



# The Yukon Legislative Assembly

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## **HANSARD**

**Monday, April 14, 1980 — 7:30 p.m.**

**Tuesday, April 15, 1980 — 1:30 p.m.**

Speaker: The Honourable Donald Taylor

# Yukon Legislative Assembly

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

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### (Liberal)

Iain MacKay	Whitehorse Riverdale South
Alice P. McGuire	Kluane

### (New Democratic Party)

Tony Penikett	Whitehorse West
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### (Independent)

Maurice J. Byblow	Faro
Robert Fleming	Campbell

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**Whitehorse, Yukon****Monday, April 14, 1980 — 7:30 p.m.****Mr. Chairman:** I will call Committee of the Whole to Order.

We will begin discussion on Bill Number 24, Perpetuities Ordinance. We have a request here from Mr. Graham asking to have Mr. Almstrom as a witness. Do you agree?

**Some Members:** Agreed.**Mr. Chairman:** I call on Mr. Almstrom to be with us this evening as witness.

On Clause 1(1)

**Hon. Mr. Graham:** Mr. Chairman, our existing Ordinance is based on a Uniform Act that was approved in 1967. The final version of the Act adopted in 1972 is significantly different in a few places.

The purpose of presenting a new bill is partially to promote uniformity for its own sake but also, as I said in my second reading speech, to fill a few holes we missed as a result of our early start.

This Bill deals with an obscure but important area of the law relating to the conveyance of property. The Act was originally inspired by the need to rectify injustices that were perpetuated under the inflexible legal rules inherited from the United Kingdom.

I think it does not, in total, depart very much from the law that presently exists in the Territory. It is a reasonably technical Bill, Mr. Chairman, and I will be calling on the witness, Mr. Almstrom, at various stages throughout because there are things I am sure in this Bill that he can explain much better than I can.

**Mr. MacKay:** I rise in fear and trepidation of saying something that does not make any sense whatsoever. The Perpetuities Ordinance is an obscure piece of law and I have got some questions, I guess, as we go through it but I look forward to having the services of Mr. Almstrom, partly as an education as much as it is an advisor to the law.

**Mr. Chairman:** Is there any other further general discussion? If not, we will commence a clause by clause discussion.

On Clause 1(1)

Clause 1(1) agreed to

Clause 1 agreed to

On Clause 2(1)

**Mr. MacKay:** Perhaps I could ask for a brief explanation of the term "reverter" and the "...right of re-entry on breach of a condition...".

**Mr. Almstrom:** The "right of re-entry on breach of a condition subsequent" arises in a certain case where a piece of property is given to a person with a condition attached. For example, the property is given to a town to use as an apartment. If the property is no longer used as an apartment, we have breach of condition and the property reverts back to the original grantor, the person that gave it away in the first place. There is only a very fine technical distinction between a right of reverter and a possibility of re-entry on breach of a condition.

**Mr. Chairman:** Is there any further discussion on your first definition? Shall the definition of "disposition" clear?**Some Members:** Clear.**Mr. Chairman:** The next one is "in being". Any discussion there?**Some Members:** Clear.**Mr. Chairman:** "Perpetuity period", any discussion there?**Mr. MacKay:** The perpetuity period at common-law, I think I understand but perhaps Mr. Almstrom could explain how long that is.**Mr. Almstrom:** Perhaps some general explanation of the Bill is in order at this time. At law, we have a number of different ways of looking at property.

When property is conveyed, a whole interest in a property is not necessarily conveyed at all times. When a person disposes of real or personal property by way gift, sale or will, the recipient does not always receive the right to dispose of the property to another person.

It is common, for example, for the will of a husband and father to leave the family house to his widow, for example, for her life, with a gift over to his children, in this case, the gift to the widow is prevented, or the widow is prevented from disposing of the property so as to defeat the rights of the children.

By extending this sort of disposition to greater lengths, it could tie up the property forever, that is to say, in perpetuity. That gift to the wife would be a gift over to her children, to her grandchildren, it

could just keep on going and going. This would be an estate tail that was of some notoriety in the early days of English law, where a property passed to the oldest male heir on down the line.

As a result of this practice, the original will of the original ancestor, perhaps hundreds of years earlier, would prevent the property from being disposed of, prevent the chain from being broken forever. The result tended to be absurd in some cases, where, perhaps a dozen generations later, there would be a failure in the male issue and, as a result of that, they would have to trace it back upwards to the original will and find out who his oldest surviving male heir was. This all got very complicated, very inconvenient and was recognized as an excessive clog on the title of a property.

To resolve this, the courts, shall we say, invented the rule against perpetuity. What it said was that you could tie up property in this fashion for a limited period only. Any person that you gave it to had to come into existence within a period of a life that was in being at the time, plus a further 21 years. Therefore, you could give it to your grandchildren, even if your grandchildren were not alive at the time, because you had children alive and the gift over would be outright to the grandchildren and they would get it at the age of their majority, hence, the period of 21 years. That is the period. It is a flexible period.

I hope that answers the question.

**Mr. Chairman:** I declare the definition of "perpetuity period" clear. We will now consider the definition of "power of appointment." Is there any discussion?**Mr. Byblow:** Can we have an explanation of the reference to "furnishing of valuable consideration"?**Mr. Almstrom:** The term "furnishing of valuable consideration" means that it is a sale. You have what they call a quid pro quo. You have something in exchange for something else. It is not a simple gift.

Clause 2(1) agreed to

Clause 2 agreed to

On Clause 3(1)

Clause 3(1) agreed to

Clause 3 agreed to

On Clause 4(1)

**Mr. MacKay:** Maybe I need some clarification, because I am not quite sure what it means in the last two or three lines here "...by reason only of the fact that there is a possibility of the interest vesting beyond the perpetuity period". Would that be where we state a specific period of time or do you have a better explanation?

**Hon. Mr. Graham:** Mr. Chairman, it is voided, it is possible that the vested period, or that the interest granted may vest beyond the period of perpetuity. In effect, it says if I were to grant or leave something in my will to my grandchildren who have not yet been born, plus upon the age of reaching 22 years, that is beyond the perpetuity period, because those grandchildren have not yet been born, then the perpetuity period, which is 21 years, would be over that period of time, beyond the perpetuity period, so, in effect the disposition would be illegal.

**Mr. Fleming:** It says there is a possibility of the interest investing beyond that period and it does not declare that disposition of property or personal property to be void. "No disposition creating a contingent interest..." Oh I see, I am going the wrong way, sorry, I think I got it.

On Clause 4(1)

Clause 4(1) agreed to

Clause 4 agreed to

On Clause 5(1)

**Mr. Byblow:** Could we have an example of where the interest is incapable of being vested within the perpetuity period?**Mr. Almstrom:** An example of that would be where you left property to your grandchildren on reaching the age of 22.**Mr. Byblow:** So the reference there is anything beyond that 21st year which is that rule of perpetuity.

**Mr. Almstrom:** Yes, that is correct. The other proposition you should keep in mind is that it is possible for you to be uncertain whether the interest will vest within the period or not such as a gift to your grandchildren on their being admitted to the Bar. You do not know if any of them are going to be admitted to the Bar within the perpetuity period, if at all.

Clause 5(1) agreed to

On Clause 5(2)

Clause 5(2) agreed to

On Clause 5(3)  
 Clause 5(3) agreed to  
 Clause 5 agreed to  
 On Clause 6(1)

**Mr. MacKay:** Yes, I understand that this is where you make a disposition but in fact there comes further grandchildren that you had not expected and it then goes over the period of 21 years, is that what this means or am I misunderstanding it? In other words, you can make the thing valid for the people who fall within the conditions of the perpetuity but if other events occur that make it invalid, you cut these other people out.

**Mr. Almstrom:** I am not sure I understand the question.

**Mr. Chairman:** Mr. MacKay, maybe you can repeat the question.

**Mr. MacKay:** Okay, I will put it simpler then. Could you explain to me what this section means?

**Mr. Almstrom:** This is one of the sections that is different from the sections that are found in the existing Ordinance. Under the existing Ordinance the perpetuity period is determined by reference to what are called "relevant lives" and apparently (inaudible) although it is not a matter that comes up before the courts every day in Whitehorse.

What Section 6 does, or tries to do, is to define the exact lives to which you refer when determining the perpetuity period. There have been some attempts, most of them unsuccessful, but I guess a few successful, in England, to extend the effect of the perpetuity period by making reference to a very large class such as the citizens of the United Kingdom, try to establish that as the period of lives and being to which the period of 21 years has been added so that you get the maximum effect. What this Section does is render that impossible for restricting it to the stated persons.

**Mr. Tracey:** Mr. Chairman, we are having an awful problem trying to hear the witness. I do not know if there is something the matter with the microphone, but I am having a problem hearing the witness.

**Mr. Chairman:** Perhaps, at this time, we will just have a recess so we can alleviate the trouble.

Recess

**Mr. Chairman:** I call Committee to order.

We will continue discussion on 6(1).

Clause 6(1) agreed to

On Clause 6(2)

**Mr. Byblow:** Mr. Chairman, section (2)(d), could I have an explanation of who that person could be, who takes a prior interest in the property disposed of?

**Hon. Mr. Graham:** Mr. Chairman, maybe I will attempt to, in layman's language—I do not know, maybe I will confuse the issue a little bit more, but I will attempt to tell you what section (2) is all about.

These are the lives in being that we talk about in the determination of period in 6(1). Clause 6(1) basically sets out the principle that you can only use a period established as persons who are presently being, plus 21 years. The persons whom we refer to in 6(1), are the people described in 5(2). So, the perpetuity period is people who presently exist, plus 21 years.

Then, in section (2), what we are trying to set out is the persons in being, the lives in being that we are referring to. So, you can refer to the perpetuity period as those persons presently in being, as established by section (2), plus 21 years. That is the perpetuity period.

Clause 6(2) agreed to

Clause 6 agreed to

On Clause 7(1)

Clause 7(1) agreed to

On Clause 7(2)

**Mr. MacKay:** Perhaps I could ask the Minister of the witness to give a brief explanation of how this change or age reduction would occur? Would it be by a court order? How would one make this change effective?

**Mr. Almstrom:** Mr. Chairman, all questions of perpetuity will come up in some sort of court proceedings to establish or to settle the contest between the competing rights of people who are claiming interest in the property. The age reduction then would be made in some sort of court proceedings as the court was determining whether the interest was or was not void for infringement of the perpetuities.

On Clause 7(2)

Clause 7(2) agreed to

On Clause 7(3)

Clause 7(3) agreed to

Clause 7 agreed to

On Clause 8(1)

**Mr. MacKay:** Yes, perhaps a general question, is this going to be the uniform law or is it already the uniform law right across Canada?

**Mr. Almstrom:** The answer to that question is "yes". It is uniform Law in most other common law jurisdictions in Canada and it is currently the law of the Territory. The proposed section does not differ at all from the existing Section 9(2) of the Ordinance.

**Mr. MacKay:** Perhaps to help us zero in a bit on the thing, there were some significant differences mentioned by the Minister to start with that are not readily discernible to the layman's eye. I wonder if you could just briefly give us some idea of what significant differences there are in this Legislation from the present one we have.

**Hon. Mr. Graham:** You mean you did not do any research?

**Mr. MacKay:** I did not read the other one, you are right. If the Minister has not managed to prepare his research, I will be pleased to wait.

**Hon. Mr. Graham:** Mr. Chairman, we are more than willing to discuss the sections as we go through and if they are the same as the old Ordinance, I would be only too happy to tell you and where they differ, I would also be happy to tell you, but I kind of thought that in the preparation for this Ordinance, as is the case for most Ordinances, that a person would have checked this one with the old one to see what the differences were.

It is a technical Bill, there are no two ways about it, which is why Mr. Almstrom is here. If I thought I was capable of going through here and picking out the exact differences and explaining them to you, I would have done that in my second reading speech. I am quite prepared to attempt to explain them as I see the changes if you want, but I think it is much clearer if we wait and let Mr. Almstrom do them in progression.

**Mr. Byblow:** I am not clear on the reference "void for remoteness". What would this qualify, a person or class, unborn or otherwise, from qualifying for the disposition?

**Mr. Almstrom:** Mr. Chairman, the term "void for remoteness" simply means that a disposition or an intended disposition, that is beyond the perpetuity period, it is too remote. It is a term of art that the lawyers use to refer to dispositions that are void for infringement of a rule against perpetuities.

Clause 8(1) agreed to

On Clause 8(2)

**Hon. Mr. Graham:** Mr. Chairman, this clause is basically to provide for technical mistakes in wills, et cetera. The perpetuities are necessary, but not to unjustly restrict people from gaining their rightful inheritance.

Clause 8(2) agreed to

Clause 8 agreed to

On Clause 9(1)

**Hon. Mr. Graham:** Mr. Chairman, this is one of the new subsections. This section is a change from the existing Ordinance in that it gives the court the general discretion to give effect to disposition so that the rule against perpetuities may be applied with some flexibility. We do not want to restrict everyone, which is why we have section 8(2), as well. We allow some flexibility in the rule of perpetuities to reduce the number of injustices that would be perpetrated.

It is usually preferable to give effect to the intentions of the testator, or the person who makes the will, rather than to frustrate them by some technical mistake in the will or some technical mistake where, for example, if the government acquired property or something like this, it would frustrate the intention of the person who makes the will. That is the kind of stuff we hope to avoid.

Clause 9(1) agreed to

On Clause 9(2)

**Mr. MacKay:** Does the term "valid compromise" have a special meaning for lawyers, too?

**Mr. Almstrom:** Mr. Chairman, it means exactly what it says.

**Mr. MacKay:** If I could ask Mr. O'Donoghue's understudy, a valid compromise, is that where competing interests for an interest in the estate have arrived at a compromise without going to court?

**Mr. Almstrom:** Yes, Mr. Chairman, what is referred to here would be an out-of-court settlement. If the parties who are competing, were fighting, over the property can get together and settle the matter as between themselves and it is valid in the sense that, for example, if an infant is involved, it is made by his guardian and approved by the court.

According to the general law when it is a valid compromise and the court will not then interfere to upset the relations between the parties, if they have settled it themselves. This is a normal procedure that is followed in most litigations.

Clause 9(2) agreed to

Clause 9 agreed to

On Clause 10(1)

Clause 10(1) agreed to

On Clause 10(2)

**Hon. Mr. Graham:** Mr. Chairman, I would like to point out that Section 10 is not substantially different than the existing Section 8. I believe it is, and, in fact, has only had minor English changes.

Clause 10(2) agreed to

On Clause 10(3)

Clause 10(3) agreed to

On Clause 10(4)

Clause 10(4) agreed to

Clause 10 agreed to

On Clause 11(1)

Clause 11(1) agreed to

Clause 11 agreed to

On Clause 12(1)

**Hon. Mr. Graham:** Mr. Chairman, this is also a new section. All it does is correct the deficiency in the old Ordinance which made no provision as to the order of priority of sections within the Perpetuities Ordinance. This is a remedy for the situation that exists in the present Ordinance.

Clause 12(1) agreed to

Clause 12 agreed to

On Clause 13(1)

**Hon. Mr. Graham:** It is not new, Mr. Chairman, it is in the existing Ordinance, 6(2).

Clause 13(1) agreed to

Clause 13 agreed to

On Clause 14(1)

Clause 14(1) agreed to

On Clause 14(2)

**Mr. Mackay:** This is a little complex. Perhaps we could have an example of this type of situation.

**Hon. Mr. Graham:** Mr. Chairman, we are talking about Section 14 where you have a will made by 'A' granting property to 'B' who in turn grants it to 'C' who in turn grants it to 'D'. If 'C', in effect, had no authority or if the transfer of property to 'C' was void, then any subsequent transfer of property after him would also be void so in effect 'D', even though it is valid, shall not be prevented from being accelerated,— am I wrong? Would 'D' then be eliminated?

**Mr. Almstrom:** You are very, very close. The situation covers where there is one original will which creates a whole string of interests and somewhere in the middle of the string, one of the gifts is void because it offends the rule against perpetuities. The remaining interests are accelerated. Under the rule as it existed previously at common-law, the failure of one of the intermediate gifts would have resulted in a collapse.

**Mr. Penikett:** Mr. Chairman, I have got a general question. I was going to leave it until later to ask, but maybe I could ask it now in case the Minister can answer it.

**Hon. Mr. Graham:** Is that a slur?

**Mr. Penikett:** No, the Minister is fond of research. It might have taken him a couple of minutes to get the facts, Mr. Chairman.

I am wondering—there are obviously, in many other jurisdictions, particularly in the United States, families that have escaped all sorts of laws, including tax laws by creating family foundations or whatever, which appear to exist in perpetuity and, in fact, some of them seem to "grow like Topsy", as someone said, that, in fact, they seem to get a new life of their own.

I just want to understand if, for example, a couple of powerful families in Yukon, possibly the Grahams and the Langs, decided

that they wanted to create a foundation called the Graham-Lang Foundation, I do not even know if that is possible in Canada, but could they decide that with their enormous wealth and their properties in the Territory that they can transfer the properties to the foundation, even make rules about who were eligible to be directors in the foundation, in perpetuity, perhaps family members or whatever, and escape from all these constraints that are imposed?

**Hon. Mr. Graham:** Mr. Chairman, I do not know if the Graham-Lang total fortune of about \$3.75 last counted would enable us to set up a foundation, but if Mr. Almstrom is able to answer or feels that he can answer, I would be only too interested in the answer.

**Mr. Almstrom:** If you are worried about the effect of an ordinance such as this on such a foundation, the answer would be simply that by creating a foundation or any other corporation, it has perpetual existence in law, whether it is charitable or not or whether it is created by any particular person, it makes no difference as long as it is a corporation.

This Ordinance does not affect the status of corporations, it only relates to the disposition of property. If property is tied up in a foundation, for example, as long as the foundation has the power to dispose of the property, then the Ordinance does not affect it at all, but if the property is given to the foundation, with strings attached so that it cannot be disposed of by the foundation, then, of course, this Ordinance will affect it and the sections that relate to that will be coming up a little later.

**Mr. Penikett:** Mr. Chairman, I do not want to pursue this ad nauseam, as I understand the doctors say, but just let me understand that last point.

If the Graham-Lang Foundation, for example, have a lot of land and they decided that they would grant that foundation the land but the land could not be sold; that is the condition that, in fact, the rents off the land, whatever they were worth, in fact, could be dispersed for charitable purposes or whatever they deemed appropriate, that then, this Ordinance would, in fact, infringe upon their ability to do that, or put that kind of caveat or whatever, prohibition on the sale.

**Mr. Almstrom:** Mr. Chairman, that is essentially correct and the sections that deal specifically with that sort of a situation are found toward the end of the Ordinance.

Clause 14(2) agreed to

Clause 14 agreed to

On Clause 15(1)

Clause 15(1) agreed to

On Clause 15(2)

Clause 15(2) agreed to

On Clause 15(3)

Clause 15(3) agreed to

Clause 15 agreed to

On Clause 16(1)

Clause 16(1) agreed to

On Clause 16(2)

Clause 16(2) agreed to

Clause 16 agreed to

On Clause 17(1)

**Mr. Byblow:** I would simply ask for an explanation of the implication of this section.

**Mr. Almstrom:** There is no equivalent to this section in the existing Ordinance. Where a sale of property offends against the rule, the disposition is void. The property thus remains legally the property of the seller. If he dies, it may pass to his heirs. The effect of this section is to prevent the purchaser from suing the heirs to get the property, recover compensation for the loss of his bargain. All the purchaser is entitled to receive is the return of the purchase price. It extends the law as it ordinarily applies to wills and picks up this detail. It will occur, of course, in case of the contract.

**Mr. Falle:** What is that inter vivos, or whatever that means?

**Mr. Chairman:** Would you kindly address the Chair if you have a question, please?

**Hon. Mr. Graham:** Mr. Chairman, it means "between living people". I have got all those Latin terms down now.

Clause 17(1) agreed to

Clause 17 agreed to

On Clause 18(1)

Clause 18(1) agreed to

On Clause 18(2)

Clause 18(2) agreed to

On Clause 18(3)

Clause 18(3) agreed to

On Clause 18(4)

**Mr. MacKay:** My imagination is boggled by this one. Can I have an example of where this would apply?

**Mr. Almstrom:** Under (4), Mr. Chairman, we have the possibility, or the possibility that is prevented from occurring is a situation where a person has a piece of property and perhaps he wants to make some money out of it right now, so he gives it all kinds of options to lease far on into the distant future and that sort of thing is prevented. An option must be exercisable within the perpetuity period.

The balance of this section, incidentally, which is not really new law, saves a right to purchase the reversionary interest, which is the remaining interest, which would, say a lease to purchase scheme, where the lease was entered into within the perpetuity period, but there was a possibility that purchase after the lease would be exercised after the period, that much is saved. But, if it is a mere option to review a lease, the option must be exercisable within the period or not at all.

Clause 18(4) agreed to

Clause 18 agreed to

On Clause 19(1)

Clause 19(1) agreed to

On Clause 19(2)

Clause 19(2) agreed to

On Clause 19(3)

Clause 19(3) agreed to

Clause 19 agreed to

On Clause 20(1)

**Mr. Byblow:** Would that be a typo in line five of the main text after (b)?

**Mr. Chairman:** What word, Mr. Byblow? We are having trouble following you.

**Hon. Mr. Byblow:** It is a typing error, the line starts off "this Ordinance applies in relation", the 'l' and the 'a' are reversed.

**Hon. Mr. Graham:** A school teacher's eye catches those things you know.

**Mr. Chairman:** It has been noted.

Clause 20(1) agreed to

On Clause 20(2)

Clause 20(2) agreed to

On Clause 20(3)

**Mr. MacKay:** The last line of this one "subject of a charitable trust to which the cy pres doctrine applies". I wonder if our learned colleague could give us an explanation of this Latinism.

**Hon. Mr. Graham:** Mr. Chairman, it simply means that this section provides for the continuance of the use of the trust's money for charitable purpose, and after the original charity for which the money was destined, folds up, so under the cy pres doctrine, the property could be transferred to a similar charity. The limitation period is more specific under this section than it was in the old Ordinance.

On Clause 20(3)

Clause 20(3) agreed to

On Clause 20(4)

Clause 20(4) agreed to

Clause 20 agreed to

On Clause 21(1)

Clause 21(1) agreed to

On Clause 21(2)

Clause 21(2) agreed to

Clause 21 agreed to

On Clause 22(1)

Clause 22(1) agreed to

Clause 22 agreed to

On Clause 23(1)

Clause 23(1) agreed to

Clause 23 agreed to

On Clause 24(1)

Clause 24(1) agreed to

Clause 24 agreed to

On Clause 25(1)

Clause 25(1) agreed to

Clause 25 agreed to

On Clause 26(1)

Clause 26(1) agreed to

Clause 26 agreed to

On Clause 27(1)

Clause 27(1) agreed to

Clause 27 agreed to

On Preamble

Preamble agreed to

On title

Title agreed to

**Mr. Chairman:** I now declare that Bill Number 24, Perpetuities Ordinance has cleared the Committee of the Whole.

**Hon. Mr. Graham:** Mr. Chairman, I move that you report Bill Number 24, Perpetuities Ordinance without amendment.

**Mr. Chairman:** It has been moved by Mr. Graham that I report Bill Number 24, Perpetuities Ordinance without amendment.

Motion agreed to

**Mr. Chairman:** At this time, I would like to thank Mr. Almstrom for being our witness tonight, and he now may be excused. Perhaps as we are half way through our evening, we will call a short recess at this time.

Recess

**Mr. Chairman:** I will call Committee back to order. The next Bill on our itinerary tonight is Bill Number 7, Yukon River Basin Study Agreement Ordinance.

On Clause 1(1)

**Hon. Mr. Hanson:** There is not much to discuss on the Bill except that the benefits to be reaped by us, the things that we always wanted, a fisheries study of half a million dollars over a three year period, and a wildlife study in the Yukon River Basin, which is sadly overdue and needed, and the information exchange, and the hydrology on the river, water quality. They are all important things that we actually need on that river, because we hope to prevent having a river the same as the rivers are outside, completely polluted, so they are no good for anything.

There is not much in this to allow for the study on the effects of a dam on the river, but it does give us a chance to do a study on fisheries. It will be the first study really done on fisheries in the Yukon, on the Yukon River, because, as you know, the Fisheries Branch up here do not have a budget to actually do any fishing studies. They only have a budget for prevention of pollution and interfering from mining. They do not actually have any budget to do any study on fish. It is well overdue.

So, all in all, the budget is very beneficial to us financially, with a five per cent cost to us, 95 per cent paid by others. This, I might say, it was already agreed by Ottawa, that that is the way the agreement should be arrived at, that is, five per cent cost to us.

Just for that alone, I think the million dollars we spend on Fisheries and Wildlife is worth it and so really, there is not much you can say about it. It is a good Agreement for us.

**Mr. Penikett:** I was disappointed to hear the Minister's last remark about how the fish would be so outrageous as to interfere with a free-for-all tailings and silt and gravel and normal by-products of the mining industry, and I am sure this study will have to do something about making sure the fish do not do that anymore.

I would like to hear from the Minister something about the end product of the study. I seem to remember some years back hearing about or seeing in the bookshop, I have never read them, studies of the Peace-Delta Basin study and maybe even a Mackenzie Basin study that were, I think, joint projects between the Provincial and Federal Governments and they ended being bound into nice-looking books and put out by the Queen's Printer. Is that what will happen to these studies and will they be that complete? Is that what will be happening after this \$2.2 million is spent?

Perhaps the Minister might say a word about that. There was a rough, vague allusion to the Fisheries Study the other day and it was interesting to know if these studies are preparatory to this Government taking a major role in the Fisheries management, not the Federal Government, but this Government because clearly, as

the Minister said, he is upset by the way the fish are interfering with mining. I am wondering if this Government was planning to act decisively and do something for the mining industry by managing the fish.

Perhaps he might say something about his plans in that regard.

It would be interesting to know how the Basin is defined here. I think I know what it means in geography, but is that a very strict definition here or will these studies allow it to flow very generally from the Yukon area that is described? Perhaps the Minister might answer a couple of those general questions.

**Hon. Mr. Hanson:** I do not know which one he wants me to answer first but there were a few of them in there. Well, honestly, this Government really would like to take over Fisheries and not because of the mining industry either, but because we would like to take it over for one reason, simply the one reason being that there is no budget given by Ottawa now to the Fisheries Branch this year. We would like to have a Budget from Ottawa, that is why we have not taken it over because there is no Budget going with it. They will give it to us for inland waters but no Budget.

We would really like to take it over for the simple reason that it is a water study for Fisheries, because maybe we can have a business here for native people or whites for commercial fishing, if it was studied, or some of the lakes had some work done on them.

The study is to be done mainly in the Yukon River Basin. The studies will be done probably in preparation for that Heritage River design that they are coming out with in Canada. So much of the river would be protected as the natural heritage for the people of Yukon. So, we will continue to have studies of the wildlife, and whatnot, along the River.

Now, the one point, with \$2 million I hardly think there would be enough information gathered with that to write a beautiful bound book, like the Member opposite has suggested. But I suggest it probably would be the starting of a report on an inventory, that we are always talking about wanting to get, of our wildlife and fisheries. I think this will probably be the beginning of that final report.

**Mr. MacKay:** I am interested in how Mr. Penikett's allusion to the Peace River delta revived memories of the terrible problems that arose after the Peace River Dam was built.

I am interested in the parallels that spring to mind, Mr. Chairman, when I hear that NCPC has acquired \$3.5 million, quite a bit of which, I think, is being used to study the possibility of damming the Yukon River. Will there be any co-ordination of activity between NCPC and this Yukon River Basin Study, or will it actually result in, as I recall, from the three year time it takes to produce this study, a three year delay in NCPC's ability to be able to plan such a dam?

**Hon. Mr. Hanson:** No, I do not believe that the two studies are connected in any way.

**Mr. Fleming:** Yes, I think that the Honourable Mr. Penikett asked the question pretty well already but not entirely. In the area of the Yukon River which we know is not that long from here to where the border of Alaska lies, this is the Yukon River Basin Study. Does that mean that it is just going to be this area from where the Yukon River starts, or is going to take in the tributaries of that River, for instance, the Teslin River, the Pelly and all the rivers that entwine through the Yukon?

I think, myself, it sounds like a pretty enormous study if we have to all of a sudden have a new Ordinance to do it. I am just wondering how far-reaching it is.

**Hon. Mr. Hanson:** This Ordinance is a new Ordinance, but it is just an enabling Ordinance to enable us to sign an agreement with the Government of Canada for the money to conduct this study.

The study will start at the headwaters of the Yukon River and remain in the Yukon River Basin. How far they will get down the River on the \$2.2 million, I have no idea.

**Mr. Penikett:** I am sure they will not get down as far as Jimmy Smith's dam in Carmacks. Just let me ask a serious question for a second. Talking about those bound books, the Peace River Delta study, whatever, I do not remember the title, I apologize for that. I seem to remember that was a ten year period, a fairly long extensive involved thing and he is quite right, I do not expect the Minister to be able to write a very fat book based on these ones.

But that makes me wonder if, in fact, this is simply perhaps, as the Minister might have suggested, a very first stage, kind of an overture to some kind of continuing major study that might be going on for a period as long as ten years, as long as NCPC does not dam the studied project before then.

**Hon. Mr. Hanson:** I think we are getting confused. This is a re-

source study, it is not a hydro study. It is basically just for our resources, an inventory of our resources in the Yukon River Basin.

**Mr. Penikett:** One of the resources that you are going to be counting there are the fish that are getting in the way of the mining and they are also kind of a nuisance when it comes to dams, too.

I do not know about what fish do to timber, are there fish that eat trees?

I was thinking though that the Minister said that NCPC is not having anything to do with this and I am not asking about dams and those kind of things, but clearly as we know from the experience here in Whitehorse, you seem to get more fish on one side of the dam than you do on the other even if you have fish wheels. That is a problem and obviously if you are going to be studying a resource and how you use the resource, potential hydro sites are going to have some bearing on the future of that resource, I would guess.

**Hon. Mr. Hanson:** Basically, we are not doing it for hydro resources. We are trying to do a study on the Basin wildlife and what is happening to it.

What your friend, Mr. Smith, does on the hydro dam study is another subject altogether. This is trying to do our inventory, our basic inventory that we are trying to start through all of Yukon.

**Mr. Penikett:** Mr. Chairman, that is well and good, but what if the gentleman to whom the Minister just referred says, "the study be damned," and there is a great big hunk of concrete goes up in the middle of the area he is studying?

It seems to me it would make some sense to have a little chat with him once in a while and say, "Hey, how about it? Are my fish getting in the way of your dam?" It makes it hard to count your dams, too.

**Hon. Mr. Hanson:** I am not going to speak with the gentleman, to start with. He is interested in hydro, and I am interested in renewable resources. So, we do not have much to talk about on that.

I suspect the information that we are gathering here will - as you notice, we have got \$200,000, as well, to spend on the socio-economic impact on that River, and I suspect that that information will tell us what people really are earning from that River, or are using from that River, as well.

**Mr. Byblow:** It seems to me that the gentleman about whom we are speaking and the Minister have something very common in a renewable resource, namely water.

Nevertheless, I would like to ask the Minister if his Department is going to be entirely responsible for doing this study? Is it within the man years and manpower of his Department? Will there be additional expertise brought into this Government and the Territory?

I realize this is just enabling legislation to bring that agreement about, but what does it mean in terms of mechanics within the Department?

**Hon. Mr. Hanson:** I strongly suspect that, with the agreement, there will be some people coming into the Territory, with their expertise. For instance, we have one person in the Territorial Government right now who is a biologist in Fisheries, and he is leaving in another two months. So, we will have to bring in people for those specific jobs, but for the wildlife study we have the people right here to do that. A management committee will be set up, of DIAND, I suspect, and Environment Canada, and they will correlate all the programs.

**Mr. Fleming:** Yes, Mr. Chairman, I would presume that due to the fact that 2(1) says, "The Commissioner may enter into an agreement with the Government of Canada...", okay, but it is still going to be more or less under the Canada Water Act and so forth and so on. I would say that Ottawa would be happy to say as to what we do entirely if it goes according to this Ordinance, because we are not into the specifics of it yet but it is fairly small and it is right here in front of me. I would expect that actually the Federal Government would have to say pretty well as to what the terms and conditions were that you are going to do the study on.

**Mr. MacKay:** The mention of this as being a preliminary study to perhaps having a heritage river recalls for me what seemed to be an opening ceremony across the border a year or two ago of a Gold Rush Park which was to follow the route of the Gold Rush all the way from Skagway to Dawson City. I wonder if the Minister has heard what happened to the Gold Rush Park that was supposedly established starting in Skagway and was to follow the route of the Gold Rush downriver to Dawson City and where does it fit into this study, if at all?

**Hon. Mr. Hanson:** I think you are talking about a different program altogether. The heritage thing that we are talking about now is the program that the Federal Government, Canadian Government, let us not confuse it with the American, it is the Canadian

Government program that any river in Canada that a province would like to designate as a heritage river, for the first rivers to be cleaned up, that have been polluted and what not, which we have not too big of a problem as yet, so much money will be spent to clean it up that will be called the Heritage River and will be kept free of all pollutions. It is a new program and it is just in the talking stage yet. That is the heritage thing that I was talking about.

**Mr. MacKay:** In your capacity as Minister for Renewable Resources you could tell us if there has been any negotiation or discussions, that you are aware of, with the American side with respect to implementing this concept that they had of a park being established along the route of the Gold Rush.

**Hon. Mr. Hanson:** Not since I have been Minister. Maybe the former Minister might.

**Mr. MacKay:** Perhaps I could repeat the question for the Minister and his former Minister. Has there been any negotiations or discussions between the American side of the border and the Canadian authorities, be it Yukon or Canada, with respect to the establishment of an historic park corridor along the route of the Gold Rush, from Skagway through to Dawson City?

**Mr. Tracey:** Yes, Mr. Chairman, there has been quite a bit of discussion with the Americans on it. It is still going on, in fact, and this park program on the Yukon River was part of this Gold Rush Historic Park thing.

There is one problem that we have with the whole aspect of it, and that would be that the Gold Rush River Park, if it was a continuous corridor, would split the whole Yukon, and we would have a park running right through the whole middle of Yukon, which would give us many problems. So, what we were looking at was to have park nodes all along the River, like around Fort Selkirk, and Hootalinqua, and areas like this, instead of having a continuous corridor. I think that is still being worked on right now.

**Mr. Penikett:** I have 'one question I would like to ask. Would the former Minister undertake to brief the present Minister on this, at the nearest opportunity? I would also like to hear what the other former Minister of Renewable Resources has to say.

This seems to me an interesting problem, because there may be some things in conflict here. You are talking about park nodes. I seem to remember talking about that before. Nodes, I seem to last remember hearing about in connection with cancer, or something. But I guess they are little bubbles of park around places like Carmacks. I assume the Member was not wanting to include Carmacks in one of those nodes.

This Bill is just a study, but the kind of heritage concept this Minister is talking about seems to be somewhat at odds with the other one. Last year, we dealt with a report on the River, somebody had paid for it, and I think we seem to get mixed up about some \$400,000 one that we were discussing last spring. It probably had nothing to do with it, but I seem to remember it got mixed up. I remember we got confused when the Government Leader explained it to us.

I cannot think of any Minister I would rather have in charge of the river than the present incumbent but perhaps he could just tell us how he is juggling these balls. This is preliminary or maybe it has nothing to do with it at all, this is counting the fish and measuring the water and all that stuff, which is great. Then there is this heritage concept, this gold rush concept, has anybody else got any plans for your river that we should know about?

**Hon. Mr. Hanson:** All three are different. This basically is the inventory of our resources, the starting of an inventory of our resources. As you know, the longest river in the Yukon is the Yukon River and that is where we are starting from. I hope it will go on until we have all the rivers done as long as they keep on bringing up the money for us. The three are not related as far as I can see.

I have seen some stuff in the files about the gold rush parks that the Member was talking about, but from reading newspapers a few years back I remember the corridor talk but I have not been in any talks on it up until now so I am not too much aware of what was going on before.

**Mr. MacKay:** I appreciate the Minister's tidy, compartmentalized mind on these things. This is his department and he looks straight ahead.

I do have some difficulty visualizing how some of these things are not interconnected and I am just voicing a concern that the Minister might want to pass on to his advisors when they arrive, that there are two other competing interests in this river that we are aware of that may very well have a significant affect upon the inventory they take today versus inventory they might take ten years from now.

It is nice to study these resources but there has to be some

purpose for it other than just knowing what was there in 1981 or to whenever this thing goes.

I am just voicing a concern, I think, that we probably share on both sides of the floor, the fact that there are competing uses for this resource. This study is a very good way, I think, of trying to determine, objectively, what is the best use so I leave these few words of warning in the Minister's ear that he might want to pass on to his expert advisors.

**Hon. Mr. Hanson:** I heard you mumbling, however, I heard enough to understand that I do not understand, but I must keep on telling you that it is a study of our renewable resources, basically. Now, what happens with a dam, or whatever, will happen despite whether we do it or not, but I would like to think that we are doing it for an inventory of our renewable resources, and we can say what we are losing if they do put a dam up. That is better than knowing nothing at all. It is a very needed study.

**Mr. Penikett:** Last year, Mr. Chairman, the Minister gave me a wonderful Mayo-Landing-mining-man speech about how hydro was one of the renewable resources. Is he now telling us it ain't?

**Hon. Mr. Hanson:** I do not recall ever making a hydro speech to the Honourable Member, and calling it a renewable resource. I do not remember ever making such a statement, frankly, but the water is still a renewable resource, it still can be used again.

**Mr. Fleming:** I have a little feeling, somewhere, that there is something more than what we are hearing about in this Ordinance. I just cannot quite get the drift of this.

Not too long ago, the Minister was in the House and the Game Department was already going to count all the moose in the Yukon Territory, I am quite sure of that, and find out how many of those we have. There is a fish ladder up here, and the fish that do get through are counted, and I do not know about the ones that do not get through, and I presume there are lots of them. However, they are counted, and if you want to go down the River and find out how many are caught, that is fairly simple too.

I am just wondering what this \$2 million, or whatever is being spent, is really going to be spent on counting when we are already doing some of things. Now we are just going to do them over again. I wonder if, somewhere along the line, if it is not really meant for something else, and of course, I have the feeling it was meant to find out just whether we should dam the river or not. I presume that is it.

**Hon. Mr. Hanson:** I could probably go on all night arguing about it, and no matter what I say, I know the Honourable Leader of the Opposition would not understand. It has taken two Sessions for me now. You are no better, maybe a little worse. You are older. It has taken me five months to explain to the Opposition about COPE, and he still does not know anything. I asked for a blackboard here so I can draw pictures for him, and he still does not understand.

**Hon. Mr. Hanson:** The Honourable Member for Campbell is now talking about, "we knew all about the fishes because we see the salmon going upstream". Only he said they were fish, they are not just particularly salmon. There are other fish in the River beside salmon that you do not see going upstream, and that, as I keep on telling you, is the basis of this. Your friend in Ottawa has not told me of any other ulterior motive that he might have, but he could have lots.

It is a study of our resources, our renewable resources. Renewable resources are water, trees, flowers, wildlife, the birds, the fishes, and even the people who live along the river.

I do not think dams are considered as a renewable resource. Unfortunately, Scotchmen are. However, we accept them, with a little protest.

But that is basically what the Bill is based on, the study of our renewable resources.

**Mr. Penikett:** Mr. Chairman, it is always entertaining to have the Member for Mayo backed into a corner.

It is clear that the Member for Campbell is alleging that the Minister has more fish to fry here. That is not the best one, I have a better one coming in a minute, but I think what is very plain, from having listened to the Member for Mayo, and I have listened carefully for the last 15 minutes, is that there is nothing very objectionable here. In fact, there is less here than meets the eye, and even at \$2 million, it is probably a good deal.

**Mr. MacKay:** I always know that the end of debate is near when the Minister starts referring to "Scotchmen", and that the night is wearing on.

I was interested in the Member's reference to COPE, because it is a subject, as he knows, that is dear to my heart, and I am wondering where it enters into this agreement, because I am sure



they must have some jurisdiction over the Yukon River.

**Mr. Chairman:** If there is no further general discussion, we will consider a clause-by-clause discussion.

On Clause 1

Clause 1 agreed to

On Clause 2(1)

**Mr. MacKay:** Does the Minister have any draft agreement ready for the House to take a look at?

**Hon. Mr. Hanson:** No, I misled you a while ago. I thought that we did have a draft agreement, but we have not. It was a working paper that we were working on for the agreement with the federal departments, but it is not an agreement, as such.

**Mr. MacKay:** Would the Minister undertake to table the agreement when it is signed, with a five minute ministerial statement?

**Hon. Mr. Hanson:** I will mail you one.

Clause 2(1) agreed to

Clause 2 agreed to

On Clause 3(1)

Clause 3(1) agreed to

Clause 3 agreed to

On Preamble

Preamble agreed to

On Title

Title agreed to

**Hon. Mr. Hanson:** Mr. Chairman, I move that you report Bill Number 7, Yukon River Basin Study Agreement without amendment.

**Mr. Chairman:** It has been moved by Mr. Hanson that I report Bill Number 7, Yukon River Basin Study Agreement, without amendment.

Motion agreed to

**Hon. Mr. Graham:** Mr. Chairman, I move that you report progress on Bill Number 7.

**Mr. Chairman:** Mr. Graham, I think probably I shall start Bill Number 20 first.

**Hon. Mr. Graham:** Okay.

**Mr. Chairman:** I now refer you to Bill Number 20, Energy Conservation Agreement Ordinance.

On Clause 1(1)

**Hon. Mr. Graham:** Mr. Chairman, I move that you report progress on Bill Number 20, and beg leave to sit again.

**Mr. Chairman:** It has been moved by Mr. Graham that I report progress on Bill Number 20 and beg leave to sit again.

Motion agreed to

**Hon. Mr. Graham:** Mr. Chairman, I move that Mr. Speaker do now resume the Chair.

**Mr. Chairman:** It has been moved by Mr. Graham that Mr. Speaker do now resume the Chair.

Motion agreed to

Mr. Speaker resumes the Chair

**Mr. Speaker:** I now call the House to order.

May we have a report from the Chairman of Committees?

**Mr. Lattin:** Mr. Speaker, the Committee of the Whole has considered Bill Number 26, Frustrated Contracts Ordinance, and Bill Number 28, Reciprocal Enforcement of Maintenance Ordinance, and Bill Number 24, Perpetuities Ordinance, and Bill Number 7, Yukon River Basin Study Agreement Ordinance, and directed me to report same without amendment and further, to report progress on Bill Number 20, An Energy Conservation Agreement Ordinance, and beg leave to sit again.

**Mr. Speaker:** You have heard the report of the Chairman of Committees. Are you agreed?

**Some Members:** Agreed.

**Mr. Speaker:** Leave is so granted.

**Hon. Mr. Pearson:** Mr. Speaker, I rise to present to the House a case of a possible breach of privilege, which is obviously of great concern to both sides of this House. On Thursday, April 10th, I notified the House that the telephone of the Honourable Minister of Justice had been subject to some interception.

I indicated at that time that I planned to undertake two courses of

action. Those being: to seek advice from the Legal Counsel of the House of Commons, and to petition the Solicitor General of Canada to determine the propriety of telephones belonging to Members of this House being made subject to interceptions.

I also said, depending upon the response I received, that I would be quite willing to move a motion to have this matter referred to a committee of this House for consideration.

Since that time, I have gained a feeling from Honourable Members that they take a sufficiently serious view of this matter, as it stands, to justify placing it before a committee without further delay.

It is not my duty or place at this time to prove that there has been a breach of privileges of a Member of this House.

Rather, I am only able to submit to the House that a question has arisen as to whether such a breach of privilege has taken place.

I think there is little doubt that this kind of question is now before us and I also think it incumbent on the House to give very serious consideration to the issues which arise from it and as to whether a breach of privilege has taken place. I do not believe there are any easy answers in this case and I do not propose to move a motion which provides immediate solutions or actions. Rather, I would follow the usual Parliamentary course in such cases and propose that the matter be referred to a Committee of this House. Accordingly, Mr. Speaker, should you rule that there is a prima facie case of privilege, I would move, seconded by the Honourable Minister of Municipal Affairs, that the Honourable Members Mr. Pearson, Mr. MacKay, Mr. Penikett, Mr. Byblow and Mr. Tracey be appointed to a Special Committee on Privileges; that the Committee consider the matter of the interception of a Member's communications brought to the attention of the House on April 10, 1980 and report its findings to the House; that the Committee have the power to call for persons, papers, and records and to sit during intersessional periods; and that the Clerk of the Legislative Assembly be responsible for providing the necessary support services to the Committee.

**Mr. Speaker:** In respect to the question of privilege raised by the Honourable Member, I will attempt to defer my decision now in an attempt to bring in a decision tomorrow when next we sit. May I have your further pleasure?

**Hon. Mr. Graham:** Mr. Speaker, I move, seconded by the Honourable Member for Hootalinqua, that we do now call it 9:30.

**Mr. Speaker:** It has been moved by the Honourable Minister of Education, seconded by the Honourable Member for Hootalinqua, that we do now call it 9:30.

Motion agreed to

**Mr. Speaker:** This House now stands adjourned until 1:30 P.M. tomorrow.

The House adjourned at 9:22 o'clock p.m.

[The page contains extremely faint and illegible text, likely due to low contrast or scanning quality. The text is organized into two columns, but the individual words and sentences are not discernible.]

**Whitehorse, Yukon****Tuesday, April 15, 1980 — 1:30 p.m.****Mr. Speaker:** I will now call the House to order.

We will proceed at this time with Prayers.

Prayers

**Mr. Speaker:** Before proceeding with Daily Routine this afternoon, I would like to deal with the matter of privilege as raised yesterday.

On Monday, April 14th, as the House is aware, the Honourable Government Leader raised a question of privilege relating to the electronic surveillance of Members' telephones within the precincts of parliament.

Questions of privilege are very, very serious matters and therefore must receive the most serious consideration by all Honourable Members. Before apprising the House of my decision in this matter, I think it incumbent upon me to draw to the attention of all Honourable Members some of the principles upon which parliamentary privileges are based.

To paraphrase Erskine May: "Parliamentary privilege is the sum of the peculiar rights enjoyed by the House and by individual Members, without which they could not discharge their functions and which exceed those possessed by other bodies or individuals. Thus privilege, though part of the law of the land, is to a certain extent an exemption from the ordinary law."

Redlich, as quoted in the Procedure of the House of Commons, states, "There is the right inherent in each House to exclusive cognizance of the matters arising within it. This is the basis of complete autonomy of each House in respect of its procedure and hence are derived the special rights of the House, which may be called the clasps which bind together the whole subject matter of privilege, namely, its right in any particular case to be the sole and authoritative judge as to the existence and extent of a privilege and as to whether it has been infringed and its further right to use its inherent power to punish, by way of sanction to the judgment at which it arrives."

W. F. Dawson describes privilege as, "Essentially the defensive weapon of a Legislature which has been used to protect itself against interference."

Upon a matter of privilege being raised, the Speaker must decide whether the question has been raised at the earliest opportunity. Secondly, has a prima facie case been established? On the first issue, I find that under the special circumstances of this case there has been no undue delay.

Now in determining if a prima facie case has been made I have found it necessary to establish whether there are precedents relating to the question of privilege raised by the Honourable Member.

In this regard there are three precedents of the House of Commons which have been noted.

In May of 1972, Speaker Lamoureux held an alleged wire-tapping of a Member's phone to be a prima facie case of breach of privilege.

Secondly, on September 4, 1973, a Member raised a question of privilege because her office was visited and her staff interrogated by the Royal Canadian Mounted Police and the Ottawa Police Force without having received permission from the Speaker or from herself. Her staff was questioned in her absence and without her permission as to her activities, contacts, telephone calls, and conversation in relation to files and documents missing from a Government department. The Member said at that time, "I have an overriding obligation to ensure that the privacy of my office is not violated". Speaker Lamoureux in his response said, "I have no doubt that all Members of this House are highly concerned about such activity. I have no doubt whatsoever that Members would not want to be placed in the position where in their absence from their offices, representatives of police forces, either Federal, Provincial, or Municipal should be allowed to go in and without any authority whatsoever question members of the staff.

"I think that is an extremely serious matter and I have no doubt at this point that I express the views and concern of each Member of this House when I say that if ever there was an apparent breach of a Member's privilege, this is it."

It is also interesting to note that in this case the Committee on Privileges and Elections decided that the privilege of the Member had been breached.

Thirdly, on October 17, 1973, a Member raised a question of privilege because his caucus had been subject to electronic surveillance. The Speaker said, "It is obvious to the Chair that there is a prima facie case of breach of privilege."

A further precedent can be found in the case of a Provincial

Parliament where on March 3, 1980, a similar case to the one before us was raised in the Legislative Assembly of British Columbia, where the telephone of the Minister of Consumer and Corporate Affairs was subject to wire-tapping. Speaker Schroeder ruled on March 6, that the question was one meriting consideration by the House, and in making his decision stated, "When we speak of the privilege of Members of the House, what is really at issue is not a special dispensation to Members, but rather that right of a Member's constituents and of the electorate at large to have at their disposal the unimpeded services of those that they have elected."

In light of the statements by Parliamentary authorities and of existing precedents, there can be no doubt that the Honourable Member has established a prima facie case of privilege and I would so rule. Accordingly, I will allow the motion moved by the Honourable Government Leader, seconded by the Honourable Member of Municipal Affairs:

THAT the Honourable Members Mr. Pearson, Mr. MacKay, Mr. Penikett, Mr. Byblow and Mr. Tracey be appointed to a Special Committee on Privileges;

THAT the Committee consider the matter of the interception of a Member's communications brought to the attention of the House on April 10th, 1980, and report its findings to the House;

THAT the Committee have the power to call for persons, papers and records and to sit during inter-sessional periods, and;

THAT that the Clerk of the Legislative Assembly be responsible for providing the necessary support services to the Committee.

Is there any debate?

**Hon. Mr. Pearson:** Mr. Speaker, I think I would like to say a few words about the parameters of such a motion, how a committee can deal with this kind of a question.

Mr. Speaker, I think I would like to first make the point that this Committee will not have the Minister of Justice on trial, that is not the question before it. The question before the Committee is whether, in fact, any MLA's telephone should be intercepted in any way at all, for any reason at all. I believe, Mr. Speaker, very strongly, that that is the question that we, as a Committee, must answer and make recommendations to this House on.

I would suggest, Mr. Speaker, if we go beyond that point, then we are going beyond our terms of reference.

**Mr. MacKay:** Mr. Speaker, I, too, would like to say a few words about the parameters of this Committee. I think, in essence, I agree entirely with what the Government Leader has just said.

The wording of the motion is fairly broad, but, to me the intent is to investigate a breach of privilege as a constitutional issue, not to go back and find out why or if there was any reason, specific reason for the wire-tap, but just as a matter of whether or not that particular law of the land violates, in the way it was handled, the privilege of this House and the Members in it.

On the other side, I do not think it is the function of the Committee to necessarily produce an opinion as to the fairness or unfairness of the law, as it relates to wire-tapping.

I think that probably remains something that this House should debate and decide upon.

So I think finally too, that it cannot be emphasized too strongly what you yourself, Mr. Speaker, said is that the privileges at stake here are not those of an MLA being placed above the law, but the privileges at stake are the means by which an MLA may confidently communicate with his constituents and vice versa. I think that is the essential issue that we are addressing and I do not think it should be muddled by trying to put the Minister of Justice on trial, or digging into these things, nor should it go the other direction of trying to interpret or produce an opinion as to whether a statute of Canada is a good or bad piece of legislation.

**Mr. Penikett:** Mr. Speaker, I have a remark I would like to make on this motion. The Speaker was kind enough to apprise us of the decision of Mr. Speaker Schroeder on a similar matter before the BC Legislature. I think most compelling and pertinent part of Speaker Schroeder's decision was his remark that these privileges are not a special dispensation to Members of the House. It is perhaps unfortunate because of ancient uses that we end up talking about something here defined as privilege, which is in this contemporary day and age of a more democratic society, is a word with some unpleasant odium.

What is at stake here, just reiterating, is the rights of our constituents, the rights of our constituents to communicate freely and directly with their representatives in a private, confidential way about matters affecting sometimes the most delicate and profound issues in their daily lives, sometimes matters where they have a grievance with the Government, or a petition or representation-

they wish to make. That is their right which we should fight very fiercely to protect.

The question we have before us, I think, probably seems a bit esoteric to some people who have not contemplated the implications of the implementation and use of some modern forms of technology but I think we have to understand that this matter is as serious as Cromwell marching the Round Heads into Westminster or Mr. President Nixon's government agents breaking into the offices of some democratic party and stealing files. I think it is doubly serious when you are dealing with an elected representative.

I think, in my view, this matter is even more profound because we are dealing with the telephone of a Minister of Justice who, in my view, has a special responsibility as the Chief Law Enforcement Officer locally, not that that is to say that he should be immune from investigation or prosecution only that it raises questions about who is the authority here in terms of the administration of justice.

I think the Opposition Leader has raised three issues which are posed by this case. First is the obvious question of privilege which I mentioned. There may be other questions about the performance of Ministers in the Cabinet. There may also be a question ultimately before this House about how this House feels about the policy and the law which led to this interception. I would submit and I think agree with other Members who have spoken, the business before this Committee is only the first of those issues. The other two matters may be raised in the House, may be dealt with in the House but they are not the business of the Committee which is proposed today.

On that note, Mr. Speaker, I would conclude.

Thank you.

**Mr. Fleming:** Mr. Speaker, I did have some concern with the motion that it might, in some way, give that Committee the right to actually check the Minister of Justice and see what his actual workings in this case may be. However, I think that that is fairly well cleared up, that we only consider the matter of the interception itself. In that instance I would say, yes, you can only, and I think this Committee can only, deal with the law itself because even though, Mr. Speaker, you read this morning in many areas where somebody has said so and so, and so and so, and we have these certain rights and everything, I think you must remember that the Parliament of Canada has more or less defied those rights themselves in the fact that they let this law pass that you can use bugging devices.

So therefore, you have got to remember that they have made that law, even though some of those very people who were in the House of Commons have said, really, that that is a breach of privilege to do it.

I think that as far as the Committee is concerned, that is really the only area that they could actually work in, because otherwise they are working against the very laws that are made in this land. As I say, you just cannot do something against the law at the moment, but you can, I suppose, oppose that law.

If the Committee comes forth opposing the principle that you can bug anybody, I would be probably very agreeable. If that Committee happened to come back with the proposal that only the Minister of Justice or anyone else personally could not be, I would be very disturbed.

I think that Mr. Penikett has just said it, it is the rights of the citizen, the rights of your constituents that is really at stake. Again, I must say I believe in that, however, again, we must remember that Canada made a law that those citizens maybe can be bugged.

So, you know, it does create a problem and, as I say, if we could change that law so that nobody could be bugged, I might be very agreeable. However, I would never be agreeable to changing it so that any certain person, even Members of Parliament, as far as I am concerned, were not under the same rule as anybody else, although there are probably some privileges that they should have, but I find it difficult to separate any one person in Parliament, in any area, from the justices of the land.

Thank you, Mr. Speaker.

**Hon. Mr. Lang:** Mr. Speaker, I would just like to make a few comments in respect to the resolution and the ruling that was put before us.

I think it has really come home to the people in Yukon, the discussions and the various articles that were written over the past number of years in respect to using wire-tapping methods to procure information. It is something that you read, that you never think is going to affect you personally or affect someone you know or somebody you work with. But it has come home and the laws of the land that the Member for Campbell referred to, have actually,

all of a sudden, been felt by the people of Yukon.

I think it is fair to say, from what the Government Leader said, the Committee being struck is not there to put the Minister of Justice on trial. I think it is fairly evident from this side of the floor, and I think the general public recognizes that the Minister of Justice has carried out his responsibilities in a very well and efficient manner.

But I think the most important fact here, Mr. Speaker, that concerns me as an elected representative and as a citizen of Canada, I see the State increasingly become more and more involved in everybody's business, to the point that they do have the ability now to effectively go through what would be termed an invasion of privacy.

An example, at lunch hour, one citizen said to me, "Well, perhaps they should make it the law that if the RCMP are listening, then they pay 50 per cent of the telephone bill."

I think it is very important, Mr. Speaker, in respect to where our responsibility lies and this is that the people of Yukon have to recognize. The Member for Campbell has said, we do not have responsibility for the Federal legislation, but we do have the responsibility for the privileges of the Members of this House. That, in turn, translates to the people that you and I represent.

I find it myself right now, Mr. Speaker, when I pick up the telephone, I am very uncertain. In fact, I am thinking that maybe I should be going into the washroom, turning the bathtub faucet on and then having the conversation, because you do not know. Not that I have anything to hide, but the point is I do not think it is up to me to be nervous that somebody else has the ability to come and listen to my telephone when I have somebody, who the Member for Whitehorse West spoke of, the constituent who has a problem, perhaps he has a problem with the RCMP, a legitimate problem that perhaps we, within the parameters of this House, or at the executive level, can do something about.

So, Mr. Speaker the third party knows and that individual, as a citizen, his ability to communicate a problem within Government, whether it be the RCMP, whether it be within the various Departments that we have responsibility directly for, or indirectly as far as other Members are concerned, they are very nervous when they get on the end of a telephone now, too. We are getting to the point that I feel, Mr. Speaker, the only place that I feel confident is perhaps maybe walking in the park.

All I can say, Mr. Speaker, this is an awfully serious area of concern, not only for the Members of this House, but the public at large, their ability to communicate with each and every one of us on an individual basis. Once we allow the state to interfere in those conversations, then, Mr. Speaker, we have effectively lost the privileges that you so succinctly spoke of in your opening remarks.

**Mr. Byblow:** Mr. Speaker, I would simply add my concurrence to the comments articulated with respect to the parameters of the Committee and the principles involved. I believe that we are correct in assuming that it is not the business of this Committee to assess the Federal legislation nor is it the business of the Committee to assess the propriety of the Chief Justice Officer of the Territory. It is the business of this Committee to assess the rights and privileges of the Members in the delivery of their responsibilities to their constituents. I look forward to participating in this Committee and in its final report.

Motion agreed to

**Mr. Speaker:** We shall proceed at this time to Daily Routine.

#### DAILY ROUTINE

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

Reports of Standing and Special Committees?

Presentation of Petitions?

Reading and Receiving of Petitions?

Introduction of Bills?

#### BILLS: INTRODUCTION AND FIRST READING

**Hon. Mr. Graham:** Mr. Speaker, I move, seconded by the Honourable Member for Hootalinqua that Bill Number 17, An Ordinance to Amend the Transport Public Utilities Ordinance be now read a first time.

**Mr. Speaker:** It has been moved by the Honourable Minister of Education, seconded by the Honourable Member for Hootalinqua, that a Bill entitled An Ordinance to Amend the Transport Public Utilities Ordinance be now introduced and read a first time.

Motion agreed to

**Mr. Speaker:** Are there any further Bills for Introduction at this time?

Are there any Notices of Motion for the Production of Papers?  
Notices of Motion?

Statements by Ministers?

This then brings us to the Question Period. Have you any questions?

#### QUESTION PERIOD

##### Question Re: Wire-Tapping/Minister of Justice

**Mr. MacKay:** Mr. Speaker, I have a question with respect to the actions of the Government Leader as it concerns the recent wire-tapping of the Justice Minister's phone. I would like to ask the Government Leader to put clearly on record, that in the course of his investigations of the actions of the Minister and any other Minister involved in this, that no actions or attempted actions occurred which would bring the proper discharge of that Minister's duties into question.

**Hon. Mr. Pearson:** Mr. Speaker, I want to thank the Honourable Leader of the Opposition for the opportunity to put firmly on record that I, as I indicated before, looked at this matter very, very closely, very, very seriously and with the utmost concern. Mr. Speaker, I am convinced beyond any doubt at all that there was nothing done nor anything attempted by any Member of this Government in respect to this case whatever. There just simply was not anything done at all.

**Mr. MacKay:** Another concern arises from this incident, Mr. Speaker, and that is with respect to the Minister of Justice's relationship with the RCMP and his duties involving negotiations and agreements with the RCMP and other matters. Has the Government Leader considered whether the Minister of Justice's impartiality and ability to discharge his duties has been affected by the recent incident?

**Hon. Mr. Graham:** Mr. Speaker, if you are curious, why do you not ask me? I do not have any problem telling you. I think I am the only one in this Legislature, at least from the sounds of debate to this point in time who thinks that the RCMP not only had every right, they had the responsibility of tapping my phone if they thought that it would either resolve a criminal case or help them in their investigations. I do not have any problem with that whatsoever.

The fact remains, I did not do anything. I did not do anything then. I have not done anything since and if you have the intestinal fortitude to stand up and ask these questions, I wish you would ask them of me. I would have been only too happy to tell you.

**Mr. MacKay:** The obvious lines of authority which have to be followed in these cases, or have been followed by me and I am not in lack of any intestinal fortitude. I would like to ask the Government Leader, since he is responsible, whether the incident that has occurred has created any cloud or a conflict of interest, in his mind, that the Justice Minister may not be able to carry out his duties in the Justice portfolio and, if so, whether he has considered assuming that portfolio for the duration of the case that is coming?

**Hon. Mr. Pearson:** Mr. Speaker, there is no question in my mind at all. The Minister of Justice is completely capable of carrying out his duties to the utmost extent. There has not been any indication by anyone that this incident has in any way caused any conflict. I just do not believe that such a case could be made, at any time.

Mr. Speaker, the Minister of Justice is a dedicated public servant, doing a job to the very best of his ability and, Mr. Speaker, I think probably I should say it once again, when all of this arose, he came to me and said, "If I am going to be any embarrassment to you or to this Government, I will submit my resignation to you right now."

Mr. Speaker, I did not ask him to do that. He did that. He feels that responsibility and as long as he feels that responsibility, Mr. Speaker, I am quite comfortable in saying that he should retain his position and I intend to see that he does, and fulfils his duties to the utmost.

##### Question re Wire-taps on MLA Phones

**Mr. Penikett:** Mr. Speaker, I do not want to join the same line of questioning, but I do have a question on the same subject as it affects other Members. In his communications with the RCMP concerning this particular interception, did the Government Leader have the occasion to ask of the RCMP if there were any other taps in existence on other Members' phones?

**Hon. Mr. Pearson:** Mr. Speaker, I have not been in communication with the RCMP on this matter.

**Mr. Penikett:** I am sorry, Mr. Speaker, I did not want to create a false impression at all, but I understood the Government Leader had at some point been apprised by somebody about the existence

of the tap and whatever officer of the Court or the Justice System—, well, I understood there had been someone else involved.

Let me ask the question then of the Minister of Justice, if the Minister of Justice has been the vehicle here. Has the Minister of Justice asked, and I grant that he has a problem here, because he is both the Chief Law Enforcement Officer and a Member of this House, has the Minister of Justice asked the RCMP if there are any, at present, wire-taps in existence on other Members of this House?

**Hon. Mr. Graham:** I have not formally, Mr. Speaker, however, it has come to attention informally that there are no other taps currently in existence on any Member of this House.

**Mr. Penikett:** Mr. Speaker, I am please to have that assurance. Just so that it is effectively on record, could I just ask the Minister of Justice as to how recently he may have received that assurance?

**Hon. Mr. Graham:** Roughly three months ago, Mr. Speaker, it was about mid-December. However, I would undertake to enquire and report back to the House.

##### Question re: Game/Reciprocal Hunting Privileges with NWT

**Mr. Byblow:** I have a question for the Minister of Renewable Resources. Are there any negotiations anticipated or presently underway between this Government and NWT with respect to reciprocal hunting privileges, particularly in border areas?

**Hon. Mr. Hanson:** Not that I am aware of, Mr. Speaker.

**Mr. Byblow:** I believe the Minister has been apprised of the situation on the North Canal, where a Game Branch Officer of the NWT is posted during the hunting season, on the border, even though there is obviously no hunting or access from the NWT side. Has the Minister communicated with any NWT officials over this matter?

**Hon. Mr. Hanson:** Mr. Speaker, we hope to be meeting with the Northwest Territories in the next two or three months. At that time I will bring this notice to the Minister of Renewable Resources in the Northwest Territories but he should be well aware that I do not expect them to remove the guard from the border. I mean, those are their moose over there so they are not going to let us in to get at them.

##### Question Re: White Pass

**Mr. MacKay:** I have a question for the Government Leader on the question of White Pass. The CBC report, Mr. Speaker, indicated that Government action was required to save the White Pass within thirty days. That deadline having long since passed, can the Government Leader tell us if, in fact, the situation is not as serious as it appeared to be a month or so ago?

**Hon. Mr. Pearson:** Mr. Speaker, the thirty days has long since passed, I agree, and the situation is, from my perspective, as serious as it ever has been.

I do understand, Mr. Speaker, that the seriousness of the situation from the Federal Industries point of view may have been eased somewhat in the past couple of months because unofficially I have heard that, in fact, their major losses have been reduced somewhat in the past few months so that now they are not losing as much money each month that they keep the railway operating. Possibly there has been some easing there.

However, Mr. Speaker, the question is one that must be resolved and resolved as quickly as possible for everyone's benefit, not only this Government's, but for Federal Industries, for the major users of the railway, and for the people of this Territory. It is vitally important that decisions are taken at the earliest possible date.

**Mr. MacKay:** Mr. Speaker, can I ask if the Government Leader is aware that White Pass has recently attempted to solve some of its problems by significantly increasing its freight rates to its major user, Cyprus Anvil, and whether he has thought of whether this Government would support that move or not and White Pass bailing out itself?

**Hon. Mr. Pearson:** Mr. Speaker, I am aware that on the first of April, the White Pass and Yukon Corporation advised Cyprus Anvil Mines that their freight rates for ore were going to be increased to what is commonly called the compensatory rate. Now, this compensatory rate, Mr. Speaker, is one that is established, in fact, for the railway by the CTC.

I am also aware, Mr. Speaker, because I have been advised so by the President of Cyprus Anvil, that they have sought an injunction against having to pay that compensatory rate, effective April 1st. It is Cyprus Anvil's contention that there is a contract in effect and that freight rates in respect to that contract should prevail.

Mr. Speaker, this is a contractual matter between two companies involved in private enterprise and we, as a government, should not be involved in any way.

**Mr. MacKay:** There is only one way the Government could be

involved, Mr. Speaker. Perhaps I could ask the Government Leader if he has received any requests from the President of Cyprus Anvil to open the Skagway Road year-round?

**Hon. Mr. Pearson:** No, Mr. Speaker.

Oh, Mr. Speaker, I should qualify that a little bit, because he says, "any request". There was a suggestion made a considerable length of time ago, eight months ago, possibly, by Cyprus Anvil that that was, in fact, an alternative that should be looked at.

We agreed with Cyprus Anvil that that was an alternative that could be looked at. However, we also pointed out to them at that time that we did not think it was a practical alternative because of the cost of upgrading the road.

**Mr. Byblow:** Just a supplementary to that, I would ask the Government Leader that, since he was responsible for the CTC inquiry which produced the report that, in fact, suggested compensatory rates could be assessed, does the Government Leader not feel that perhaps he does have an obligation to respond in light of that ruling?

**Hon. Mr. Pearson:** Oh, no, Mr. Speaker, not at all.

Mr. Speaker, there was a specific reason for the CTC inquiry. If I am deemed to be responsible for that, I am very grateful because of the reaction that it created, but, Mr. Speaker, if the CTC had said in its report that Cyprus Anvil should be paying a compensatory rate, that has absolutely nothing to do with this Government at all.

**Question re: Hunting Rights in Kluane Game Sanctuary**

**Mr. Penikett:** I have a question for the Minister of Renewable Resources.

In view of requests by the Kluane Tribal Brotherhood to relax restrictions on the hunting in the Kluane Game Sanctuary for children and old people and the Minister's discussions with the people there on this matter, can the Minister advise the House if he has as yet reached an agreement with the Brotherhood on this matter?

**Hon. Mr. Hanson:** No, Mr. Speaker.

**Mr. Penikett:** Can the Minister advise the House if he is close to an agreement with the Kluane Tribal Brotherhood on this matter and if he could indicate at all to the House what might be the outstanding issues?

**Mr. Speaker:** The question would seem to be rather broad, but perhaps the Minister may be able to answer concisely.

**Hon. Mr. Hanson:** My answer would be very short, no.

**Mr. Penikett:** A specific question, does the Minister expect to conclude an agreement with the Kluane Tribal Brotherhood on this matter in the very near future?

**Hon. Mr. Hanson:** Mr. Speaker, I have submitted a proposal to the Government of the Territory here, of which I am a part, and it is under discussion in the Cabinet, at this time. When there is an answer, I will come to the House with it.

**Question re: Social Programs/ Role of Private Sector**

**Mr. Byblow:** I have a question for the Minister of Health and Human Resources.

Yesterday during Question Period, the Minister indicated that, depending on the manner in which private sector behaved, it would be the policy of her Department to chastise any taxpaying private sector for not contributing to social service programs.

I must ask the Minister to articulate department policy with respect to the private sector role in the delivery of social programs in the Territory.

**Hon. Mrs. McCall:** Mr. Speaker, I think that, as far as the Government is concerned, if the private sector finds it within their conscience to help a group or someone in need, that we are most appreciative.

**Mr. Byblow:** In view of that, I would then ask the Minister if it is her department policy to specify certain social services that are the responsibility of private sector?

**Hon. Mrs. McCall:** No, Mr. Speaker.

**Mr. Byblow:** Has the Minister requested direct financial aid from any company, firm, corporation, group, individual in the Territory for the purposes of social services delivery?

**Hon. Mrs. McCall:** No, Mr. Speaker, I have not requested direct aid from any specific group.

**Question re: Shakwak Project/ Training/ Government Responsibility**

**Mrs. McGuire:** Mr. Speaker, I have a written question directed to the Government Leader. I shall read it. My question relates to the responsibility of this Government as it relates to the Shakwak Project.

The Environmental Impact Statement for the Shakwak Project

was prepared during 1977-78 and includes a variation of environmental and socio-economic commitments made by Public Works Canada and United States Federal Highway Administration. One such commitment was to consult with the Territorial Government regarding job training possibilities.

In the 1978 Annual Report of the Environmental Co-ordinator for the Shakwak Project, one reads, "the Environmental Co-ordinator was informed that YTG has assumed the responsibility for training on the Shakwak project. It was currently determining the feasibility of such a program. Once the feasibility was—

**Mr. Speaker:** Order please. I am wondering if the Honourable Member is slowly becoming out of order. The Honourable Member is making a speech. Perhaps the Honourable Member would proceed to the question.

**Mrs. McGuire:** Sorry, Mr. Speaker, I thought that was allowed on written questions. Nevertheless, YTG had decided, in one paragraph, that a formal training program for the Shakwak Project was not feasible.

Now my question is, Mr. Speaker, since Foothills is monitoring the Shakwak Project in order to learn how the pipeline project can best accommodate the needs of Yukoners, please explain what types of training schemes are considered by this Government; on what basis was the decision made that training was not feasible; is it anticipated that this Government intends to similarly ignore the whole area of training as it relates to the Foothills Pipeline?

**Question re: Pipeline Northern Pre-build Section**

**Mr. MacKay:** In view of the Government Leader's meeting Foothills representatives later this week, will he inform the House whether he will be seeking specific assurances from Foothills of their intention to build the northern section of the pipeline?

**Hon. Mr. Pearson:** Yes, Mr. Speaker.

**Mr. MacKay:** In view of the serious concerns expressed by Yukon's MP, which I believe echo very closely the concerns I have expressed over the past few weeks, will the Government Leader be making representations to the National Energy Board and the Canadian Government to urgently consider not giving the go-ahead to the pre-build without cast iron guarantees from Foothills to the Government?

**Hon. Mr. Pearson:** Mr. Speaker, the National Energy Board is going to be having a public hearing in respect to this matter. We have advised the Board, Mr. Speaker, that we would wish to be an intervener on behalf of the people of the Territory at that hearing.

It would be our intention, Mr. Speaker, to emphasize that if, in fact, the Act is going to be amended to allow the pre-build to go ahead without the actual financing for the whole pipeline being in place, then we would like to see in that Act, in those amendments, some irrevocable undertakings in respect to the construction of the northern part of the pipeline both financially and time-wise.

**Question Re: Offshore Rights Arctic Ocean**

**Mr. Penikett:** Mr. Speaker, I too, have a question for the Government Leader. Is it the policy of this Government that the Territorial Government should have jurisdiction over the area offshore of the Yukon's north coast at the Arctic Ocean?

**Hon. Mr. Pearson:** Mr. Speaker, we would very much like to have that a policy but, Mr. Speaker, if Honourable Members will read closely the boundaries of the Yukon Territory, as defined in the Yukon Act, they will discover, in fact, that we do not have any offshore rights whatever. We do not have any ocean.

It was, I submit, an oversight, Mr. Speaker, and I have made this argument to the Government of Canada that when the Yukon Act was first written and the Territory first created, by oversight, all of the waters North of the Yukon Territory were left in the Northwest Territories Act. As a consequence, today, Mr. Speaker, all of the waters north of Yukon are the responsibility and are going to the credit of the Northwest Territories, not the Yukon.

We have petitioned the Government of Canada, Mr. Speaker, to have an amendment made to those two Acts to make it clear that those waters are, in fact, Yukon waters and not NWT waters.

**Mr. Penikett:** A very direct question in response to the Government Leader's petition, have the responsible Ministers of the Federal Government made any reply to date?

**Hon. Mr. Pearson:** Mr. Speaker, this was one of the items that we brought to the new Minister's attention. The concern is known in the Department of Indian Affairs and Northern Development. I have been told by them that they are looking at this. I use the word "oversight", Mr. Speaker, advisedly, because it is the opinion of the Department of Indian Affairs and Northern Development that that is what it was, a pure oversight.

I am confident that it will be dealt with in that manner, both by the Department of Indian Affairs and Northern Development, who

have to first seek the amendment to the Yukon Act, and by the responsible political people, as well.

**Mr. Penikett:** In anticipation of the Federal Government responding favourably to such a petition, has the Government Leader had occasion or prepared any plans to administer the oil and gas activity, particularly oil spills and the environmental problems and so forth, given the complexity and the magnitude of that operation in that area?

**Hon. Mr. Pearson:** Mr. Speaker, again, the oil drilling that is going on there, any exploration that is going on there, is the direct responsibility of the Government of Canada. Mr. Speaker, they own the resources.

Now, we work very closely with them in respect to environmental concerns and so on. I am sure, Mr. Speaker, that if this is a responsibility that is eventually transferred to us, we will do everything we can to administer it as responsibly as we possibly could.

**Question re: Social Services/Role of Private Sector (Continued)**

**Mr. Byblow:** I have an additional question for the Minister of Health and Human Resources, in light of her response to the role of private sector in funding social services. I draw attention to the Minister's letter recently, to the Child Development Centre, in which she stated categorically that companies operating within the Territory ought to have the same measure of conscience when it comes to the disabled and disadvantaged in our midst as any one else.

I would ask the Minister, does her department not have that same measure of conscience and, more importantly, that responsibility in providing for these programs?

**Hon. Mrs. McCall:** Mr. Speaker, I feel personally that all mankind, we are our brothers' keepers, companies or individuals or government.

**Question re: Air Pollution Proposed Legislation**

**Mr. Penikett:** Mr. Speaker, I have a question for the Government Leader. I understand the previous Government had been hard at work with the Federal Department of the Environment writing a Bill to control air pollution in Yukon. Can the Government Leader tell the House what ever became of this proposed Legislation and if it has reached his desk or any other Minister of the Government?

**Hon. Mr. Pearson:** I am sorry, Mr. Speaker, I do not know the answer to that question. I will follow up on it and try and get an answer to the Honourable Member as quickly as I can.

**Question re: Social Services/Role of Private Sector (Continued)**

**Mr. Byblow:** I have a supplementary to my other question. I can agree that mankind has a responsibility; would the Minister agree that if the private sector relieves Government of the responsibility to provide Social Services then we will never achieve an improvement in the level of services due to the public?

**Mr. Speaker:** The question would appear to be somewhat hypothetical, however I will allow the Minister to answer.

**Hon. Mrs. McCall:** No, Mr. Speaker, I think that what the private sector does is helpful and is in addition to the services that government provides.

**Mr. Speaker:** We will now proceed to Orders of the Day.

## ORDERS OF THE DAY

### GOVERNMENT BILLS AND ORDERS

**Mr. Clerk:** Bill Number 2, standing in the name of the Honourable Mr. Graham.

**Bill Number 2: Second Reading**

**Hon. Mr. Graham:** Mr. Speaker, I move, seconded by the Honourable Member for Whitehorse North Centre, that Bill Number 2, An Ordinance to Amend the Companies Ordinance be now read a second time.

**Mr. Speaker:** It has been moved by the Honourable Minister of Education, seconded by the Honourable Member for Whitehorse North Center, that Bill Number 2 be now read a second time.

**Hon. Mr. Graham:** Mr. Speaker, this ordinance to amend the Companies Ordinance is a conglomeration of small changes that have come to our attention over the past year. The changes were originally in the omnibus bill, the Miscellaneous Statute Law Amendment Ordinance that is before the House, but we felt that the amendments were so extensive that we should bring them in, in a separate bill and we have done so.

Motion agreed to

**Mr. Clerk:** Second Reading, Bill Number 35, standing in the name of the Honourable Mr. Lang.

**Bill Number 35: Second Reading**

**Hon. Mr. Lang:** Mr. Speaker, I move, seconded by the Honourable Member for Hootalinqua, that Bill Number 35, entitled An Ordinance to Amend the Liquor Tax Ordinance, be now read a second time.

**Mr. Speaker:** It has been moved by the Honourable Minister of Municipal Affairs, seconded by the Honourable Member for Hootalinqua, that Bill Number 35 be now read a second time.

**Hon. Mr. Lang:** Mr. Speaker, the amendments to the Liquor Tax Ordinance are before you for two reasons: (a) to increase revenue to the Government and (b) to re-write our Legislation in the same manner as in the provinces.

As you know, we have tabled, considered, and passed a Budget for 1980-81 with only one area to increase Revenue. It is important to note, Mr. Speaker, that the revenue from our Liquor Tax Ordinance has declined from a high of \$626,176 in 1978-79 to a projected decrease in 1980-81 of \$19,000 to a total of \$607,300 if there are no changes.

Presently the Liquor Tax Ordinance provides for the application of tax on the basis of type of product and number of fluid ounces and not on prices. For an example the present charge on 25 oz. of spirit, rye or rum, is 80 cents; on a 25 oz. bottle of table wine, 20 cents, and on a dozen beer, 10 cents.

In percentage figures, the present tax equates to approximately eight per cent on spirits, rye, rum, et cetera; approximately five per cent on wine and approximately two per cent on beer.

The new proposal before Members will mean the higher the dollar value, the more one will pay on a percentage level. I would like to give Members an example of what this will do:

Crown Royal, 750 ml - present price is \$14.35, the new price will be \$14.95, an increase of 65 cents.

C.C., 750 ml, \$10.35 - new price is \$10.45 for an increase of ten cents. For those who drink rye or rum in the price range \$8.70 to \$8.80, there will be no change.

In the area of wine, Mr. Speaker, for example, a bottle of Blue Nun, 750 ml, the present price is \$6.60. The new price would be \$7.05, for a 45 cent increase.

Andres Red, which sells for a price of \$3.35, would sell for \$3.45, an increase of ten cents.

A box of beer, Mr. Speaker, would be going up, depending on the type of beer, from 30 cents to 40 cents a case.

In conclusion, the percentage levy, Mr. Speaker, proposed in the Bill, would bring an equitable tax on all products of a constant ten per cent. The increase of revenue will be approximately \$400,000 and will allow the Government to continue a high level of services in all areas of Government programming and, at the same time, help the Government maintain a sound financial footing.

**Mr. MacKay:** I must say I appreciate the Minister's obvious relish, I think, in telling us of his selections of the day from the liquor store. His taste is very interesting.

I do find it a little disturbing that the highest percentage increase seems to wind up on beer, which has traditionally been the portion of those least able to afford Crown Royal. So, I find that it is too bad that I recognize that the simplifying of the Ordinance to provide a uniform mark-up is probably worth it in the sense of the administration involved and also the increase in revenues that we anticipate, as the prices rise with inflation.

So, I regret that the increase was not budgeted in the original Budget, however, recognizing the necessity for the Government to raise revenues, I will be supporting this Bill.

**Mr. Fleming:** Yes, Mr. Speaker, I hope I have no conflict of interest in possibly voting for the Bill, due to the fact that I do sell in my establishment.

However, I am concerned as to the way the Minister has said, given the rise as more or less supposedly ten cents, ten per cent and it comes up in some areas as a little rise of ten cents, in other areas it is thirty cents, forty cents. It is like a jumble to me. I wonder why it is not across the board.

The principle of the Bill, of course, is to raise some more money for the Government. I cannot argue with that. I would like to express, though, my feelings in this area and this is in the area of the beer area, which is a national drink in Yukon, you might say, that many, many people go home in the afternoon and have a drink of beer afterwards and the fact that if we continue, as a Government, to raise the price, I would think that some day, rather than make revenue, we will be losing a considerable amount of revenue, if it gets too high.

I am looking at it not as a detriment to human life, the beer or anything, but if you do charge too high, you will end up some day maybe killing the very revenue that you are after.

I hope that the Government will take care and balance things off.

**Mr. Penikett:** Mr. Speaker, I could not let second reading go by on this Bill without commenting on the Minister's rather esoteric cellar. The selection of drinks that he gave as examples is very interesting. I share the concern about beer prices and I share it particularly as, and I have raised the matter before in the House, we have recently gone through some wholesaler-induced price increases with some companies have held the price down. I understand that those prices have not been passed on equitably at the retail level and that some people who would like to take advantage of the lower cost beer have not been able to do so because of the pricing structure. Given that the Government takes such tight control of the pricing structure when it is sold at the out-sell level, I think that is unfortunate.

I guess, the problem is, who in this day and age is going to complain about raising the price and the taxes on booze? It has got to be. I guess the safest kind of tax; you can do it because you have always got to count on a certain number of people saying this is bound to persuade some people from drinking and therefore that is good. Of course, if that is the case, it is going to defeat the purpose of raising more taxes because if they drink less booze then obviously the tax revenues are not going to increase.

There are those on the other side of the question, those of the Liberal economic persuasion who will argue that no, it does not, or maybe it does, it depends on what kind of Liberal you talk to, that it does not affect consumption, the increase in price. In that case, it simply means that families that are already suffering because too large a portion of their budget is going towards alcohol will now suffer even more so because an even greater portion of their family budget is going towards booze.

I guess, in the end, we will never see a really effective accounting of the cost of Government of sale of booze against the profits. I guess various people in social agencies are trying to calculate a real balance sheet showing what the sale of booze costs the community in terms of lost wages, family breakdown, court costs, hospital costs, traffic accidents, insurance and so forth.

I do not know but I doubt if there is a community that I ever lived in where the Government makes much of a profit on booze, so for that reason I have some qualms about seeing it as an easy source of revenue.

I do not think we are talking about an enormous amount of dollars here, so perhaps the Minister will be pleased to see this Bill go rapidly through, the Budget will be secure, the Government will not go broke. It will be interesting to see though, looking at it a year from now, how these taxes have affected the consumption of the various products that the Minister enunciated.

Motion agreed to

**Mr. Clerk:** Second Reading, Bill Number 31, standing in the name of the Honourable Mr. Graham.

**Bill Number 31: Second Reading**

**Hon. Mr. Graham:** Mr. Speaker, I move, seconded by the Honourable Member for Tatchun that Bill Number 31, Human Tissue Gift Ordinance be now read a second time.

**Mr. Speaker:** It has been moved by the Honourable Minister of Education, seconded by the Honourable Member for Tatchun, that Bill Number 31 be now read a second time.

**Hon. Mr. Graham:** Mr. Speaker, the existing Ordinance on this subject is the Cornea Transplant Ordinance. It was enacted in 1962 and is based on a Uniform Law Act adopted in 1959. The Uniform Statute was later withdrawn and replaced by an extended Act which dealt with parts of the body other than the eye. Also in this Uniform Act are scientific and educational uses of bodies and more recently, the transplanting of other organs. At least eight other jurisdictions in Canada have adopted this version of the statute.

**Mr. MacKay:** Mr. Speaker, this seems to bring us towards the end of a long series of rather morbid Ordinances, such as the Execution Ordinance and Summary Convictions Ordinance, Fatal Accidents Ordinance. It seems that we have been dwelling on this subject rather long so I will not dwell on it much longer other than to state the hope that with the passage of this Ordinance it will be possible for several Members of the bench opposite to be able to get brain transplants.

Motion agreed to

**Mr. Clerk:** Second reading, Bill Number 8, standing in the name of the Honourable Mr. Graham.

**Second Reading: Bill Number 8**

**Hon. Mr. Graham:** Mr. Speaker, I move, seconded by the Honourable

Member for Whitehorse North Centre, that Bill Number 8, An Ordinance to Amend the Motor Vehicles Ordinance, be now read a second time.

**Mr. Speaker:** It has been moved by the Honourable Member of Education, seconded by the Honourable Member for Whitehorse North Centre, that Bill Number 8 be now read a second time.

**Hon. Mr. Graham:** Mr. Speaker, the purpose of this Ordinance is reasonably simple. It is to clarify the law relating to the operation in the Territory of vehicles not registered in the Territory. It is to clear up a few problems that we are presently experiencing in areas close to borders of the Yukon Territory. We feel that the Ordinance will do a great deal to aid not only the RCMP in the execution of their duties but also to clear up some of the present ambiguities in the present Ordinance.

**Mr. Fleming:** Mr. Speaker, I am very happy to see this amendment before us, however, in reading it, I find the principle is there but there is quite a bit of confusion in it as far as I am concerned so there will be many questions asked. However, I compliment the Minister on bringing it forward. For many years we have been struggling to get this area cleared up a little bit. I have some questions that I will be asking in general discussion but that is all right now, Mr. Speaker.

Motion agreed to

**Mr. Clerk:** Second reading, Bill Number 3, standing in the name of the Honourable Mr. Graham.

**Bill Number 3: Second Reading**

**Hon. Mr. Graham:** Mr. Speaker, I move, seconded by the Honourable Member for Hootalinqua, that Bill Number 3, A Miscellaneous Statute Law Amendment Ordinance, 1980, be now read a second time.

**Mr. Speaker:** It has been moved by the Honourable Minister of Education, seconded by the Honourable Member for Hootalinqua, that Bill Number 3 be now read a second time.

**Hon. Mr. Graham:** Mr. Speaker, the Miscellaneous Statute Law Amendment Ordinance, usually more commonly known as the Omnibus Bill, is simply an Ordinance to correct various mistakes that have appeared in several Government Ordinances over the past years. This Ordinance is strictly limited in the revisions that it contains. It may contain only wording changes or spelling or reference corrections. There are no policy decisions made in any part of this Ordinance and no changes that were not intended in the original Ordinances that are being amended.

Motion agreed to

**Mr. Clerk:** Second Reading, Bill Number 21, standing in the name of the Honourable Mr. Lang.

**Bill Number 21: Second Reading**

**Hon. Mr. Lang:** Mr. Speaker, I move, seconded by the Honourable Member for Hootalinqua, that Bill Number 21, entitled An Ordinance to Amend the Liquor Ordinance, be now read a second time.

**Mr. Speaker:** It has been moved by the Honourable Minister of Municipal Affairs, seconded by the Honourable Member for Hootalinqua, that Bill Number 21 be now read a second time.

**Hon. Mr. Lang:** Mr. Speaker, the present Liquor Ordinance, which came into effect in 1977, forbids gambling in any licensed premises and this would include Diamond Tooth Gertie's, and all of those places run by non-profit organizations such as curling clubs, Lion's Gambling Nights and bingos, where liquor is sold.

Before 1977, Mr. Speaker, the licences were split in two, licences proper and permit. The holder of a licence could not permit gambling under any circumstances. A holder of a permit, if he had a gambling authority from Consumer and Corporate Affairs, could have gambling under certain provisions.

There was a mistake, an accidental mistake, I believe, Mr. Speaker, made in 1977 and that was the amalgamated definition of licence and permits and therefore the permits became licences and, under the present legislation, all games of chance were prohibited.

Mr. Speaker, the purpose of the changes before Members is to bring us back to where we were before April 1st, 1977. Basically, if you agree with the changes in the law, it will be as follows: (1) no gambling will be permitted in any commercial licensed premises; (2) a non-profit organization which obtains a licence to run a game of chance issued by the Department of Consumer Affairs will be eligible to apply for a liquor licence.

When a gambling licence is issued by the Consumer Affairs Department, under the guidelines of the Criminal Code, it could be used to permit gambling in the premises named on the face of the permit and, with the proposed changes, will not be invalidated merely because a licence or permit is also issued for the same place by the Liquor Corporation.



As I stated earlier, last summer, technically, Diamond Tooth Gertie's was carrying on an illegal operation under our present Ordinance, although no one noticed it at the time.

The new law will legally allow them to have a liquor licence and also will legalize the gambling nights which are permitted in curling clubs and such places, for example, during Whitehorse Rendezvous.

Thank you, Mr. Speaker.

Motion agreed to

**Mr. Clerk:** Second reading, Bill Number 5, standing in the name of the Honourable Mr. Graham.

**Bill Number 5: Second Reading**

**Hon. Mr. Graham:** Mr. Speaker, I move, seconded by the Honourable Member for Tatchun, that Bill Number 5, An Ordinance to Amend the Electric Public Utilities Ordinance be now read a second time.

**Mr. Speaker:** It has been moved by the Honourable Minister of Education, seconded by the Honourable Member for Tatchun, that Bill Number 5 be now read a second time.

**Hon. Mr. Graham:** Mr. Speaker, this Ordinance basically deals with two main departures from the present Ordinance. First of all, we have taken the position that no public utility shall operate in the Territory without a franchise being granted and we have gone on to add teeth to this decision in that this Ordinance has been amended to enable the Board to order that a franchise be renewed and further to set the terms and conditions of that franchise if, in fact, one has not been granted after a six month period.

We have also taken the position that there shall be no franchises granted to any gas utility in the Territory except by the Commissioner with the approval of the Public Utilities Board. We have taken this position, Mr. Speaker, because, quite frankly, we have not yet decided whether or not the natural gas distribution system, which will eventually be established in the Territory should be a publicly-owned utility or whether it should be a privately-owned utility.

What we have determined is that we shall not allow a fragmentation of the natural gas distribution system such as presently exists in the electrical distribution system in Yukon. Because we are in a position to keep the distribution system in one piece, I firmly believe that we should, until such time as we wish to grant a Territory-wide franchise or allow municipalities to grant franchises within their own border or until we decide that we should operate a publicly-owned distribution system, we should keep the number of franchise grantees to a minimum, namely one, the Commissioner of the Yukon Territory with the consent of the Public Utilities Board.

These are the major policy changes in the Ordinance, Mr. Speaker. We have made several editorial changes throughout. We have expanded the number of members on the Board from three to five. We have also opened up the qualifications under which the Board may hold a hearing. The Board may hold hearings now upon receiving complaints. We have also given the Board a general supervisory power over the quality of equipment, reporting and related matters.

This allows the Board to make general orders regarding franchise rights.

We have also added a phrase that the Honourable Member for Whitehorse West will find very much to his favour. The Board's decisions bind the Commissioner.

There are several other items throughout, Mr. Speaker, of a minor nature. Natural gas being added to the Public Utilities Ordinance is the main change throughout. But I think those are the basic changes to this Ordinance which I consider a very good Ordinance. In the circumstances very appropriate for the time.

**Mr. Penkett:** Mr. Speaker, because I have a lot to say about this Bill, I will get immediately to my points of concern. To the Honourable Members opposite, including the Minister who may find cause to say that I do not understand the Bill, I look forward to hearing the explanations of it.

I had expected we might have some kind of bombastic display about this legislation at second reading when it was first contemplated, but it seems to me now that I am going to have a lot of work to do in Committee, making sure that I understand it.

I must say, I liked the Minister's speech, but it did not entirely square with my reading of the Bill so I will save my detailed questions on that until we get to Committee.

I do have six areas of concern and I would like to outline each one of them as they touch upon the principles of this legislation. First there is the question of representation on the Board. Second is the power of the Board, including the powers of the Board to approve rates. Third is a question of subsidies, which is perhaps a minor

point but it is something we talked about before. Fourth is the matter of the franchises. Fifth is the comment about the general energy picture of the Territory and last I think, a footnote point on constitutional development and the way this Bill, believe it or not, touches on it.

The Member for Mayo is having trouble counting my points. There were six. Perhaps he would care to use the other hand and then he could figure it out.

First, on the question of representation on the Board, back in 1978, my party passed a resolution that labour and consumer representatives should be included on Public Utilities Boards.

I do not even think the most outrageous Member of this House would regard this as a particularly hotheaded demand. It was simply an expression of a perceived need for the rights of certain groups of citizens in this community to be upheld.

I think the view strongly felt by the members of my Party, that boards should represent a cross-section of Yukon society, and especially consumers and the people who are paying the bills for the electricity and also subscribing to one of utilities through their taxes.

I recently had occasion to read an article by that famous expatriot Canadian economist, John Kenneth Galbraith, who talked about the recent development in the United States where large corporations have been inviting such unusual persons as black people and women and consumers to sit on their boards of directors. He even remarked on a couple of cases where corporations that have been subject to investigation for corrupt bribery practice in foreign countries had attempted to cleanse their souls by the addition of a nun or a priest to their boards of directors.

His substantive point about this whole process was, of course, the reason that corporations were able to do this with no fear whatsoever is that the power of those boards had long since passed from the boards to the management of the corporations and, in fact, the directors had not much power at all.

All this only goes to raise some questions in my mind about who has the power in these energy decisions, whether it is the Public Utility Board and the government, or the utilities in question.

I think we all know who the members of the present Electrical Public Utilities Board are in the Territory. I think it should be of no embarrassment to anybody in this House to say that the political pedigree of each one of them is, I think, well known. I think, to that extent, politics is usual in the Territory. I think at least a couple of the members of that Board have been campaign managers for members of this Government Party. I think another member is a spouse of the past president of the Party. In fact, I think the majority of the members have a close, almost, dare one say, an intimate relationship with the Government Party.

In fact, there is even one member of the Government, I understand, who is an expert on the operations of the board and there may even be two of them. So, there is a kind of continuity there and perhaps a very special relationship between the Government and this Board.

Now, it seems to me, that in itself clouds the public's perception of the board and the public's perception of the role of the board as some kind of impartial arbitrator of electrical rate decisions. But more important, we are now talking about franchise decisions and, potentially, making recommendations to this Government, if I understand the Minister correctly, on things like gas franchise decisions, in the future.

I think it is important when we are talking about boards like this to examine very briefly the history. As I understand it, the reason that these kinds of boards and commissions were created in the Territory was that a former Commissioner wanted to create a measure of public input in certain kinds of administrative decisions in the Territory and at the same time allow himself to have an arm's length relationship with those kinds of decisions. I think the desire of that officer of the Government to have that kind of arm's length relationship with some difficult problems and difficult decisions, was probably a very wise one, politically, for him and I think it was an entirely appropriate relationship for a colonial government. I do not think it is sufficient for a responsible government.

I, personally, have the view that some boards and commissions in the Territory have failed to provide the public input, mainly because of the narrowness of the perspective and the philosophical view of the members represented on those boards. I think there is a real danger, and especially with a board like this, that the board may only speak for a few in the Territory, not speak for the majority or, in fact, speak for the whole community, which I think most of us would agree is the desirable thing.

If all members of the board are extremely close to the party in power, it means that only the people who share that philosophical view of the world, if there is indeed a philosophical view of the

party in power. I think that is the case with the Conservatives, one could not feel that with any confidence in the case of the Liberals but in the case of the Conservatives, I think that there is a philosophy in their party. It is not one with which I agree and it is apparently not one with which 63 per cent of the citizens of the Territory agree.

It becomes, in any case, a way still to take some heat out of difficult decisions for the Government while the Government, in effect, though, still remains coming close to absolute control of these decisions, and I think that makes nonsense of the claim that these are independent boards. While they are supposed to be making independent decisions on behalf of all sections of our society, they are, in fact, close to being an arm of government and at least they are an arm of the Government Party.

Now, in a situation like this, this group remains an enormous influence, an enormous power, in making the decisions, potentially, and I say this no stronger than that, but potentially, to the detriment of other groups and other sectors of the society that have a different world view.

While the Conservative policy on these kind of questions may be being carried out by the so-called independent body, the Conservative Government in this House is not directly accountable for their actions to the public, nor are the members of the Board to this House. The Board then, it seems to me, becomes a buffer. It protects the Government Party for their responsibility, for the consequences of these decisions. That seems to me, gives us, not responsible Government, but a flogged form of responsible Government.

The Board's function, of late, Mr. Speaker, has been mainly to receive and examine applications for rate increases by NCPC and Yukon Electric. Nonetheless the Government Leader referred to the situation with these words: Rate setting "is done by a completely impartial board whose primary concern is cost of service".

Now I would agree cost is of primary importance to the consumers and should be of primary importance to the Board. Yet, citizens appearing before the Board, and that unfortunately has been a rare occasion, indeed, are poorly equipped, the average citizen, to analyze rate applications and all the confusing financial evidence supporting them.

Those wanting to charge customers more are quite able to provide well-paid accountants and if need be, lawyers, to not only defend their case, but to dress it up in the best public relations form that they are able. I will not suggest that this is a problem unique to here and it may not even be a particularly large problem here, but it is a major problem, before these kind of tribunals or the Board in southern Canada. It has become so serious in the case of something like Bell Canada's applications for rate increases before the CTC, that the Federal Government in recent years actively considered subsidizing consumer groups who wish to make their applications or file an intervention. In fact, it has provided resource persons to assist consumer advocates in making their case and scrutinizing their application.

Once again, the consumer, the taxpayer, pays twice for only a slight chance of satisfaction. They pay the company through their electrical bills to hire those big guns to shoot them down and then again through their taxes to get Government help to try and fire back. It is, in fact, a situation very analogous to pea shooters trying to take on cannons.

If the Members of a Board hearing a case are simply patsies, if they do not take their roles as defenders of the public interest very seriously, rate applications will almost never be denied. Until recently with some national boards, I think in the case of Bell Telephone, this was almost invariably the case. I think it is difficult for Boards to represent consumer interests, to be consumer advocates because the people who are courting them and flattering them and persuading them are, in fact, the people who are petitioning for increases.

I have heard from various Members of the Board, in fact a couple of the Members of the Electrical Public Utilities Board, that at times the utilities in the Territory were not always happy with them.

I think that is as it should be. I would be quite frightened of a situation where local utilities and the Board seemed to delight so much in each other's company that they seemed to be inseparable. I think that would be a terrible situation for consumers and I am not suggesting that that situation has come to pass, but I do not even want to allow for the opportunity of it coming to pass.

A number of people have made the point about assistance for citizens appearing before these rate hearings, but I do not believe that, as yet, any assistance has been provided to groups in Yukon for this purpose. In recent years, the only major issues before the Yukon Public Utilities Board have been Aishihik cost overruns and rate increases by the various electrical companies here.

To my memory, and I appreciate the Government Leader correcting me if I am wrong here, the only major intervener in recent years has been the City of Whitehorse. Now, few members of the public intervene because they feel there is no sense in trying when all they can say, "It is too much to pay," or "I cannot afford it." They really have no way with their pocket calculators and their own personal accounting skills to substantiate that gut feeling that they may have. Or, even if they did, they have a feeling that perhaps their arguments might fall on deaf or insensitive ears because the largest weight, and by weight I mean volume, of evidence is going to be on the other side of the question.

Now I, on a number of occasions in this House, have raised the question about subsidies. As I understand the legislation as it now operates, they are clearly the business of the House. But, there has been, I think, a practice, consciously or not, by the Board to, in fact, make decisions which amount to, I believe, subsidy decisions.

The Public Utilities Board has the power to set rates, but, by legislation, it is this House which is supposed to determine any subsidies. Now, last Spring, both the Government Leader and the Leader of the Opposition agreed subsidies existed, though, in my view, they misplaced the source. If I heard them rightly, they both seemed to say that they came from the largess of the mining companies in this Territory. I recall the City of Whitehorse seems to take a different view and seemed to feel that, in fact, they came from the pocketbooks and bank accounts of the Whitehorse consumers.

All that is unimportant at this point. It seems to me that the question is that some of them admitted that there were subsidies in this system. Again, those subsidies are the question of this House and we did have a debate recently. I would hope we would see one again at some point in the future, because those subsidy principles really are our business and not the utilities'.

The Government Leader stated that "Any equalization scheme should be the result of a policy of this House." I agree with that, but up until last week, I do not think we had heard anything about that equalization policy in detail.

I suggest that not only was that recent debate much needed but that I think that that should be a regular practice of this House to examine the principles and the proposals by which we would subsidize and equalize the costs of various forms of energy that are under our control.

I want to say something about franchises. I know people who have been reading in their Canadian Business or other publications about the Kentucky Fried Chicken and MacDonalds. To some people, the notion of franchises raises the vision of easy money but I do not want to suggest that that is the case.

I guess the franchises are much like many other forms of business. Who gets the money is, I guess in some cases, the person who is selling the franchises might profit, in other cases, less common, would be the person who gets the franchise.

Electrical franchises, energy franchises, are extremely valuable and I think that we have to look at how the so-called free enterprise system has worked here in the past and I think "free" is an extremely interesting word to look at in this case.

As I understand the history and I would be happy to be corrected by other Members who have the more relevant and accurate facts here, as I understand the history, the Yukon Electric Company was registered as a company in 1901 and was later obtained by some local assistance and subsequently expanded to meet local demand, but at some point, it reached the stage where it could not generate internally, or locally, the capital it needed to meet the local electrical demand so the owners of the company went looking for a buyer. In 1954 they persuaded the City of Whitehorse to give them a franchise and it was a free franchise, a 20 year franchise.

Now, all of a sudden that company became worth an awful lot more money and Alberta Power gladly bought it up, I believe, in 1958 for a price, I understand, of more than \$1 million.

Now, we can speak, Mr. Speaker, of the good old days when things happened along in the good old haphazard, unregulated way, well, I guess from this point of view, "them were the days", as they say. I do not think that kind of thing would happen now. I do not think there is any kind of prospect of it happening now.

The current Electrical Public Utilities Ordinance presently requires a utility to have a franchise, but since 1954, as I think the Minister mentioned, there has been none for Whitehorse, the major residential and commercial electrical market for Yukon Electric in the Territory.

Now, the Electrical Public Utilities Report for the past year refers to the impasse over the franchise and reported that "The policy of system-wide subsidization by Whitehorse customers would appear to be the major outstanding issue."

With this Bill before us, we could perhaps see an end to this

impasse and there is a provision in it, as the Minister pointed out, to force franchise agreements. There is another section of the Bill, and this bothers me and I want to ask the Minister about it when we get to Committee, that allows the Board to permit operation of utilities without franchises.

Now, I think the Minister talked about the first section I mentioned as if that was the section with teeth. I am worried if the second section might be the one with the gums. So, that is something we will have to sort out and it raises questions that speaks about the principle.

Now, let us talk about those franchises for a second. Let me talk about what I think on the question of the gas franchise, which this Bill expands to cover. My own view, Mr. Speaker, is that if anyone, anyone should hold that franchise, Mr. Speaker, it should be the people of Yukon.

The public, I believe, should have real control over the operation of not only gas but, hopefully it will be one day, the electrical systems. The Government should be truly responsible, by this House and at elections, for its actions.

The Government should have the ability and the choice of whom to contract out the distribution work to, if that is what they would choose to do. I would prefer, when it comes to gas, that we have a 100 per cent publicly owned and controlled Yukon power corporation.

I would hope that such a power corporation as has been proposed by Government Members in this House, would one day own and operate not only NCPC's plant here, but Yukon Electric's and the gas distribution system.

Yukon must look at its long-term energy prospects and, no doubt, some of us will be reassured from time to time that there are some gentlemen in Ottawa looking after us in this Territory, that we should let them do it and everything will be all right.

I am not content with those reassurances, Mr. Speaker, and I think, for many, many good reasons, we have got to start doing that here in Yukon. I believe that the only body that can ultimately do that, the only body that can ultimately do that, is this House.

I think Yukon must look at its long term energy prospects and we have to ask the questions: will we continue to let the generation of power be conducted by a corporation which is not locally controlled? Will we continue to allow the distribution of that power to directly feed into the burgeoning bank rolls of a nice little company based in Maryland, U.S.A.? There is no need to, Mr. Speaker, we are all well aware of how our current circumstances are not doing us any good in terms of energy and economic planning.

Yukon, as other Members have said time and time again before in this House, Yukon must come to grips with two crucial segments of our economy before we can tell our children that we will have a future in the Territory and one, as Members have said, is transportation, the other is the question of power.

I think it is only right, as the Government Leader has said before, that Yukoners determine their economic future and I think with some effective measure of control over energy, and this form of power generation and distribution in the Territory, this can be achieved.

Last year as I recall, this House unanimously supported the establishment of a Yukon power corporation, Mr. Speaker. I say we need more. I say we need a Yukon Power Corporation which controls not only electrical distribution but that of natural gas as well. We simply must not grant, or allow an opportunity to grant, a gas franchise for the distribution of gas in the Yukon to a company that is not locally owned or publicly controlled. I think Mr. Speaker, with respect, it would be selling out our futures. We have made that mistake in the Yukon before with electricity and I would urge this House not to do it again with natural gas. I think we should be keeping the money here. I think we should be keeping the capital here. I think we should be keeping the revenue here and using it to build something really wonderful here.

Mr. Speaker, what I wish we had done here is, in fact, had a bill to create a Yukon power corporation. Maybe it is premature before a pipeline, maybe, in fact, it is not something we could do before the pipeline had really started construction, but I would have liked us to have done the bold, the dramatic, the entrepreneurial thing, create a Yukon power corporation. Give the Yukon power corporation a gas franchise and without having to invest any taxpayers' money right now into that Yukon power corporation, we could have, when the time was right, sent them off to the banks, a wet franchise, I will bet, would have been bankable. They could have raised whatever capital they needed for their projects with the security of that asset.

I think we would then have something here, we would really have something. I think we have a real economic development tool. Unfortunately, the Member for Mayo has left us, but I think that is

something that he was talking about with the Yukon power corporation and I think a crown corporation with a gas franchise for the Territory could, in fact, do that and the planning of that could be started now.

I think we would then have an outfit that could, in time, do what Members opposite have wanted it to do and that is take over NCPC.

I want to make the point that by giving it a gas franchise we would not have to invest a lot of public money in it now. I think this House has the power to do that.

Now, one other thing, Mr. Speaker, and I do want to thank Honourable Members opposite for being so patient with me, but I would like to speak for a moment on the relationship this debate has to another long-term, long-standing, favourite topic of all of us and that is constitutional development.

Mr. Speaker, the Leader of the Opposition is complaining that I have not thanked him for bearing with me, too. If he lasts through the speech, I will do that at the end of it.

Much as we would like to have all the modern tools of self-government, I think it would be wise for us to remember where we are at. At this point in time, we are a very small community, in terms of population. We are a very small jurisdiction. As we look to our growth and development, we have the option, I believe, to shape a government unlike any other government in Canada, perhaps unlike any other in the world.

I do not think that we need to amass the structure that every province has, or feel compelled to sort of burrow ourselves into the sort of mass of offices which are the common feature of modern government.

I do not think we need all the boards and commissions that are growing up every which way elsewhere, and even that we have here. I think they become very furry and immense little beasts—I mean, immensely big beasts that eventually blur the outline of the direction of where we want to go as a community, as a people, as a government.

In Yukon, Mr. Speaker, we need small scale, responsible government that is directly responsible to the people from the offset and which will foster the kind of feedback and involvement on the part of the public that we all mouth platitudes about. I think, in turn, that will produce much more responsiveness on the part of government, something else which we all profess to desire.

Every MLA in this House now has a relatively small constituency and no MLA, dare I say, with respect, has what one will call a burdensome workload, such that they are simply crushed by the volume of work, that there is no time left for family or friends—

**Mr. Speaker:** Order, please. I think that perhaps the Honourable Member may be digressing from the subject at hand.

**Mr. Penikett:** Mr. Speaker, not at all. I am getting to a very important point of the speech here.

It seems to me that a more sensible way to deal with decisions like rate increases and franchises would be to do what I notice a couple of Conservative administrations in this country have done, and that is make the MLA more of a full-time worker, but make some government MLA, backbench MLA, chairman of such a board as this and allow that MLA, under the Standing Orders of the House, to be subjected to questions of Opposition Members in the House.

I think, by this method, such boards could become fully accountable. I think, in time, this kind of function, this kind of board could evolve so that Members of this House would be spending a large part of the year sitting in boards and committees, dealing in a politically sensitive, responsible way with tough, difficult decisions like power rates, on the issuance of franchises.

I think this would serve the public interest better than it does with part-time people. I believe that ultimately we will have a House where MLA's are sufficiently well informed and would want to be so well informed that they really do know more about most of these questions than the average member of the public, but also, because they have to be re-elected, be directly responsible to those publics.

Now, Mr. Speaker, I think this would achieve the effect of limiting somewhat the growth in bureaucracy, something else that Members opposite have talked about. I think we would achieve the high level of accountability that we want and I think the accountability would be direct and unobscured. I think there would be no room for buck-passing in this kind of situation and I think the public would richly benefit from these more politically responsible and politically sensitive kind of decisions.

Mr. Speaker, I have great concerns about the Public Utilities Board as it is proposed in this legislation. If there were appropriate ways to propose amendments at later stages in this discussion, I will probably try and do so.

But, Mr. Speaker, I want Members opposite to realize that I am

raising serious concerns, because I think as innocent as this Bill looks and as technical as it seems to be in terms of legislation, we are potentially here making very important decisions. This may be the most important piece of legislation in this Session, apart from the Budget Bills.

I think we can choose a path now which would take us down a road to, I think, really giving us the means to change, for the better, the economic health of this community, or we could go the tired old road and nothing much will come of it.

Mr. Speaker, I just want to say in closing with one last plea to seize this opportunity now to at least on paper create a Yukon power corporation, at least on paper. I would urge it perhaps if the pipeline is going to be built in the next year to come back to this House and give it a gas franchise. I think that in time, it can start planning for the eventual control and transfer of NCPC. I think then, the people of Yukon would have a real economic tool, which is something the Minister of Economic Development—, some instrument that could be really turned to the advantage of the people in this community.

Mr. Speaker, under this Bill, under Legislation like this, the Government could give itself a franchise for distribution of natural gas but if that is their intention, if that is ultimately their intention, I would like them to say so. The Minister who introduced the Bill said that the Government had not yet reached a conclusion on this question. Well, I would like to know what their plans are; I would like to know what they have in mind. I think that if they can be persuaded that this is the desirable way to go, I would sincerely hope, Mr. Speaker, that they will see fit, during the passage of this Legislation through the House and the long and weary way it will go because it will probably be a long debate, that they will see fit to introduce amendments to achieve this end.

Thank you, Mr. Speaker.

**Mr. MacKay:** Mr. Speaker, I would like to say how grateful I am to the previous speaker for speaking so well and so long and so eloquently and I think that he should be complimented from a fellow Member of the Opposition on his constructive approach to this Bill and on some of the ingenious ideas that he inserted into his speech.

I am thinking particularly that the last one, with respect to the appointing, as chairmen of some of these boards and perhaps the Public Utility Board, an elected member from the backbench of the Government, has a lot of merit. There is at least one qualified gentleman there just now and I think that that should be considered very carefully as a way of bringing forward accountability to the House for the actions of this Board. It would probably clearly make it recognizable as a politically appointed and motivated board.

I would like to say that the Board, since it has been in place, since it became active really back in the early 1970s about the time the franchise with Yukon Electric was expiring in the City of Whitehorse that the Board has never been, to me, a politically motivated board in the sense that it made any decisions that would appear to favour any particular group in town, or out of town.

I am sure, the Member from Whitehorse West did not mean to imply that this has occurred in the past. I certainly feel that is his not, even though many of the Board members have been heavily involved, subsequently in politics. Perhaps this is one way of serving apprenticeship to get into politics.

Certainly the recent decision of the Board to request NCPC to roll back the proposed increase, shows to me they are not afraid to stand up to one of the larger companies in the Territory. Even though they do not have any power to enforce their order, I think the fact that they have taken upon themselves this stance is to their credit. I think we have an excellent Board here now headed by the present chairman. It hurts me to say that perhaps because I do not think that any of them carry the card of the more sensible Party in the Territory. The fact remains that they are doing a good job.

I think this Bill is needed. There have been problems with respect to franchises that have to be solved and the Government is quite right that it has to bring forward a bill at this time to try and solve that. I am glad to hear that the Government has kept an open mind. Mr. Speaker, with respect to the granting of the franchise for gas distribution.

Like the Member for Whitehorse West, I heard that in the speech but I have difficulty seeing that intention in the Bill. I think it is rather a peculiar way to do it. Subsection 8(1) seems to imply that the Board can approve an action of the Commissioner and that the Commissioner seems to be bound by the Board. I think this takes away from them the option that they seem to want to keep of having the decision themselves, of who should get the franchise. This may be an interpretation of the Bill, but it seems to me that it may have the opposite effect to what is intended.

One thing I would have liked to have seen, I think, is necessary, in

the Section dealing with the conditions upon which the franchise would be issued is a very general one, Mr. Speaker. It does not provide for one thing which I think is a very necessary provision and that is, that the sale of natural gas to communities and individuals in communities may very well be in direct competition to the sale of electricity to these same communities.

We have heard the Government Leader say in the House during this Session that there is quite a disparity between the BTU value, or cost, of natural gas versus that of electricity and also that of fuel oil. It is therefore very tempting for any company which presently supplies electricity, and has a substantial investment in supplying electricity to these communities, to bid almost any cost to obtain the natural gas franchise because all that may very well do is secure their present investment which, it might be pointed out, a point that was not raised by the Member for Whitehorse West, that this gas franchise is supplied to a Yukon power corporation that very franchise may very well undermine the value of existing energy suppliers in these communities.

As my friends on the other side of the floor would say, "That is life, that is tough, that is the free enterprise system working, sometimes you win, sometimes you lose." I would like to see that free enterprise system really be made to work and I would have liked to have seen, in the provision for granting a franchise, some prohibition against the granting of a franchise to a non-publicly owned company which already supplies another form of energy so the government could, as a matter of policy, have avoided the situation which could easily happen and is obviously underlying the concerns of the Member for Whitehorse West and it concerns me too. That is the concern that the existing supplier of energy will bid at any price to obtain that franchise merely to protect its existing investment.

I would like to see that as one of the amendments that perhaps we could discuss when we come to the proper section.

It is rather curious and I hope that we will hear some more explanation from the Members opposite of the provision whereby the Commissioner is bound by decisions of the Board. I do feel that the Members opposite are elected as Government, that when they delegate an authority to a board, it is surely an authority to act on their behalf. It is not an authority to become a separate, ongoing, completely independent board which becomes really beyond the control of the government. I think they should have retained the right, somewhere, to veto any decision of the Board because ultimately the buck has to come back to the Government.

The area of the lack of control that the Public Utilities Board presently has over NCPC is probably unsolvable in legislation, although I notice some attempt seems to have been made not to permit a municipality to grant a franchise to anybody who does not agree to submit their rates to the Public Utilities Board.

I appreciate that it is within the legislative authority of this Government to do that. It seems a strange omission and perhaps I could have it clarified, that the Board is not empowered in the same way, not as they will be granting franchises also. That could be a condition of a franchise, placed in legislation, that such an applicant must agree to submit his rates to the Public Utilities Board at a subsequent date. So, effectively, you would bring under control, through the terms of the franchise, such an outfit as NCPC.

One other thing, too, I would like to suggest that the Government could have considered and that was addressed by the Minister when he made his opening speech and that was that he did not want to see the fragmentation of the gas distribution occur in the same manner as the electrical distribution has. Obviously, he is thinking along the same lines as some of us on this side, that ultimately the central distribution of these basic supplies may very well want to be under public control.

That brings to mind, then, the situation as it exists today is that it seems to me the municipalities, and I can speak for sure for Whitehorse, and the other two municipalities, Faro and Dawson, I am fairly sure, I do not think they have franchises with electrical, with anything. So, perhaps this would have been an appropriate time for the Government to consider bringing the power to grant electrical franchises into the purview of this Board, while no such franchises exist, with a view to being able to consolidate them, in the same manner as gas franchises further down the line, as a long-term policy goal of the Government.

It would seem to me that an opportunity exists right now, because there are no franchises and it is obvious that the municipalities, particularly Whitehorse, have been unable to negotiate a franchise that they deemed to be of any benefit to them, that this may be an appropriate time.

Another reason further to that is that when this House talks about rate equalization, so that everybody in the Territory pays the same rates, there are difficulties involved if one particular franchise within the Territory grants a specific rate or rate of return, for a

guaranteed profit or a guaranteed share of income back to that Municipality. It enormously complicates the process of electrical rate equalization if franchises do contain these discriminatory provisions.

I think that is something the Government Leader apparently should be thinking of when he rises to speak to this Bill, as I hope he will:

I have very little else to add. I think, other than to go back to the central point which the Member for Whitehorse West made. There is an opportunity right now for this Government to set a policy in a direction which will ultimately give them some control over the economic levers in the Territory.

I talked to some length in other debates with the Minister for Mayo with respect to how much his department appears to be taking other responsibility for things happening in the Territory without really having the tools at his disposal to make any changes in the Territory.

I think, to people in this decade, energy is becoming such an all-persuasive and important aspect of personal and business lives that the Government should think very carefully before it gives up the right to control the sources of that energy and the means of distribution. I look forward to clause by clause debate which I suspect will be lively and lengthy, and close with these remarks.

**Mr. Fleming:** Mr. Speaker, I will not be very long. I am going to congratulate the NDP Member, not only for his speech, but for everything that he put into it because it is going to save me saying the very things that I would like to say and sometimes cannot explain them that thoroughly. He has hit everything on the head this afternoon just where it should be. Along with congratulations from this side of the House, I would also think that the Government side of the House could also maybe congratulate the Member on that speech and listen to some of the things that he has told you.

I have a very large problem with these franchise agreements in the area of large corporations, whereas after you do give the franchise, and I of course, being private enterprise myself agree that we need it in the country, but in this type of thing in the electrical power, gas supply, once you have given that franchise to immediately stop the possibilities, a rip-off to the whole public in the Territory, or anywhere else, and have to place controls on the corporation that is, in turn, supplying the goods for that franchise.

I find that in doing this that it would be almost impossible to say that that corporation is allowed to make 10 per cent, allowed to make 11, allowed to make whatever, consequently because of all the ways and means of getting around this type of situation, they in turn can make possibly more than we feel they should and also charge us more for what we are getting than what we think we should have to pay. So, I am sure there will be lots of debate, Mr. Speaker, on the Bill and I will keep most of my remarks until such time as we get into the clause by clause debate of it.

Motion agreed to

**Mr. Clerk:** Third reading, Bill Number 26, standing in the name of the Honourable Mr. Graham.

**Bill Number 26: Third Reading**

**Hon. Mr. Graham:** Mr. Speaker, I move, seconded by the Honourable Member for Tatchun, that Bill Number 26, Frustrated Contracts Ordinance, be now read a third time.

**Mr. Speaker:** It has been moved by the Honourable Minister of Education, seconded by the Honourable Member for Tatchun that Bill Number 26 be now read a third time.

Motion agreed to

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

**Hon. Mr. Graham:** Yes, Mr. Speaker, I move, seconded by the Honourable Member for Tatchun, that Bill Number 26 do now pass and that the title be as on the Order Paper.

**Mr. Speaker:** It has been moved by the Honourable Minister of Education, seconded by the Honourable Member for Tatchun, that Bill Number 26 do now pass and that the title be as on the Order Paper:

Motion agreed to

**Mr. Speaker:** I declare that Bill Number 26 has passed this House.

**Mr. Clerk:** Third Reading, Bill Number 28, standing in the name of the Honourable Mr. Graham.

**Bill Number 28: Third Reading**

**Hon. Mr. Graham:** Mr. Speaker, I move, seconded by the Honourable Member for Hootalinqua, that Bill Number 28, Reciprocal Enforcement of Maintenance Orders Ordinance, be now read a third time.

**Mr. Speaker:** It has been moved by the Honourable Minister of Education, seconded by the Honourable Member for Hootalinqua,

that Bill Number 28 be now read a third time.

Motion agreed to

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

**Hon. Mr. Graham:** Yes, Mr. Speaker, I move, seconded by the Honourable Member for Hootalinqua, that Bill Number 28 do now pass and that the title be as on the Order Paper.

**Mr. Speaker:** It has been moved by the Honourable Minister of Education, seconded by the Honourable Member for Hootalinqua, that Bill Number 28 do now pass and that the title be as on the Order Paper.

Motion agreed to

**Mr. Speaker:** I declare that Bill Number 28 has passed this House.

**Mr. Clerk:** Third Reading, Bill Number 24, standing in the name of the Honourable Mr. Graham.

**Bill Number 24: Third Reading**

**Hon. Mr. Graham:** Mr. Speaker, I move, seconded by the Honourable Member for Whitehorse North Centre, that Bill Number 24, Perpetuities Ordinance, be now read a third time.

**Mr. Speaker:** It has been moved by the Honourable Minister of Education, seconded by the Honourable Member for Whitehorse North Centre, that Bill Number 24 be now read a third time.

Motion agreed to

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

**Hon. Mr. Graham:** I move, seconded by the Honourable Member for Whitehorse North Centre, that Bill Number 24 do now pass and that the title be as on the Order Paper.

**Mr. Speaker:** It has been moved by the Honourable Minister of Education, seconded by the Honourable Member for Whitehorse North Centre, that Bill Number 24 do now pass and that the title be as on the Order Paper.

Motion agreed to

**Mr. Speaker:** I declare that Bill Number 24 has passed this House.

**Mr. Clerk:** Third reading, Bill Number 7, standing in the name of the Honourable Mr. Hanson.

**Bill Number 7: Third Reading**

**Hon. Mr. Hanson:** Mr. Speaker, I move, seconded by the Honourable Minister of Education, that Bill Number 7, Yukon River Basin Study Agreement Ordinance, be now read a third time.

**Mr. Speaker:** It has been moved by the Honourable Minister of Economic Development, seconded by the Honourable Minister of Education, that Bill Number 7 be now read a third time.

Motion agreed to

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

**Hon. Mr. Hanson:** Mr. Speaker, I move, seconded by the Honourable Minister of Education, that Bill Number 7 be now passed and that the title be as on the Order Paper.

**Mr. Speaker:** It has been moved by the Honourable Minister of Economic Development, seconded by the Honourable Minister of Education, that Bill Number 7 do now pass and that the title be as on the Order Paper.

Motion agreed to

**Mr. Speaker:** I shall declare that Bill Number 7 has passed this House.

May I have your further pleasure?

**Hon. Mr. Graham:** Mr. Speaker, I move, seconded by the Honourable Member for Hootalinqua, that Mr. Speaker do now leave the Chair and the House resolve into Committee of the Whole.

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

Motion agreed to

Mr. Speaker leaves the Chair

**COMMITTEE OF THE WHOLE**

**Mr. Chairman:** I shall the Committee of the Whole to order. At this time we shall have a recess.

Recess

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

The first Bill we will consider is Bill Number 20, Energy Conservation Agreement Ordinance.

On Clause 1(1)

**Hon. Mr. Hanson:** Mr. Chairman, it is a well-known fact there is not much to discuss on that Bill. I discussed it in my speech in second reading; it is a good Bill, as usual out of my Department. It is an agreement with the Government of Canada to our benefit. I think even the Member from Whitehorse West will agree it is a good Bill.

Clause 1(1) agreed to

Clause 1 agreed to

On Clause 2(1)

**Hon. Mr. Hanson:** Mr. Speaker, I have a proposed amendment to the Bill. I want to insert the word "residential" between the words "by" and "industrial" in line 2 in Clause 2(1)(a). That means this paragraph also will cover the C.H.I.P. program.

**Mr. Chairman:** I have an amendment by Mr. Hanson that Bill Number 20, entitled Energy Conservation Agreement Ordinance be amended in Clause 2(1)(a) at Page 1 by inserting the word "residential" between the words "by" and "industrial" in Line 2. You have heard the amendment.

Amendment agreed to

Clause 2(1) agreed to

Clause 2 agreed to

On Clause 3(1)

Clause 3(1) agreed to

Clause 3 agreed to

On Preamble

Preamble agreed to

On Title

Title agreed to

**Mr. Chairman:** I now declare that Bill Number 20, Energy Conservation Agreement Ordinance has cleared the Committee of the Whole as amended.

**Hon. Mr. Graham:** Mr. Chairman, I move that you report Bill Number 20 as amended.

**Mr. Chairman:** It has been moved by Mr. Graham that I report Bill Number 20 as amended.

Motion agreed to

**Mr. Chairman:** I now refer you to Bill Number 4. Bill Number 4 is—

**Hon. Mr. Graham:** Mr. Chairman, unfortunately Mr. Lang has a very sick child and I think he was going to call and inquire so perhaps I can suggest that we go to Bill 31 until he returns.

**Mr. Chairman:** I will direct you now to Bill Number 31. Bill Number 31 is Human Tissue Gift Ordinance. I direct you to page 1.

On Clause 1(1)

**Hon. Mr. Graham:** Mr. Chairman, as I outlined in my second reading, the development of medical technology in the last 20 years has inspired the expansion of the old Cornea Transplant Act to include provisions dealing with other parts of the body and this Bill is in keeping with the Statute as has been adopted by other jurisdictions in Canada.

Clause 1(1) agreed to

Clause 1 agreed to

On Clause 2(1)

Clause 2(1) agreed to

Clause 2 agreed to

On Clause 3(1)

Clause 3(1) agreed to

Clause 3 agreed to

On Clause 4(1)

**Mr. MacKay:** I am wondering about the case where the body is still living, but the brain is not. You get to the stage where a transplant is going to occur at a very late stage in somebody's life. They have been in an accident and are almost dying. I am wondering if this section and, perhaps, the following one, contemplates that kind of situation?

I guess we are a little early for heart transplants in Yukon, but it seems to me that you could take a heart out of a still living body and put it into another one, even though the brain is dead, perhaps. Is this section going to cause a problem?

**Hon. Mr. Graham:** Mr. Chairman, there is only one definition of death and that is the definition in the Criminal Code. I think it is understood, in this total Ordinance, that a person must die before any organs may be transplanted or taken from his body.

It is just that section (3) and (4) deal with inter vivos gifts or gifts from one living person to another. These are taken into consideration when a person is alive but is in a critical or dying state or else has a terminal disease or something like that, and that person, while still alive, may grant permission to have some organ taken from his body and used in another person's. But, before that organ can be taken from his body he must clinically die, or legally die.

**Mr. Fleming:** Mr. Chairman, if I may, although you might get a laugh from it, it says a transplant from one living human body to another living human body may be done. That is in 3(1); of course. I think we are on 4(1), are we not, Mr. Chairman, yes.

But, due to what it says in 3(1), in accordance with this Ordinance but not otherwise, and then in 4(1) it says that "any person who has attained the age of majority and is mentally competent to consent, and is able to make a free and informed decision may in a writing signed by him consent to the removal forthwith..." I take it "forthwith" means right now. That would mean that they would be both still alive.

**Hon. Mr. Graham:** He is correct, Mr. Chairman, It means from one living person. As long as the person is alive and mentally competent, he may donate organs from his body, when he is alive. I was wrong.

Clause 4(1) agreed to

On Clause 4(2)

Clause 4(2) agreed to

On Clause 4(3)

Clause 4(3) agreed to

On Clause 4(4)

Clause 4(4) agreed to

Clause 4 agreed to

On Clause 5(1)

Clause 5(1) agreed to

On Clause 5(2)

Clause 5(2) agreed to

On Clause 5(3)

Clause 5(3) agreed to

Clause 5 agreed to

On Clause 6(1)

**Hon. Mr. Graham:** Just for the Members' information, all this is doing is setting out the priority which the medical practitioner must follow in deciding whether or not the person—, or he may use organs from the dead person, so he goes to people in that order,

Clause 6(1) agreed to

On Clause 6(2)

On Clause 6(2) agreed to

On Clause 6(3)

Clause 6(3) agreed to

On Clause 6(4)

Clause 6(4) agreed to

Clause 6 agreed to

On Clause 7(1)

Clause 7(1) agreed to

Clause 7 agreed to

On Clause 8(1)

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

Clause 8 agreed to

On Clause 9(1)

Clause 9(1) agreed to

Clause 9 agreed to

On Clause 10(1)

Clause 10(1) agreed to

Clause 10 agreed to

On Clause 11(1)

Clause 11(1) agreed to

Clause 11 agreed to

On Clause 12(1)

Clause 12(1) agreed to

On Clause 12(2)

Clause 12(2) agreed to

Clause 12 agreed to

On Clause 13(1)

**Mr. MacKay:** Perhaps the Minister could indicate if there are any presently legal ways of dealing with a body or parts or part thereof?

**Hon. Mr. Graham:** Mr. Chairman, the only thing that would be illegal is the order of precedence in which persons must be asked for consent to utilize body organs and due to the fact that there used to be a different order of precedence, we did not think that it is appropriate that we should make some people law breakers simply by reason of the fact that we changed the order of precedence.

Clause 13(1) agreed to

Clause 13 agreed to

On Clause 14(1)

Clause 14(1) agreed to

Clause 14 agreed to

On Clause 15(1)

Clause 15(1) agreed to

Clause 15 agreed to

On Clause 16(1)

Clause 16(1) agreed to

Clause 16 agreed to

On Clause 17(1)

Clause 17(1) agreed to

Clause 17 agreed to

On Preamble

Preamble agreed to

On Title

Title agreed to

**Mr. Chairman:** I declare that Bill Number 31, Human Tissue Gift Ordinance, has cleared the Committee of the Whole

**Hon. Mr. Graham:** Mr. Chairman, I move that you report Bill Number 31, Human Tissue Gift Ordinance, without amendment.

**Mr. Chairman:** It has been moved by Mr. Graham that I report Bill Number 31, Human Tissue Gift Ordinance

without amendment.

Motion agreed to

**Mr. Chairman:** I now direct your attention to Bill Number 4, An Ordinance to Amend the Government Employee House Ordinance.

On Clause 1(1)

**Hon. Mr. Lang:** Mr. Chairman, this section strictly allows for the purchase from joint ownership. It was not in the old Ordinance.

Clause 1(1) agreed to

Clause 1 agreed to

On Clause 2(1)

**Hon. Mr. Lang:** Mr. Chairman, I would like to take this opportunity to speak to the whole sector if I could.

Subsection 1, which they are referring to, is the increase of the amount of money that we would pay for a particular home, up to a maximum of \$68,400, and it does not matter if the house is worth \$80,000, or whatever, that is the maximum we will pay out. So in respect to the old legislation and this new legislation, it is 95 per cent of the appraised value. Before, it was up to a maximum of \$60,000, it is now \$68,400, and in effect, it means we are prepared to pay \$68,400 for a home that is valued at \$72,000.

Further into the section, the qualifications have been changed in respect to appraisers, to attempt to bring them more in line with our local conditions here. At the same time we expect some qualifications, but lessening them to some degree, because we have only one individual who is fully qualified under the Chartered Appraisers Organization.

Further into the section, it specifies the recognized appraisal approaches to avoid the use of a sales evaluation, and also, at the same time, it requires a final binding appraisal where initial appraisals do not resolve the differences between the person who wishes to sell and the Housing Corporation. I think it is fairly straightforward as spelled out in the Ordinance.

**Mr. MacKay:** There are two things in this section we are changing with respect to increasing the limit, that is good. I wonder if the Minister would consider, perhaps, putting in a formula in the Act, rather than a specific number, so that we will not have to keep playing catch-up with the inflation as it proceeds, if it does proceed for the next five years. Perhaps there was some basis, from your own statistics you produced here on house prices that could have given you such a formula.

**Hon. Mr. Lang:** It was considered, and I was very adamant on this point. I felt that there should be a firm figure. There had to be a political decision to increase, or decrease, that, I felt, in deference to the Legislature, it should be debated in the House. I could have quite easily have put it into regulations and left it at that and all decisions made through Commissioner's Orders.

But that is the reason, the basic principle, of why we did not develop a formula as the Member indicated. I am not disagreeing, that perhaps from an administrative point of view it would be that much more advantageous, but I think that when you are dealing with this amount of money, and the basic principles in this type of legislation, is that we have a responsibility to the House, and it should be amended by the Members of the House, and subsequently the public has a better idea of what you are doing if it is fully debated in the House.

**Mr. MacKay:** I cannot but applaud the Minister's reaffirmation of the authority of the House, and I hope it extends to the road equipment replacement fund. The other question I had was with respect to the qualifications of appraisers. I note, with approval, the way in which it has been set out to allow for new appraisals in the event of wide divergencies. As a matter of interest, can the Minister tell us how many appraisers he is aware of in the Territory who would qualify under this section?

**Hon. Mr. Lang:** Mr. Chairman, I believe we have two that would apply under the Appraisal Institute of Canada, one who works for CMHC, and so subsequently could not be utilized, one who is in private business. The remainder of individuals that would qualify under this, I think, are about six to ten, somewhere in there. I do not have the exact figures. It varies, as you well know, and we are attempting just to align it more to with what the banks have done, and whatever, and the local conditions we have here.

**Mrs. McGuire:** Mr. Chairman, I just wanted to ask the Minister a question. I believe it was yesterday you told us that to date 15 houses were purchased under the program, that YTG has made these purchases, right? Six of them sold, two more are in the process of being sold. Where are these houses, in the Whitehorse area or in the outskirts?

**Hon. Mr. Lang:** I do not have a statistical breakdown. The majority of them, I think, are within Whitehorse. Some are in the outlying communities, as well.

I think the principle behind this is encouragement for people to build homes, and I think it is fairly evident in respect to the staff housing throughout the Territory that a lot of employees have built their own homes, and I think it is through the encouragement of this Legislation that they have, and hopefully, with the increase of value that we are prepared to go to, will continue that trend for employees to build their own home. That is the principle of it.

I have no idea what the numbers are that have built their homes as far as employees are concerned, or purchased them, but I am sure there are quite a number, and it is something one can only surmise, but as far as the actual purchases, since the legislation came into effect, 15 is the number. I am not sure of the statistical breakdown, rural versus Whitehorse.

**Mrs. McGuire:** These houses were sold under the old plan of \$60,000 and under? On your explanation of encouraging people to buy their own homes, that is sort of a hard thing to do when you are living in an isolated area say, for instance, Destruction Bay. A person must think a long time about building a \$50,000 house in Destruction Bay. I think, along your line of thinking, it would probably be in the parameters of the Whitehorse area, rather than outskirts.

**Hon. Mr. Lang:** Not necessarily, Mr. Chairman. I think that it is fairly evident that if, for an example, if one wants to build their own home, they can build themselves a very comfortable home in the area of between \$65,000 to \$70,000. The question is, if you use a contractor, it could well be more than that. One could debate that forever.

I recognize we have a responsibility for staff housing, but, at the same time, we are attempting, through this legislation, by updating it to current prices or in the facsimile of what the current market is, to encourage people to build. This legislation, when it was primarily brought in, when it was first introduced, was really for the rural communities and, at the same time, for the bringing in of staff who may have to have special expertise, to bring in staff and encourage them to build their own homes if they were living in

Whitehorse.

**Mrs. McGuire:** Just one last thing, while you are updating prices, I hope you intend to update the houses along with the prices.

**Mr. Fleming:** I am just slightly confused, as usual. The Minister speaks about the fact that he is making homes, trying to get people to build their own homes. Do I understand now that under this Ordinance, if a person went out and built their own home, that you could buy that home?

**Hon. Mr. Lang:** Mr. Chairman, as long as it is CMHC approved, NHA approved. In other words, it is a standard that we have to look at, if we are going to purchase something and want to be able to sell it.

I should further point out, under the requirements of the old legislation, if you had lived here for ten years, worked in some other sector of the population, under the old legislation, went to work for the Territorial Government, you would not have been eligible, under the old terms of the legislation, for the provisions of this Ordinance.

With the provisions of the Ordinance that we are introducing later on in the Bill, you will have had to have lived in that home for two years. Prior to that, there was no timeframe, but, at the same time, you could have had that home purchased any time over the course of your tenure here in Yukon. At the same time, you would have had to have worked for the YTG.

**Mr. MacKay:** While we are on this section, could the Minister tell us how much is available in funding in the Territorial Government's Budget? Is it half a million dollars that are available in any one year to provide funds?

**Hon. Mr. Lang:** Mr. Chairman, there are half a million dollars right now. We have, approximately, invested in the area of \$400,000. There was some question of updating it. We felt that we did not have to, at least at this time. We may well have to come for an amendment. We will be monitoring it very closely in respect to the outlay versus our capabilities of selling the purchases we have made.

**Mr. MacKay:** Do I not understand, though, Mr. Chairman, that in the event an employee and his spouse qualify under this Ordinance, that the Government must buy it back? So if you do, in fact, have a great demand for this kind of thing, it is pretty well inevitable you will have to come back for the money. The \$500,000 ceiling that presently exists there would not preclude you from buying any more; that would not become government policy to not buy any more, because you are going to buy (inaudible).

**Hon. Mr. Lang:** No, Mr. Chairman. If one looks at the present legislation in effect, Section 12(1) states the revolving fund, but it is my understanding that legally we could go over it but we would have to come back to this House in the way of Supplementaries.

Clause 2(1) agreed to

On Clause 2(2)

Clause 2(2) agreed to

On Clause 2(3)

Clause 2(3) agreed to

On Clause 2(4)

Clause 2(4) agreed to

On Clause 2(5)

Clause 2(5) agreed to

On Clause 2(6)

Clause 2(6) agreed to

Clause 2 agreed to

On Clause 3(1)

**Mr. MacKay:** I take it the reason for having the qualification for a mortgage under the National Housing Act is merely to ensure that you are buying a house that is built to suitable standards. Is that the only reason?

**Hon. Mr. Lang:** This is correct, Mr. Chairman. If I recall correctly, if I can use the term, the "old legislation" specified that as well. It is to ensure that we are purchasing a building up to a standard that we can sell on the open market, as opposed to having to go in and totally renovate it.

Clause 3(1) agreed to

On Clause 3(2)

Clause 3(2) agreed to

On Clause 3(3)

Clause 3(3) agreed to

Clause 3 agreed to

On Clause 4(1)

Clause 4(1) agreed to

On Clause 4(2)

Clause 4(2) agreed to

Clause 4 agreed to

**Mr. Chairman:** Bill Number 4, An Ordinance to Amend the Government Employees House Plan Ordinance.

**Mr. Byblow:** Just as a matter of policy, I think the Minister in previous remarks indicated that something like fifteen houses had been purchased under the program in the Whitehorse area. Six were in the process of being sold, or sold, and twelve in the outlying areas were sold, and it created a revenue of something in the order of \$500,000. As a matter of policy, what is the Department's disbursement of the monies acquired under sale.

**Hon. Mr. Lang:** The money that accrues, writes off the ledger in respect to the Housing Corporation. It is what they term net voted, so if it is \$500,000, it is less of a deficit that is presented to the House at the beginning of the year. So, that's effectively what it does, because if we have to go out and purchase staff housing, what we do is to put a line in the budget and take it out of our capital.

**Mr. Fleming:** I might just have a general question if the Minister will allow it. Does the Minister not maybe foresee there is going to be so many homes built and bought, and they will be CMHC approved, that the Government may end up, maybe, with a monstrous pile of homes, and not be able to sell them, or possibly put anybody in them.

**Hon. Mr. Lang:** We are saying that you have to have lived in the home for two years as a requirement. That possibility does exist, I guess it is a question of whether or not you are optimistic about the Yukon, or you are pessimistic. I personally think the Yukon does have a future, and I can see this revolving fund will be active, but at the same time I do not think it will become such a burden that we will be forced to discontinue the program, or anything like that.

I think with the housing market what it is, we may well have to put extra money in any given year into extra housing units, but in the final analysis, it is houses that have been built, in many cases, by the individual themselves, are very saleable commodities, and when you get an upswing in the economy, of course there will be demand, and we will receive our money. So it is money invested that it amounts to, on land and improvements.

Mr. Chairman, in the long term I think it is personally beneficial to the employees and in the long term beneficial to the taxpayers of the Yukon because we are encouraging people to build their own homes and at the same time it stabilizes our work force. It provides a security which, in most large companies now where some security is provided in some method, whether it be mortgages or whatever through the various plans. All I would like to see is I wish it applied to me.

**Mr. Byblow:** Certainly there is no quarrel with the principle underlying the Bill because, in fact, it does encourage people to build with the guarantee that you are going to have somebody to buy it back. It only is, of course, restricted to Government employees.

The only thing I want to clarify for the record is, does a Government employee have to reside in a Yukon Corporation House before he qualifies to purchase it?

**Hon. Mr. Lang:** No, Mr. Chairman, no, no, no. In some cases we have sold staff housing and this has been part of the reason people have purchased plus it has been a fairly reasonable cost. But no, nine times out of ten, they are building their own homes as opposed to purchasing from the Yukon Housing Corporation.

Let us not get this mixed up, the Housing Corporation purchases the house if it is for sale and, as you know, there are specified periods of time that it has to go on the open market and everything else. There has to be an attempt by the ex-employee to sell so there is a responsibility on his or her part to go out to the open market and see whether or not they can sell their home prior to taking advantage of this particular plan.

**Mr. MacKay:** I would certainly not like the opportunity to slip by to suggest that the Minister's idea of selling the house to this Corporation should be taken seriously because, especially if it precedes him immediately proceeding to a pension.

**Hon. Mr. Lang:** Mr. Chairman, I recognize that I am starting to show my age but I certainly did not think it was quite that evident.

**Mr. Byblow:** As a point of interest, are the Ministers opposite Government employees?

**Hon. Mr. Lang:** Mr. Chairman, I think the Member should take some time and read the information that was first provided him upon his election.

Clause 5(1) agreed to



Clause 5 agreed to  
 On Clause 6(1)  
 Clause 6(1) agreed to  
 Clause 6 agreed to  
 On Preamble  
 Preamble agreed to  
 On Title  
 Title agreed to

**Mr. Chairman:** I declare that Bill Number 4, An Ordinance to Amend The Government Employee Housing Plan Ordinance has cleared Committee of the Whole.

**Hon. Mr. Lang:** Mr. Chairman, I would move that we move Bill Number 4, An Ordinance to Amend The Government Employee Housing Plan Ordinance out of Committee without amendment.

**Mr. Chairman:** It has been moved by Mr. Lang that Bill Number 4, An Ordinance to Amend The Government Employee Housing Plan Ordinance be reported without amendment.

Motion agreed to

**Mr. Chairman:** The next Bill that we are considering is Bill Number 35.

**Mr. Chairman:** Bill Number 35, An Ordinance to Amend the Liquor Tax Ordinance.

On Clause 1(1)

**Hon. Mr. Lang:** Mr. Chairman, I think I have pretty well outlined the principle of the Bill during Second Reading. What we are attempting to do, as I said, is provide more revenue for the Government, because inflation is hitting us. We brought in a Budget of constraint, but, at the same time, we have had difficulty keeping up with inflation. At the same time, rewriting it similar to what the provinces have, as opposed to a fixed price on a commodity.

**Mr. Fleming:** I was just interested in the remarks of the Minister, before. The prices varied so much, and I am just wondering, it says 10 per cent in here, that is the price that the liquor board, or whatever, pays for the liquor. That is not the price of sales, that is the price for that.

I am wondering how, actually, in some areas, you only had ten cents. That would mean the bottle is only a dollar to the Liquor Board?

**Hon. Mr. Lang:** Mr. Chairman, you have to understand that there is already a tax levied, and I was dealing in percentages.

For example, the percentage figures presently in effect, in percentage of terms, equates to approximately eight per cent on spirits, rye and rum. So, in other words, there is actually a two per cent increase in that area.

In respect to wine, it is approximately five per cent. Right now it is a fixed price per bottle of wine, roughly about 20 cents, which is equivalent to about five per cent, so we are increasing it by five per cent.

In respect to beer, it is roughly about two per cent and we are increasingly it roughly in the area of eight per cent.

We have taken into account the already taxed levy, so in most cases we are not increasing liquor by ten per cent. It depends on how the tax was levied before, and figured into percentages.

**Mr. Fleming:** Thanks for that information, because that drops down considerably from what I thought the amount was, as of today, and probably the concerns of many people that I have spoken to, too, who thought the same thing, that it was a big ten per cent rise all of a sudden. It is not.

Clause 1(1) agreed to  
 Clause 1 agreed to  
 On Clause 2(1)  
 Clause 2(1) agreed to  
 Clause 2 agreed to  
 On Preamble  
 Preamble agreed to  
 On Title  
 Title agreed to

**Mr. Chairman:** I now declare that Bill Number 35, An Ordinance to Amend the Liquor Tax Ordinance, has cleared the Committee of the Whole.

**Hon. Mr. Lang:** I would move, Mr. Chairman, that you report Bill Number 35, without amendment.

**Mr. Chairman:** It has been moved by Mr. Lang that I report Bill

Number 35, An Ordinance to Amend the Liquor Tax Ordinance, without amendment.

Motion agreed to

**Hon. Mr. Lang:** Mr. Chairman, I would be prepared to go with Bill Number 21, which is An Ordinance to Amend the Liquor Ordinance.

**Mr. Chairman:** At this time, then, I will concede to your wishes and we will consider Bill Number 21, An Ordinance to Amend the Liquor Ordinance.

On Clause 1(1)

**Hon. Mr. Lang:** Mr. Chairman, this is to clarify the situation in respect to liquor licences, as far as non-profit organizations are concerned, and its relationship to gambling, or the permission for gambling, in certain cases that are issued through the Department of Consumer and Corporate Affairs.

I think I specified the policy fairly clearly in discussion on second reading. I think it is fairly evident, from our side of the floor, we believe that there has to be some ability for games of chance and the ability to have a liquor licence at the same, for non-profit organizations, so that they can go about their various fund-raising activities, which, in turn, help the communities.

At the same time, I think we have a responsibility to ensure that Diamond Tooth Gertie's, in Dawson, which has special provisions, can continue, as far as their liquor licence is concerned.

**Mr. MacKay:** I am sure I am leaping to my feet just before the Member from Dawson, to congratulate the Minister for bringing forward this correction.

I would hope that this does not in any way signal any change in the Government's stance in respect to the operation of any other kind of gambling operation in the Territory. I am sure the Minister will be pleased to state his position on that.

Perhaps, while he is on his feet, he could address briefly and it may not be exactly cogent to this Bill and Mr. Chairman may rule me out of order, but the question arising of serving liquor in non-profit making facilities such as curling rinks, when there is a bonspiel on, has given rise to some controversy, especially when it seems to preclude under age people participating in that kind of sporting event.

Perhaps he can address that, if he may, that problem, offer some constructive solutions to it.

**Hon. Mr. Lang:** Mr. Chairman, on the first part of the question, I would suggest that there has been no change in government policy in respect to the issuance of liquor licences and the policy in respect to the allowing various organizations to apply for a licence for a game of chance, through the Department of Consumer and Corporate Affairs.

It is not our intention to broaden it, either. All we want to do is clarify it. As I said in my opening remarks on second reading, that as far as I was concerned, we were just strictly going back to clarify the law that was in effect prior to April 1st, 1977.

I am not too sure on the point that the Member raised, and I recognize it is not the principle of this Bill, in respect to under age people being present, as far as various functions are concerned. It is something I would have to look at. I am sorry I am not that on top with respect to the problem the Member has presented, but it is something I would be more than happy to discuss with him privately, to see if there is a loophole in the law, and perhaps that should be looked at at a later date.

**Mr. Chairman:** As there appears to be no further general discussion, we will consider a clause by clause discussion at this time.

Clause 1(1) agreed to

On Clause 2(1)

**Mr. Byblow:** My question is with respect to Subsection (1), where it deals with Section 66(1)(d). I am not sure I understand what the amendment is saying, because what is implied there is that, in fact, no gambling shall be permitted. When we make reference to Diamond Tooth Gertie's, that is an opposite case. I am not sure of how this is improving the situation with respect to that facility.

**Hon. Mr. Lang:** This is a broad policy in respect to the running of a licence, by a person who has a licence, and it states what can not be done in a licensed establishment. You go further into the section, into Subsection 2, and there are exceptions, I believe it is (c) and (d), for when there is a non-profit organization that has applied to the General Manager, and if there were any questions, it would go to the Liquor Corporation as far as conducting some sort of function in respect to a liquor licence.

**Mr. Byblow:** Mr. Chairman, am I to take it that the exemption provided Diamond Tooth Gertie's falls under Subsection 2, case in point, non-profit organization? Is that the justification of the exemption, or is it more complicated than that in terms of the Criminal Code?

**Hon. Mr. Lang:** Mr. Chairman, the present section, the way it is written, as I said in my opening statements, negates any type of gambling, whether they hold a gambling permit or not, in a licensed premise.

With this amendment of 66(1), it will allow for special cases such as the Lions Gambling Nights because a permit is now classed as a license and KVA's Diamond Tooth Gertie's in Dawson which operates under a special liquor license. They will be all under that broad parameter being brought in and one would have to make a special application for this particular type of liquor license along with whatever application they have made to the Consumer and Corporate Affairs for the responsibility of the gambling.

I do not think we should confuse the two because we are under the Criminal Code as far as games of chance are concerned, under Federal Legislation which is in turn interpreted through the Department of Consumer and Corporate Affairs as far as the gambling. All I am concerned about is the liquor licences and how they will be authorized. I have attempted to clarify that.

**Mr. Byblow:** Mr. Chairman, just to clarify that, the reasoning, or the existence, of Diamond Tooth Gertie's is only under provisions of the Criminal Code, is that correct?

**Hon. Mr. Lang:** Yes, that is correct. It is under the Criminal Code.

Mr. Chairman, it is under the provisions of the Criminal Code that allows the Yukon to grant a special licence to an organization such as the KVA to run Diamond Tooth Gertie's.

**Mr. Byblow:** That is exactly the clarification I wanted. For any other gambling operation and perhaps I am getting off the topic, the provisions that are allowed or the provision that will allow it is under a non-profit situation.

**Hon. Mr. Lang:** I would say yes, but I would suggest that we are straying from the principle of the Bill and if we want to get into question period, I would suggest that my colleague on the far right should be questioned.

**Mr. Chairman:** It would appear to the Chair that we are straying a little bit. Nevertheless, I would like to see it cleared up to the satisfaction of the Members so we can proceed. At this time it would appear that there is no further discussion.

Clause 2(1) agreed to

On Clause 2(2)

**Mr. Fleming:** Yes, I think this is the place to ask the same question as the Honourable Member on my right is trying to get at. I would just ask the Minister, is Diamond Tooth Gertie's a non-profitable organization.

**Hon. Mr. Lang:** This is correct, Mr. Chairman.

On Clause 2(2)

Clause 2(2) agreed to

Clause 2 agreed to

On Clause 3(1)

**Mr. Fleming:** On Clause 3, I just wonder because of the Miscellaneous Statute Law Amendment Ordinance which is coming into effect now or is being brought into the House and has not been dealt with yet, in there, there are amendments to the Liquor Ordinance and without those amendments I do not think that this would even be the law. If you want to get it right down to basic facts, I do not think you could pass this one. I am just wondering which one of these is going to come into effect first, this one or the other one.

**Hon. Mr. Lang:** Mr. Chairman, if it pleases the Member, we will bring it in simultaneously. I am not a lawyer. You asked me a legal question and I cannot answer it but the discretion is here and we will take the comments of the Member under advisement.

**Mr. Fleming:** I am not questioning the integrity of the Government but I do know that there was a problem before due to this type of thing and I hope that it would not happen again.

Clause 3(1)

Clause 3 agreed to

On Preamble

Preamble agreed to

On Title

Title agreed to

**Mr. Chairman:** I now declare that Bill Number 21, An Ordinance to Amend the Liquor Ordinance, has cleared the Committee of the Whole.

**Hon. Mr. Lang:** Mr. Chairman, I move that you report Bill Number 21 without amendment.

**Mr. Chairman:** It has been moved by Mr. Lang that I report Bill Number 21, An Ordinance to Amend the Liquor Ordinance without amendment.

Motion agreed to

**Mr. Chairman:** I will now refer you, since we have the appropriate Minister with us, back to Bill Number 2, An Ordinance to Amend the Companies Ordinance.

**Hon. Mr. Graham:** Mr. Chairman, I believe it was Bill Number 8 that we were to do next.

**Mr. Chairman:** I am sorry, we probably have our wires crossed, I apologize. At this time I will direct you to Bill Number 8, An Ordinance to Amend the Motor Vehicles Ordinance.

On Clause 1(1)

**Mr. Penikett:** Well, if the Minister will not tell us what it is about, I am going to ask. The Minister, being a sensitive and perceptive gentleman, will no doubt, in the last year or two, have heard some rude comments about this Bill. I know that an organization, of which I was previously associated, had some problems with it. I am almost certain that the Minister has received petitions from certain interested groups about the administration of parts of it. I would like to ask him if these are the only amendments he anticipates for the time being, or if he is contemplating some further perhaps in the next session or the session a year from now?

**Hon. Mr. Graham:** Yes, Mr. Chairman, this is part of an overall revision, or review, of the Motor Vehicles Ordinance. This part of the Ordinance is to catch vehicles belonging to people who move into the Territory to work for a short period of time who do not purchase licence plates on their vehicles in the Territory, who use them for their own personal use in the Territory, sometimes without insurance, and always without Yukon licence plates. This Ordinance should clear up that problem, and we have also thrown in a couple of sections allowing us to exempt persons who are here on a legitimate holiday. We do not want to capture in this Ordinance every possible person who journeyed into the Territory for a period exceeding 30 days.

**Mr. Penikett:** The Minister has raised the question of insurance. As he knows, some days ago I asked him about the study on insurance and this is an appropriate time to do that.

But I know back as far as 1974, I was handling some complaints for some people who were residents of provinces fortunate enough to have public automobile insurance. There was a real problem about the coverage of those people once they left the provincial boundaries.

Now, I am not sure exactly what the law is here and no doubt the Minister's department has had a lot to do with this question since. I do recall that at the time there was a belief held on the part of some people who were, say, working in Yukon in the summer and in British Columbia in the winter, in other words, who were here six months in Yukon, six months in BC, that they might have to re-insure their vehicles in Yukon, or at least insure them for the six month period.

Now, I remember that there was some discussion going on at the time that ICBC would give them a refund for the other six months and they would have to get a separate insurer here. Is that a continuing problem? Is it a problem at all for tourists who are travelling through here, in terms of their coverage, or is that something which there is plenty of uniform law and established case law on to protect us?

**Hon. Mr. Graham:** Well, Mr. Chairman, as probably most Members here realize, we do not usually have any problems with private insurance companies. It is only when the Government gets into the insurance business that we start having problems.

It is unfortunate, Mr. Chairman, that I forgot to table an answer to a question on insurance that the Member opposite asked a week ago, but what we find, Mr. Chairman, in many instances, is that, in fact, the Government of BC, and again it seems to depend on individual cases, will not insure a vehicle that is registered in Yukon. Consequently, we find that when people come to Yukon to work for the summer, such as has happened in Watson Lake over the past summer, past year, actually, they come to Yukon, they work for two months and 28 days, they leave Yukon and take a quick weekend trip to BC, and therefore, defeat the present Ordinance, which states that you are given 90 days in the Yukon Territory, without obtaining Yukon plates.

So, they have managed to defeat the Ordinance in that way. This new Ordinance should capture those people. Unfortunately for them, I would imagine, they would also have to assure the Motor Vehicles Branch in Yukon that they have insurance on their vehicle, good, valid insurance in the Yukon Territory.

Now, I am not sure if that is going to be a continuing problem, when these amendments are passed, but I imagine we will find out in the very near future if people start to scream about it.

**Mr. Chairman:** It would appear to the Chair that there is no further general discussion. We will proceed with a clause-by-clause discussion.

Clause 1(1) agreed to

On Clause 1(2)

**Mr. Chairman:** Before we proceed with subsection 2, you will note, in subsection (b)(2), that there is a typo on the word "earn". It should have an "s" after it. I just direct your attention to it at this time. It reads "he earn". It should read "he earns income".

Clause 1(2) agreed to

**Mr. Chairman:** When we cleared subsection 2, I considered we had cleared also subsection 7.

**Mr. Fleming:** If I may, we could not have gone through 2 pages already.

**Mr. Chairman:** Darn close to it, Mr. Fleming.

**Mr. Fleming:** We are on subsection 2, at the top of page number 2.

**Mr. Fleming:** Slow down.

**Mr. Chairman:** I cleared subsection 2. I did not realize it encompassed subsection (6) and subsection (7). Before I pass or clear or carry the clause, have you any questions?

**Mr. Fleming:** Just the one question. I have not finished reading it, so, I think there might be a problem, Mr. Chairman, thanks.

**Hon. Mr. Graham:** Mr. Chairman, perhaps in (2)(7), I can clear up some problem. The reason that we gave a seven day period of grace in (7) was due to the fact that some people come to the Territory during the summer months when, on a weekend or something to that effect, and there may be a period of four days on a long weekend that no government offices are open and, consequently, they are not able to obtain a licence plate immediately that they come to the Territory.

Consequently, we gave them seven days of grace in which they must then obtain a license. In other cases, he goes to Vancouver, purchases a vehicle in Vancouver and brings it to Yukon, he is given seven days after he enters Yukon to obtain Yukon plates for that vehicle.

**Mr. Byblow:** I wonder if I could ask the Minister what provisions there are for the joint residence type of situations, where you might have someone permanently residing across the border, but also has a full-time business here and commutes considerably and exceeds the specified days and so on. Are there any provisions to delineate that situation?

**Hon. Mr. Graham:** Yes, Mr. Chairman. The provision is that he will have to have Yukon plates. It states quite clearly that if a person earns income from employment in the Territory, then he must purchase Yukon plates for his vehicle.

**Mr. Byblow:** Okay, I can appreciate the Minister's firmness in this and it is good, but what of the resident in BC who must spend a month or two here and a month or two in another province. He puts himself in a position where he disqualifies himself from BC full coverage and disqualifies himself from Yukon full coverage. Do you see any problem there?

**Hon. Mr. Graham:** I do not see how anybody can disqualify themselves from Yukon full coverage. If he buys a licence plate in the Yukon, he is okay for a year. It is as simple as that. I imagine in British Columbia it is the exact same way. If you buy a BC licence plate, that licence plate is good for one year. If he chooses to live in both jurisdictions, or work for six months in the Yukon and work for six months in BC, then he must obtain both vehicle plates. It is as simple as that.

**Mr. Tracey:** Mr. Chairman, this is just going back to Subsection (2)(6)(b)(ii), there is a typographical error in (b)(ii), it should be he 'earns' income instead of 'earn'. I want to point that out.

**Mr. Fleming:** I am not fully satisfied with Section (6) yet. It becomes something when you say a person shall be deemed to be a resident of the Territory. So, I come into the Territory from British Columbia or Alberta, somewhere, and I carry on a business, maybe only a little contract of 30 days, or 20 days, or two weeks, in the Territory. I am allowed 7 days before I have to get a licence, and I do. Now I can understand that very well, but what I do not quite understand is where we put a stop to this "deemed to be a resident of the Territory," if he wishes to go get other licences in the Territory, such as hunting licences, anything he wants. Where does that stop?

**Hon. Mr. Graham:** Mr. Chairman, we are talking about two separate Ordinances, and I imagine, under the Game Regulations it has a residency requirement, that you must meet in order to qualify for a game licence.

This Ordinance states in Subsection 3, that a person must have a vehicle registered under the laws of the Territory, if you are a resident of the Territory or if you earn income. So, if you work a day in this Territory, you will have to obtain Yukon plates on your vehicle. It is as simple as that.

**Mr. Penikett:** Clearly what is needed here Mr. Chairman, is a Fair Weather Friends Ordinance.

Clause 1(1) agreed to

Clause 1 agreed to

On Clause 2(1)

Clause 2(1) agreed to

Clause 2 agreed to

On Preamble

Preamble agreed to

On Title

Title agreed to

**Mr. Chairman:** I declare that Bill Number 8, An Ordinance to Amend the Motor Vehicles Ordinance has cleared Committee of the Whole.

**Hon. Mr. Graham:** Mr. Chairman, I move that you report Bill Number 8, An Ordinance to Amend the Motor Vehicles Ordinance without amendment.

**Mr. Chairman:** It has been moved by Mr. Graham that I report Bill 8, An Ordinance to Amend the Motor Vehicles Ordinance without amendment.

Motion agreed to

**Mr. Chairman:** Our next Bill should be Bill Number 3, Miscellaneous Statute Law Amendment Ordinance, 1980. I direct you to page 1.

On Clause 1(1)

**Hon. Mr. Graham:** Mr. Chairman, I move that you report progress on Bill Number 3 and beg leave to sit again.

**Mr. Chairman:** It has been moved by Mr. Graham that I report progress on Bill Number 3 and beg leave to sit again.

Motion agreed to

**Hon. Mr. Graham:** Mr. Chairman, I move that Mr. Speaker do now resume the Chair.

**Mr. Chairman:** It has been moved by Mr. Graham that Mr. Speaker do now resume the Chair.

Motion agreed to

Mr. Speaker resumes the Chair

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

**Mr. Lattin:** Mr. Speaker, the Committee of the Whole has considered Bill Number 20, Energy Conservation Agreement Ordinance and directed me to report same with amendment. Further, the Committee has considered Bill 31, Human Tissue Gift Ordinance and Bill Number 4 An Ordinance to Amend the Government Employee Plan Ordinance; Bill Number 35, An Ordinance to Amend the Liquor Tax Ordinance; Bill Number 21, An Ordinance to Amend the Liquor Ordinance and Bill 8 An Ordinance to Amend the Motor Vehicles Ordinance and directed me to report same without amendment. Further, the Committee has considered Bill Number 30, Miscellaneous Statute Tax Amendment Ordinance, 1980 and directed me to report progress on same and ask leave to sit again.

**Mr. Speaker:** You have heard the report of the Chairman of Committees. Are you agreed?

**Some Members:** Agreed.

**Mr. Speaker:** Leave is so granted.

May I have your further pleasure?

**Hon. Mr. Graham:** Mr. Speaker, I move, seconded by the Honourable Member for Hootalinqua, that we do now call it 5:30.

**Mr. Speaker:** It has been moved by the Honourable Minister of Education, seconded by the Honourable Member for Hootalinqua, that we do now call it 5:30.

Motion agreed to

**Mr. Speaker:** This House now stands adjourned until 1:30 p.m. tomorrow.

The House adjourned at 5:20 o'clock p.m.

[The page contains extremely faint and illegible text, likely bleed-through from the reverse side of the document. The text is arranged in approximately 15-20 horizontal lines across the page, but the characters are too light to be transcribed accurately.]