anyone else.

Now, if the Honourable Members wish to revise the terms of this Ordinance, they can do so, but I cannot condone a universal grant to every senior citizen over 65. There is no way that I can justify \$200,000, which we do not have in our budget or within our competency to pay, unless it is to a senior citizen household where the senior citizens are paying the bills.

Mr. Chairman, if the Honourable Member has an alternate proposal, I would like to hear it.

Hon. Mr. McKinnon: Mr. Chairman, I just came, in fact I got thrown out of the opening of the Golden Age Society, they said you had better get down there and support Flo's bill, the Pioneer Grant, and do not let them force you into changing the terms and conditions that it is presently being discussed under for exactly the reasons I was telling the Honourable Members yesterday, that the old people do not want a universal plan to be giving territorial money away to people who do not need it. It is as simple as that.

Mr. Deputy Chairman: Order please.

Mr. Fleming: Mr. Chairman, it is not what I mean. I am not talking of a universal program. I am not asking for a universal program. I am merely saying that this program, due to that section, is going to cause a lot of grief. It is not going to cost less or more to remove that section. The section is definitely a bad thing in there and I have tried to explain where it will not change, because you are going to allow, and regardless of what you call it, whether it is utility or what it is, it is not called that here, you are saying you are going to give the money to a resident, or to a resident where there is three or four, you will give it to one in that household.

Now, Mr. McKinnon is absolutely wrong because the only way this program could cost more money is if people that do not need it apply for it.

They can still get it, under the terms here and any two old age pensioners living in any home can get that one grant, under the terms here. That is what I want to see, but I do not want them to have to go to devious means of getting it, which might happen.

I would sooner see them get it honestly, right across the board. It is there for them and that is the way it is.

You have stated that they have to be 65 years old. They have to have a principal residence. Agreed. Really, I am not arguing over this part here, except for when you do leave and say, "whose spouse living with the applicant has owned or rented his or her principal residence". That is fine, we just covered it and there will be no problem in that sense now for the married people.

But we have forgotten the other segment of society who might not have a home but who are still going to get it anyway. I realize they are going to get it, so I am not even saying you are wrong when you say that they are going to get it. I know that they are going to get it.

The same people are going to get it anyway. The only thing I am saying is that getting it, they will have to, if they wish to have it, of course, and if they are for it they will want to, they have to go to some devious means of getting it. Possibly they may need it real bad.

Hon. Mrs. Whyard: Mr. Chairman, what I would like to know from the Honourable Member from Hootalinqua is, and I appreciate his concern, Mr. Chairman, can he tell me who does he think is not going to get the grant, under the terms as we have it here, who should be getting it? That is my real concern. Are we leaving out a group of people that should be getting it? Could he please specify to me, Mr. Chairman, what group of people they are that would not qualify?

Mr. Fleming: Yes, very easily. It would be the person, as I said yesterday, who, and you can use a couple or a single person, we will use a single person for this example, who is living in a home which is not owned or rented, but it is just there and they are living in it. It is not necessarily owned or rented. It could be given to them. It could be left to them by their relations. It could be given to them by a friend. I could have an old age pensioner living in my home and I could be somewhere else in Canada or travelling or something and they could be there.

Mr. Fleming: They are supporting that home, it is their principle place of residence. Now, you go on to say here that you have to have a rental situation or an ownership. So therefore, that person would not really qualify here. However, yesterday you said yourself, that they would take into consideration, and I agree with all this, I agree you are right, that you would take into consideration that the person is supplying fuel and so forth to that home and living there paying these bills, and so therefore you would give it to him. So that is why I am saying that it does not change if that ownership rental thing is out of there, because the same people will apply, there will be no difference, I agree with you. No difference whatsoever on who gets it or anything, except that a person like that will have to go to some means to apply, will have to say, well I do not own the place, I do not rent the place, but I must produce something to say that I rent or own, because he cannot get the grant otherwise, right? You know he has to produce that. I realize what you going to say, and I am just saying that you are right. I think that you intend to give it to them anyway, if it is there. But that intent is not written in here. That is all. The intent is not really written here unless you go from spouse to the whole situation down the line, where there are three or four incidents. I could mention some more but I won't because we belabour this subject and I do not want to do that. I want to go on with...

Nobody has stood up and really proved to me whether it is going to change anything if that is removed, and, of course, there will be an amendment coming later if we pass this. Let us get on with it, I do not want to belabour it. Forget it.

Hon. Mrs. Whyard: Mr. Chairman, just one more bit of explanation on this point. I had a discussion with the Legal Advisor this morning about whether or not there is not a better or more suitable word than owner that we could use legally here, and his opinion was that there is not an alternative word

but that there are definitely choices of interpretation of ownership, if you see the difference. And, Mr. Chairman, that is why we are leaving it to the director, who receives the application, and he requires proof, according to this form, only in cases where there is doubt and he thinks that there may be some reason why they should investigate. Perhaps Mr. O'Donahue would like to say a further word Mr. Chairman, on that because I think that we have enough latitude here in the known intent of this ordinance and in the format of the application form, to give that direction to the people administering.

Mr. O'Donoghue: I was hoping that I would not have to give this explanation but I will give it. "Owner" is not, strictly speaking, a legal term. It is a description of a practical situation.

In this Territory, when a person owns a piece of land, he is called the registered owner. We use the expression "owner" to describe the person who has the dominion, the power over the place he is living in, who, in effect, is the boss. He is paying the bills. That is what it means and that is capable of a wide interpretation of practical situations.

I do not want to go into detail about how he might acquire ownership for the purpose of this. It is fair enough to describe how he can do it, but he can do it in a very practical way and that is within the power of the director to see, is he truly the owner. In other words, can he say to somebody in his kitchen, "Get out", and then close the door after that person. That is ownership.

Mr. Deputy Chairman: The point of Mr. Fleming, his concerns are dealing with individuals which could be termed as "occupants" on a property although they are not the owners or is actually paying any rent to speak of. How do you define, in Legislation, if the word "owner" is not a legal term, an individual under those circumstances, without suggesting them as being squatters and deny them the opportunity for a Pioneer Grant?

I think this is Mr. Fleming's concern and Mrs. Whyard is having difficulty coming to grips with it.

Mr. O'Donoghue: With respect, Mr. Chairman, I do not think that is his concern. His concern is that a person may own a house and allow, permit another person to occupy it without actually charging him rent.

Mr. Deputy Chairman: That is one set of circumstances.

Mr. O'Donoghue: In that sort of circumstance, that person who is permitted to occupy it is not an owner. He is merely what you would call in law, a licensee. He is permitted to be there, a permittee or a licensee.

But he also would not normally be expected to pay the heating bills. If he likes to enter into an agreement, even for a dollar with the other person, then he has a right to remain there during the term of the agreement and then he is renting, in the truthful sense.

Mr. Deputy Chairman: Assuming the individual concerned is paying the utilities although he is not paying, to the owner of the property, any rent whatsoever and he does not own it outright himself, although he may have been living there for 35 years, how do we permit under the present legislation, an individual in those cases, the opportunity to claim a grant because, it is not explicit enough and I think this is one of the concerns being demonstrated by a Member of Committee.

Mr. O'Donoghue: Perhaps. If he goes in there and occupies it, then he becomes the owner as against all the world except the true owner, whoever that person is. If that other true owner wants to assert a claim against him in a court case, he could. He is in a different position from the guest. A guest is not a renter and he is not an owner. A guest is a person that I say I have a cottage down on Marsh Lake and you can occupy that. He then becomes a guest. He becomes what is called in law a tenant-at-will.

Mr. Deputy Chairman: Even I am getting confused now.

Mr. O'Donoghue: Perhaps, Mr. Chairman, you can understand why the word owner covers all of the cases which will arise under this Ordinance, in my opinion.

If we once go into the technical terms, we could be debating here until next Christmas as to which technical terms we will chose to use and which technical terms we will chose not to use.

Then you are narrowing down and down the power of the director to decide a hard case in favour of the applicant because he is tied down by too much restrictions in law.

This is a case of where the description is loose to allow the director to include within the ambit of the legislation all of the proper cases. Not to exclude, it is not designed totally to exclude people. It is designed to include people.

That is why a debate, sort of, is raw at the edges, Mr. Chairman.

Mr. Deputy Chairman: Thank you, Mr. O'Donoghue.

Mrs. Watson: Yes, Mr. Chairman, I have a question to ask the witness, Mr. O'Byrne. He brought some information forward this afternoon regarding an answer to the question that the Honourable Member from Ogilvie asked when they wanted to know how much more it would cost if it became more or less a grant of general application, but excluding the people who were receiving some subsidization for shelter at the present time.

Your remark then was that it would cost \$15,000 more. What group of people were you including above and beyond what you had sort of budgetted for in the existing bill?

Mr. O'Byrne: Mr. Chairman, that \$15,000 took into consideration approximately 50 people, as near as we could make it, within the Territory that are in circumstances other than owning or renting. They are not in an official subsidized program, but they could be in with relatives, staying with relatives. They could be in a literally rent-free situation. It is those approximately 50 people I was referring to for the \$15,000.

Mrs. Watson: Thank you.

Mr. Fleming: Yes, Mr. Chairman, it is very clear and has been clear for me from the start that is the very situation. It is clear that that was, some intent there to do something other than what was actually in the Ordinance.

It takes away the intent of the Ordinance to give to a resident that is in a home, because if you do that, you are going to be very discriminatory in the sense that a person, because he owns a home, because he is somebody, because he owns a home and has, you know, something, it is going to be up to the director, in other words, to run this whole show.

If not, then people who have a home, and I will say, such as myself, I do not mind admitting this again, that I maybe do not need that money, when I get to be 65, and maybe I am that already, but anyway, I would be allowed to apply for that and unless the director deliberately said, no, and went against the Ordinance, it says I really can have it, I would not be allowed to get it.

That would cost us some more money but there is nothing on what you earn or what you own or anything here, other than this ownership thing.

So you would be giving money to people like that who absolutely had no need of anything. They might be putting it in the bank every month but you would not give money to an individual, an old age pensioner who is with their daughter and son-in-law, say, and they are poor people and maybe the son-in-law are poor people, living in a residence, they are helping to support the old couple. That is fine. That has nothing to with Government subsidies, that is private from the person that gives and the Government has no business sticking their nose into what private people wish to give their elders or anything else, so therefore, that person is going to be deprived of this program unless the director sees fit to just give it to them if they come and make an application and finds some devious way of owning that residence. I cannot go along with that.

To remove that section, I would like to ask the Legal Advisor one direct question: explain to me where, if you remove that section of ownership and rental there, that you would be changing what can actually happen in the Ordinance through any means at all, which I think he is very well acquainted with, how people can do things.

How could it possibly change this Ordinance to remove that ownership or the word "rent" and go along with the 65 years of age, the principal residence and one application from each residence and the same people get it now, I think.

Could you explain why the same people would not get it?

Mr. O'Donoghue: Mr. Chairman, it removes a restriction. That subparagraph puts in a restriction which cuts out : number of people, so it does not change the Ordinance at all except to change the class of person who is entitled to it by one degree.

Ms Millard: Mr. Chairman, I think my question has been answered on the statistics. My problem was with the statistics because it was obvious that the \$100,000, a more than doubling of the estimate at this point, would mean an all-inclusive grant to each old age pensioner. That was obvious. That was not made clear in what Mr. O'Byrne was saying.

So that really if we help these 50 other people that my colleague is talking about, it will cost us another \$15,000, and I agree with him that it does not make any difference to—. In actuality, yes, I agree too, that if you want to take it a step further, it will not cost us any more because those extra 50 people are just going to go around and get their receipt anyway and pretend they are paying rent and get it, so really, just changing the Legislation seems the natural thing to do in reflection of reality.

I cannot understand why it is not going to be done.

Hon. Mr. McKinnon: Mr. Chairman, we were told that if we did change it, that it would not cost us a penny. Now, we are told that it is going to cost us \$15,000. Which is it?

I agree with you, if that is the extent of the number of people, and I think perhaps that we should seriously look at eliminating, if the Honourable Member wants, put the guarantee, if it costs any more, he said that it is not going to cost us any more. If he was paying that cost out of his pocket, I am sure that we would have no problem at all in amending the Ordinance.

Mr. Lengerke: Thank you, Mr. Chairman. I want to go back a few steps in this.

I thought the idea of the Ordinance, again, was to help defray some of the costs of living for this particular age group, who are renting or owning a house, as has been said before, and who are responsible for the payment of utility bills. Okay? It is a combination of those expenses.

So, can we not further clarify, in 4.(1), by, say, adding a section (d), in respect to this, that it would be the person legally responsible for the payment of all utility bills or expenses, or expenses with respect to the principal residence?

I am looking for some clarification that way. Not only is that person responsible for rent and he is responsible maybe for that dollar rent that Mr. Fleming says, and we talked earlier, that a person could get a receipt for it, that is fine. But he is responsible for the payment of the utility bills and those expenses.

Hon. Mrs. Whyard: Mr. Chairman, we looked at a number of approaches, including the one that the Honourable Member has just suggested, because, as you all know, we began from the concept of trying to ease the cost of utilities to people in their own homes, paying those bills.

We looked at the suggestion that they should bring some kind of receipts for the utility bills they have paid over the year. Then we said this does not help the elderly person in rented apartment, or rented whatever, because they do not have utility bills specified, but the bill is included in the rent they are paying, naturally, because the owner of the apartment is pas-

sing on the cost of heat and light. That is a fact. But they are paying for their own heat and light in their own rent.

So, you get into these problems of trying to help somebody pay bills and if you remove this limitation we have in 4.(b), you are opening it wide to people who are not paying bills, necessarily, but do occupy a principal residence in Yukon and are over 65.

I have every inclination to accept the suggestion that you eliminate section (b), but I know, and I suppose there is no way to prevent it, Mr. Chairman, I know that it is going to be abused and that we are going to be handing out taxpayers' dollars to owners of homes who have elderly people living with them who are going to pay the bills whether the elderly are there or not, and that the money is not going to the elderly person.

I am at the pleasure of the House. If Members wish to remove that section, it is entirely up to them. I would hate to endanger our ability to help a single senior householder by leaving that section in, but I really feel that if we remove it, we have opened the gate to all kinds of people that we did not originally intend to assist.

I would welcome your opinions.

Mr. Fleming: Yes, Mr. Chairman, she asked for my opinion, too, I guess, so, I give it to you.

You have opened the door, with this legislation and this type of legislation, which does not state how much a person can have and what he cannot have and how rich he is or how poor he is, to give him something to help him in this field.

You are prepared in this legislation and I am prepared, too, because I think it is time they had it. I am certainly not fighting the old people. You are prepared to, without any, unless the director cuts off somebody and says, no, you have got too much money, which he cannot do, according to this Ordinance, you are prepared to give to the rich people who have money.

There are many oldtimers who are rich and they have a fair amount, let us say. Not too far away--

Ms Millard: They win lotteries.

Mr. Fleming: I am sure that person will not apply, or maybe he will, but in any case, he or she was quite welcome to this program, so you are willing to give it to that type of person and that is the principal. You give it to them, you give it to everybody there, but you are not willing to give it to somebody just because they do not have ownership of something. They are just living with somebody. They are still living off themselves or their relatives or whoever. They are not, you know, they are not living off the Government, at all, and they do not have any money.

These are the people that I think need, these are the people that need the grant, actually, not somebody like myself or like my colleague across the way, possibly, we do not need this thing. We will possibly get by.

However, I will not say that I will not apply when the time comes, because I have used devious means, too, to do these things and I will have to, probably. But it is there. It is there.

If the program is meant to be what you say it is, to help the elderly, then I would like to see it go to help the ones that are really down at the bottom of the heap and do not own anything and do not have anything and are willing to stay out of government housing and so forth, and are trying to make their own way through due to help from their own relatives, but they are trying to stick away from causing the public to give them more money, or prepared to give this to the rich or to people such as I am that are quite well taken care of. I think we should be quite willing to give it to those people.

Therefore, I would just, the same thing, remove the section get it over with.

Hon. Mrs. Whyard: Mr. Chairman, with respect, the people at the bottom, the elderly who have no resources, we are already caring for, whether they are in their own homes or

whether they are using some of our facilities. We look after them.

It is the people in the middle bracket who are trying to get by on their pensions and their little bit of whatever. They own their own little houses.

Mr. Chairman, the beginning of this Ordinance, really, was at the Conference on Aging, last Fall, nearly a year ago.

When I listened to senior citizens stand up and say, when I went home at noon today I had had my fuel tank filled, my heating oil tank fuel filled and the bill was there on the table and that bill is my whole pension for this month. That is the person that I designed this Ordinance to help.

I know how many of them there are, trying to cling to their own house and pay their own bills and get by, with a little help from their friends.

Mr. Chairman, maybe my sights were too narrow, but those are the people this Ordinance was designed to help, not those living with relatives, not those at the bottom who are already receiving our assistance for their need.

Thank you.

Mr. Deputy Chairman: I think before we go any further, we have just about flogged this whole clause practically to death and I think every Member of Committee has had an opportunity to voice their concerns and everything has been taken into consideration and I think now is the time, to either vote on these amendments proposed by Mrs. Whyard or we shelve the whole thing but we are wasting a lot of time. A lot of rhetoric has been allowed by the Chair and I think now is the time. I think we should stop the rhetoric and get down to voting on the amendment, with all due respect to the Committee.

Hon. Mr. McKinnon: Two more hours of debate and we will have used up the 15 grand.

Mr. Deputy Chairman: As the Chair stated yesterday, we treated the amendment as a whole amendment even though there were three sections in it and that is 4.(1)(b), 4.(1)(c) and 4.(1)(1). Is it Committee's wish that I read out the amendment again or just vote?

Some Members: Vote.

Mr. Deputy Chairman: Shall the amendment carry?
Amendment agreed to

Mr. Fleming: I would like to move an amendment to the amendment at this time, Mr. Chairman.

Mr. Deputy Chairman: Do you have copies of that?

Mr. Fleming: I do not have copies, Mr. Chairman, due to the fact that yesterday when I came in, I had an amendment to the old Bill but the amendment from the Government takes first place and we accepted that and in all respects, it is something that I could not understand getting into my papers but that was realized because the people did not have the proper form and we accepted that as Committee and I would hope that Committee now accepts a five minute recess so that we, as individuals can also get our amendment into place in the proper form because there was no way to know whether we should put it for this or for the Bill itself, before the amendment that is here.

Possibly it maybe only has to be changed, a word or two, but I would ask for that.

Mr. Deputy Chairman: Committee will recess for five minutes.

Recess

Mr. Deputy Chairman: I call Committee to order.

We have a further amendment to clause 4, which I will read as follows:

It has been moved by Mr. Fleming, seconded by Mr. Berger that Section 4.(1)(b) of the *Pioneer Grant Ordinance* be deleted and by adding the word "and" after the words "to be paid" on line four of Section 4.(1)(a).

Some Members: Question.

Mr. Fleming: Mr. Chairman, I am not going to belabour the subject at all. I think the point has been more or less proven that it will not cost us any more money than it actually was going to in the first place. We are merely clarifying the Ordinance so that there will be, I think, less problems for the elderly that do apply and are eligible for it and I think it has been belaboured long enough now.

Mr. Chairman, I presume, will read the total section through so that it can be clearly understood, after the deletion.

Mr. Deputy Chairman: Any further discussion on the amendment?

Mr. Lang: I would like to hear from the Minister responsible, if I could.

Hon. Mrs. Whyard: Mr. Chairman, I understand the intent of the Honourable Member's amendment, but I would just have to point out one cautionary word and that is, by removing, if you remove Section (b), you would then be subsidizing people who are not paying bills in other people's residences and you would thus be discriminating against other elderly people in subsidized housing situations who would not be getting the grant.

Mr. Lang: Do I take it then, from the Honourable Minister that she is not supporting this particular amendment?

Hon. Mrs. Whyard: Mr. Chairman, I am not supporting Mr. Fleming's amendment.

Mr. Fleming: Mr. Chairman, as I said before, I am not going to belabour the subject, but I am not going to agree that this changes anything and lets other people, or people who are not entitled to it get money.

I will not agree with that principle. It does not do that, in no way, shape or form, and, of course, I am not going to argue, but I want it well known that it does not do that, definitely, that is dumb.

Hon. Mrs. Whyard: Mr. Chairman, with the indulgence of Committee, could I just ask for a further word of explanation then, from Mr. O'Byrne, who, as administrator of the Human Resources Branch, knows full well the kind of people we are trying to help and those that Mr. Fleming is concerned about as well.

Mr. O'Byrne: If I could ask for just a moment, that we do nothing with dollars and cents or numbers, but let us use the situation.

If that clause is removed, "have owned or rented", it allows people to apply who are paying no expenses, either by virtue of living with relatives or being in a residence and not being responsible for any kind of expense.

Mr. O'Byrne: It would open the door to that type of individual. The intent of the ordinance was not to give a person not paying expenses any kind of additional money. Also by opening or removing that clause, and therefore opening the door to that situation you become discriminatory against those who are in official subsidized programs. By leaving it in as it is, there is a control element on it.

Mr. Fleming: Mr. Chairman, I have to stand again because I have got to convince committee that I do not like to badger a witness at any time. But I must explain too, my point of view on the same situation, and he is saying the truth, in a sense, but he is saying we are opening a door, and we are not opening a door. The door is completely open now to those same people. All they have to do is get some sort of a receipt, according to this, it says I rent it for a dollar or something, it is a very goofy thing to go and get, but they can produce it and there is nothing here in the ordinance that says that it cannot be done, and they can by this devious means, get the money anyhow. So we are not opening a door at all, we are being fair to every individual who can be allowed to get it now and saying to him, yes, you are allowed under this ordinance, and whether the intent of the ordinance in the first place was meant to be that or not, has

nothing to do with the case here today, really. If that was the intent of the ordinance to start with, then that intent should have been put in here, that people who are not owning or renting their own home, are out as far as this ordinance is concerned.

They have to be bonafide renters, owners, registered, that could have been in here. Okay.

Also could have been in here that Mr. Rich could not apply for this Ordinance, because, under this Ordinance, he can apply for it, so he is being given money.

So, all we are doing with this is making it so that everybody is on an actual equal basis and it is not going to cost anymore and I think, rightfully, that some of the people that rightfully have it coming will be able to receive it without using devious means.

Of course, the rich will still receive it, if they wish to go after it.

Mr. Deputy Chairman: With the Committee's concurrence, I would like to read the Section 4, as previously amended and also including the proposed amendment that Mr. Fleming has put forward at this point.

Does Committee agree that I read it totally? There are three pieces of paper here.

Some Members: Agreed.

Mr. Deputy Chairman: 4.(1) To qualify for a peioneer grant pursuant to this Ordinance, an applicant shall:

(a) have attained the age of 65 years or more on the thirty-first day of December of the year in respect of which the pioneer grant is to be paid; and what will now be proposed

(b) during the year in respect of which the application is made, have occupied his or her principal residence for a total period of not less than 183 days, 90 of which days occur during the winter months;

4.(1)(i) In this section, the expression "winter months", means the months of January, February, March, October, November and December.

That is how the Chair can see the present 4.(1), as previously amended and also including the proposed amendment at this point.

We are dealing with the proposed amendment at this point in time. Shall the amendment carry?

Some Members: Agreed.

Mr. Lang: Is this the amendment put forth by Mr. Fleming that we are being asked to vote on?

Mr. Deputy Chairman: That is what was just carried.

Mr. Lang: Disagree.

Mr. Deputy Chairman: A show of hands, please. Shall the amendment carry?

Amendment defeated

Mr. Deputy Chairman: Shall the clause carry as amended?

Clause 4 agreed to

Mr. Deputy Chairman: There are two other proposed amendments which have still been stood over, I believe both 5.(1) and 6.(1). With the Committee's concurrence, I believe they were adjusting a typo error. In 5.(1) the particular month was changed and in 6.(1), the word "pioneer" was missed. Now, is it Committee's concurrence that both 5.(1) and 6.(1) typo errors be carried?

Amendment agreed to

Mr. Deputy Chairman: Shall 5.(1) carry?

Clause 5 agreed to

Mr. Deputy Chairman: Shall 6.(1) carry?

Clause 6 agreed to

Mr. Deputy Chairman: Shall 9.(1) carry?

Mrs. Watson: Mr. Chairman, I believe there was a little doubt when we left Committee yesterday, that the Minister

was to review 9.(1). There was a suggestion made by the Minister, from the floor yesterday, and I would like to know what in fact she is suggesting that we have in 9.(1). Whether she is prepared to go with it as it is written, whether she reviewed it or whether she has a suggestion for change.

Mr. Deputy Chairman: Mrs. Whyard, clarification?

Hon. Mrs. Whyard: Mr. Chairman, we have reviewed it and we are happy with 9.(1) as it reads now.

¹ If there are any Members who have concerns about (b), which some were expressed yesterday, we can accept a suggestion to eliminate (b), but we see no harm in it.

If you wish to eliminate (b), we can do so, but we do not see that it is going to change, materially, the sense of 9.(1).

Mr. Deputy Chairman: Thank you, Mrs. Whyard.

Any further discussion on 9.(1).

Clause 9 agreed to

Mr. Deputy Chairman: There has been an amendment to the title.

Mr. Lengerke: Yes, Mr. Chairman, I have proposed a further amendment and it is with respect to the title. Moved by myself, seconded by Mr. McIntyre, that Bill Number 18, entitled *Pioneer Grant Ordinance*, be amended as follows: by inserting the word "Utility" after the word "Grant" in the title of the Bill.

Thus, the Bill then would be known as the Pioneer Utility Grant Ordinance.

Something, Mr. Chairman, that I must point out and I am sure that you will take care of is a typo, or whatever, but I think that something should be said that, further, any reference to the *Pioneer Grant Ordinance*, as it is now referred to, should be changed in the body of the Bill to Pioneer Utility Grant Ordinance.

Mr. Deputy Chairman: Any discussion on this amendment.

Hon. Mrs. Whyard: Mr. Chairman, I would welcome that amendment because I think it has been our intent all along that this was a grant to defray the costs of utilities for senior citizens. I did, earlier, explain why we dropped the word "utility", although we had originally included it in the title of this Ordinance.

I have no problem with putting it back in and I think it helps clarify the objective we are trying to reach.

Mr. Lang: Mr. Chairman, I would just like to make one comment. I do not know what the Honourable Member was referring to, I possibly was not in the House when they were discussing the title of the Bill, but, if you recall during a previous Session, I introduced legislation and it was not known as the Community Recreation Assistance Program. The press used the initials.

I just want to point out that this will not, as the media interprets various programs, it will be known as P.U.G. So, take it for what it is worth.

Mr. Deputy Chairman: Any further discussion on the amendment?

Is the amendment carried?

Amendment agreed to

Mr. Deputy Chairman: The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said territory and Acts as follows: *The Pioneer Utility Grant Ordinance*

Shall the preamble carry?

Some Members: Agreed.

Mr. Deputy Chairman: Shall the title carry?

Some Members: Agreed.

Mr. Deputy Chairman: Shall I report the Bill out of Committee as amended?

Some Members: Agreed.

Mr. Deputy Chairman: We will now go to Bill 19, *An Ordinance to Amend the Elections Ordinance*.

Thank you Mr. O'Donoghue, Mr. O'Byrne.

On Clause 1

Clause 1 agreed to

On Clause 2

Clause 2 agreed to

Mr. Deputy Chairman: Commissioner of the Yukon Territory, by and with the consent of the Council of the said Territory enacts as follows: *An Ordinance to amend the Elections Ordinance*.

Mr. Deputy Chairman: Shall the preamble carry?

Some Members: Agreed.

Mr. Deputy Chairman: Should the title carry?

Some Members: Agreed.

Mr. Deputy Chairman: I shall report it out of Committee without amendments.

Proceed to Bill 103.

On Clause 1

Mr. Deputy Chairman: Discussion?

Mr. Lang: Mr. Chairman, I am wondering if it would be possible to have the Clerk's office give us copies of the Speaker's comments that were made earlier today in respect to this particular Bill, while we are going through the Bill. It is not necessary to hold up the proceedings, but I would like a copy of it.

Mr. Deputy Chairman: Is the Committee agreed, that everyone wishes a copy of the Speaker's statement?

Mrs. Watson: Yes, Mr. Chairman, briefly, I spoke to the Bill this morning and the Bill actually, basically deals with powers that we delegate in our legislation to the Commissioner. Discretionary powers, powers to make legislation, powers to make regulations, powers to almost act in a judicial nature.

There seems to be quite a bit of a quandary, amongst all Members, of whether in fact we are capable under the Yukon Act, of delegating—. When we delegate the power to the Commissioner we mean the Commissioner working with representation from this House.

I looked at some Legislation and I think one of the biggest ones is the *Municipal Ordinance* where we are in fact delegating power, through the *Municipal Ordinance* to another body to make many other laws, and we have no specific control over the laws that they make, and we are not delegating that power to the Commissioner at all.

Another one is the *Electoral District Boundaries Commission Ordinance*, and section 22.(1) says "That forthwith, after receiving the report of the Commission..." that is the Electoral Boundaries Commission, "...the Speaker shall notify the Commissioner and the Commissioner shall, forthwith, submit on the Council into Session."

We are being very specific. We are delegating that power to him and we are saying, "You shall do such and such."

Sub (2) of that same Ordinance, "if the Council, by resolution, approves or approves with alteration, the proposals of the Commission, the Commissioner shall prepare a Bill to carry out the provisions of the Resolution and the Bill shall be introduced to Council at the same Session."

There was no cry, there was no cry when this Bill was Assented to that it may be *ultra vires*, that we are in fact ordering the Commissioner to do something, and that is exactly what is being done in the *Electoral Boundaries Commission Ordinance*. We are delegating powers to him and saying, "You shall do it." We are not even giving him discretionary power in that Bill.

The Minister did not seem to think that there was anything wrong with that. The Commissioner of the day did not think there was anything wrong with that. He Assented to the Bill.

We never had any reaction from the officials of the Department of Indian Affairs, nor from the Department of Justice.

The *Public Service Staff Relations Ordinance*, Section 15 says, "The Commissioner may, on the recommendation of the Board, make regulation of general application."

Now, we are delegating power to the Commissioner, but he must work with the Public Service Staff Relations Board in order to make regulations. What would be wrong with saying, "The Commissioner may, on the recommendation of an Executive Authority of the Legislative Assembly, make regulations..."? What difference is there, whether it is the Public Service Board or whether it is an executive authority of this House? We are delegating power, we are specifying in our Legislation who shall carry out the power that we are giving.

When this Legislation passed this House, the Commissioner of the day had no thought of refusing Assent. The Minister of Indian Affairs had no thought of refusing Assent. It was not *ultra vires* of the *Yukon Act* at that time, what is the difference between the Public Transport Public Utilities Board making a decision and telling the Commissioner, "You shall hand out so many licences." The Electrical Public Utility Board, which makes a decision and says to the Commissioner, "You shall give that franchise to such and such a company."

What is the difference between the judge of the Supreme Court setting the rules, the Commissioner consulting with him and then making the regulations, or the Commissioner consulting with a Committee of this House, called an Executive Authority?

Yet, we have all of these instances where we are delegating the power to discipline lawyers. There was no hue and cry from the Commissioner, in fact, he welcomed it with open arms to replace the old *Legal Professions Ordinance*, and yet we were delegating to the Commissioner to do certain things. He did not have the final authority. The discipline committee of the legal profession had the final authority.

There was no hue and cry then. I cannot see why one general piece of legislation, which states, when we say Commissioner in our legislation, we mean we are delegating that power to the Commissioner and he must work with a committee, called the Executive Authority, of this House to carry out that power that we have delegated to him.

Mr. Chairman, I hope very much that we have questions, while we are discussing this clause by clause, and I hope very much that we are able to come to a unanimous decision on the Bill, so that we can, really, exercise the power that we have already exercised in other legislation. We have given other people the power to do things, yet we do not want to take that power ourselves, because we are afraid that the Minister might say no.

Mr. Lang: Mr. Chairman, I welcome the opportunity of speaking to the principle of the Bill and I think the Honourable Member from Kluane has raised some very good points, but I want to refer, once again, to the Minister of Indian Affairs and Northern Development, the then Minister, Mr. Buchannan.

In his letter of instruction to the Commissioner, and I reiterate once again, "I have already touched on the need for you to seek the advice of the Executive Committee in the exercise of your responsibilities. I leave to you the manner in which you will do this and the frequency with which you will accept this advice."

"You will have to keep in mind the instructions you will undoubtedly receive from me from time to time, and you should, in addition, be guided by other indications of the government's policies and priorities that will come to your attention in a variety of ways". That is a very broad statement, "in a variety of ways". It makes one wonder what other ways there are instructions given to the Commissioner's office.

"Within this timeframe of reference, I should like you to accept the advice of the Committee to the fullest extent possible."

Now, Mr. Chairman, we do have the Speaker's statement who, rightfully so, has said that the decision is to this House, whether or not we should proceed with this Bill, because he is, not in a position to rule one way or the other, whether or not it is, *ultra vires* of the *Yukon Act*.

Personally, I believe we should proceed with it, but I do not think, Mr. Chairman, that it should stop there.

I think that if it is ruled *ultra vires* in view of the conduct that has been exhibited over the past two years, I do believe that it should go to the Supreme Court of Canada to decide whether or not that authority is vested with this Legislature.

I do not believe that we should accept the legal opinion of the Department of Justice. I think it is a very important matter and I think it reflects on this Legislature whether or not we are prepared to carry it all the way past the present Government of Canada to the courts, to make a decision, if it is ruled *ultra vires* by the present Government.

I would like to ask a question of the Minister of Local Government: would the Executive Committee be prepared to carry out that duty if it is the recommendation of this Legislature?

Hon. Mr. McKinnon: Mr. Chairman, I would much prefer it to be a responsibility on the Standing Committee of the Constitution, and the Chairman of that Committee, of which I am a member. It is the House, all members of the House, who are looking for an answer, for a constitutional answer and I think that that Committee and the membership on that Committee is the place where that leadership should come from in this regard.

As a member of that Committee, I can only say that I would support such as stand taken on behalf of all the Members of the House from that Committee.

Mr. Lang: Mr. Chairman, therefore, I am lead to believe that the Government of the day would be prepared to award more monies to the Constitutional Committee, if that decision were taken to proceed further if this Bill were ruled *ultra vires* because it is going to cost some money to do this.

Hon. Mr. McKinnon: Mr. Chairman, once again, I can only say that as member of the Standing Committee on the Constitution, and as a Member of the Executive Committee, certainly, I would be prepared to commit myself, as an individual Member of Executive Committee, to try to persuade the Government to allow the Constitutional Committee to have the financial ability. If all else failed, that can be done in this House on estimates dealing with the House vote, which we deal monies to the different Committees, for them to have the ability to do such things.

Mrs. Watson: Mr. Chairman, I alluded to that this morning when I was speaking, that I did not think we should stop where we have been stopping before, just at their word. Surely to goodness, other jurisdictions, provinces, look at the Province of Saskatchewan, when they were in doubt about their ability to tax in the potash area, they passed the Bill. There was doubt then whether it was constitutionally valid but there was no holding back of Assent.

They did not take it to the courts, of course, but the company eventually took it to the courts.

The Provinces themselves will pass a Bill and then take it to the courts, the Federal Government does it, to test the constitutional validity of the Bill.

I had planned on putting before this House, if necessary, a resolution regarding this very thing.

But before we even consider the Supreme Court of Canada, we have to really consider the Supreme Court of the Yukon Territory. That would be our first step. Surely, we would not require funding to do this. The Supreme Court of Canada, certainly would, but are we not sort of second guessing what could happen. We may not even have to go this route.

But, at one time, Mr. Chairman, we are in the driver's seat,

at the present time, and I think we should stay in that driver's seat and determine how we handle it. It is something that will probably come up tomorrow when we have a resolution and we can debate it at that time. We really are looking at the Bill.

Mr. Lengerke: Mr. Chairman, I would like to comment further than I did this morning, that certainly I found that the innovative way that Bill 103, I think we should have done this a long time ago. I made that point.

It is a simple method that, hopefully, we can get these instructions changed and get into place the kind of thing we want.

Certainly I would feel that the House will give the Committee on Constitutional Development, if that is the route to go, they will certainly give it the approval and the mandate to spend that kind of money to carry this through.

There is only one difference that I can see in the comments of the Member from Kluane, where she says provinces have put into effect certain pieces of legislation and accepted the challenge and then let it be proven otherwise by the courts. The difference there is that in that particular province, or in those provinces, all Members agreed, the Premier agreed, it was something they wanted to do and away it went.

Here we have a situation where maybe the Commissioner will not abide by our legislation and that is our problem. However, I think that we, if we are in accord, we should proceed on a positive basis with it.

Mr. Deputy Chairman: Any further discussion of Clause 1? Clause 1 agreed to
On Clause 2

Mrs. Watson: Mr. Chairman, I think I should clarify. There was question from 2.(2), where "The executive authority shall consist of a Chairman" and by that section implying that it would be the Chairman of the Executive Committee and to replace the existing Commissioner as Chairman of the Executive Committee and that is not the intent at all.

All the intent of that section is, there shall be four members, called the executive authority, selected from this House and they shall designate, this House shall designate one of those members as chairman of those four.

It would have been much easier, many times this past two or three years, had we had one of the four Members sitting across, who had been designated as the chairman, and that is why it was put right into the legislation.

Mr. Deputy Chairman: Does the Clause carry?

Mr. Fleming: Mr. Chairman, I am wondering if the mover of the Bill could clarify a situation, if the executive authority would consist of a chairman and possibly, I think you said the chairman could come from maybe the Executive Committee.

Maybe, if that did happen, would they not be in a sort of a position where they have been sworn to secrecy so many times on so many things, that would it not put them into a position where they might not be able to function quite properly in that sense? Or a member would not be?

Mr. Chairman, the intent, really, of this Bill, of this executive authority if you, I would consider it, when you have your Legislature sitting to select your executive authority. You would select four people and designate one as chairman.

When you have to select an advisory committee of finance, you likely would select three people from amongst those four. When you have to select an executive committee, you would likely select that executive authority as your executive committee.

It is true what the Honourable Member from Hootalinqua said, that there is some secrecy then involved, of course, in some of this. However, that executive authority has to give their advice and the Commissioner has to have their advice and their consent to exercise the delegative powers that we have given him in legislation.

But that executive authority, whether they are on the Executive Committee or whether they are members of the Advisory Committee on Finance, are still responsible in this House and if this House does not like the way that delegated power that we have given to them and the Commissioner is being carried, you can get rid of them.

What is happening now, if we do not like the way the delegated power that we are giving the Commissioner is being carried out, we cannot do anything about it.

That, really, is what is a step to what responsible government is all about. We are going to be limited in areas where we have delegated power in Ordinances, but that way, there is going to be some accountability and that executive authority is responsible here and they are answerable and if your committee on Statutory Instruments finds regulations, going through various departments, that they feel contravene the legislation or they feel go beyond the legislation, then there is no more excuse. Then those four people on that Executive Committee or executive authority are going to have to stand up there and accept the responsibility for that regulation or those regulations.

There is going to be no more passing the buck and not knowing who is responsible. It is going to be very clear and specific.

And, if the regulations were agreed to without the executive authority's consent, then they are void. They have no meaning in law.

Mr. Deputy Chairman: Any further discussion on Clause 2?

Mr. Berger: Just for further clarification, Mr. Chairman, I got a different name for this whole bill, too. I mean, we are talking here about forming of a government and the chairman of this executive authority, under normal circumstances, is called the premier of a province. This is exactly what we are talking about here.

I think this is what the Honourable Member from Hootalinqua is really asking about and I think that we should lay the cards on the table on what we are really talking about.

Mrs. Watson: Mr. Chairman, there was absolutely no intent to hide anything. You can call it a cabinet or you can call it whatever you like, or you can call the leader a premier, you can call him as I do not care what you call him, but we want three members and one is a chairman. Whatever we call them afterwards or eventually, but we want that power to go to that executive authority from this House.

I should also say that we are putting, suggesting three because that is what we have now. Some day, they will have to come back to this House to change it, if there are five or six. This will have to be amended and it will have to have the approval of the complete Assembly of that day.

Mr. Deputy Chairman: Thank you, Mrs. Watson. Any further discussion on Clause 2.

Hon. Mrs. Whyard: Too late?

Mr. Deputy Chairman: No, carry on.

Hon. Mrs. Whyard: Mr. Chairman, in the tenor of the remarks being made here, I wonder why the sponsor of the Bill is asking that these people be appointed by the Commissioner.

I would have read this section as saying the executive authority shall consist of a chairman and three members appointed or nominated or recommended by the Council of Yukon.

Mrs. Watson: Mr. Chairman, we are delegating that power to the Commissioner again and that is right, but that is one area where I was very, very concerned, or we were very, concerned that we would be accused of being *ultra virus* of the *Yukon Act*.

We thought that that is one area where the Commissioner, because the Commissioner at the present time appoints the Executive Committee, the Commissioner, and this wording was taken exactly from the *Yukon Act* for the appointment of

the Advisory Committee on Finance, and, in the provinces, where they do have responsible government, the actual appointments of the Cabinet are made by the Lieutenant-Governor.

That is what it says. They do not say, on the recommendation of the Assembly or of the Premier, but we know that is what is done, but it is the Lieutenant-Governor of a province who makes the appointment.

Thanks, Eleanor.

Mr. Deputy Chairman: Any further discussion Clause 2?

Clause 2 agreed to

On Clause 3

Mr. Berger: Mr. Chairman, I just was wondering, 3.(3), I think the Federal Government could really say you were *ultra virus*, because I think what we are really talking about here is taking the veto power away from the Commissioner.

I am wondering if this is what you are really talking about when the Minister of Human Resources related the comments from the Justice Department to us.

Mrs. Watson: Mr. Chairman, I wonder if the Honourable Member would repeat the question? I did not hear all of it.

Mr. Berger: My question, it is not really a question, it is more half a statement. I was wondering if 3.(3) is really the section that the Federal Government is objecting to, because, under 3.(3), we have taken the veto power away from the Commissioner.

Mrs. Watson: Mr. Chairman, if the Executive authority and the Commissioner are not able to reach an agreement on the exercise of the delegated power from this Committee, executive authority, from this Legislature, then, yes, the final say is with the executive authority and this may be where Canada may object and say that it is *ultra vires* to the *Yukon Act* but we also, in other Legislation, have said, very specifically, no bones about it, we have said "The Commissioner shall...". We are not even letting the executive authority tell him. We say specifically, "shall", and the Indian Affairs did not say it was wrong.

We say, "The Commissioner, on the recommendation of the Board, shall" do things. If the Board does not recommend it, he cannot do it, so this is really not that startling. We are doing it in other areas, the Electrical Public Utilities Board, "The Commissioner shall consult with the Electrical Public Utilities Board..." before he grants a franchise.

We tell in that power and we say here, "he shall take the advice of our executive authority." It is true. That is one area where there could be some problem but it is not unique.

Mr. Berger: Yes, Mr. Chairman, I agree with the Honourable Member in those areas that she is talking about, those specific areas. There are a half a dozen specific areas that she is mentioning here. What we are talking about here is a broad sense. In a broad sense, we are taking the whole veto power away from the Commissioner on everything. We are not talking about the power on one particular item. We are taking the whole power away from him. This is where the objection is going to come in from Ottawa.

Hon. Mrs. Whyard: Mr. Chairman, it is not that constitutional aspect that bothers me with (3). I am having a little problem, as I read this, trying to apply it to practical circumstances of day to day Government, and it may be picky, to use my colleagues favourite word, but when you say that if the Commissioner neglects to exercise the delegated power in the manner advised and consented by, that power shall be deemed to have been exercised in that manner certified by, and I can see some real problems with that one, Mr. Chairman.

I do not know how you come to grips with such a phrase in actual administrative day to day Government duty. How long do you wait, who takes over, who does it when he does not do it? How do you apply that section, Mr. Chairman?

Mrs. Watson: Mr. Chairman, what section is the Honourable Member referring to?

Mr. Deputy Chairman: Three (3).

Hon. Mrs. Whyard: In explanation or clarification, two Members have already been discussing the fact that you are affecting the right of the Commissioner's veto, which may or may not be *ultra vires*.

I am saying, you are not only referring to refusing to exercise certain powers but you are also saying, "failing or neglecting to". Now, neglecting to could mean that he has not got around to it. The Commissioner's Order has not been signed. The appointment has not been made, whatever.

How on earth do you apply that phrase in this section?

Mr. McIntyre: Mr. Chairman, I do not have any problem with the explanation given by the sponsor of this Bill where it regards the power of the Commissioner to make regulations. I think this Bill is applicable to that power.

But I do not think a Bill like this can be applied to the discretionary power of the Commissioner to make judgments. Every Member of the Executive Committee makes judgments independent of all other Members. It is only when matters affect basic policy that the Executive Committee meets and discusses the basic change in policy. Once the policy is established, the individual Members of Executive Committee make their own decisions based on that policy.

This piece of Legislation would mean that every time the Commissioner wanted to make a discretionary decision, he would have to call this group together and ask if they approved it and it would be completely and totally unworkable in the context of day to day Government of this Territory.

Mrs. Watson: Mr. Chairman, I cannot agree with the comments made by the Honourable Member from Mayo, nor the comments made by the Minister of Health. I think that is the spirit.

Now, whether you are going to sit down and say every time, this has to go—. I think your general policy—. What this means, and we also know that many of the areas that we have the legislative authority over, are not directly under the direct supervision of the Commissioner. They are under the supervision of the Ministers, of elected people. This ensures that there is not interference from the chief executive officer within the departments that are under the control of elected people, and it also would require some type of broad policy guidelines establishing methods whereby areas, such as regulations, could easily be taken care of, but you would have to go through your legislation that you were responsible for and set up some type of very simple procedure, because there are not many areas that could be accommodated.

It would also, very specifically, in the areas such as where the Commissioner has delegated the power we have given him under legislation, we give him the power to delegate power and that often is within departments that are under the control of elected people.

This, in itself, would ensure that once the Commissioner has delegated that power to the Director of Lands who signs the land sales, that that decision has been made and there shall only be interference in that area upon the advice and consent of that whole executive authority and that is how it should be.

This is what this will guard against.

I think that saying that we are going to go through everything and make sure that this is—. I do not think that you could, very specifically, do this, but I think you could set up a procedure within your Executive Committee, with your Commissioner, within your areas of responsibility, that there would not be that much problem with it at all.

I know how I would handle it, Mr. Chairman.

Mr. Berger: Yes, Mr. Chairman, I would like to carry this one step further. When the executive authority and this is 3.(3)

again, advises and consents to, now I am putting in how my thoughts run, on a government sponsored bill, and we are going to go on a party system, starting next fall, we are going to have a government side of the House, and the executive authority is going to be the government side.

They are consenting to a bill. The Commissioner refuses to give Assent to the bill. In other words, he does not need to anymore because the way this section reads right now, the executive authority has the power to Assent to the bill because we say "the Executive Authority the delegated power shall be deemed to have been exercised in a manner certified by the Executive Authority".

In other words, we are attempting to take the power away from the Commissioner to give Assent to bills. This is my interpretation of it, in a broad sense.

Mr. McIntyre: Yes, Mr. Chairman, further to the remarks I made previously and to the reply by the Honourable Member sponsoring the Bill, the suggestion that the Honourable Member has made is that the total power of the Commissioner is delegated to the elected members. This then would leave the Commissioner with no power whatsoever.

All the powers that he would be given, under any Ordinance that we can pass in this House, would be powers which he would be compelled to delegate to other members on the Executive Committee, including, of course, another appointee of the Federal Government, the Assistant Commissioner.

Mr. McIntyre: But still, I think I can see how this thing can work, if it applied only to the promulgation of Orders and Regulations. But as far as being a practical way of administration in which the Commissioner is going to have a useful role, and believe me this will not pass if there is no role in it for the Commissioner, then what we are trying to do in this Ordinance is to create a figurehead in the form of the Commissioner, who will have no power whatsoever. This is completely contrary to the whole meaning of the Yukon Act.

I do not like to be the person who finds that this Ordinance is unacceptable, but I certainly could not go along with this, knowing that it is impractical, and knowing that it is going to be vetoed because we are going much too far. If we confine it to the promulgation of regulations and orders, I can see that it is perfectly within our rights to do it, but I do not see that it is within our right as a Council to deprive the Commissioner of all of his Executive Powers, when the Yukon Act specifically says that he has executive powers.

Mr. Deputy Chairman: Before I have any further discussion on Clause 3, I would like the concurrence of Committee to stand over 3.3 so that the sponsor will have an opportunity to have a look at this whole subsection until tomorrow morning. I believe there is some further business in the House to be completed. With the Committee's concurrence, I will entertain a motion.

Mr. Fleming: I move that Mr. Speaker now resume the chair.

Mr. Deputy Chairman: Is there a seconder?

Mr. Berger: I will second that.

Mr. Deputy Chairman: It has been moved by Mr. Fleming, seconded by Mr. Berger, that Mr. Speaker now resume the Chair. Are you agreed?

Motion agreed to

Mr. Speaker: I will now call the House to order. May we have a report from the Chairman of Committees.

Mr. McCall: Thank you, Mr. Speaker. Mr. Speaker, the Committee of the Whole has considered Bill number 18, the *Pioneer Utility Grant Ordinance*, and directed me to report the same with amendment. The Committee has also considered Bill 19, *An Ordinance to Amend the Elections Ordinance* and directed me to report the same without amendment. The Committee also considered Bill number 103, *Executive Author-*

ity Ordinance, and directed me to report progress on the same, and asked leave to sit again.

Mr. Speaker: You have heard the report of the Chairman of Committees, are you agreed? Leave is so granted. May I have your further pleasure?

Mr. McCall: Yes, Mr. Speaker, I would like to ask leave of the Assembly to refer back to orders of the Day.

Mr. Speaker: The suggestion of the Honourable Member from Pelly River would be that we revert to Orders of the Day at this time. This motion would require unanimous consent. Does the Honourable Member have unanimous consent?

Some Honourable Members: Agreed.

Mr. Speaker: Are there any disagreed? Proceed.

Mr. McCall: Thank you, Mr. Speaker. I have for tabling, Mr. Speaker, the 7th report of the Standing Committee on Statutory Instruments, and I also have for tabling the 8th Report of the Standing Committee on Statutory Instruments.

Mr. Speaker: Are there any further documents for tabling?

Hon. Mrs. Whyard: Mr. Speaker, I would like to give Notice of Motion regarding the appointment of a Member of this Assembly to the Whitehorse Hospital Advisory Board.

Mr. Speaker: Are there any further notices of motion?

Mr. Fleming: Yes, Mr. Speaker, I would give notice of motion, moved by myself, seconded by Mr. McIntyre, that it is the recommendation of this Assembly that Ms Eleanor Millard be appointed to serve in the Executive Committee of the Government of the Yukon Territory.

Mr. McCall: Yes, Mr. Speaker, I have two motions. I give notice of motion regarding the Seventh Report on the Standing Committee on Statutory Instruments.

I also give notice of motion regarding the Eighth Report of the Standing Committee on Statutory Instruments.

Mr. McIntyre: Mr. Speaker, I would like to give notice of motion, seconded by Mr. Lengerke, that it is the recommendation of this Assembly that Mr. Jack Hibberd be appointed the Advisory Committee on Finance.

Mr. Speaker: Are there any further notices of motion.

Mr. Lang: Yes, Mr. Speaker, I move, seconded by the Honourable Member from Hootalinqua, that IT IS THE OPINION OF THIS HOUSE THAT the Commissioner of the Yukon Territory not pay the legal fees and disbursements of the legal counsel for Mr. Allan Lueck and for the Council for Yukon Indians, as recommended in Chapter 15, Special Application for Costs of the Stratton Report, dated May 24th, 1978.

Mr. Speaker: Are there any further notices of motion or resolution?

May I then have your further pleasure at this time?

Mr. Lengerke: Mr. Speaker, I move that we do now call it five o'clock.

Ms Millard: I second that.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse Riverdale, seconded by the Honourable Member from Ogilvie, that we do now call it five o'clock.

Motion agreed to

Mr. Speaker: This House now stands adjourned until 10 a.m. tomorrow.

Adjourned

The Following Legislative Returns were Tabled on June 28, 1978

78-1-40

Tagish Telephone Service
(Oral Question - Page 502 - June 26, 1978)

78-1-41

Clinton Creek Mine Closure
(Oral Question - Page 502 - June 26, 1978)



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