Yukon Legislative Assembly

SPEAKER — Honourable Donald Taylor, MLA, Watson Lake
DEPUTY SPEAKER — Geoffrey Lattin, MLA, Whitehorse North Centre

CABINET MINISTERS

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Government Members (Progressive Conservative)

- Al Falle
- Jack Hibberd
- Geoffrey Lattin
- Grafton Njootli
- Donald Taylor
- Howard Tracey

- Hootalinqua
- Whitehorse South Centre
- Whitehorse North Centre
- Old Crow
- Watson Lake
- Tatchun

Opposition Members (Liberal)

- Iain MacKay
- Alice P. McGuire

- Whitehorse Riverdale South
- Kluane

(New Democratic Party)

- Tony Penikett

- Whitehorse West

(Independent)

- Maurice J. Byblow
- Robert Fleming

- Faro
- Campbell

Clerk Of Assembly

- Patrick L. Michael

Clerk Assistant (Legislative)

- Missy Parnell

Clerk Assistant (Administrative)

- Jane Steele

Sergeant-at-Arms

- G.I. Cameron

Editor of Hansard

- Lois Cameron

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

**Prayers**

Mr. Speaker: We will proceed at this time with the Order Paper, under Daily Routine.

**Daily Routine**

Hon. Mr. Lang: Yes, Mr. Speaker, I would like to take this opportunity to introduce to the House Mr. Glen Bagnell, who is originally from Nova Scotia, who is presently with Pacific Survey Corporation.

Glen has been in politics for some time. For ten years he served with the Government of Nova Scotia and, since that time, he has gone into private enterprise.

I would like to welcome him to Yukon. He was the Minister of Tourism at one time and made a trip here. He saw the light and he is back again.

Welcome, Glen.

Applause

Mr. Speaker: Are there any Documents or Returns for Tabling?

**Tabling of Documents**

Hon. Mr. Hanson: I have a Document for Tabling in answer to a question by Mr. Byblow the other day.

Mr. Speaker: Are there any other Tabling of Documents or Returns?

Reports of Standing or Special Committees?

Before we proceed with presentation of Petitions, on Tuesday, October 23, during Daily Routine, two petitions were presented to the House.

The form of presentation at that time, has given the Chair an opportunity to clarify the correctness of procedures relative to presentation of Petitions.

Standing Order Number 49(3), provides that every Member offering a petition to the Assembly shall confine himself to the statement of the party from whom it comes, the number of signatures attached to it, and the material allegations it contains.

Upon reflection, the term “material allegations” would seem very broad, and so we must therefore seek further direction from parliamentary authorities.

Annotation 692(2) of Beauchesne, tells us that when a Member presents a petition he may not make a speech, nor present argument in support of the petition.

It would therefore appear to the Chair, that Honourable Members, when presenting petitions, must restrict their remarks to a concise statement as to the petitioners, the number of signatures contained therein, and a brief succinct description of the material allegation in contains.

Under no circumstances, should an Honourable Member make a speech of any kind, nor present an argument in any way, in support of the petition.

Perhaps then, these observations from the Chair may be of assistance to Honourable Members wishing to present Petitions to the House in the manner prescribed by the Standing Orders of this Assembly.

Should any Honourable Members have need of further direction in this matter the Chair would welcome private consultation with such Members at any time.

Are there any Petitions?

Mr. Byblow: If the Chair deems that I have taken advantage of the Rules of the House I would be the first to apologize for having unknowingly done so.

Mr. Speaker: I would thank the Honourable Member from Faro, but I would also say that I am sure the presentation of Petitions is not a normal event in the House and perhaps even the Chair welcomed the opportunity to review the procedures and that we all may, in the future, follow the Standing Orders in the correct way.

Are there any Petitions?

**Petitions**

Mr. MacKay: Thank you Mr. Speaker. I have a Petition to present. My remarks will be brief and succinct and to the point. This Petition relates to exactly the same subject matter that was presented yesterday, the contents of which, I am sure, we will be hearing later on today so I will not take up the time of the House, other than to indicate that there are over a hundred signatures on this Petition and I have duly endorsed the same.

Mr. Speaker: Are there any further Petitions?

Reading and Receiving of Petitions.

Mr. Clerk: Mr. Speaker and Honourable Members of the Assembly, I have had the honour to review two Petitions, being Petition Number 1 and Petition Number 2 of the Second Session of the Twenty Fourth Legislative Assembly as presented by the Honourable Member from Faro on October 23, 1979.

Prior to submission of this Report, the Honourable Member approached me to state that he had been neglectful in not endorsing his name on these Petitions.

Having sought the guidance of the Standing Orders of this House and of Parliamentary Authorities, I have found no rule nor precedent which prevents an Honourable Member from correcting such an oversight between the interval between his presenting such petitions and the time of the Report of the Clerk of the Assembly on such Petition.

Accordingly, the Honourable Member for Faro has endorsed his name on Petition Number 1 and on Petition Number 2, and I would now report to the House that these Petitions do fulfill the provisions of Standing Order 49 of this Assembly.

Mr. Speaker: Is it the wish of the House that these petitions be received?

**Some Members:**

Hon. Mr. Lang: Disagreed.

Mr. Byblow: Disagreed.

Dr. Hibbard: Disagreed.

Mr. Njoottil: Disagreed.

Mr. Falle: Disagreed.

Mr. Tracey: Disagreed.

Mr. MacKay: Disagreed.

Mrs. McGuire: Agreed.

Mr. Penikett: Agreed.

Mr. Fleming: Agreed.

Mr. Byblow: Disagreed.

Clerk: Mr. Speaker, the results are five yea, nine nay.

Mr. Speaker: I will at this point call Division. All Members being present in the House at this time, Mr. Clerk, would you kindly poll the House.

**Hon. Mr. Lang:** Disagreed.

Hon. Mrs. McCall: Disagreed.

Hon. Mr. Hanson: Disagreed.

Hon. Mr. Graham: Disagreed.

Mr. Lattin: Disagreed.

Dr. Hibbard: Disagreed.

Mr. Njoottil: Disagreed.

Mr. Falle: Disagreed.

Mr. Tracey: Disagreed.

Mr. MacKay: Agreed.

Mrs. McGuire: Agreed.

Mr. Penikett: Agreed.

Mr. Fleming: Agreed, absolutely.

Clerk: Mr. Speaker, the results are five yea, nine nay.

Mr. Speaker: I must declare that the petition may not be read.

Are there any Introduction of Bills?

Notices of Motion for the Production of Papers? Notices of Motion?

Are there any Statements by Ministers?

This then brings us to the Question Period. Are there any questions?
QUESTION PERIOD

Question re: White Pass Inquiry

Mr. MacKay: Thank you, Mr. Speaker. My question is to the Acting Government Leader. It is with respect to an official notice placed in the local newspaper respecting an inquiry into the operations of the White Pass and Yukon Route. That notice stated that the reason for the inquiry was due to an exchange of correspondence between the Government Leader and Mr. Fraser of White Pass, and at the request of Mr. Epp, an inquiry was being held. Can the Acting Government Leader confirm that there was no offer of financial assistance in these letters to White Pass?

Hon. Mr. Lang: Mr. Speaker, to my knowledge, there has been no discussion of financial aid one way or the other, directly between the Government Leader and Mr. Fraser.

Question re: Freedom of Information Legislation

Mr. MacKay: Thank you, Mr. Speaker. In view of the introduction today of our senior Parliament of a Freedom of Information Bill, would the Acting Government Leader be prepared to table or make available to the public this correspondence, which is now going to the subject of an inquiry?

Hon. Mr. Lang: Mr. Speaker, I think it would be inappropriate for me to make a commitment on behalf of someone else's correspondence. I think, perhaps, Mr. Speaker, that the wise thing to do is to take the question under advisement and I will bring it to the Government Leader's attention, once he arrives back in Whitehorse.

Question re: Transportation/Diversified Transportation

Mr. Penikett: Thank you, Mr. Speaker. I have a question for the Minister of Education.

I would like to ask the Minister of Education if his department, at present, has a contract with Diversified Transportation Limited?

Hon. Mr. Graham: Yes, we do, Mr. Speaker.

Mr. Penikett: Thank you, Mr. Speaker.

I would like to ask the Minister if, as a matter of policy, his Department permits employees of his Departments to also have contracts or to perform work outside of their regular hours with Diversified Transportation?

Hon. Mr. Graham: We do not have any policy that I, personally, or this Government, have set, Mr. Speaker.

Perhaps I should take the question under advisement and answer it more fully, but, to my knowledge at this time, there is none.

Mr. Penikett: Thank you, Mr. Speaker.

In obtaining his advice, would the Minister establish if, at the moment, any employee of his department is, in fact, also employed by Diversified Transportation?

Hon. Mr. Graham: I will, Mr. Speaker.

Question re: Brands Ordinance

Mrs. McGuire: Thank you, Mr. Speaker, to the Minister responsible for Renewable Resources: in view of the number of livestock being transported through Yukon to Alaska, to which livestock owners on the Alaska Highway identify such animals as diseased or not branded, would the Minister consider amendments to the Brands Ordinance to include appointment of a Yukon brand inspector?

Hon. Mr. Hanson: I would have to take that under advisement, Mr. Speaker.

Question re: Health Transfer Delay

Mr. MacKay: Thank you, Mr. Speaker. Freedom of Information has not sunk into the House, I am afraid, today.

With respect to a question that was asked yesterday and an answer was not received from the Minister of Human Resources, it was with respect to the transfer of health responsibilities. I would like to address it to the Acting Government Leader.

As it appears that it is not being pressed by his Government at this time, is this a deliberate policy that the Government has now undertaken, not to press for this transfer?

Hon. Mr. Lang: Mr. Speaker, I cannot accept his statement that the question was not answered yesterday. My colleague made it very clear that this was a Federal decision and, therefore, we had to wait for the Federal Government to make the final decision in respect to transfer.

The long-term objective, from our side of the House, and I am sure it is from the other side as well, to eventually have that particular responsibility transferred to the Yukon Government so that decisions that affect the health of our constituents can be made here and we do not have to rely on telexes and that type of thing. Mr. Speaker.

Mr. MacKay: As this appears to be somewhat as a departure from previous policy and is, indeed, a welcome attitude of restraint, I will say, can the Acting Government Leader indicate if this restraint will be short lived and those issues that are involved in the land claims issues, such as transfer of land and resources?

Hon. Mr. Lang: Mr. Speaker, I think it is fair to say, from this side of the House, we recognize that there is going to be a land claim settlement. At the same time, we recognize that we have a responsibility to all people in Yukon, regardless of race.

The Honourable Member, consistently in this House, since we have sat and since we have been elected, has insisted on separating the people of Yukon on an ethnic background basis.

Mr. Penikett: Thank you, Mr. Speaker. I certainly would not like to leave the impression that this side of the House was not in favour of further development of all Yukon's resources on behalf of all Yukoners. However, in view of the repeated statements of the Government side that they would be unwilling to prejudice land claims, can the Minister confirm that it is going to be his Government's policy now to consult with interest groups on the question of transfers of the aforementioned items, land and resources?

Hon. Mr. Lang: Mr. Speaker, I can say right now in areas such as major steps as constitutional development, this type of thing, there will be a forum set up and we have made that very clear, such things as a referendum for provincial status, when and if it comes.

In areas that we feel it is necessary to consult, we will. In areas where we do not feel it is necessary to consult, we will proceed accordingly.

Question re: Renewable Resources Department Relocations

Mrs. McGuire: Thank you, Mr. Speaker. I have a question to the Minister responsible for Renewable Resources.

The Minister is aware of the deplorable working conditions of his employees in Building 265. I would like to ask the Minister if he has any plans to relocate or expand these offices?

Hon. Mr. Hanson: Mr. Speaker, I wish I could say at this time that I could build a brand new building and give them all the things they would like. I would like to see them have it but we are discussing and trying to do something there. We just do not have the money and we are all very much interested in putting up a building.

Question re: Game/Moose Study

Mr. Penikett: Since the Minister has assumed his portfolio, I would like to ask him if he has yet had the opportunity to make available to his officials the means to conduct the studies they wish to make into the most important Yukon game species, namely the moose.

Hon. Mr. Hanson: Not as yet, since I have been sworn in, Mr. Speaker, all the top officials of Renewable Resources have been out of town. But we will be talking about it as soon as they come back.

Mr. Penikett: I wonder then, in view of the officials' absence, if the Minister could then tell us yet, when we can expect the amendments to the Game Ordinance we have been promised?

Hon. Mr. Hanson: Mr. Speaker, we are reviewing them now and shortly we will have them here in the House.

Hon. Mrs. McCall: Mr. Speaker, I have an answer to a question raised by the Honourable Member from Riverdale South last week. It is on the question of withdrawal of hospital admission privileges and the possible dilatory effects on the health care of Yukon residents.

I would like to assure the Honourable Member that the full facilities of the Whitehorse General Hospital are available to all
residents of the Yukon, but as with any hospital, admission can only be made by a doctor who holds admission privileges. The Honourable Member will be aware that it is not the inalienable right of a doctor to have admission privileges to any or all hospitals.

It is a privilege and privileges require compliance with the rules and regulations governing them. Again, I would like to point out to the Honourable Member, as I understand it, withdrawal of the privilege was done on the recommendations of a peer group selected so that their impartiality would be unquestioned. The usual appeal mechanisms exist to question the decision. To the best of my knowledge, the doctor in question has not availed himself of this remedy in any way. Until this route has exhausted itself, it would not be the intention of this Government to interfere. It would seem to me that it would be the function of the Court of Appeal to consider the appeal, not the court of first appeal. It should not be used as a means to subvert or short-circuit the normal judicial process.

Question re: Sharp Report

Mr. Penikett: Yes, Mr. Speaker, I have a question for the Minister of Education concerning the Sharp Report. The report stated that forty-nine per cent of rural students dropped out of F. H. Collins in the last school year term. The Government has said that it would implement many of its recommendations to reduce this rate. I would like to ask the Minister, since the report also reveals that the normal rate is about twenty-five per cent and that some calculations for urban students are as high as twenty per cent, if the Department is considering any immediate plans to address the drop-out rate of urban students as well as rural students?

Hon. Mr. Graham: Yes, Mr. Speaker, we are. We are attempting to, through a diversified course offering in the high schools, make the course selection more readily acceptable to students. The general objective is to keep students in school longer. It seems that the longer we keep them in there, through force of habit if nothing else, they are learning something. That is hard to disagree with. We are attempting also to coordinate the high school with the Vocational School in an attempt to give students something to go to once they feel that their education in high school is finished, in many cases at the grade nine or ten level. We are attempting to offer them something else to continue their education. It is a very high priority in the Department of Education.

Mr. Penikett: Thank you, Mr. Speaker. I guess if we sit here long enough, we might learn something, too.

I would like to ask the Minister if the Department is, at present, reviewing the regulations concerning school leaving age, in light of this problem of the high drop-out rate?

Hon. Mr. Graham: No, Mr. Speaker, at this time we have not considered it.

Mr. Penikett: Thank you, Mr. Speaker.

Since it is no longer necessary to have a late school leaving age in order to protect children from child labour, has the Minister considered adopting the European practice of allowing kids to leave school and go directly towards apprenticeship programs sponsored by the government?

Hon. Mr. Graham: Yes, Mr. Speaker, we not only have looked at that program, there are students currently involved in a program similar to this. It is kind of a work release program. These students do attend high school, but, during the day, they are also taken out of the school and put into a work situation in various businesses throughout the Whitehorse area.

Question re: YTG - Alleged Theft

Mr. Penikett: Just another question for the Minister of Justice, since he seems to be confusing his portfolios at the moment, Mr. Speaker.

On October 9th, I asked the Minister about the complaint of petty theft, made by a constituent of his against the Government.

I would like to ask the Minister if the money in question has yet been returned to the Minister's constituent?

Hon. Mr. Graham: Mr. Speaker, to the best of my knowledge, it has not yet been returned. Unfortunately, the Department in question, Consumer and Corporate Affairs, has passed from my portfolio, therefore, I am going to take it upon myself, Mr. Speaker, to ensure that the present Minister of Consumer and Corporate Affairs carries through on my promise to look into this situation and I am also making a commitment, on behalf of my constituent, to ensure that he does, in fact, receive the money coming to him in the next week or two.

Mr. MacKay: Supplementary to the Minister's final statement: does that mean that the promise he made of taking the money out of his own pocket will be transferred to the new Minister, too, Mr. Speaker?

Mr. Speaker: Order, please. I would consider that question to be of a frivolous nature.

Question re: Public Accounts Committee/Crown Corporations

Mr. Penikett: Yes, Mr. Speaker. I have another question.

Given that the House has now established a Public Accounts Committee and in some jurisdictions, the books of such Crown corporations are not referred to the Public Accounts Committee or outside the purview of the Public Accounts Committee, can I ask the responsible Minister what will be the practice in this Legislature?

Hon. Mr. Graham: Mr. Speaker, I believe, in discussing the Public Accounts Committee and the Standing Committee on Rules, Elections and Privileges, it was our intention to have Crown corporations included as part of Public Accounts Committee's investigations.

I have done a certain amount of investigation. I find that the Yukon Liquor Corporation and the Yukon Housing Corporation do, in fact, form part of the Territorial accounts. As the Territorial accounts will be referred to the Public Accounts Committee, I believe that the Public Accounts Committee can therefore fulfill their function and investigate the Crown corporations as well.

Mr. Speaker: There being no further questions we will proceed on the Order Paper to Motions for the Production of Papers.

MOTIONS FOR THE PRODUCTION OF PAPERS

Motion Number 1

Mr. Clerk: Item Number 1, standing in the name of Mr. Penikett.

Mr. Speaker: Before proceeding with Item 1, on a Point of Order, the Chair notes that Sessional Paper 79-37 which was tabled by the Minister of Education on October 22, 1979 is a copy of an agreement between the Yukon Lottery Commission and Rampart Management Services. If this satisfies Part 1 of the Motion for the Production of Papers by the Honourable Member for Whitehorse West, the Chair would have the latitude to amend this Motion to include only Part 2.

Could the Member from Whitehorse West provide some direction in this matter?

Mr. Penikett: Mr. Speaker, if there is unanimous consent of the House I would ask that the whole Motion be withdrawn.

Mr. Speaker: Does the Honourable Member have unanimous consent?

Some Members: Agreed.

Mr. Speaker: The Motion then is withdrawn.

We will now proceed with Motions other than Government Motions.

MOTIONS OTHER THAN GOVERNMENT MOTIONS

Mr. Clerk: Item Number 1 standing in the name of Mr. Penikett.

Mr. Speaker: The Honourable Member from Whitehorse West, are you prepared to deal with Item 1?

Mr. Penikett: Next sitting day, Mr. Speaker.

Mr. Speaker: So ordered.

May I have your further pleasure.

Hon. Mr. Graham: Mr. Speaker, I move, seconded by the Honourable Member from Old Crow, that Mr. Speaker do now leave the Chair and that the House resolve itself into Committee of the Whole.

Mr. Speaker: It has been moved by the Honourable Minister of Education, seconded by the Honourable Member from Old Crow, that Mr. Speaker do now leave the Chair and that the House resolve into Committee of the Whole.

Motion agreed to

COMMITTEE OF THE WHOLE

Mr. Chairman: I shall call the Committee of the Whole to order. At this time we will take a very short recess.

Recess

Mr. Chairman: I shall call Committee of the Whole to order. This afternoon we are discussing An Ordinance Respecting Income Tax. We are starting with Clause 4.
I might mention at this time on this evening’s sitting, the first thing that we will do will be the Taxation Ordinance. If we finish that, we will continue on with the Income Tax Ordinance. We have as our witness today, Mrs. Francis. Later on, Mr. O’Donoghue will be joining us.

On Clause 4(1)

Mr. Mackay: Mr. Chairman, this section is germane to what I am going to ask the witness about, but I would probably range a little further on it.

I am concerned about the cut-off of the previous grants in lieu of tax that we are getting and the start up of the new system to see that we are not losing any ground on that cut-off. For example, Member for Carcross may recall when the Workmen’s Compensation responsibility was assumed by this Government, all of the previous premiums that had been paid by employers throughout the Territory were lost, and the private insurance company that had carried the policy, at that point, had no future responsibility other than claims that had occurred during the time that the policy was in. As we know there are many reserves built up.

While I appreciate that a grant-in-lieu of income tax is an estimated amount it is based on some factual information, it does vary widely from year to year. For example, last year I think we got a little over twelve million, the previous year it was some seventeen million, according to the budget figures last year, that is what the case was.

So that, according to the latest figures last year, that was what the case was.

I am concerned about if we are running out of a good year or a bad year, or how this whole cut-off going to be affected, so that we do not, perhaps, lose what has been a good year?

Hon. Mr. Graham: Mr. Chairman, perhaps I will ask the witness to answer.

Mrs. Francis: Mr. Chairman, I am not sure about that. I do not know what it was previous to last year, and I think, this year, our total grant is somewhere, grant-in-lieu is somewhere in the neighbourhood of $13 million. I think it is. But, I am not sure how that relates to 1977-78, or 1978-79. I was not aware, when the Honourable Mr. Graham said that we were going to be cut off at that point, that we were. So, this may be something that he knows about, and I do not. But, I know that this payment starts February, 1980, and it is, in effect, for January, 1980. So, if there is any estimate, or if the estimate is not correct, it will be adjusted in 1981. By December 31, 1981, we will get an adjustment on what the estimate was for 1980.

So, we will not be losing any taxes for the calendar year, 1980, but I am not sure about the grant-in-lieu. You may have more information on that.

Mr. Mackay: I would like to pursue this a little further, if I may, before we get on to another subject. Let me give you a hypothetical example of what my concern might be. For example, Cyprus Anvil, the largest corporation in the Territory, is having a hypothetical example of what my concern might be. For example, if the grant that we normally received in that time is in fact, somewhere, grant-in-lieu is somewhere in the neighbourhood of $13 million. If they are lost, and the private insurance company that had carried the policy, at that point, had no future responsibility other than claims that had occurred during the time that the policy was in. As we know there are many reserves built up.

While I appreciate that a grant-in-lieu of income tax is an estimated amount it is based on some factual information, it does vary widely from year to year. For example, last year I think we got a little over twelve million, the previous year it was some seventeen million, according to the budget figures last year, that is what the case was.

So that, according to the latest figures last year, that was what the case was.

I am concerned about if we are running out of a good year or a bad year, or how this whole cut-off going to be affected, so that we do not, perhaps, lose what has been a good year?

Hon. Mr. Graham: Mr. Chairman, as I understand, and again, you must take this as a layman’s advice, any money that we would otherwise be getting.

Mrs. Francis: Mr. Chairman, I am not sure about that. I do not know what it was previous to last year, and I think, this year, our total grant is somewhere, grant-in-lieu is somewhere in the neighbourhood of $13 million. I think it is. But, I am not sure how that relates to 1977-78, or 1978-79. I was not aware, when the Honourable Mr. Graham said that we were going to be cut off at that point, that we were. So, this may be something that he knows about, and I do not. But, I know that this payment starts February, 1980, and it is, in effect, for January, 1980. So, if there is any estimate, or if the estimate is not correct, it will be adjusted in 1981. By December 31, 1981, we will get an adjustment on what the estimate was for 1980.

So, we will not be losing any taxes for the calendar year, 1980, but I am not sure about the grant-in-lieu. You may have more information on that.

Hon. Mr. Graham: Mr. Chairman, as I understand, and again, you must take this as a layman’s advice, any money that we would normally have received from the Federal Government as a grant-in-lieu of taxes, from January 1st to April 1st, which is part of this Budget year, we will receive that. If there are any in-lieu of taxes, from January 1st to April 1st, which is part of this Budget year, we will receive that. If there are any in-lieu of taxes, from January 1st to April 1st, which is part of this Budget year, we will receive that. If there are any in-lieu of taxes, from January 1st to April 1st, which is part of this Budget year, we will receive that. If there are any in-lieu of taxes, from January 1st to April 1st, which is part of this Budget year, we will receive that. If there are any in-lieu of taxes, from January 1st to April 1st, which is part of this Budget year, we will receive that.

Mrs. Francis: Mr. Chairman, it depends on the province in which you are a resident on December 31 where you pay your taxes to. All of the provinces agree on this formula. There is nothing on the income tax return itself that indicates where you made your money. Your individual T-4 slip might say that but not the return; therefore, you do not pay tax in two places, where you earned it. The only saving grace you have is that income tax in Yukon is lower than anywhere else and possibly people will say that they are resident here whether or not they are and you will still get their taxes.

Clause 4(1) agreed to
Clause 4(2) agreed to
Clause 4(3) agreed to

Mr. Mackay: I would thoroughly endorse (3) and hope that it will remain unchanged for many, many years to come, unless, of course, it can be endorsed downward.
Mr. Penikett: Before we go too far on subsection 4, Mr. MacKay has thoroughly endorsed the section. In preparation for this debate, it might surprise some Members to know that I read the debates in the Northwest Territories Council when they were doing exactly the same thing a couple of years ago.

One of the assurances that was given at that time was the assurance given that, of course, nothing would change about people's taxes for one year. Unfortunately, what happened in the year following the Northwest Territories' adoption of the Act was that there were several changes in the Federal Act. I can recall that several local politicians got into an awful lot of trouble in Yellowknife, because people went back and dug out those Hansards and then looked at their tax returns for the year. If they were in certain income categories, their taxes had gone up.

They went to the Territorial councillors and wanted to know about this betrayal. What had happened, in fact, it went from the previous 30 per cent surtax in the Federal, up to 43. That confused people and, of course, the base rate for the Federal had changed, but also some people, because of inflation, had moved into a higher bracket in the meantime and, as a result, were paying more taxes.

Hon. Mr. Graham: I think, Mr. Chairman, too, one of the other things that must be considered is that even if our percentage does not change and possibly this could have been the cause of the wide fluctuations that we spoke of. If Federal income tax is reassessed and it goes up or down, our tax can stay the same, but the volume of tax monies, our 43 per cent of the total federal tax payable is changing, of course.

So, if the federal tax does go up next year, then, in fact, the total revenues that we receive may go up also.

Mr. Penikett: Mr. Chairman, so also would the votes of the Opposition. I have no doubt.

Clause 4(3) agreed to
On Clause 4(4)(a)
Clause 4(4)(a) agreed to
On Clause 4(4)(b)

Mr. Penikett: Mr. Chairman, I just wanted to know what it meant. Clause (2) says: "the tax payable under this Ordinance for a taxation year in the Territory, by having these guys reduce the 10 per cent tax on corporate tax rates in the country. It is a great inducement for the portion of tax paid to a foreign country will be allowed as a foreign tax credit."

On Clause 4(8)
Mrs. Francis: Mr. Chairman, subsection (8) simply indicates that the portion for pre-1980 will not come to this Territory. They will not be allowed to tax against our taxes. Anything that is claimed as a foreign tax credit after 1980 will come against Yukon income tax.

Clause 4(8) agreed to
On Clause 5(1)

Mr. MacKay: Time for a political statement: I also endorse this clause, Mr. Chairman, strongly. This represents one of the lowest corporate tax rates in the country. It is a great inducement for people to do business in the Territory and provide more employment. Is that what to my friends on my left. We should have a clear statement, believe it was stated before, but perhaps for the record, it was an indication that these rates will remain the same for the fiscal year 1980-81. That is until March 31, 1981. Is that the correct interpretation?

Hon. Mr. Graham: Again, I must refer to the witness, but, as I understand it, any changes that we wish to make in a tax rate, we must advise Ottawa by October 15th of the preceding year.

Since that date has now passed, we are in no position to change the tax for the next fiscal year. Is that not correct?

Mrs. Francis: Yes, that is correct, to a point. You can change it the following year by March 15th, I believe it is, for a year, but I do not think you will be allowed to, under the agreement in this Act for next year. 1980 will remain intact, as it is here.

I am not sure that that is necessarily true up to March 31st, 1981, for a corporation. It might be true to March 31st, 1980, for a corporation whose fiscal year ends in that year.

Mr. Penikett: So, just so I can get clear on this point, Mr. Chairman, so the hardworking, ordinary taxpayers of the Territory are not going to be suffering at the hands of the friends of the corporate in the Territory, by having these guys reduce the 10 per cent tax rate to nothing in the near future?

I am glad to have that assurance, Mr. Chairman.

Clause 5(1) agreed to
On Clause 5(2)
Clause 5(2) agreed to
On Clause 5(3)
Mr. Penikett: Mr. Chairman, my reason for asking is that I seem to recall some debate in the House of Commons that talked about extending this provision to people who are, for example, writers and artists who may have extreme fluctuations in their income over a period of years. Perhaps they are covered in another section of the Act, I do not know.

Mrs. Francis: Mr. Chairman, that is covered under the general averaging provisions. They are not allowed this as yet.

Clause 6(1) agreed to
On Clause 6(2)
Clause 6(2) agreed to
On Clause 6(3)

Mr. MacKay: I have a question on the applicability of penalty provisions. Perhaps the witness can help me on that. It has been my understanding, maybe a faulty understanding, it has been some time since I have been in a province, that when penalties were assessed by the Federal Tax Inspector they would normally only assess penalties in the Federal portion of the tax, or there were circumstances where this would occur.

Can you perhaps enlighten me, is this going to mean that this practice is going to continue, then, when we have our own income tax act because I know that the penalties that were certainly exigible go on all the tax in the Yukon up until this point?

Mrs. Francis: Mr. Chairman, it has been the practice and it still is in existence, that penalties are charged throughout Canada on federal tax and provincial tax, not just on federal tax and it will be the same here. I am not sure, I think under the agreement, we do not get the penalties per se, they keep those for collecting the taxes. We get the tax but not the penalties. But they still do assess penalty on the omitted tax, Yukon and Federal.

Clause 6(3) agreed to
On Clause 6(4)
Clause 6(4) agreed to
On Clause 7
Clause 7 agreed to
On Clause 8(1)

Mrs. Francis: Mr. Chairman, I do not know if they want an explanation of this section or not. What it does is just refund taxes to certain mutual fund trusts on their capital gains.

This is the same as under the Federal Act.

Clause 8(1) agreed to
On Clause 8(2)
Clause 8(2) agreed to
On Clause 8(3)
Clause 8(3) agreed to
On Clause 8(4)
Clause 8(4) agreed to
On Clause 9(1)

Mrs. Francis: Mr. Chairman, Clause 9 simply indicates capital gains refunds to mutual funds, corporations, other than, like the other, Clause 8 was mutual fund trusts, but this goes through the same procedure with corporations and Clause 8 did with trusts. It is the same as under the Federal Act.

Clause 9(1) agreed to
On Clause 9(2)

Mrs. Francis: Mr. Chairman, subsection (2) means that the refund, as far as Yukon goes, can only be in proportion to the income earned in Yukon; therefore, they could not apply more of the refund against Yukon taxes than they would against other provinces. It is in relation.

Clause 9(2) agreed to
On Clause 9(3)

Mr. Penikett: We are missing Page 29.

Hon. Mr. Graham: We received that yesterday.

Mr. Penikett: No, I received Page 84 which I already had.

Hon. Mr. Graham: Mr. Chairman, the pages that I tabled yesterday were Pages 29 and 30.

Mr. Fleming: I received one yesterday. It was Page 84; however, it will not make any difference.

Mr. Chairman: On Bill No. 20 An Ordinance Respecting Income Tax I have an amendment to Clause 9 on Page 28 adding after 9(3) the
following: "as attached" which is Page 29. Do you agree?

Clause 9(3) agreed to
On Clause 9(4)
Clause 9(4) agreed to
On Clause 10(1)

Mrs. Francis: Mr. Chairman, Section 10 simply indicates the dates for filing returns, corporations within six months after the end of their year end; individuals by April 31. They are all the same dates as in the Federal Act, the same length of time.

Clause 10(1) agreed to
On Clause 10(2)
clause 10(2) agreed to
On Clause 10(3)
Clause 10(3) agreed to
On Clause 10(4)
Clause 10(4) agreed to
On Clause 11

Mrs. Francis: Clause 11 just indicates, Mr. Chairman, that everybody who files a return should complete it to the best of their knowledge in returning what tax they owe.

Clause 11 agreed to
On Clause 12(1)

Mrs. Francis: Mr. Chairman, Clause 12(1) indicates that the Commissioner will assess returns or determine whether or not the taxpayer has filed the right return. In this case, of course, it would be the Receiver General who would do that.

Clause 12(1) agreed to
On Clause 12(2)
Clause 12(2) agreed to
On Clause 12(3)
Clause 12(3) agreed to
On Clause 12(4)
Clause 12(4) agreed to
On Clause 12(5)
Clause 12(5) agreed to
On Clause 12(6)

Mrs. Francis: Mr. Chairman, Clause 12(6) indicates that reassessments may be made to returns by the Commissioner or gained by, I said before the Receiver General, but it is actually the Department of National Revenue that do the reassessing or assessments.

This just indicates the time limit for doing such reassessments on returns or sending out notices of assessment. There are certain time limits of a four-year period, depending on whether it is a refund or whether you owe the tax department money. This is just a copy of what is in the Federal Act.

Clause 12(6) agreed to
On Clause 12(7)

Mrs. Francis: Mr. Chairman, Subsection (7) goes along with subsection (6) and indicates that there is a certain time limit on reassessing or making assessments, the same as in the Federal Act.

Clause 12(7) agreed to
On Clause 12(8)
Clause 12(8) agreed to
On Clause 12(9)

Mrs. Francis: Clause (9) simply indicates that there is a limitation on carrying losses back and unless the taxpayer files and requests that the loss be carried back, it will not be.

Clause 12(9) agreed to
On Clause 12(10)

Mrs. Francis: Mr. Chairman, Subsection (10) indicates that if a taxpayer does not file a return then the Commissioner has the right to assess tax on the basis of information that we might have.

Clause 12(10) agreed to
On Clause 12(11)
Clause 12(11) agreed to
On Clause 13(1)

Mrs. Francis: Clause 13 indicates that certain persons paying out money to other individuals for wages, salary or other type of fees and benefits, et cetera, must withhold tax deductions and this is the same as in the Federal Act too. They would withhold both portions, the Yukon portion and the federal portion.

Mr. MacKay: It is perhaps a little off the topic, but, it is not really, but, when you deduct these amounts you usually have a table to refer to that is printed up. I am just wondering, are all the costs relating to all those kind of forms and printings and tables and so forth borne by the Federal Government as part of their collection agreement?

Mrs. Francis: Mr. Chairman, they will be. There will be no charge for collecting our income taxes or preparing the tables or anything.

Mr. Chairman, I think the only charge is that they will keep penalties. That was, I think, the agreement, if they collect any penalties.

Clause 13(1) agreed to
On Clause 13(2)
Clause 13(2) agreed to
On Clause 13(3)
Clause 13(3) agreed to
On Clause 13(4)
Clause 13(4) agreed to
On Clause 13(5)
Clause 13(5) agreed to
On Clause 14(1)

Mrs. Francis: Mr. Chairman, Clause 14 indicates that farmers and fishermen must pay their tax, two-thirds by December 31st and the balance when they file a return on April 30th, whereas employees have theirs deducted monthly.

Clause 14(1) agreed to
On Clause 14(2)
Clause 14(2) agreed to
On Clause 15(1)

Mrs. Francis: Mr. Chairman, Clause 15 indicates that individuals who are not farmers and fishermen and who are not employees and earning their income from other sources, investments, businesses or whatever, must make quarterly installments with the Government on an estimate of their tax payable.

Mr. Fleming: This means that this is based on their last year's income tax report, is that right?

Mrs. Francis: Mr. Chairman, it is based on an estimate on the actual of last year's, or an estimate of what they think will be earned this year, whichever is lesser.

Clause 15(1) agreed to
On Clause 15(2)
Clause 15(2) agreed to
On Clause 16
Clause 16 agreed to
On Clause 17(1)

Mrs. Francis: Mr. Chairman, Clause 17 indicates that corporations must pay their installments on a monthly basis, estimated on their tax for the last year, or this year, whichever is the lesser, again.

Clause 17(1) agreed to
On Clause 17(2)
Clause 17(2) agreed to
On Clause 17(3)
Clause 17(3) agreed to
On Clause 18(1)
Clause 18(1) agreed to
On Clause 18(2)

Hon. Mr. Graham: Mr. Chairman, I would just like to ask the witness, is this the same as it is in the Federal Act?

Mrs. Francis: Yes, it is, Mr. Chairman, 30 days for payment of tax.

Mr. MacKay: While we are on the delightful subject of penalties, assessments, arrears and all these nasty things, I am wondering if the Government has had any discussions with respect to National Revenue about them re-establishing an office in Whitehorse which we had up until 1970 or 1971.

The reason for that is that quite a number of Yukoners have a
great deal of difficulty trying to communicate, particularly recently, with the Department of National Revenue in Vancouver, where there is a toll-free line. But you are not allowed to transfer calls, it seems, from that number to whatever local it is that you want to talk to. Furthermore, with the splitting of the Department down there between the Collections and the Assessments, collections are now in Surrey along with a large computer, this communication gap is increasing and it is becoming very difficult for many taxpayers in the Yukon to be able to communicate effectively.

It is in this particular area where you get into trouble. There is collection of outstanding assessments and there is mail not being answered for five or six weeks and that kind of concurrence.

I know that the Tax Department has had a lot of internal difficulties with the reorganization that might emphasize it. I do think that the remoteness of this area as well as its future importance, as well as present importance, would perhaps mean that this Government should undertake to request the re-establishment of such an office here.

Hon. Mr. Graham: Mr. Chairman, I can understand that this screw-up in communications is something that a former Liberal Government would do and whereas we have not held any negotiations against this point, I will definitely take the advice of the Member opposite and express that very real concern to our leader and I hope that we will get some action out of a very sympathetic Federal Government.

Mr. MacKay: Just to perhaps give you a little more ammunition to that, you might even sell it on the basis that the tax department might have a greater success in collecting money up here if they had a representative on the ground who was familiar with the whereabouts of local characters. That in a point of fact can be a selling point to the tax department because I know that they have had quite a bit more difficulty collecting money when they are in Vancouver, not knowing the local scene. So you could, in fact, point out the advantages of re-establishing an office here.

Hon. Mr. Graham: Yes, I will, Mr. Chairman.

Clause 18 agreed to
On Clause 19
Clause 19 agreed to
On Clause 20
Clause 20 agreed to
On Clause 21
Mr. Chairman: The Chair proposes to clear all of 21 and then we will take a short break, for those people who are asking me.

On Clause 21(1)

Mrs. Francis: Mr. Chairman, section 21 is similar to section 162 of the Federal Act. It imposes penalties for Yukon the same as they do for Federal, only at different percentages.

Hon. Mr. Graham: Mr. Chairman, are the percentages lower or higher?

Mrs. Francis: Mr. Chairman, I may retract that statement. The percentages are the same as the Federal Act. Twenty-five per cent for omissions and fifty per cent for frauds.

Clause 21(1) agreed to
On Clause 21(2)
Clause 21(2) agreed to
On Clause 21(3)
Clause 21(3) agreed to
On Clause 21(4)

Mrs. Francis: Mr. Chairman, I should clarify that. Section 21 refers to penalties for not filing returns. In many cases, as far as the provinces go, the provincial penalty is relinquished or not levied. Section 22 is the section I was talking about for omissions in a return with the twenty-five per cent assessment.

Clause 21(4) agreed to

Mr. Chairman: At this time we shall have a short recess.

Recess

Mr. Chairman: I shall call Committee of the Whole to order.

Continuing on from where we left off before Recess, on page 52, we are considering now Clause 22.

On Clause 22(1)(2)(3)
Clause 22(1)(2)(3) agreed to
diected the letter for me over the phone. I signed the letter, sent it and they sent me this form, I signed it and I got the money back. What amazed me about this whole thing was that, had I not written the rude and abusive remarks on the assessment notice and sent it back to them, I would never have known that I could have escaped this penalty they were about to force on me. I do not suppose there is anything we can do about it going through this Ordinance, but if it occurs to me that there are probably a lot of taxpayers who may not be able to take advantage of, what shall I call them, for the sake of the Honourable Member from Riverdale South, legitimate loopholes in this kind of thing.

Hon. Mr. Graham: Mr. Chairman, that reminds me of an argument put forth by a very learned professor whom I once listened to in university and his general opinion was that in all cases when you are dealing with the tax department, in his opinion, it was illegal not to claim everything you were entitled to and, therefore, anything that you did not claim, you should be charged for, and following that through to its logical conclusion, you should claim everything you can possibly imagine. They will decide then what you do not claim. So, following that reasoning through in my own tax returns over the years, it works.

Mr. Penikett: What bothers me, seriously, about this is that the Government has a vested interest, this Government as well as the Federal, in not making the people fully aware of all the possible exemptions. I hope that kind of, if you like, profiteering on the ignorance of the ordinary public will not continue, and if we have an opportunity to advise the ordinary taxpayer of all the advantages, the ordinary taxpayer who cannot afford expensive chartered accountants to advise them of all tax loopholes, I just hope this government will take it upon itself, when it becomes responsible for this, to make sure that the ordinary citizen is aware of all the legal exemptions.

Mr. MacKay: I am sure I am treading very close to a line called "conflict of interest", but I would just underline that all the previous amusing discussion only underlines a need for having a local tax office here, with a local taxation representative who can have a supply of these forms, who is available for consultation, who can be sitting in the Post Office Building or wherever, there, during regular business hours and be available to the members of the public.

Mr. Penikett: I am just not sure, perhaps this section we already passed, but is the only line of appeal in Yukon going to be to the Supreme Court? Is that what this Ordinance now means, because it passed, but is the only line of appeal in Yukon going to be to the Commissioner, legitimate loopholes under this Ordinance, the Commissioner shall administer and enforce this Ordinance and control and supervise all persons employed under it. If they do have a third party in assessing a personal income tax, for instance H & R Block, assessing your income tax and forwarding it for reimbursement for paying your taxes and then comes time where you are reassessed and you do not get your cheque, so you appeal your assessment to the Commissioner and the tax department will say, "Well, we do not give out information on tax assessment to third parties, like H & R Block."

Do these people, do you enforce any type of laws on that? For instance, in my case, I have not got a cheque yet from my 1978-79 assessment. So, I got H & R Block to look into it for me and the taxation department said, "We are sorry, we do not give out information. We do not deal with third parties."

Now, the policy that H & R Block has is that they will look into everything and help you as much as possible in receiving your money as it was assessed by them. Now, is there anything controlling people by law?

Mrs. Francis: Mr. Chairman, there is nothing that controls them by law, but if you wanted H & R Block to look into your return, then you could give a letter of authorization to H & R Block. All they have to do is send the letter on his behalf to the tax department and the tax department will release that information to H & R Block, or to whomever you may delegate.

Mr. Njooti: Mr. Chairman, I am still confused. It still does not answer my question. I know this thing has not yet been passed through the House, but as it stands now, what is the present situation when the tax department says, "Well, we are sorry, we do not deal with third parties."

There should be, under some policy, that these people be restricted from assessing taxes for people if they cannot follow up on it.

Mr. O'Donoghue: Mr. Chairman, it is essential for the secrecy of the operation of the financial administration of income tax that no third party information is given, except in certain cases. One of those is where an authorized agent, on behalf of the taxpayer, shows to the tax department that he has authority to receive the information, then it will be given.

I presume that the Honourable Member did not give a formal letter to H & R Block for transmission to the income tax department, or send a letter on his own. If he had, then they will give the income information back, if it is available at that time.

Mr. Fleming: I would like to ask that question only turn it around. If, for instance, H & R Block or Mr. MacKay's department, or whatever, did an individual income tax return and I wish to have my income tax return, some information on that, and I phoned the tax department in Vancouver, which many times I have on behalf of certain people and you cannot get too much information, but in this case would I be allowed to get that information?
Mr. O'Donoghue: Yes, Mr. Chairman.
Clause 31(1) agreed to
On Clause 31(2)
Clause 31(2) agreed to
On Clause 31(3)
Clause 31(3) agreed to
On Clause 31(4)
Mr. Penikett: Presumably the people in Ottawa in this business have to make some fairly serious oaths, that they will be struck down dead by lightening or something if they betray any confidences. I would be interested in knowing if these are similar to oaths that perhaps finance officers in this Government may now have to sign or whether they would need something much more serious, or whether there is any bonding involved or any kind of established requirements in the Government which are similar to ones which would be required of income tax people whose secrecy and integrity has ever been challenged until recently.

I think someone in Toronto found that they could phone a certain number in Toronto or dial into some computer thing and get people's personal tax information. That is a breach of ethics and it is something that is very difficult to handle in your staff, if they are to be reasonably courteous to the people they deal with.

Mr. O'Donoghue: Mr. Chairman, our tax department will not normally have access to any of this information because the collection and handling will be done by the Federal Government. What we will have access to is for the purpose of checking the accuracy of the collection figures and the totality. We can send our auditors in. Our offices will not be handling it. They will be bound by their normal oath of office and oath of secrecy, and they will be committing an offence if they breach any information that does in any way accidentally come into their hands.

But, I think that, other than the RCMP league, in the Department of Finance's records, was through a person misusing the custom of accepting the word of a person whom they might know was, in fact, acting as the agent or accountant for another. So that a person walking into the tax office and saying, "I act for Joe, so may I have a look at the returns?", and the officer then, acting routinely, gives him the file. The guy is not the person he claims to me, goes away and uses a TV show. That is a breach of ethics and it is something that is very difficult to handle in your staff, if they are to be reasonably courteous to the people they deal with.

Clause 31(4) agreed to
On Clause 32(1)
Mr. Chairman: The Chair would ask Mr. O'Donoghue, I notice that subsection (1) of 32 is omitted. Is that considered a typographical error?

Mr. O'Donoghue: Yes, Mr. Chairman, it is a typing error. It should be in the margin.

Mr. Chairman: I draw the attention of the Members to this correction.
Clause 32(1) agreed to
On Clause 32(2)
Mr. Mackay: As I read 32(2), it seems to me that the Territorial regulations will supersede the Federal?

Is that the way that, if there is a conflict?

Mr. O'Donoghue: The reverse, Mr. Chairman.

Mr. Mackay: The reverse.

Mr. O'Donoghue: Otherwise, the Honourable Member is correct.

Mr. Penikett: Yes, Mr. Chairman, just for the record, who is the mutatis mutandis guy?

Mr. O'Donoghue: Yes, Mr. Chairman, we talk about it our office everyday. It is a Latin expression for "changing as necessary", making necessary changes.

Clause 32(2) agreed to
On Clause 32(3)(4)(5)
Clause 32(3)(4)(5) agreed to

Mr. Penikett: Just a comment on Clause 32 before we leave it altogether. I am an admirer of foreign languages as much as anybody, and especially dead languages, a great lover of tradition, and I know the love of the legal and medical professions for Latin, but I just wonder if, as a rule, it is completely necessary to continue doing it in our Ordinances.

This fellow, "mutatis mutandis," sounds like the owner of a Greek restaurant I used to know. It seems to me it would not be too hard, in cases like that, to simply put, "changes as necessary," instead of that kind of phrase.

I say this because I just want to say something on the principle. One of the things that concerns me about legislation, as a rule, is that there is an awful lot of it which cannot be easily read and understood by the ordinary person. My ideal of good legislation would be, if at all possible, stuff that can be picked up by any reasonably intelligent grade 6 student, who would be able to understand what it is the Government is talking about in these laws.

I think that is too often not the case, and I think it ought to be, and I think using an archaic language in legislation does not contribute to people's understanding of legislation.

Mr. O'Donoghue: A former Speaker of this House carried on a consistent policy of drawing attention, as the Honourable Member did, to "Latinism," used in legislation, and gradually he won most of the battles, and they were taken out.

This one is a difficult one, because the replacement phrase is a long one, and so it survives. But I am prepared to make an effort, in future Bills, but not this one, to eliminate the necessity for "mutatis mutandis." It is a handy, understood phrase, which is really directed at the judge to make any necessary change in a certain type of order and in a certain way. It is a highly technical phrase, and I would ask the Honourable Member not to criticise it overly in this particular piece of legislation.

On Clause 33
Clause 33 agreed to
On Clause 34(1)
Clause 34(1) agreed to
On Clause 34(2)
Clause 34(2) agreed to
On Clause 34(3)
Clause 34(3) agreed to
On Clause 35
Clause 35 agreed to
On Clause 36(1)(2)(3)(4)(5)(6)
Clause 36(1)(2)(3)(4)(5)(6) agreed to
On Clause 37(1)(2)(3)(4)
Clause 37(1)(2)(3)(4) agreed to
On Clause 37(5)

Mr. Njoott: I have one question here in relation to a default and seizure of goods. Should a person, for instance from Old Crow, have problems paying up his taxes and all of his goods have been seized and the nearest newspaper is Whitehorse and the freight rate is a very high cost, only one particular airline flying in there, there is no way of controlling, it could put the individual in far more jeopardy than a person in Whitehorse.

Is there any way the Ordinance could read so that you could avoid that type of thing in the Yukon, especially in the North? It seems to me that the Taxation Ordinance is based on a very metropolitan type of taxation.

Mr. O'Donoghue: I would just ask the Honourable Member, is it a practical matter to attempt to change this, having regard to the fact that we have never heard of a seizure in his jurisdiction?

I do not think that it would ever be contemplated, for a number of reasons in that jurisdiction. Is it really worth attempting to protect a mythical, spiritual situation?

Clause 37(5) agreed to
On Clause 38(1)
Clause 38(1) agreed to
On Clause 38(2)

Mr. Fleming: I am just wondering, I guess this is pretty well under the Federal Act, but in some instances where a person, of course, owes the tax and he does escape and get out of the Territory before he has made the payment and, under the Federal Act I presume that he can be caught anywhere in Canada and held responsible for it. Is this so or not?

Mr. O'Donoghue: You are asking a very difficult question. If you ask my specifically under this, no. If you are asking me under the
Canada Act, yes. If you are asking me outside Canada, for either the Canada Act or our Act, the answer is no.

Clause 38(2) agreed to
On Clause 39(1)(2)(3)(4)(5)
Clause 39(1)(2)(3)(4)(5)
On Clause 39(6)

Mr. Fleming: I just have a question in general on subsection 6, as to the native peoples in the Territory, or, I suppose in Canada anywhere, in the case where an employer like myself would hire a native person and they say, in this case I may be on certain lands that were reserve lands and so forth and so on, where it is deductible or there is no income tax to be deducted, is it the responsibility of the employer to deduct income tax anyway, and the person could get it back? Or could he say, no, I am exempt and you do not have to deduct them?

Mr. O'Donoghue: Could I say, Mr. Chairman, without disrespect to the Honourable Member, that a man who is his own lawyer has a fool for a client, and if an employer takes his opinions from the Act without legal advice from an independent lawyer, and decides he will not obey the law, and he will not make a deduction, then he is liable to be hit very hard, because he may have to pay the amounts himself, and not have anyone he can get it back from.

Mr. Fleming: Mr. Chairman, would the Legal Advisor, with all due respect, clarify that for me. He should, then, make the deductions?

Mr. O'Donoghue: It would be a foolish employer who fails to deduct in a case of doubt, unless the employee has his argument directly with the tax department.

Clause 39(6) agreed to
On Clause 39(7) to Clause 39(11)
Clause 39(7) to Clause 39(11) agreed to
On Clause 40(1)
Clause 40(1) agreed to
On Clause 40(2)
Clause 40(2) agreed to
On Clause 40(3)

Mr. Fleming: Just a general question, again, on subsection (3), I wonder if the witness or the Legal Advisor could tell me how many years are you, actually, supposed to keep these records? Possibly it is further on in the Ordinance.

Mrs. Francis: Mr. Chairman, you are required to keep all of your income tax records until you have permission from the Tax Department to destroy them all. And that goes for individual returns if you are only a salaried employee as well.

Clause 40(3) agreed to
On Clause 41(1)

Mr. O'Donoghue: In the second line of Clause 41(1) the word “for” should be “or”.

Clause 41(1) agreed to
On Clause 41(2)

Mr. O'Donoghue: At this point, the new page goes in.

Mr. Chairman: I have a motion in front of me moved by the Honourable Mr. Graham that Bill No. 20, entitled An Ordinance Respecting Income Tax be amended in Clause 41 at page 82 by adding, after the words “on application made by” in subclause 41(2) the following as attached. And you will note that the following is Page 83. You have all heard the amendment. Do you agree?

Amendment agreed to

Mr. Chairman: If everyone has Page 83, we shall continue on considering Clause 41(2) which you will note does go over to the top of Page 83 which also is divided into (a) and (b).

Clause 41(2) agreed to
On Clause 41(3)
Clause 41(3) agreed to
On Clause 41(4)

Mr. Tracey: Can we have an explanation of what the word “ex parte” means.

Mr. O'Donoghue: Mr. Chairman, it means “alone, without notice to the other party”, without the other party.

Clause 41(4) agreed to

On Clause 42
On Clause 42
Clause 42 agreed to
On Clause 43
Clause 43 agreed to
On Clause 44
Clause 44 agreed to
On Clause 45
Clause 45 agreed to
On Clause 46(1)

Mr. Tracey: Mr. Chairman, do I read this correctly when I see that, say, a person did not file an income tax return for the year 1979, and a couple of years from now some inspector finds out that he has not filed a return, he is liable to $25 for every day that he has not filed?

Mr. O'Donoghue: That is the law, Mr. Chairman, but may I say that, in practise, when it comes into the Magistrate's Court, where it usually does come, they only make a charge for one or two days.

Mr. Tracey: Mr. Chairman, this section says a person is liable, on a summary conviction, to a fine of not less than $25 per day. It does not leave any discretion there.

Mr. O'Donoghue: I agree, Mr. Chairman, but what happens is that they only charge him with a day's default, or two days' default.

Clause 46(1) agreed to
On Clause 46(2)(3)
Clause 46(2)(3) agreed to
On Clause 47
Clause 47 agreed to
On Clause 48

Mr. MacKay: This collection agreement, it is just going to be a standard agreement, I presume. Will it be tabled at some point?

Mr. O'Donoghue: Yes, Mr. Chairman, I am not sure whether or not it has been already tabled or that it will be tabled as such. It is only a question of the number of copies. I think it is a 60 page document, Mr. Chairman, equally complex with this Ordinance.

Mr. MacKay: What I am concerned about, it says: “the Minister may take or refrain from any action against such person contemplated by section 46 or 47 of this Ordinance, as the case may be.” Does it say anywhere that there is not going to be a duplication of penalties. I have seen it in prior sections, but I do not see it here unless it is further on.

Mr. O'Donoghue: Mr. Chairman, there are two parallels, the Ordinance and the Act. There will be nothing improper in charging a person who is failing to pay his Yukon portion and his Canada portion of income tax due by him. These sections all contemplate that he will only be struck once, and using the Federal Act.

Clause 48 agreed to

Mr. MacKay: Mr. Chairman, may I suggest that we adjourn until 7:30?

Mr. Chairman: The Chair was thinking we would get down as far as Clause 52 which will only take a couple of minutes.

On Clause 49(1)

Mr. Tracey: Mr. Chairman, it seems strange to me that somebody who, maybe, evades income tax of $25, or whatever, is subject to a gigantic fine, and yet somebody that is supposed to be in the trust of the people has a maximum fine of $200 for divulging information.

Mr. O'Donoghue: It is just the way it is, Mr. Chairman. I guess he loses his job, as well.

Hon. Mr. Graham: Mr. Chairman, maybe I could ask the witness if this is the same as in the Federal Act?

Mrs. Francis: Yes, it is, Mr. Chairman.

Mr. MacKay: I think it would be legitimate to point out that $200, in comparison to the salaries earned by civil servants, is a gigantic amount.

Mrs. Francis: Mr. Chairman, you will note in Section 49 it does say “not exceeding $200”, but the other section is really for voluntary compliance. If people know they are not going to be penalized, they are not going to file their returns, and you will not get your tax.

Clause 49(1) agreed to
On Clause 49(2)
Clause 49(2) agreed to
On Clause 50
Clause 50 agreed to
On Clause 51

Mr. Fleming: Mr. Chairman, just to carry on what the Honourable Member, Mr. Tracey, was speaking about a little while ago, on the $25 a day fine. This Clause here looks like it may supersede that, and the court has no right, in other words, to charge a lesser fine.

Mr. O'Donoghue: Mr. Chairman, unless a minimum is fixed, the court has got a scale in front of it from zero to the maximum amount fixed by the Statute.

But, judges, magistrates and courts consistently resent being told precisely what fine to impose or being told to impose a minimum fine and they use every trick in the book to avoid doing just that. So, in order to force a judge to do what he does not want to do, it has to be written in very strict terms, making it clear that it is a minimum and must be treated as such.

Clause 51 agreed to

Mr. Chairman: At this time, I would like to remind the Members that, at 7:30 tonight, we will start with the Taxation Ordinance. After we have concluded that, we will go back to the Income Tax Ordinance.

At this time, I would like to recess until 7:30. I thank the witnesses and ask if they can be with us this evening.

Mr. O'Donoghue: Yes, Mr. Chairman.

Mr. Chairman: We now stand recessed until 7:30.

Recess

The following Legislative Return was tabled October 24, 1979:

79-2-29
Availability of data on volume of retail trade in Yukon
(Oral Question - October 15, 1979 - Page 388)

The following Petitions were received October 24, 1979:

79-2-1
Petition regarding Matrimonial Property Ordinance - “family” and “business” assets

79-2-2
Petition regarding Matrimonial Property Ordinance - common law marriage