



The Yukon Legislative Assembly

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3rd Session

24th Legislature

HANSARD

Monday, November 3, 1980 — 1:30 p.m.

Speaker: The Honourable Donald Taylor

Yukon Legislative Assembly

SPEAKER — Honourable Donald Taylor, MLA, Watson Lake

DEPUTY SPEAKER — Grafton Njootli, MLA, Old Crow

CABINET MINISTERS

NAME	CONSTITUENCY	PORTFOLIO
Hon. Chris Pearson	Whitehorse Riverdale North	Government House Leader — responsible for Executive, Council Office, Public Service Commission, Finance and Pipeline.
Hon. Doug Graham	Whitehorse Porter Creek West	Minister responsible for Education, Justice, Consumer & Corporate Affairs, Information Resources, Government Services and Workers' Compensation Board
Hon. Dan Lang	Whitehorse Porter Creek East	Minister responsible for Renewable Resources, Tourism and Economic Development
Hon. Geoffrey Lattin	Whitehorse North Centre	Minister responsible for Highways and Public Works, Municipal and Community Affairs, Yukon Housing Corporation, and Yukon Liquor Corporation.
Hon. Meg McCall	Klondike	Minister responsible for Health and Human Resources

Government Members

(Progressive Conservative)

Al Falle	Hootalinqua
Jack Hibberd	Whitehorse South Centre
Peter Hanson	Mayo
Grafton Njootli	Old Crow
Donald Taylor	Watson Lake
Howard Tracy	Tatchun

Opposition Members

(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

Clerk Of Assembly
Clerk Assistant (Legislative)
Clerk Assistant (Administrative)
Sergeant-at-Arms
Editor of Hansard

Patrick L. Michael
Missy Parnell
Jane Steele
G.I. Cameron
Lois Cameron

Whitehorse, Yukon**Monday, November 3, 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:** We will proceed at this time with the Order Paper.**DAILY ROUTINE****Mr. Speaker:** Are there any Returns or Documents for Tabling?**TABLING OF DOCUMENTS****Hon. Mr. Lattin:** Mr. Speaker, I have for tabling answers to oral questions: a question by Mr. Penikett concerning monthly sales in liquor stores; a question by Mr. Fleming concerning non-native people living on Indian lands; and a question by Mrs. McGuire concerning property taxes.**Mr. Speaker:** Are there any Reports of Standing or Special Committees?**REPORTS OF STANDING COMMITTEES****Hon. Mr. Graham:** Mr. Speaker, it is my pleasure to table the Sixth Report of the Standing Committee on Rules, Elections, and Privileges.**Mr. Speaker:** Are there any Petitions?

Reading or Receiving of Petitions?

Introduction of Bills?

Are there any Notices of Motion for the Production of Papers?
Notices of Motion?**NOTICES OF MOTION****Mr. Hanson:** Mr. Speaker, I move, seconded by the Honourable Member for Hootalinqua, that the Standing Committee on Rules, Elections and Privileges investigate and report to the Assembly on:(a) the position of the Member for Whitehorse Riverdale South in relation to Section 10 of the *Yukon Council Ordinance*; and

(b) any recommended amendments to such legislation.

Mr. Speaker: Are there any further Notices of Motion?**Mr. MacKay:** Mr. Speaker, I believe I have a question of privilege for the House. Mr. Speaker, I just heard Notice of Motion from the other side that the question of my right to occupy this seat is now being brought forward. Mr. Speaker, I believe that this kind of thing should be immediately dealt with by the House as a question of privilege, because it is the question of whether or not my constituents will be continued to be represented by myself in this House.

I feel that to refer it to Committee means it will not be dealt with for at least two days, and that, in any event, that Committee is not obliged to sit at any particular time. I would suggest, Mr. Speaker, since it is of such importance to myself, as a question of privilege, that this question be immediately referred to the Standing Committee and a ruling requested as soon as possible, to determine whether or not I have any shadow over my right to sit in this House.

I would like to say for the benefit of the people listening, Mr. Speaker, that this question has been put to me over the past month, but I have sought legal advice and I am absolutely satisfied I have every right to sit in this House.

Mr. Speaker: The Chair would have to take under advisement this question of privilege to find out if there is a *prima facie* case of privilege.

I wonder whether anyone else in the House has anything to say on the matter of the question of privilege as raised by the Honourable

Member?

Hon. Mr. Pearson: Mr. Speaker, I believe that I would agree that the Honourable Member is right in requesting that this be dealt with forthwith by the Standing Committee. It is a rather difficult question, Mr. Speaker, in that the prohibition, if one exists, is in the ordinance itself. It is not a rule of this House. So there has to be an interpretation of our legislation. I think that the Member has made a valid request to the Chair, and that the Committee should be instructed to deal with this matter forthwith.**Mr. Penikett:** Mr. Speaker, if I may make a very brief and small contribution: one can only speculate as to the source of the doubt placed upon the fitness of the Member to continue to serve in his present capacity. Presumably that is not the matter at all that is being referred to the Committee. It does seem to me, though, Mr. Speaker, since the Member has risen in his place, and since the most serious question that can face this House is a question about the Member's fitness to serve, that he may have a bona fide question of privilege.

It seems to me especially if he may persuade Mr. Speaker, or Mr. Speaker is persuaded, that the matter raised is not of substance, or the doubts placed upon the Member are unfairly placed upon him, or that the question of his eligibility is improperly clouded.

Mr. Speaker: of course, in ruling that there is a *prima facie* case will obviously have to refer the matter to the Committee and that is really all he can do. Ultimately the decision is with the House. However, I would hope that Mr. Speaker would consider carefully, for future reference in the House, and certainly for our guidance in this, Mr. Speaker's responsibility in ensuring the proper restraint is placed on Members, in exercising or even raising such an awesome and profound matter as the very fundamental question of the Member's right to sit.

It seems to me that if, as the Government Leader said, it is a question of interpretation, the Committee, without legal advice on any of those things, may be poorly or inadequately equipped to deal with the question as expeditiously as I think the Member has a right to expect.

Those are matters you may wish to address, in your ruling on the question of privilege raised by the Member for Riverdale South.

Thank you, Mr. Speaker.

Mr. Speaker: The Chair will have to take under advisement the remarks made by Honourable Members, basically on the question raised by the Honourable Member for Whitehorse Riverdale South. I will reserve my decision on this matter and bring a decision to the House at the earliest possible moment.**Mr. Speaker:** Are there any further Notices of Motion?
Statements by Ministers?

This then brings us to the Question Period.

QUESTION PERIOD**Question re: Employment/Preferential Hire Policy****Mr. MacKay:** Can the Government Leader give an estimate to the House as to when he will bringing forward an answer to my written question regarding the effectiveness of the affirmative action hiring program of this Government?**Hon. Mr. Pearson:** Mr. Speaker, I want to assure all Members of the House that questions on the Order Paper do receive priority and are worked on in the administration, so that we can get the answers to the House at the earliest possible day. We will get the answer as quickly as possible.**Mr. MacKay:** I thank the Government Leader for that. In view of the Government Leader's expressed special concern in respect to the terms and conditions of hiring surrounding the Foothills Pipe Line Project, can he tell the House if the present policy of the Yukon Territorial Government, in terms of preferential hiring, is as tough as that which is going to be put upon Foothills?**Hon. Mr. Pearson:** Yes, Mr. Speaker, in fact I think it is tougher. I must emphasize, though, that the requirements put on Foothills cover really two areas: one is in-migration, and the other is local hire. Our concern in respect to the new proposed Constitution must, of necessity, I believe, centre more on the in-migration

factor and what little control we might be able to exercise over that, as opposed to the local hire thing. But, Mr. Speaker, as a general policy, I believe that that the Yukon Government's policy in respect to local hire is tougher than anything that we could impose upon Foothills.

Mr. MacKay: In view of the importance that the Government Leader attaches to these local preferences, is it his Government's policy now that in any future major development — in the mining sector, for example, — such terms and conditions will be laid upon these companies?

Hon. Mr. Pearson: Oh, yes, Mr. Speaker, there is little doubt about it. I am confident in saying that, with any company we have had discussions with, in respect to future development in the Territory, a subject that comes up time after time, after time, one of the foremost ones with us, is local employment.

Mr. Penikett: Supplementary on the same subject: Can the Government Leader state what new developments there are with the matter of pipeline in-migration, and the conflict of the proposed controls with the federal resolution on the Canadian Constitution? Specifically, can the Government Leader tell us whether he has heard back from the Prime Minister, or the Chairman of the Constitutional Committee to whom he referred; and when, and if, YTG will be able to appear before that committee?

Hon. Mr. Pearson: Mr. Speaker, we have not heard back yet from the Prime Minister with respect to the telex that we sent to him, and we do not yet know who the chairman of the committee might be. This is a joint committee of the House and Senate, and the Senate have not yet named their members to that committee. There will be two chairmen chosen, one from the Senate and one from the House; they will be co-chairmen. The information that we have received is that we should be petitioning these co-chairmen for the right to appear before this committee, once they are named.

My latest information at this moment is that the co-chairmen have not yet been named.

Mr. Penikett: Mr. Speaker, I understand that the constitutionality of the proposed local hiring provisions is now before the Cabinet for advice, or before the Privy Council office.

In addition to whatever representations we may make before the Commons-Senate Committee on the Constitution, has the Government Leader been invited to make any direct representations to the Cabinet Office of the Prime Minister, in connection with, or to provide, our views on the constitutionality of the question?

Hon. Mr. Pearson: No, Mr. Speaker, we have not been invited to make any direct representations yet, but I am very happy to tell the House, that such representations have been made on our behalf by the Northern Pipeline Agency.

Mr. Speaker, I have been advised that it is an opinion of people in the Northern Pipeline Agency, that those representations were received with concern, and that they will be passed on to those who should be able to make an affirmative decision.

Mr. Penikett: Given the constitutional uncertainty surrounding this matter, and the prospect that neither the Cabinet Office nor the committee may see the question in the same light as we do, is the Government Leader seeking advice or taking counsel as to the advisability of referring this issue to the courts, as have several provincial governments in connection with other constitutional matters?

Hon. Mr. Pearson: No, Mr. Speaker, we have not considered that at all. I would suggest that that may well be an option that is open to us at some point in time. I am hopeful that it would not get to that point; that the committee will hear our concerns and will come down with positive recommendations that will ensure that we do have that little bit of control over in-migration, with respect to the pipeline construction, when it occurs.

Mr. Byblow: I have a couple of supplementaries for the Government Leader on the same topic. On the subject of the local hiring policy, regardless of the outcome of the conflict with the Constitutional Mobility Clause, can the Government Leader advise the House of the degree to which this Government is prepared to act over the loss, or the drain, of people to the Pipeline from established employment in the Territory; that is industry and business?

Hon. Mr. Pearson: Mr. Speaker, this is perceived to be a major problem, but one that neither we nor anyone else other than those employers might have any control over. Mr. Speaker, because if people want to change jobs internally in the Territory we are going to have very little to say about it. If they are some of our people I

guess we could offer them more money or something to compete with the Pipeline. But we would have very little control over that in any way, shape or form. Mr. Speaker, the local hire provisions are directed entirely to unemployed workers in the Yukon Territory.

Mr. Byblow: I would then enquire of the Government Leader whether he is aware that the northern hire provisions may very well be in jeopardy, by the fact that the four union signatories with whom Foothills will be dealing could easily insist on in-migration from other low-employment areas of the country.

Hon. Mr. Pearson: Mr. Speaker, there has been a considerable amount of international and national union involvement with respect to the putting-together of those terms and conditions. Mr. Speaker, I would respectfully suggest that that will be an issue that has to be dealt with directly by the proponent.

Mr. Byblow: As a final supplementary, I would ask the Government Leader if he can say definitively whether his Government is presently researching or conducting any study to determine the effects on labour to the Pipeline in the Territory?

Hon. Mr. Pearson: Mr. Speaker, I am not absolutely sure exactly what the Honourable Member is looking for, but Mr. Speaker if he would care to avail himself of the information that is available in the Pipeline office, I am confident that they would be happy to deluge him with the number of reports and papers that we have on this subject.

Question re: RCMP/Special Constable Program

Mrs. McGuire: I have a question for the Minister of Justice. In reference to the federal government cut-back of their portion of funding on the Special Constable Program in the provinces, Mr. Speaker, does the Minister foresee, or has he received, any notice of cut-back on the Yukon's Special Program?

Hon. Mr. Graham: No, we have not, Mr. Speaker.

Mrs. McGuire: It is my understanding that appropriation of funds was provided for twelve Yukon constables. Do we have twelve constables engaged in Yukon?

Hon. Mr. Graham: Mr. Speaker, we have as many constables as is presently being allowed us by Ottawa. I do not know whether it is nine or twelve.

Question re: Energy Conservation

Mr. Fleming: I have a question for the Minister of Economic Development. Last year, the Honourable Member for Mayo, in his capacity as Minister, made a statement of the energy policy in the House, in which he outlined the goals in program for the Government to reduce energy consumption, conservation, and the use of alternate energy sources. In that statement, it was stated: the Government planned to make strong representation to various government departments and private employers, to re-examine their practice of paying lighting and heating bills of their employees, and to also re-examine this practice as it exists under several programs of this Government.

Would the Minister tell the House whether this plan was carried out and whether or not it was successful?

Hon. Mr. Lang: Mr. Speaker, I am not quite clear if the Member is asking, where the Government is the employer, whether or not they have researched and attempted to ensure that the employees of this Government are paying for the energy they are using. Is that the question, Mr. Speaker, I am not clear.

Mr. Speaker: Perhaps the Honourable Member could rephrase his question to make it a little clearer.

Mr. Fleming: It will be a supplementary and I think it will be a little clearer as to what we want to know.

The statement also said the Government examined the new building codes, which would make standards which would require triple-glazed windows, restrictions on the amount of window area, and metering of each unit in a commercial building on an individual basis.

Mr. Speaker, I am not aware of the new building code. Does the government plan to introduce such changes in its building code to help save energy in Yukon?

Hon. Mr. Lang: Mr. Speaker, there is no question that the time will come when that type of stipulation will have to be put in the National Building Code. That is just what it is; it is a national building code and there will have to be cooperation between the provinces and the territories, with respect to coming up with a consensus as to what should be in a national building code.

I should further point out, Mr. Speaker, that, as the Member well knows, there have been a number of agreements signed with the

Government of Canada with respect to energy conservation, and these agreements provide certain expertise, certain assistance to the private sector to try to encourage the further energy conservation.

Further to that, Mr. Speaker, it is my understanding that the Budget — if one can understand it — that was brought down by the Government of Canada over the last week did provide for certain items with respect to energy conservation. We have not yet received particulars on that, but it would be our position, if we possibly can do it, to take advantage of some of the programs which were enunciated by the Government of Canada, if they fit our particular cases.

Mr. Speaker, while I am on my feet, I have a number of replies to oral questions which were raised over the course of the last couple of weeks. The first two were asked by Mr. Penikett. These were with respect to the unemployment figures reported by the Government and the accuracy of them.

The basic question was, Mr. Speaker: "Can the Minister state what steps are now being taken to ensure that the Government has reliable employment data for the Territory?"

The answer, Mr. Speaker, is that I can assure the Member that we are moving as quickly as possible to implement a nationally accepted form for statistically reporting on the employment and unemployment situation in Yukon. As all Members are aware, Mr. Speaker, the Government of Yukon has been attempting for quite some time to obtain a commitment by Statistics Canada to undertake a labour force survey in the Yukon. I am happy to say we have received such a commitment, and we have been given assurances by Statistics Canada that we are now presently developing the methodology and the technical procedures required to implement the Canada Labour Force Survey in Yukon. The first survey is expected to be done by April, 1981, Mr. Speaker, and if we have a Session in May, 1981, I expect the Honourable Member probably will have some questions with respect to statistics and will use them to his own advantage.

Mr. Speaker, I have an answer to another oral question that was asked by the Honourable Member for Faro. It had to do with the question of assurance of supply of oil and gas for Yukon. The question from the Honourable Member was: can we advise the House as to whether or not this Government has any contingency plans with respect to energy supplies, in the event of national shortages?

Mr. Speaker, for the edification of the House, all of the petroleum products consumed in Yukon are imported from refineries in Vancouver and Taylor, BC. The British Columbia refineries, however, obtain over two-thirds of their crude requirements from Alberta sources. If in fact Alberta curtails oil shipments to BC refineries, the impact on Yukon supplies would depend entirely on how British Columbia was able to replace Alberta crude with off-shore imports.

As Yukon's demand on BC refineries represents less than two per cent of their total output, it is unlikely that BC would restrict shipments of petroleum products to our market, unless they are unable to replace Alberta crude. In that event, Mr. Speaker, other supply avenues would have to be examined.

For Members' knowledge, this Government does have representation on an Energy Supplies Allocation Board, in the person of Mr. Ferbey, the Deputy Minister in charge of Pipelines. The mandate of that particular board is to allocate energy in the event of national emergencies or shortages. By way of this board we have been assured that energy supplies to the North will have priority allocation in all such emergencies. Thank you, Mr. Speaker.

Mr. Fleming: I have a final supplementary, Mr. Speaker. I thank the Minister for my actual non-answer and for the statements. I would hope that this question is answered by a "yes" or a "no". The then Minister last year said it was the intention of the Government to reduce oil consumption by five per cent in one year. I think that year is passed or almost passed. Has the Government met that goal?

Hon. Mr. Lang: Mr. Speaker, if the Member is expecting a "yes" or "no" I can tell him that I am not going to give him a "no" or a "yes". But I will say, Mr. Speaker, that I think we have made great strides with respect to the conservation of energy in Government buildings. The Member has been a Member of this House for some time; he has consistently voted more money for more insulation in Government buildings as well as the various houses that we do have under the responsibility of the Government of the Yukon Territory.

As well, Mr. Speaker, the Member knows full well that in some particular cases lights have been taken out of this particular building to conserve on energy. I trust that it is not hampering him in doing his duty.

Question re: Kaiser Aluminum

Mr. MacKay: I might say that I can certainly see the light; I wonder about the others.

Mr. Speaker, I have a yes or no question for the Minister of Economic Development. Has he, or has he not, had any contact or meeting with Kaiser Aluminum since he took his portfolio over?

Hon. Mr. Lang: Mr. Speaker, N-O.

Mr. MacKay: Why not, Mr. Speaker?

Hon. Mr. Lang: Mr. Speaker, as the Member knows, the prime responsibility with respect to the Kaiser development lies with the Government of Canada. I understood there were some discussions over the course of the last year. I am prepared to check further into it for the Member, but it appears that it has died a natural death.

Mr. MacKay: Child neglect is not a natural death. I wonder if the Minister can explain to the House why he has not pursued this, and if the lack of interest actually stems from this Government, rather than from Kaiser or from the federal government.

Hon. Mr. Lang: No, Mr. Speaker, I do not think I can take that type of an allegation. I think all Members know that we are more than prepared to look at any development if it is in the best interests of the Territory. Any company that is looking at developing in the north knows that our door is open to look at any proposals, and see whether it is in the best interests of the Territory.

Over the short term that I have had these portfolios, I have never been directly approached with respect to the Kaiser Aluminum proposition. I do not have anything further to add that, unless something is happening without my knowledge.

Question re: Dawson City Day Care

Mr. Penikett: I have a question for the Minister of Health and Human Resources. Last Wednesday, the Minister confirmed that she outlined some conditions in Dawson City in connection with a grant of funding for that day care centre.

On Thursday, she told the House that she made no conditions. I wonder if the Minister would now care to explain for the House this apparent contradiction?

Hon. Mrs. McCall: Mr. Speaker, I meant that I remembered a conversation in Diamond Tooth Gertie's. I made absolutely no conditions whatsoever.

Mr. Penikett: Mr. Speaker, what the Minister actually did was that she confirmed one of the conditions of the grant to have been that nothing be said about the grant publicly, to the press, or to the other day care centres in Yukon.

Let me ask the Minister, since she is the Minister responsible for day care, and since she is now saying there were no conditions: is she also saying that there was no deal, to use the shorthand, or no arrangements discussed, for the funding of that day care, between herself and the person on that infamous evening in Diamond Tooth Gertie's?

Hon. Mr. Pearson: Mr. Speaker, it seems to me that the line of questioning with respect to this has reached a point where I must rise, number one, in defence of the Minister; and number two, in defence of this Government; because there seems to be some implication by the Honourable Member that something nasty happened.

Now, Mr. Speaker, nothing nasty happened, and I would respectfully request that the Honourable Member look to the source of his information.

Mr. Speaker: I feel that perhaps I should remind the Honourable Member that his questioning could be considered as argumentative. Perhaps the Honourable Member might care to rephrase his question.

Mr. Penikett: Thank you, Mr. Speaker. I would not want to be argumentative, Mr. Speaker. Thank you for your admonition.

Mr. Speaker, on the opening day of the Session, I asked the Government Leader for his assurance, in the House, that a letter which I wrote to the Government, to the Minister responsible, concerning the first information I received on this matter, was in fact not the cause of either the confidentiality regarding the arrangement being broken, or that arrangement coming to an end. Since the Minister did not answer that question on that day, would he now answer that question?

Hon. Mr. Pearson: Mr. Speaker, the Minister who received and dealt with that letter was not in the House that day. Possibly he should attempt to deal with that question at this point in time.

Hon. Mr. Graham: Mr. Speaker, soon all of us will be involved in this little escapade. I received a letter from the Member for Whitehorse West, on behalf of the Minister of Health and Human Resources, requesting clarification of a point which he brought up. That point was that he understood that the money allocated to day care in the Territory, the upgrading grant, had all been given to the day care centre in Dawson City.

I answered that letter in the negative. I said that was not so; the money had not been given to Dawson City. We had, at that time, no intentions of granting any money under the grant program to Dawson City, because of the fact that that day care centre was established after the cut-off date.

At that time, that was entirely correct, Mr. Speaker, and that letter in no way contributed to the fact that the Justice Department of the Government of Yukon gave an opinion to the Government Leader and the Minister of Health and Human Resources that it would not be proper for them to go ahead with their plan to give \$7,000, or loan \$7,000, to the Municipality of Dawson. It was my department, Mr. Speaker, that gave that information to the Government Leader and the Minister of Health and Human Resources.

At that time, I believe I can speak for them, they decided that this program would no longer be pursued.

Question re: Employment/Trades Training

Mr. Byblow: I have a question for the Minister of Education on a slightly different topic. It is a question of a matter of policy. In view of the increasing shortage of trades people in the Territory, certainly brought stronger to light on a CBC newscast at noon today, can the Minister say if he, through his department, will be pursuing more aggressively an increase in trades courses, particularly apprenticeship programs?

Hon. Mr. Graham: Mr. Speaker, the Honourable Member opposite had to vote on an education budget that included funds for a new Yukon College, of which the first stage, as I am sure he understands, is for vocational training in the Territory. So, of course, we are pursuing, very aggressively, additional trades training in Yukon.

Mr. Byblow: As a supplementary to that, can the Minister say if there has been an increase or a decrease in the number of pre-vocational programs offered at the Vocational School this fall?

Hon. Mr. Graham: Mr. Speaker, in my humble opinion, there has been an increase in the number of courses offered. There has also been a certain shift in the courses which are offered. We have dropped courses that we found were no longer acceptable to the vast majority of students in the Territory, or people in the Territory, and are offering new trades this year.

We will continue to do that.

Mr. Byblow: As a final supplementary, Mr. Speaker, I would like to ask the Minister if he can say whether his department is pursuing any moves to decentralize in the area of trade and vocational training?

Hon. Mr. Graham: Mr. Speaker, we have looked at that possibility many times before. I will be only too happy to report to all Members opposite, when we finally reach a conclusion.

Question re: Dene Land Claim

Mrs. McGuire: I have a question for the Government Leader. In last Thursday's *Whitehorse Star* news report, YTG's Land Claims Administrator, Mr. Steele, said that the Dene had a very good claim in the Yukon but had not presented one yet. Mr. Speaker, I will ask the Government Leader: has the Dene indicated to this Government if they are contemplating making a Lands Claim in the Yukon?

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

Mrs. McGuire: Are you aware of any other, if I may use the word, "outsiders", contemplating claims on Yukon land?

Hon. Mr. Pearson: Mr. Speaker, after receiving the Tahltan claim, or the indication that Tahltan had stated that they had a claim, I would respectfully suggest that the possibility of further claims from other groups outside of Yukon is very real and quite possible. But I have not heard of any others, officially, being in the hands of the Minister yet.

Mr. MacKay: Supplementary to the last question, if I might, Mr. Speaker: in view of the Tahltan claim and of course previous to that the COPE Claim, and in view of the Government's already

indicated expectations of possible further claims, would it not be in the best interest of an expeditious and complete Land Claims Settlement if this Government took some initiative in trying to seek out what other possible claims there may be?

Hon. Mr. Pearson: Mr. Speaker, I do not know that I can answer that question with any kind of definitive answer. Mr. Speaker, the knowledge of a claim for land in Yukon has been in the forefront of the general public, not only of this Territory, but of southern Canada, for just about eight years now. Surely if there is anyone who has interest, they do not have to be told at this late date: we are here to be taken.

Question re: Land/Mapping and Regulation-making

Mr. Penikett: I have a question about the Land Claim concerning the tribe known as the Liberals from Ottawa, to the Minister of Municipal Affairs. I thank him for answering my question about land north of Whitehorse last week.

He said that the slight delay of one year in opening land was caused by mapping and the making of regulations.

Can the Minister state now how advanced the mapping and regulation-making process is; if it is not nearly finished, when will it be?

Hon. Mr. Lattin: Mr. Speaker, yes, we are proceeding quite favourably with it. It will be some time yet, but I believe over the next couple of months or the next period that we will have a great amount of it completed, and when we do, I will certainly let the Member know.

Mr. Penikett: I thank the gentleman Minister.

Can the Minister now state what process will be used to consult with local residents on area regulations which will be coming down, and when he expects this process to begin and end?

Hon. Mr. Lattin: Mr. Speaker, I foresee the process taking place in the future. I think there are many methods by which we could have local input. I think we will follow them all and go with it at that time we think the best way to get to the public.

Mr. Penikett: I think I understand the Minister's answer. Let me ask one further supplementary. Has the Minister reached a decision yet on the all important question of price in connection with this land; and, specifically, can he say whether the land will be sold at market value or development costs?

Hon. Mr. Lattin: At this particular time, Mr. Speaker, I am unprepared to say which it will be.

Question re: White Pass Service Cut-back

Mr. Byblow: It has come to my attention, Mr. Speaker, with respect to the Government Leader's comments in the House last Monday on the topic of White Pass lay-offs, that the request for the cut-back of service from seven days to five was made by White Pass as part of an economy drive. Was the Government Leader aware of this?

Hon. Mr. Pearson: Mr. Speaker, I was not aware that that was the specific reason for the cut-back, but that does not take me by surprise. The CTC Report with respect to White Pass said that it was an uneconomical operation the way it was going, and that it had to change.

This Government, Cyprus Anvil Mines, the federal government and the Government of Alaska, indicated to White Pass that they had to demonstrate that they could change, and that they could operate more economically. As to who made the request, I think that is completely irrelevant, Mr. Speaker. The fact of the matter was that White Pass discovered that they could do just as much hauling five days a week as they could hauling seven days a week, or they could handle the required freight that they had to haul in five days a week instead of in seven. I would suspect, Mr. Speaker, that we would have been saying to them that it would have been irresponsible on their part if they had maintained the seven-day service when they could do it in five.

Mr. Byblow: I sincerely thank the Government Leader for clarifying that aspect of the record. The implication was left that a cut-back in mine production was directly responsible for the lay-offs. I would simply request the Government Leader to correct the record.

Mr. Speaker: Order please, the Honourable Member is out of order.

Question re: Commissioner

Mr. Fleming: I have a question for the Government Leader this afternoon. It is my feeling, and the feeling of many others, that we could use many in-roads to the Government in Ottawa; owing to

the fact that we do not have an acting Commissioner at the present time, I wonder if the Government Leader could indicate as to whether he sees us in the near future possibly having a Commissioner?

Hon. Mr. Pearson: I honestly do not know, Mr. Speaker. We do not have an acting Commissioner, we have an administrator. Mr. Bell's appointment and title is Administrator. I am sorry, Mr. Speaker, I just cannot say whether the Minister will or will not appoint a new Commissioner. He has indicated to us on a number of occasions that he wished to keep that option open. He has also indicated to us, Mr. Speaker, that he had no intention of amending or changing the instructions that Mr. Bell is now operating under. It is strictly the Minister of Indian Affairs and Northern Development's decision to make, Mr. Speaker.

Mr. Fleming: Mr. Speaker, due to the fact that it is the federal government's position to do as they wish in this case; and because I feel, as many others do, that we could possibly use more communication with Ottawa; is this Government and the Government Leader pursuing the federal government to appoint a commissioner as soon as possible?

Hon. Mr. Pearson: No, Mr. Speaker, because I honestly do not believe that that would improve communications with the federal government. Mr. Bell, as the Administrator, has the responsibility for those functions that the Commissioner previously had. And, as far as I know, Mr. Speaker, he carries out all of those functions now. As far as I am aware, he has the same connections or communications with Ottawa as a Commissioner would have. If someone else was appointed Commissioner, Mr. Speaker, then Mr. Bell would stop doing it and someone else would start doing it. I do not agree at all that there would thus be any great upswing in communications with Ottawa.

Question re: Shakwak Maintenance/Employee Lay-Offs

Mr. Penikett: Question to the Government Leader. Is the Government Leader aware of the case of three Canadian workers being laid off by the federal Public Works Department from the Shakwak maintenance?

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

Mr. Penikett: Mr. Speaker, will he then be relaying to the Government of Canada the concern with which Yukoners and their government view the loss of jobs to outsiders, at a time when we are also threatened with the loss of pipeline jobs by virtue of constitutional initiatives in Ottawa?

Hon. Mr. Pearson: Yes, Mr. Speaker, and we did ask why this happened. I must say, Mr. Speaker, that the Department of Public Works of the Federal Government of Canada, who are charged with the responsibility of spending this American money with respect to these three camps, felt that they had to change their methodology just because of the costs in previous years. What they have done, Mr. Speaker, is they have given the opportunity to the people who live closest to those three camps to assume the contracts, because they felt that it would be cheaper than having their own employees doing the work.

This has proven to be true and they are trying it out this year.

Mr. Penikett: Since the federal DPW's economic assessment does not seem to include the revenue from the taxes that they would receive from the Canadian workers on these jobs, and since there have been a number of American studies that have demonstrated that this kind of contracting out is more expensive in most cases than retaining public servants to do the work, could I ask the Government Leader if this Government has a policy in general on this kind of contracting out?

Hon. Mr. Pearson: Mr. Speaker, if it had been this Government I doubt if it would have happened, because we just do not contract out work that Territorial employees normally do. In this particular case, it is an extraordinary thing. Far be it from me to defend the Department of Public Works of Canada, but, Mr. Speaker, I think that what they did was they looked at it from an economic basis, and they determined that they could get this work done cheaper, and they chose this method of doing it.

It is proven that, with the contracts that they have, there is a substantial saving. Now, I agree it is regrettable that the work goes to Americans, but I do not think we should lose sight of the fact that American money is still money, in this case.

Mr. Speaker: I must advise the House that the Question Period is now concluded. We will proceed to Orders of the Day. May I have your further pleasure?

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

ourable Member for Mayo, that Mr. Speaker do now leave the Chair and that the House resolve into Committee of the Whole.

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

Motion agreed to

Mr. Speaker leaves the Chair

COMMITTEE OF THE WHOLE

Mr. Chairman: After a short break, the Committee will discuss Bill Number 57.

Recess

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

I refer Committee to the *Municipal Ordinance*, Bill Number 57, page 90. Committee will consider Clause 200.

On Clause 200

Mr. Penikett: I just want to go back to the point that we were talking about Thursday and this business of a mayor/manager system, and the mayors, and the relationship between mayors and town and city managers.

Given that this clause is in here, that the "...council shall by by-law provide for the procedure to be followed in..." in their own deliberations, which seems to me is the proper, flexible way to go about things, and is consistent with the rest of this ordinance in that the Minister is relaxing the rigid and tight regulations that we used to impose on the Commissioner, when the Commissioner was a servant of Ottawa and, indirectly therefore, impose on the municipalities. Given that we are now loosening these up, I would like to ask the Minister, philosophically, why he would have brought in procedures and laws governing the town manager's behaviour and the mayor's behaviour and the council's behaviour, without regard to the various strengths and weaknesses of the personalities and the changing of evolving circumstances. It seems to me that that regulation, that proposal in the ordinance, that we just went by, is inconsistent with this general expression here about council procedures and the manner of operating.

It seems to me that the philosophy in Clause 200 here is more consistent with the Ordinance and more worthy of praise than the more rigid application that was previously proposed — wrongly. I think — but which may be our solution to a problem, particularly in one or two communities, which I do not think is a suitable principle.

Hon. Mr. Lattin: I believe, Mr. Chairman, that what we are doing is putting the ultimate decision-making with the elected people. This I believe, Mr. Chairman, is the way to interpret this, and this is, I think, the right way to look at these particular decisions.

Clause 200 agreed to

Mr. Chairman: At this time the Chair would like to welcome the witness, Mr. McWilliam.

On Clause 201(1)

Mr. Fleming: Under Clause 201, I do not know if this would be the right time for the question, but I think so. It would require the assent of the taxpayers: for instance, say a money bill asking for a larger loan than the \$25,000 that is allowed and say that that area was a village. Because there is no village in the *Municipal Loan Agreement Ordinance*, would that also have to be changed in the *Municipal Loan Agreement Ordinance*? Would there have to be an amendment there?

Hon. Mr. Lattin: Yes, it would have to be changed, Mr. Chairman.

Clause 201(1) agreed to

On Clause 201(2)

Mr. Penikett: I would like to ask the Minister if he had reason to reconsider the applicability or consider again the applicability of the parliamentary tradition of three readings in the committee stage or two readings in the committee stage, when in fact it is really three readings at committee stage in municipal bodies. Given that even in the City of Whitehorse which is perhaps the most mature of the deliberative bodies at the municipal level in the Territory, the only stage at which there is usually much debate is in the committee stage.

I understand the necessity of a third reading because, in many of the by-laws, after second reading or after the committee stage,

there is the requirement, presently, to get the Commissioner's approval or to have the Commissioner authorize things in certain by-laws. That is understandable. What happens, often, in my experience, is that in the by-laws that do not require those approvals, the first reading is, of course, a formality; in the second reading there may be no debate other than someone saying that they like it or they do not like it. Clause-by-clause reading is obviously necessary, but the clause-by-clause reading is often pretty perfunctory; then there is unanimous consent sought for the third reading in most measures. I certainly do not think, in the two years I was on Whitehorse City Council, that unanimous consent was ever denied on a single by-law.

I know Roberts' Rules of Order; I know most of the procedural reasons for having three readings, but it seems to me that the procedure is much more elaborate than the reality. I just wondered whether any thought had been given to, in fact, going to just a couple of readings and a committee stage; or to introduction and then immediately to committee stage; or whether the Minister had even considered this question at all?

Hon. Mr. Lattin: Mr. Chairman, we did consider it and decided that we would leave it the way it is.

Clause 201(2) agreed to

On Clause 201(3)

Mr. MacKay: Could the Minister give us an explanation as to why village by-laws are subject to the approval of the Inspector, which I presume means the Commissioner, and not the others? And, perhaps while he is on his feet, delving into this whole question: the previous ordinance allowed for the Commissioner to disallow any by-law within one year, for any reason he thought proper. That seems to have been dropped. Just a little explanation, I think, might be in order as to where the Government sees itself going in the devolution of these powers.

Hon. Mr. Lattin: For the edification of the Member, I will explain 201(3). This being the first level of incorporation, it is anticipated that there will be some adjustment, from a community that has no independent powers, as a hamlet or as an unorganized area. To a municipality with substantial independence and with access to all the permissive powers contained in the ordinance to provide some direction in the exercise of these powers, the inspector's approval is needed on a by-law.

It should be noted that the inspector is the approving authority, and not the Commissioner, as in the case of L.I.D.s at the present. The reason for this change is that the by-laws are being reviewed for technical accuracy and to ensure that they comply with the legislation and intentions of the Council, not as policy decisions as to the ability to exercise specific power, and, as in all decisions of the inspector, there is a provision for an appeal to the Commissioner.

Mr. Fleming: I am very glad to hear that last remark, that there is at least an appeal to the Commissioner. I was with the Local Improvement District Board yesterday afternoon for about three or four hours and this was one of the areas that they were very concerned about, that the inspector had so much power that he could personally, as an inspector, do almost anything.

They were wondering if the Government was not trying to just drop the responsibility down. They were very concerned. However, I think they will be glad to hear that there is an appeal section in this. Thank you.

Clause 201(3) agreed to

On Clause 201(4)

Clause 201(4) agreed to

Clause 201 agreed to

On Clause 202

Clause 202 agreed to

On Clause 203

Mr. Penikett: Since we have now changed the mayoralty role from arbitrator and chairman to partisan on some of the issues, could the Minister explain to me, because I am not sure I could find it right away, what the penalties might be for the presiding officer, in the possible case of the mayor refusing to sign and seal some law which had been passed?

I ask the question in all seriousness because it seems to me the next clause says that the law becomes a law in any case effective from its final passage. Presumably the signing and sealing is the formality something like the Lieutenant Governor's proclamation or the Commissioner's proclamation.

Mr. McWilliam: The main provisions and the way the procedure would be outlined in all cases would be in the Municipalities Procedural By-Law, which they are required to have, as brought in in another section.

Mr. Penikett: Just let me say again, Mr. Chairman, in view of what I think of the decision previously in changing the role of the mayor. You are going to have problems with mayors trying to fire managers, and maybe councillors trying to fire mayors, and they may not be able to; then you are going to have some problems.

Clause 203 agreed to

On Clause 204

Clause 204 agreed to

On Clause 205

Hon. Mr. Lattin: Mr. Chairman, this is a new provision providing a central registry of by-laws. It provides the opportunity to review the legislation on a regular basis, and gives other municipalities an idea of what by-laws are in effect, and it would help them in proceeding with their own by-laws.

Mr. Penikett: Reference has been made, Mr. Chairman, to the Procedural By-Law that Councils will be required to adopt; there is an excellent handbook prepared by the Department of Local Government for Municipalities. I remember that when I was first elected I found it very useful.

There is one thing in there that I thought was not terribly clear in connection with this. There is an awful lot of by-laws introduced which do not go very far; that are tabled. In a body like this, the tabling procedure is fairly clear. The thing may die after a period of time at the end of Session. That is not so clear at the municipal level. I seem to remember having a discussion with somebody in the administration of Whitehorse City one time about a by-law not having been adopted by council but having been tabled, or just dying. It was in some kind of procedural limbo.

I just wondered, since we have made reference to those, whether the Minister would take this as a representation that the next time those handbooks are amended, they might suggest some procedure for councils to allow tabled documents to be recorded, or die, or be done away with, so that they will not be allowed to wander around like a lost soul forever in limbo.

Clause 205(1) agreed to

On Clause 206(1)

Clause 206(1) agreed to

On Clause 207(1)

Clause 207(1) agreed to

On Clause 208(1)

Mr. Penikett: What does it mean, Mr. Chairman?

Mr. MacKay: Perhaps a little explanation would be in order for this. My interpretation would be that they can undo anything they do. But I am wondering about, where it says, "...conditions (if any)..." what that refers to.

Hon. Mr. Lattin: I am sorry, Mr. Chairman, I did not understand the question.

Mr. MacKay: In line six of this section is the phrase: "...and conditions (if any)..." Can the Minister give me some explanation as to what is contemplated by the "if any"?

Mr. McWilliam: Mr. Chairman, this section will, I believe, go a long way towards reassuring Mr. Penikett's earlier concern, as well, in how a municipality may deal with a by-law. The specific concern about "subject to the like consent and conditions" deals with any conditions which may have been imposed as a result of an original by-law. For example, on a borrowing by-law, the Inspector may set conditions for the repayment or the timing.

Clause 208(1) agreed to

On Clause 209(1)

Mr. Fleming: I would just like a little explanation of this area, because I was asked about it the other day and I answered as best I could; I hope my answer was right. I would like a little bit of clarification now as to just what it does mean.

Mr. McWilliam: This deals specifically with loan authorization by-laws. The previous section was a more general one, dealing with the power to amend or vary by-laws. This points out specific procedures which must be followed in amending a borrowing by-law. You will note in paragraph (b), a specific provision has been put in to permit council to alter a by-law without being forced to go back for the assent of taxpayers, if the Commissioner gives them the approval.

Mr. Penikett: Mr. Chairman, as the witness has explained the circumstances under which (b) would come into effect, I wonder if the Minister would be prepared to give us a couple of examples, just so we may understand them, of cases where that kind of power would be used? Is he contemplating, for example, perhaps some major local improvement, where they discover that perhaps the original by-law has been drafted to include the corner lot, which you discover has been previously been served by another local improvement district, and it is unnecessary to include that property, and therefore you simply have to make some amendment rather than re-drafting the whole thing. It would not be a local improvement, in any case, but something that required the public's consent.

Perhaps the project was contemplated and had to go through some planning changes or reduction in size, as it was approved, because there was a cost over-run. Exactly what is contemplated here?

Mr. McWilliam: Yes, Mr. Chairman, an example of how this may occur would be if a community has gone to the taxpayers to receive their approval for a recreation complex; they then go out to tender and the lowest tender that they can obtain is in excess of the amount which they had gone to the taxpayers to borrow.

This section would allow the Commissioner to consider the circumstances and perhaps allow the amendment of that by-law, without directing them to go back to the taxpayers for a further vote.

Mr. Penikett: Mr. Chairman, so I am clear on this; I can understand the Commissioner's consenting to an amendment to scale down the project so that it in fact was no longer the project that was originally voted on but the project was a reduced size so it still fell within the financial limits approved by the taxpayer. Is the Minister really saying the Commissioner might permit, in the example outlined by the witness, council by by-law, to raise, or bring up, the level of money approved by the citizens in the by-law?

Hon. Mr. Lattin: No, Mr. Chairman, we are not saying that at all.

Clause 209 agreed to

On Clause 210

Mr. Penikett: This says "notwithstanding section 209" which we just cleared. A by-law other than a by-law for contracting debts by borrowing money or otherwise, to which the assent of the electors has been given. Okay, this refers to the money by-laws that follow the usual approval of the project: the financing. This says the council may with the approval of the Commissioner — presumably what we are talking about is some amendment as regards interest rates, or the amount of borrowing and things like that. Is that the case?

Hon. Mr. Lattin: Yes, Mr. Chairman.

Clause 210 agreed to

On Clause 211

Mr. MacKay: I suppose it was inevitable to have a section like that. I am curious why it is stuck in this little part here, though. Is it supposed to refer to that part in particular, or is it anybody who commits an offence in the 442 sections. I trust that this section is of general application and it does not apply just to this part.

Hon. Mr. Lattin: Mr. Chairman, the provision for dealing with offences has now been dealt with in the new *Summary Convictions Ordinance* and detailed sections on the infractions and ticketing are no longer required in the *Municipal Ordinance*.

Clause 211(1) agreed to

On Clause 212(1)

Clause 212(1) agreed to

On Clause 213(1)

Mr. Penikett: Again, Mr. Chairman, I want to understand the circumstances under which this provision would come into effect. In most cases, presumably, the Commissioner or the Inspector, or whoever is going to be examining the work or overseeing the work of municipal bodies, is going to be operating, I would assume, with legal advice. This is a power which presumably allows a citizen to go to the court and argue that something in the municipality is being done in violation of this ordinance. What I do not understand is how such a thing could fail to come to the attention of the Inspector of Municipalities before, in fact, a citizen would discover it.

Mr. McWilliam: The procedures in here for the quashing of by-laws are very standard. This is a power that is provided in virtually all municipal legislation where there is the authority to

make by-laws; there is also the ability there for the citizens of that municipality to challenge such a by-law. It is quite conceivable that a by-law which does not require the approval of the Inspector or of the Commissioner could be passed, and, prior to it coming to the attention of the Inspector, a resident of the municipality may want to take action to have the by-law quashed.

Mr. MacKay: I have concerns with this section and the following section. It seems that we have taken some of the sections from the old ordinance and carried them on, and this would appear to be pretty well one of them, along with the subsection, with respect to the timing of any application to quash a by-law. It seems to me we have a few problems in there. There are only 30 days permitted under the following section to appeal it.

In the old ordinance, you had an additional safeguard. The Commissioner had a year to disallow it and we have taken away that safeguard against the citizen.

Now we have a 30-day time limit. When you consider that the 30 days begins to run from the date the final by-law is passed, not necessarily when it is signed, sealed and delivered, it is quite possible, if you have a monthly meeting of a council, that they might pass a by-law and not get together in time to actually put the seal to it and issue it before the 30 days has actually expired. The citizen then may have missed the opportunity, by not having a certified copy of the by-law, which is the only admissible evidence of the by-law. He may have missed, by just straight mechanics of the whole system, being able to appeal it.

When you combine that with the smaller areas outside of Whitehorse and their difficulties with access to the courts, I think you have quite a severe problem. I think the best solution would be to extend the time available to challenge a by-law.

Mr. McWilliam: I believe, first of all, I should point out that in 214, which Mr. MacKay is referring to, the period stems from the final adoption of the by-law. There is no possibility that that period starts before the by-law is finally adopted, which seemed to be a concern.

The fact that there is a 30-day period, I would suggest, is sufficient. If you expand the time limit, the other aspect that you would have to think about is the impact that has upon the municipality's taking any option until the time has expired for an appeal to quash.

Mr. Penikett: Mr. Chairman, let me add my voice to my friend to the right, because it seems to me Section 204 says quite clearly that every by-law adopted by council is effective and in force and binding from the date of such adoption, but it says a true copy of the by-law is not real under Section 205 until it has been signed and sealed.

In addition to the concern Mr. MacKay has that the signing and sealing might not transpire until the following meeting of council, which might be a month after the original passage, it seems to me, judging from what I have seen go to the courts, that a court is not in any case going to allow itself to be restrained from expressing a legal opinion as to the validity or legality of any section in this bill, and a municipal by-law, by a thirty-day provision. Surely we know enough about the courts that if some citizen feels grief by some by-law and makes a petition to the court, it may be said that he can only do it within 30 days; however, I doubt very much if a Superior Court would refuse to hear a case bound on some real grievance if there were an injury. Even if it were 30 days, it seems to me nothing would prevent a citizen suing the municipal corporation after the 30-day period, if they felt there was something wrong with the by-law.

More to the point, nothing that we do here could prevent a court from saying that some section here was illegal or improper or in violation with some federal law or constitutional principle. I mean, the 30-day rule might be a useful guideline for an ordinary citizen who thinks council has done something to injure him, but I am not sure whether it would really advance the cause of a good municipal government or justice.

Hon. Mr. Lattin: Mr. Chairman, we seem to be having some problems with Clause 214 on the time limit; I think I would be prepared to set 214(1) aside. **Mr. Chairman:** I have to advise the Minister that we are now dealing with 213.

Hon. Mr. Lattin: I am sorry, maybe I am jumping ahead of myself.

Mr. MacKay: We were both dealing with it understandably. I think though we can probably pass 213, when we get to 214 that would be a sensible suggestion.

Clause 213(1) agreed to

On Clause 213 (2)

Clause 213(2) agreed to

Clause 213 agreed to

On Clause 214(1)

Hon. Mr. Lattin: Mr. Chairman, I would ask that Subsection 1 be set aside at this particular time.

Clause 214(1) stood over.

On Clause 214(2)

Clause 214(2) agreed to

On Clause 215(1)

Mr. MacKay: There is a typographical error, it seems, Mr. Chairman, on line five; I believe the word should be "action".

Mr. Chairman: Is there unanimous consent that there is a typographical error?

Some Members: Agreed.

Clause 215 agreed to

On Clause 216(1)

Clause 216(1) agreed to

On Clause 216(2)

Clause 216(2) agreed to

Clause 216 agreed to

On Clause 217(1)

Mr. MacKay: This is a general question about financial operations. I think the dates have been changed with respect to the timing of the submission of these budgets. As I recall, the provisional budget was sometime in November. It has been moved up, I presume, to allow the new council to have effect. I am wondering how close a supervision the Minister's department is going to be involved in in the preparation of these budgets for the smaller communities? How much restraint, how much direction are you going to be offering these people?

Hon. Mr. Lattin: Mr. Chairman, you are quite correct about the dates being moved up. That is to give the incoming elected members a chance to deal with the preparation of the budget.

As far as the village is concerned, I believe their budget has to be reviewed by the department. I would suggest that that review is the check you are enquiring about, or are concerned with.

Mr. Penikett: Mr. Chairman, the change in dates, it seems to me, is probably not a bad idea since we have previously given the turn-over in councils a kind of a problem in that you had the old council approve the provisional budget; you had a green council comes in. Well, the old council approved a budget they might never have a chance to spend, then a new council comes in with no experience whatsoever, and they usually, inevitably, end up rubber-stamping the budget — unless they were elected on some policy of massive spending or parsimonious restraint. In either case, they usually did not have sufficient time to get a grip on it. This will probably improve things a little bit.

Given that we are having an orgy of liberality here, and flexibility, there are very few sections in this bill which really make distinctions between villages, towns, and cities — or powers or duties thereof — and given that under this ordinance it is possible to have a village, for example, larger than a town; presumably it is also possible to have a hamlet larger than a village; if that kind of possibility exists, why does 217, which I think we are on now, specify that the village should do this? Could the Minister just give a very brief explanation?

Hon. Mr. Lattin: Mr. Chairman, for one thing, I think their sources of money would be not as great as the other two jurisdictions. Mr. Chairman, because they are small numbers, I would suggest that they would not have the expertise available for advice.

I believe, Mr. Chairman, also, because they are the lowest form, and I use the word in quotes, of local government, probably it would be a learning process. I think that due to this fact that it is a learning process they would be treated a little differently than the other two, as it were, senior types of municipalities.

Hon. Mr. Lang: Mr. Chairman, in respect to what is being asked about the department, I think it is fair to say in the experience of the department that the administration works very closely with the various levels of government, especially in respect to the financial matters, to ensure that they are abiding within the budgets that have been allocated.

Re Mr. MacKay's questions, which I think are valid questions to

be raised, in respect to the direction of the department and overseeing the financial obligations of the communities: the administration of the Municipal Affairs Branch will be very much assisted with the *Municipal Aid Ordinance* revised and updated, so that there is some clear direction in respect to the financial capabilities of the communities, and also the guidelines as to how those particular funds can be spent. It will clarify a situation which, up until now, has been very, very grey.

The Honourable Member for Whitehorse West talks about discretion in respect to this ordinance. The situation right now is strictly negotiated, on a community to Municipal Affairs negotiations, and there is no common denominator, really, throughout, except in some cases on the capital side.

I think this will do much to clarify the situation and hopefully get everybody recognizing their responsibilities and going in the same direction.

Mr. MacKay: I am very pleased with the Minister raising these interesting topics. I promise I will not take too long. I think it is incumbent upon us to talk about the financing, when we are talking of these rotten boroughs and dealing with them.

It seems to me that we are writing an ordinance that not only gives them all the responsibility; it also leaves the power of taxing right in their hands too.

Some of the fears expressed to me from the smaller communities are that they are going to be thrown one life belt called the "funding formula", and out of that they all have to cling to it. If too many people get on board they are all going to sink together. I hope that when we are talking about finances, that the Government will not adhere to some fancy formula and that indeed the requirement to continue to negotiate on a town-to-town basis will be tempered with some way of ensuring some fairness. That requirement to recognize each individual community is still available to the Government.

It is a young country, it has few municipalities, and I do not think we need to go to a great blanket system of formulas to meet the needs. The sense of fairness, the fact that we all depend upon our seats, to be fair, in the end is as good a guide as any formula that we may come up with based on any other jurisdiction, all of which are much larger than ours. I say my piece on that in a very gentle way, but as I know I will not have an opportunity to say it when the *Municipal Aid Ordinance* comes in the Spring, I warned you not to get too rigid in the formulas because you have got definite individual needs in each community, and they are very cyclical; you cannot tell in advance if there is going to be a mine built near a certain community which is going to throw a terrific burden on the services, and you will need to have that flexibility to help that kind of community.

Clause 217 agreed to

On Clause 218

Clause 218 agreed to

On Clause 219

Mr. MacKay: I would just point out for the record and for all those municipal politicians that read *Hansard*, that this is a very important section. If they do not get their budgets done on time, they have just committed an offense, and they make illegal every expenditure that is made after January 1st.

Clause 219 agreed to

On Clause 220

Clause 220 agreed to

On Clause 221

Mr. MacKay: I have got a real problem with this one. Clause 221(1)(a)(iii), it says "such sums as the council may consider desirable and necessary to set aside to create a fund for future specified expenditures";

What this is is the big loophole, it is the big "out" for any municipal council to manipulate the tax rate, just by the operation of this section alone, because as soon as it sets aside sums, it is an expense in terms of their budgeting procedure; it comes out of their revenue. As a result, council may set a mill rate that is really not too close to reality in terms of what its actual expenditures are. It gives a tremendous amount of leeway to any council — too much leeway, in my opinion.

I am not saying that you are not giving them enough power or you are giving them too much power; I am just saying it is not a power this Government itself has to do. I mean, it came under severe criticism for even setting up one little road reserve account. There

has been some fairly good bookkeeping and straightening up of that, I note, in this annual report, but the point is that it is not a power that this Government has to set aside.

Now, when you get into future specified expenditures, Mr. Chairman, that can be so widely interpreted. When you look at the major municipality in this Territory, the City of Whitehorse, it has been widely interpreted. You can get things set up, as for example, working capital reserve. You are certainly going to spend money for working capital so you set up a working capital reserve.

You do not go quite so far as the esoteric "contingency reserve" but a lot of these are quite close, and hard to judge, based on that kind of wording. I have seen it. Okay, you have ordered a fire engine and it is not delivered, and the financing is not what you originally intended it to be, so you want to roll-over the expenditure into the next year. That is fine.

But I would ask the Government to carefully consider the latitude that this section gives, because it permits a city council — and any city council that really understands all this is quite an exception —

Some Member: Shame!

Mr. MacKay: — so what it does is it allows the administration to be really be overly — I hate to use the word "conservative" — about the expenditures of the — I have just killed my argument, I can see that — overly concerned about storing away the nuts for a hard winter. In the meantime, the citizens are groaning under a heavy tax rate. So I ask, please, that you re-consider this section.

Mr. Penikett: Well I am sorry that Mr. Lang has left, he has just walked out, Mr. Chairman, because — oh, he is here now. That is very good. I am glad he is here to hear me say this, because on Thursday we were debating, with enthusiasm and vigor, the section which would give — I cannot remember the exact language he used, but I think it was the "power of mayors to slap down city managers", or to keep them in their place, anyway.

If you want to have a section that allows for creative use of managerial skills, this is the section which does it. In one respect I disagree with Mr. MacKay, because I think it does not give powers to councils; it gives powers to municipal administrations. I think skillful treasurers and skillful city managers are much better marksmen with this kind of ammunition and this kind of weapon than councils are.

Now, he did say some defamatory things about city councils. He said something about City Councils — I think he said that if they understood the kind of fund accounting that operates in a place like City of Whitehorse, they are unusual. I cannot really answer that but it sounded like a pretty offensive remark anyway, what the Member for Riverdale South said.

I must say, having been a chairman of a municipal city finance committee, and having asked some questions once about the funds and how much money was in them, and asking for some explanation and having a noon hour luncheon meeting in which to obtain these explanations and receive the descriptions of why they needed to be so large in every case; I can tell you, you need more than your ordinary city council. You have to be able to come away from such a meeting with the feeling that he really had a firm grip on these questions. I differ with my friend to my right to this extent: if you really want to do as the former Minister apparently wanted to do the other day with the new mayor/manager system, to keep a foot on the neck of your chief administrator, this provision is not the way to do it, because your municipal administrators, I think, are a pretty intelligent group; a lot of them have background experience. I knew one city treasurer, who I think had experienced some training at the hands of Mr. MacKay. I can tell you he was very nice and very cooperative and reminded me of Mr. McWilliam when he said things like, "Your views and my views, Mr. Minister." He was a marvellous person to work with, and I can say that as the chairman of his finance committee. We even arranged extra meetings once every two weeks for him to brief us on financial issues and financial matters concerning the city, other than just the accounts payable meeting we had. We went through these for a year. We had the explanations.

But if you have ever talked to an accountant, ever had the need to talk to an accountant, I think you will understand that they do see the world through different eyes and their skills are so magnificent and so mysterious as to defy the understanding of the able, but quite ordinary people, who usually succeed in municipal office.

Hon. Mr. Lang: Mr. Chairman, I do not ever want it to be said that I allowed the Honourable Member from Whitehorse West to

put words in my mouth. He made insinuations a little earlier that I was indicating that the mayor, I believed he used the terminology, was stepping on the necks of the managers, or et cetera, whatever terminology was used. I just want to correct this, for the record. Number one, I am quite capable of speaking for myself, I do not need the Member for Whitehorse West speaking on my behalf. Secondly, the major reason as I indicated the other day, was to ensure that there was some direct responsibilities between the mayor and the administration in order to ensure that there is clear direction from the policy-end of Government as opposed to administration.

I think that with the particular section in question, I grant there is a lot of work done between administrations, but I will also be the first to admit, or the first to encourage municipal politicians to ensure, that they know just exactly how its monies are being authorized and what they are being authorized for.

We can all make assumptions in this House one way or another as to whether or not an individual or a group of individuals is capable of asking these questions, but unless the responsibility is there, they are not really put in the position of asking these questions. That is one of the reasons for the ordinance, is that they ensure that these questions are being asked; to ensure that monies that have been directed to their particular communities, either by themselves or in concert with the Government of Yukon Territory, are being spent as wisely as they would like to see them spent.

Mr. Penikett: Yes, if I have misinterpreted any of the former Minister's remarks I do apologize with great sincerity and feeling. I just felt that there were some things that I am sure he would have wanted to have said in connection with this section. I saw him leaving the room and I did want to say them for him so that his views on the question would not be missed.

Having said that, Mr. Chairman, I must say that the most important point is the original one made by Mr. MacKay, and that is the question of legislative accountability, legislative responsibility. It is difficult enough, given the kind of system we have, to also know what you are voting money for and what you are spending money for. It is that much more difficult for very part-time municipal elected officers to be able to understand, looking at all the accounts of the municipality, exactly what is going on. When you vote money or you approve an expenditure that is not coming out of current revenues but may be coming out of some fund which you are drawing down, the decisions about whether you draw down a fund or whether there is too much money in that fund or sufficient money in the fund are, I think, difficult judgment calls to make.

Mr. MacKay may be able to help me on this. They may be difficult judgment calls for professional financial people to make.

The advantage of such funds, of course, is that it does even you out, the highs and the lows and the hills and the valleys, in terms of the economic fortunes of a community, and allows you to have some kind of consistent level; you do not go for years with enormous tax increases and years of enormous tax decreases. That practically never happens, anyway.

That is a useful planning device. What is difficult for elected people to do, it seems to me, is to always know how much money they are dealing with. They can talk about the revenue this year, they can talk about their budget, they can take the taxable assessment and divide their budget into the assessment, and they can come up with the mill rate or percentage or whatever it is called now. That part is very easy.

However, believe me, I discovered that some elected people had trouble with even that step. Then, you get into the question of where the money is coming from. Well, it may not always be coming from the revenues of that municipality. In fact it may be some money that is sitting around in some bank account. Now, if you use this Legislature's analogy, it may be money that you voted or authorized some time before, or that previous councils voted or authorized, that is sitting there. It is no longer — and this is the point — it is no longer in the control of the elected people, or the elected body as a whole. It is in the control of the administration.

I think in the case of this City, and this is no criticism of the administrators because they have done it for the best and for good managerial reasons, there are large sums of money — I do not know how much money — in the control of the municipal administration here in the City of Whitehorse. That money is not meaningfully in the control of the Council except when they come to spend it, because somebody has to sign the cheques. I think it is the mayor and the chief administrative officer here.

I do not know what the legal authority is for spending money

from a fund without a council resolution; I would guess it would probably be pretty weak. But it seems to me you want to be careful about that. And I say that to the new Minister because he is not nearly as combative as the old Minister. It is a serious concern. It was a serious concern we had in the Public Accounts Committee, with one account only in this Government with full-time executive, elected people. If it is a serious problem for a government of this size, with a Cabinet, surely it must be as much of a serious problem for a multi-million dollar municipal corporation, with an elected council of six people, all of whom are part-time; who only serve two-year terms; few of whom stay in office long enough — I mean through a number of terms — to be able to acquire the kind of intimate knowledge of municipal financing or public financing generally, to be able to make the kind of judgment calls that perhaps an auditor might make in the course of his work.

Hon. Mr. Lang: Mr. Chairman, I just want to go on the record that it will be very seldom that it will ever be said that Mr. Penikett and myself share the same view, so it will be very difficult for either one of us to speak for the other.

Mr. MacKay: This would be a very nice discussion if we had all night. I think it would be rounded out if we could hear some response from the Minister with respect to the concerns we have raised. Perhaps to give more meat to the question — and he might want to pass this on to his witness — we need a definition, or a more closely worded description of what “future specified expenditures” means.

Hon. Mr. Lattin: Perhaps on this particular one it would be advisable to spell out some specifics. I think I would have to agree with that. I would like to stand this particular section over for some consideration, with the view of bringing back some specifics on it.

Clause 221 stood over

On Clause 222(1)

Hon. Mr. Lattin: Mr. Chairman, this particular section no longer requires the Commissioner's approval for investment, but for the protection of the taxpayers it stipulates that they have to be secure investments.

In other words, Mr. Chairman, no moose pasture or speculative stocks.

Clause 222(1) agreed to

On Clause 222(2)

Clause 222(2) agreed to

On Clause 222(3)

Clause 222(3) agreed to

Clause 222 agreed to

On Clause 223(1)

Mr. MacKay: I am just a little unclear on the wording of this. I think the intent is excellent and is just merely following on existing practice.

It says that on or before May 15th of each year, the council shall adopt by by-law a capital expenditure program of for not less than five years. What is year one of that five-year program? Is year one the current year or the May 15th of the one they are in? Or is it referring to the following fiscal period?

Mr. McWilliam: Mr. Chairman, once a capital expenditure program is adopted by by-law, the provision here would allow for it to be reviewed in total each year as well as the next year's being upgraded. I believe that answers the question.

Mr. MacKay: Perhaps I am a little confused. We passed the previous section, that says that the operational budget must be passed by the 15th of April, and to pin that operational budget to the capital expenditures budgeted, I presume that that year's capital budget is included in the operational budget. So, my question relating to this is: is this five-year budget, if we are talking of May 15th, 1980, if they had passed that, would that have been the five-year budget for the year commencing the 1st of January, 1981, and for the four years following that?

My question has a point, too, because later on we say they cannot spend any money unless it is in the capital budget.

Mr. McWilliam: Since the question appears to be about a transitional period until such a program is in force, I would point out that all municipalities at the present time have a capital expenditure program. The difference here is the requirement that they show adopted by by-law. Similarly, in L.I.D.s, they have no ability to make capital expenditures; however, we do require a capital expenditure program from them which indicates what their local priorities are. We attempt to get that on a five-year basis, as well.

Mr. Fleming: This is one of the subjects we were on the other day. The local improvement district, all of them felt that for a city like Whitehorse, a five year program is considered viable; they think you should work on it a little bit. But for a small town to come up with a capital expenditure program for a period of not less than five years was just a little bit unreasonable, because thinking ahead five years in a little place that has probably got 300 people in it is almost an impossibility.

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That program and that by-law, I would think, would have to be changed so many times in that five years that it is just impossible to think of what could happen. They were wondering why you had to make it five years. I know you are looking at long-range planning but would it not be better for a small town or village to be on a three year program, so that they could really see what was going to happen and really come up with a budget, capital expenditure, that was viable; that they could see and understand; that was needed. There is no way, in a little town, that you are going to come up with a five-year program that is going to be really true and accurate at all, as to what is needed in that town.

Hon. Mr. Lang: Mr. Chairman, it should be noted that you said the word “forecast” and that is exactly what you are doing. You are forecasting what your proposed expenditures would be under the known guidelines of what finances would or could be made available over a five-year program. The idea is to try to get into a method of budgeting so that you are not only looking for the present year or the following year, but trying to look five years down the road.

For an example, you have had your fire truck for 15 years, and the manufacturer has indicated it is good for 20 years; you know on the fifth year that that probable expenditure will have to be made; so you put that in the fifth year. You are right. The present year and the following two years are probably the most important, but this way at least there is some impetus to look further ahead down the road trying to forecast what is going to happen in respect to your capital expenditures, which I think is a healthy situation.

They will have a fair idea in respect to capital assistance and whatever is available so that they can plan accordingly. There will be a fair amount of help from the administration in respect to formulating the program forecasting, and the schedules that should be looked at, and how it should be composed, and this type of thing. It will take time. Over a period of time people get used to thinking in this respect.

Mr. Fleming: I might ask the Minister: it is a by-law, it is adopted by by-law, so therefore if they come up with that five-year program, what changes could they possibly make, if for instance they decided that in that capital expenditure there was going to be a new fire hall in the third year, and then it came to pass that there was no money for this fire hall, or it is needed somewhere else more than what they thought at that time.

Are they going to be able to change this capital expenditure around and put the money where it should really be used in that

Hon. Mr. Lattin: Yes, Mr. Chairman, I certainly think they should, and they will, and they should be able to have that flexibility. I think that, as my colleagues over to my left here said, we are talking about something that is proposed, but probably I think my witness has something else to add to it.

Mr. McWilliam: I believe all I would do is emphasize that what this is intended to do is to ensure that there is some long-range planning that does occur. There is a provision in here that the capital expenditure program has to be looked at each year; it will be updated in that respect. There is also the provision where the capital expenditure program may be varied with the approval of the inspector. Especially for the small communities, most of the capital funding is still going to come through various territorial programs, like the Community Assistance Program. This is, I would suggest, very valuable to them. It is one opportunity for them to provide some lead time for projects.

Mr. Byblow: This by-law that sets out the capital forecast for the five-year period, by virtue of the fact that it is updated each year, does that necessarily, as a procedural thing, revoke the one for the year before?

Mr. McWilliam: Previously when we were discussing by-laws, there was a section there that pointed out that they have the capability to amend the by-law; that is basically what would be happening.

Mr. MacKay: I think (2) clearly says that too.

Mr. Chairman, the question I have was not really answered. I do not know if the witness really caught it. My concern is more of a mechanical one. Council passes an operations budget on April 15, and from that is set a mill rate.

They raise the taxes based on that. My concern is that within that budget they also budget capital expenditure because they are going to pay for some of these capital expenditures out of the regular revenue. My question is this: how does this section that we are now dealing with, which calls for something to be approved a month later, dovetail with the operations of a budget?

Mr. McWilliam: Yes, Mr. Chairman, the procedure would be that you are examining your capital expenditure program and updating it, so that you have that information available when you start your budgeting for the next year. The capital funds which are provided through the operating budget would reflect the existing capital program.

Mr. MacKay: Just to clear this up, then, this is for the future five years, it does not include the current. Okay.

Mr. Fleming: Clause 223(3), of course, is where we have seen the problem. "Except with the approval of the Inspector, the capital program shall not be varied, either by amendment or by the adoption of a new program, with respect to any proposed expenditure for which the Inspector has approved the borrowing of money." This is where we felt there was going to be a problem, because of the fact that over a five year period there are going to be so many changes in a small district in matters that they could possibly think they could put into that by-law, along with the third or fourth year, that I think you would be getting people looking for the approval of the inspector over and over and over.

That was our problem, that this five years seemed to be long term. However, the Minister has enlightened me in some respects as to where it may be a little easier.

Mr. MacKay: One final question. I am not sure what (3) really means, so I will give a hypothetical example. In 1980, the council passes its capital budget May 15th and then it has set the course for the next five years.

By April 15th of the following year, it has to budget certain capital expenditures in its operational budget. Do I take it that these expenditures, on April 15th the following year, will be bound by the first year's forecast that is made here?

Mr. McWilliam: Yes, Mr. Chairman, unless there has been an amendment to the capital budget, which has been approved by the Inspector.

Mr. MacKay: Just so I fully understand it: that means that if council decides 11 months later that the capital budget which was set out 11 months before is not suitable to the needs, or is beyond their financial capabilities or certain monies have not been included — they are going to have to go back to the Inspector of Municipalities before they take out of that budget things they have budgeted for, or spend money on something else for that current year? Am I clear on that?

Mr. McWilliam: Mr. Chairman, I am somewhat confused by the question. I understand what Mr. Penikett means about "dealing with financial wizards". I would suggest, since we are placing emphasis on planning, that a municipality should, when it is preparing the capital expenditure program, give very serious consideration to what their expenditures are going to be 11 months down the line. If, for some event which they could not foresee, there is a change, this provides the option for their budget to be amended with the approval of the Inspector, other than the yearly review which would take place.

Mr. MacKay: I hate to confuse the witness further with my wizardry, but does that not build in a certain inflexibility into the system? It is good to plan five years in advance; I have no quarrel with that. But you are committing yourself 11 months in advance, it seems to me, for certain capital expenditures, and I have difficulty with that. Maybe I am misinterpreting what this says, but it seems to me that, if this capital expenditure by-law is the law of that municipality, then when council comes to consider their operations budget the next year, they are bound by that program. That, it seems to me, makes it somewhat inflexible. I like a planning tool, but it should not be used to hold you in a strait-jacket.

Mr. Penikett: I am sure that a lawyer, Mr. Chairman, would clear up the confusion in the financial wizard's head. Surely what happens is that every year you revise your five year forecast — as the former Minister called it, your five year capital budget — and you pass a new five-year capital budget which supersedes the old one.

What you are really talking about is your capital budget, because I have been through the process; you may pass it afterwards, but you talk about the two things hand in hand. You cannot do otherwise because any council that gets into the habit of making capital expenditures without having some clear idea of what the Operation and Maintenance implications of what the capital spending is going to be — Well, let me say, Mr. Chairman, they are crazy.

I went through it. We put things in the capital budget one year. When you issue the tenders you find all the bids came in away above what you had budgeted for the thing, so you drop it. You do not make the expenditure that year. When you come to revise your capital budget, you simply decide it is no longer urgent; you either put it off for a couple of years or you drop it all together.

One of the things you do, and I know it took us a while to do this in Whitehorse city council, is that you are always revising your method of establishing priorities in a capital budget. You may one year decide that certain types of things are priorities; water projects and so forth, so they are very high on your list. You then go to the Territory and the Territory says under Capital that they are not going to fund most of what you want to do, and so you think: what you really want to do you keep at the top of the list.

All of those things have implications for your operation budget and having a five-year plan may sound inflexible, but the fact is that it gets revised and it is not written in stone but is something that evolves every year, it is rewritten every year; it is not nearly as crippling a device to a small community as it would appear.

I believe, along with the plan, and the community plans that are going to be required under this ordinance, the community plan is going to be something that I know the people in Mayo are going to absolutely cringe in horror when they come to have to adopt it, but along with that plan and their zoning by-law, the five-year capital budget is one of those basic tools without which a new council, certainly, will not be able to operate.

Clause 223 agreed to

Mr. Chairman: The Chair would like to declare a short recess at this time.

Recess

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

On Clause 224(1)

Mr. Penikett: Mr. Chairman, I have a small point with this clause. I notice that the legal draftsman has been at it. I thought it was a certain legal draftsman but I have been advised privately that that is not the case, that they are all the same. I went out and I got my law dictionary for non-lawyers. It has a long section in here that they call lawyer talk — Appendix C. The first sentence in that is: "Its message is simple: legal words are valuable technical tools, but they can be used to excess. This smothers clear thinking, clear writing and clear speaking."

I then looked up *mutatis mutandis*. It says here in this book that it is Latin. In English it means "with necessary changes in detail,

according to this that is what it means. I know we have asked this before but I went and bought one of these just because of these *mutatis mutandis*.

Daniel Oran is a guy I can trust to explain what the words mean. He says that it means with necessary changes in detail. I tried to see how this sentence would read: must be obtained and the provisions of sections 232 to 240 shall apply with necessary changes in detail. I do not know if that makes any sense any more. I do not know if it makes any sense as it is but perhaps the Minister could explain.

Hon. Mr. Lattin: Mr. Chairman, I should make a few comments on the whole of Clause 224 before we get into it.

Clause 224 provides a new procedure for dealing with the ceiling on expenditures. Because of the new assessment system, and the difference in assessment rules for the various levels of municipalities, the existing provision of a blanket five mills is inappropriate. Instead, different spending limits have been provided for the different levels of municipalities. The amounts reflect the ability to pay and the level of responsibility for each class. There is provision for adjustment to the limits, established by providing adjustments to reflect changes in assessment. This will not only permit the limits to respond to inflation, but will also provide flexibility to adjust to individual community circumstances.

Mr. MacKay: These sections that we are getting into are all very interesting and some of them are a little overlapping, so I shall endeavour not to take up all night of the House on them.

With respect to subsection (1) and subsection (6): I am looking at one scheme which will be paid out over a period of several years and which is cost-shared by the senior governments. I do not want to jump too far ahead, but it does seem to affect it: does (6) mean that the annual share of the municipality's expenditures cannot exceed these limits? Or is it the accumulated share of that particular scheme that is the limit we are referring to?

Hon. Mr. Lattin: I think, Mr. Chairman, just so I do not lead my friend down the garden path, I will ask for the clarification from Mr. McWilliam.

Mr. McWilliam: Yes, Mr. Chairman, the amounts that are referred to here deal with specific projects or schemes and would be on an individual basis.

Mr. Fleming: My question is on (6), and I just want to get it clear that this is right. For instance, if there was a proposal by a village — let us take a specific figure of \$25,000 you are allowed to have, and then you must have the taxpayers' vote over that. Now, if the project was something that was shared by the senior government, the Government of Canada or the Territorial Government, if the scheme was 50-50, we will say, and it was \$100,000, you would not have to go to the taxpayers to get the other \$25,000. Is that correct, Mr. Chairman?

Hon. Mr. Lattin: Mr. Chairman, I did not quite get the gist of the question. Mr. Fleming said \$100,000, 50-50 and he gets \$25,000. I cannot quite see where he gets the \$25,000.

Mr. Fleming: If the program cost \$100,000, then, naturally, you would normally have to go to the taxpayers for a vote for the other \$25,000; but in this section, it says that you do not have to go to the taxpayer for that. Maybe the witness could answer that?

Mr. McWilliam: Yes, Mr. Chairman. I believe Mr. Fleming is correct. An example of a scheme like you are talking about is if you have a project that costs \$100,000, there is 50 per cent cost-sharing from the federal government, perhaps 25 per cent from the Territorial Government, and if the amount which the municipality is required to put into the scheme is less than \$25,000, they would not have to go to the taxpayers on a vote.

Mr. Fleming: That does not quite answer the question because if that is the amount, if it is less than the \$25,000, then it is understandable that you do not have to anyway. If, for instance, the project was going to exceed that \$25,000, I understand that this section says that you still do not have to go to the taxpayer.

Mr. McWilliam: I think perhaps, Mr. Chairman, one thing that should be emphasized here is that we are dealing with capital expenditures where the municipality is raising the money. You could have a case which Mr. MacKay referred to earlier, of a municipality that is siphoning operating funds off into a special account for this type of purpose. What this scheme provides is that there is a limit on the amount that a community may expend on capital projects, without having to go to the taxpayers. In the case of a village it would be any sum less than \$25,000. If their total obligation on a project, whether cost-sharing, is less than \$25,000,

there would be no requirement to go to the taxpayers for a vote of approval.

Clause 224(1) agreed to

On Clause 224(2)

Mr. MacKay: I am pleased to see this section of the specified amounts. I recall a similar section which caused great grief because there was no clear understanding of what the amount was supposed to be. So I am pleased to see it defined in dollars, and also the following section where it is indexed. I would like to mention the Government has set a terrific precedent now; whenever we want to start talking about fixed amounts of dollars we can now see that it is indexable as well.

Clause 224(2) agreed to

On Clause 224(3)

Clause 224(3) agreed to

On Clause 224(4)

Clause 224(4) agreed to

On Clause 224(5)

Mr. MacKay: Just initially, there is a typo in replacement, third line, Mr. Chairman.

Mr. Chairman: Is there unanimous consent that there is a typo in line three, section (5)?

Some Members: Agreed.

Mr. MacKay: However, the content of the section bothers me somewhat, because it ties in exactly with what we were discussing previously, which was an example that the witness gave us about controlling expenditures. This section appears to allow a village, town, or city to expend any amount of money in the replacement of equipment, out of a reserve which has been set up without a vote of the constituents. Again, I think if we are talking about equipment, we should be fairly precise as to what kind of equipment we are discussing, and I am wondering if there should be some dollar limit. A grader could cost \$100,000 for a village, four times the limit which they are allowed up above, so it could be a significant amount of money and it has really been put aside by way of a bookkeeping entry each year by administration.

Could I ask whether there is any concern on the part of the Government with respect to what I have just raised?

Hon. Mr. Lattin: No, Mr. Chairman. I do not think there is any concern. I think that if the elected people do anything in the way of misappropriating the funds or spend funds recklessly, then when their term is over and they stand for re-election, the people will judge them, and I think that is how it should be.

Mr. MacKay: I cannot agree more, of course, and we could strike this whole section as a result of that. All these limits are put in place to avoid the elected people spending money foolishly, so I cannot understand how the Minister can use the argument he has just used on this section and not strike the whole section all together. I mean, I do not want to get to the point of the ridiculous, but that answer I got was ridiculous, Mr. Chairman.

Hon. Mr. Pearson: Mr. Chairman, I recognize the Honourable Member's concern. I would guess that it comes from his profession. With a replacement account for equipment, I also recognize that he has the same problem with our unique way of bookkeeping in this Government.

Mr. Chairman, I honestly think that it is very difficult, and to the taxpayers' disadvantage, if any level of government cannot operate with some sort of a revolving account for heavy equipment; I am talking about expensive equipment. I think, Mr. Chairman, that there are enough safeguards built into the requirement for reporting expenditures, for reporting exactly what the financial condition or state of a municipality is at least once a year; that people, if they are interested at all, are aware that there is a replacement fund in place and that some of their taxation dollars, for that particular year, have gone into that fund and will very likely be voted the next year or the year after.

I honestly believe, Mr. Chairman, that we have got to be able to give these municipalities enough flexibility so that they can look long-range, so that they can decide when they are going to be making these major expenditures.

Mr. MacKay: I appreciate the Government Leader's argument. I suppose what concerns me, Mr. Chairman, is that not only do the taxpayers not seem to vote on it, but I wonder if the councils will wind up voting on this kind of expenditure, other than just signing the cheque after it is done. The thing is really set up so that

the members, just like this Legislature, do not have any particular say on what is spent out of the equipment replacement fund there, nor do the members of council in a municipality now have any direct say on how that money is spent.

It seems to me we are setting up a mechanism whereby the whole thing can go through the process without anybody approving it except the administration.

Hon. Mr. Pearson: Mr. Chairman, I am quite confident that, in spite of the size of the YTG's equipment replacement fund, if the Minister of Highways and Public Works were to decide in his wisdom that this Government had enough graders, he would be sitting down with the Deputy Minister of Public Works and he would be telling them, "Next spring, you do not spend any of that money buying graders."

I do not agree, Mr. Chairman, that the House does not have any control over how that money is spent. It is very rigidly controlled in that it can only be spent for one thing and that is the replacement of equipment. It is also very specific on what kind of equipment it can be. It can only be for certain purposes.

Now, revolving funds, in the case of municipalities, would be set up in exactly the same way, for exactly the same reason. It is virtually impossible to govern, to make the thing go around without having these kinds of revolving funds, so that you can be writing off equipment and charging equipment off as it is used, because some of this equipment can last a lot of years, whereas other equipment has a shorter lifespan. Really, this is the only way you can make the whole thing go around.

Mr. Fleming: Mr. Chairman, that section does concern me, too. I am wondering, and I would like the Minister to let me know if I am right when I say: although this can be spent, once you have the revolving fund spent over your allowed amounts for equipment, the Inspector, or the government, could veto that. There would be some control over it but it would not be left entirely to the board or the council, as the case may be.

In many cases there is something that a small council may wish to have or feel they need, a very costly item for the people in that town; and because one or two think they need it or wish to have it, they can pass it in the council, it will be bought, and then may turn out to be a real hindrance to the town.

I would like to mention right now — because I think I am right, it could be proven later — that we bought a steamer in Teslin, and I believe, because of this very fact, that nobody could really stop them from buying the steamer at that time, or did not realize, or whatever; it is still there and I hope it will be used. But that could be used as an example: a very expensive item which I doubt will be used once a year, or maybe not at all. So I would think that the Government and the Inspector would be have to be very careful with a revolving fund and make sure that it is not spent foolishly.

Mr. MacKay: Perhaps I could address this question to the witness. Maybe there is a safeguard in here. Would the equipment that we are talking about be included in the capital budget which is already fixed the year before by council? In other words, would they report on that piece of equipment at that point, saying that they are committing to buy a piece of equipment included in that capital budget, would it appear there?

Mr. McWilliam: The normal procedure is to identify in the Capital Program any major capital acquisition which is anticipated, including equipment. I would suggest though that the main control would come through the control that the council has over the budget which it adopts, which also includes what funds are going into the special accounts. The debate here is not so much over replacement of the equipment revolving account, but rather back to the section that was stood over.

Mr. MacKay: It is partly that, Mr. Chairman, but I did not want to muddy the waters too much because we have already got that one stood over.

I think the concern is whether or not the elected people and the voters ultimately have control over the expenditures, and at what point in the exercise they are controlled. So, I think I am satisfied with the answer that that grader, for example, would be included in the previous year's capital budget. To that extent, council has made a decision and made a commitment.

However, while I am on my feet, having satisfied myself on that, I well remember the great grader debate when the City of Whitehorse took over the outlying areas, and a transitional problem arose with respect to the City of Whitehorse not having sufficient equipment to handle the increased duties. They were given,

by some accounts, some rather crummy equipment to service this. Now, no offense meant to anybody who was at that time active in this thing, however, the charge was made.

The question I have is a practical one, then. We are turning over the responsibility of these things, and let us talk about L.I.D.s, because these are the ones I am most concerned about, as the L.I.D.s will now be responsible for buying their own equipment. If they are at the end of a cycle where their equipment has run down, they have no time to build up a reserve for this. Has the government considered, in terms of the transitional provisions, of either giving them some new equipment, so that they have then time to build up out of their funds a reserve, or giving them additional grants the first year or two to cover the cost of the equipment?

Hon. Mr. Pearson: Mr. Chairman, there is little doubt about it. There will be a transitional problem and, certainly, Mr. Chairman, we want to emphasize on this side, that we want to see this legislation work, and we will be prepared to assist any municipality in making sure that the legislation does work.

I do not think there is any doubt about it, there will be transitional problems. One of the reasons that we do not foresee this legislation coming into place until a year and a half from now is because we want to make sure that we have all of the transitional problems solved.

Clause 224(5) agreed to

On Clause 224(6)

Mr. Penikett: Mr. Chairman, I believe a word of explanation would be in order on (6).

Hon. Mr. Lattin: Well, Mr. Chairman, I am sorry that the Member was not in when we discussed it before. My understanding, Mr. Chairman, on subsection (6), is that if the total cost to a particular municipality is within the amounts under a cost-sharing agreement, it is not necessary to take the vote to the taxpayers. For instance, say for example a village has a cost-sharing agreement with either the Territorial or the federal government, and the village's portion of the money does not exceed the limits given them — in the case of a village it is \$25,000 — there would be no necessity for them to go to the taxpayers for approval. If the amount of money the village had to put up was in excess of that, they would have to go to the taxpayers for approval.

Mr. MacKay: I think I understand that. However, if a scheme takes perhaps three years to come to fruition, I presume, in the case of a village, that their share over the three-year period for the one scheme cannot be more than \$25,000 without going to a vote?

Hon. Mr. Lattin: Yes, Mr. Chairman, that is the way I understand it.

Clause 224(6) agreed to

Clause 224 agreed to

On Clause 225(1)

Hon. Mr. Lattin: Mr. Chairman, these are enabling provisions permitting municipalities to spend funds on occasions and projects which are not elsewhere identified as being a specific municipal responsibility.

Mr. Fleming: Mr. Chairman, I would like a little more explanation, if I may have it, on "within or without the municipality". I am wondering about this section. It does say, for instance, "seaplane harbours and landing areas for aircraft". I assume this section is necessary so that they could spend money on lakes or lakeshores, which are federal grounds, and would not really be included with the municipal area. Was this section put in there for that reason, or just for the simple reason to allow them to use the money outside of the municipality to do other things? If so, I find that rather repulsive. I think it requires more explanation.

Hon. Mr. Lattin: Well, it could be, Mr. Chairman, not particularly. There might be other things. I would think, for example, of a drainage program outside a village, where maybe we could spend some money, because it would be advantageous to get rid of that water if it was flowing the wrong way.

Mr. Penikett: Mr. Chairman, I would like once again to use a real example in order that we can understand this section better. In the case of Whitehorse, I understand that the sea plane base here is largely a federal responsibility. However, the sea plane base is on the water shed for the city, and therefore the city has some responsibility for that water, and for Schwatka Lake. Does this section mean that if the City decided, as a municipal work, that it wanted to expand the docking facilities, for example, for sea planes, or passenger facilities, or as a pollution measure, to set

aside a certain area of the lake to be exclusively for the use of sea planes, or to bar sea planes from for it for other recreational purposes, that it could do that by invoking this section? What I am confused about is the jurisdiction. Just simply because the municipality spent money in there, presumably we still have to do it with the consent of the federal power, and the federal power would have to approve whatever the municipality did.

Hon. Mr. Pearson: The Honourable Member is absolutely right. This section would allow a municipality, where they chose, to do upgrading of an airport, a sea plane harbour, or a landing area, which was outside the boundaries of the municipality. It may be just on the edge of the municipality. I do not believe, Mr. Chairman, that there can be any suggestion made that this would automatically give the municipality the authority, for ecological reasons or any other, over that particular area. It simply allows them to spend the money if they choose. They have to pass a by-law to do it, if they choose to do it.

Mr. Penikett: Just so I understand this perfectly well, I would like to ask another question. I seem to remember that I was involved in some correspondence concerning the grant-in-lieu-of-taxes that the federal government was going to pay on the airport property here at one time, and there, of course, the federal Crown reserves unto itself the right to accept our assessment of the value of that property or come up with their own.

Just so I understand the situation perfectly well, if this City, for example, the one in which we live, decided for reasons of tourist promotion or general beautification that the airport parking lot in Whitehorse International Airport was inadequate, and there had been a lot of complaints about people having their pick-up trucks towed away because they left them there, could this City, without invading the jurisdiction of the feds, decide to upgrade the airport as a local project, or would that be totally outside the boundaries of a reasonable proposition?

Mr. McWilliam: As Mr. Pearson pointed out, this is a permissive section allowing a council to consider encouraging the development of an operation which they see to be of benefit to the municipality. It would certainly still be dictated to by the transport regulations that are in effect.

Perhaps a better example than dealing with the parking area at the Whitehorse Airport would be where a master plan is in place for an airport under MOT, as is the case in all airports that are designated as arctic airports, I believe, but because of the federal government's priorities, any spending or development of that airport may be a considerable period in the future and not to the advantage of that municipality. This would enable a municipality to carry out some of the provisions of that masterplan if they wanted to ensure there was an improvement.

Mr. MacKay: Okay, that makes sense. If we were to do that in the case of a road going into an airport or a parking lot at the airport, presumably, as far as municipal laws are concerned, that might as well be private property and it would be done there, presumably, by way of a local improvement charge, would it, or a special assessment perhaps against that property? Given the example that the witness gave, there might be some questions as to the acceptability of that increased charge from the federal point of view; would the normal rules apply, or would we then, having made the expenditure for our benefit, have some question about them wanting to accept part of the tax burden for our benefit?

Mr. McWilliam: The point brought up about doing it as a local improvement, that is one option that can be exercised without reference to this section. I would suggest that if you are doing that there is provision under local improvements where a municipality can absorb the cost of that local improvement if it deems it is in the benefit of the municipality. This would, I would suggest, be an additional authority to do it, without going the route of a local improvement. Perhaps, as an example, under master plans for the various community airports, there are areas that are designated as being set aside for the development of aircraft commercial industry. However, because funding is not there, MOT may not get around to it for five or ten years. This would be an opportunity for the municipality to provide some lots of that sort.

Mr. Fleming: Are we dealing with section 1 now?

Mr. Penikett: I presume the (f) is for something like the city deciding that it is going to erect a statue in the honour of Mr. Lang, or something like that.

Clause 225(1) agreed to

Mr. Fleming: That is what I was asking, are we just dealing

with 225(1) or are we continuing on to subsections (a), (b), (c) and (d)? I did have a question for the Minister.

Just for your information I was going to ask the Minister, and he does not have to answer it now, if we were having a reception or entertainment in Teslin for some of the Government officials, and himself, probably, would we be obliged to consider them as distinguished guests?

Mr. Penikett: Subsection (g) makes reference to "such other manners as the Commissioner may prescribe." The Commissioner has in the past had an awful lot of power around here, and I hope he does not get to the point where he start describing our manners, because we will all be in trouble. I would assume, Mr. Chairman, that is a typo, is it, and it should be "matters."

Hon. Mr. Lattin: Mr. Chairman, I think the Honourable Member has brought forth a good point. I think it should be "matters."

Clause 225(1) agreed to

Hon. Mr. Lattin: Mr. Chairman, before you carry on, I would like it noted, on subclause (g) of section 225(1), that the word should be "matters" rather than "manners".

Mr. Chairman: Do I hear unanimous consent to change the word "manners" to read "matters"?

Some Members: Agreed.

On Clause 225(2)

Clause 225(2) agreed to

Clause 225 agreed to

On Clause 226(1)

Mr. MacKay: I notice that this is the permissive section, permitting certain grants and aids. It seems to me that we are missing two areas, recreational and cultural, in terms of aid that a municipality may wish to grant; for example, the purchase of an organ for a church, to quote a more recent example. I agree, it is an unlikely example that would never happen here, but did the Government consider these two areas as being eligible for a council to be able to provide grants?

Mr. McWilliam: Mr. Chairman, the specific points that Mr. MacKay has raised are dealt with separately under "Recreation". These sections 225 and 226 deal only with those areas which are not elsewhere provided for in the ordinance.

Clause 226(1) agreed to

Clause 226 agreed to

On Clause 227(1)

Mr. Fleming: Concerning the estimated expenditure in the municipality for that year providing a levy by school tax, I have a simple question: Who is going to set the school tax? Does it come from the municipality and is then approved by the Government; or is the Yukon Government going to set the school tax?

Hon. Mr. Lattin: Mr. Chairman, the Government of the Yukon Territory sets these taxes.

Clause 227(1) agreed to

On Clause 227(2)

Clause 227(2) agreed to

On Clause 228(1)

Mr. Penikett: Mr. Chairman, a long, long, long time ago when we were at the beginning of this ordinance, I asked a question about business licences and fees and the question about the modest tax, which I think was an unfortunate phrase because we showed Mr. McWilliam, if you remember his theory, would know that a business licence cannot be a tax and there is a lot of municipal constitutional law that says it is either a licence fee or it is a tax; it cannot be both because, otherwise, municipalities tend to discriminate against certain kinds of businesses and start to collect taxes by way of the licence fees. I know it is later on in the ordinance.

We did stand over a section of business licences and fees. I do not think it is necessary to stand over this section, but I would like to ask the Minister if he has examined the questions that we asked or that were cause for that section to be held over?

Hon. Mr. Lattin: Yes, Mr. Chairman, I have examined it and I will be bringing the amendments in, when we return to that particular section.

Mr. Fleming: I was just wondering about the business licence and the fees and all the inspection fees that the board will be allowed to set in what will be the municipalities. I am wondering where the control comes in? There is no vote being taken by the people of the town or anything, other than the four or five that are

there. They will be doing this and, in all respect to them, they will be very inept at doing it, I am sure, through no fault of their own. They are just beginning to get into this business of being mayors and aldermen and so forth and so on. I am wondering, there will be, I presume, some overseeing and the Minister may enlighten me here, to see that some business licence fees and so forth are not set that impose problems on business places.

I am wondering about just how the Minister feels this is going to work if the council is allowed to set business licences in one area, and, in another area, say Carmacks or somewhere, would there be a difference in there somewhere? Can there be a difference? Can the licence fees in my business place in Teslin be a different fee now than the licence fees for Mr. Tracey at Carmacks?

Hon. Mr. Pearson: An excellent question, Mr. Chairman, from the Honourable Member. One that this Government has, in fact, agonized over considerably. Mr. Chairman, we have strong representation from the Association of Yukon Communities that they would very much like to have the ability to set business licence fees and inspection fees, but it has been suggested, Mr. Chairman, that they are hopeful of having some sort of a joint representation, or a joint business licence, or a joint inspection fee, for the whole territory; saving and accepting, the cities, who, at the present time, can establish their own licence fees. It is anticipated that the municipalities will set the licence fees, as opposed to the Government of the Yukon Territory setting the licence fees. We will still have to have business licence fees, probably, for some unorganized areas. I would respectfully suggest that we may well be following the lead of the AYC in that particular case. But it is anticipated that there will be licences for various communities. They may even come to the conclusion that the easiest way is to have a licence for all of the municipalities, save and except the cities, so that a business man who is doing business throughout the territory is not forced to buy a dozen business licences.

Mr. Penikett: I think that is a good question by Mr. Fleming and a good answer by Mr. Pearson. I think it would be a very good development if the communities, by consensus, can agree on a scale of licence fees. This is a territory proud of its individualism and occasionally you might have a municipality that gets a bit individualistic in this, too. So might I just make this representation. It seems to me it would be useful for the inspector to be able to watch these things very carefully, in any case. If the Government is persuaded of the view that I have articulated a few days ago, and again today, that the fees must never be on such a scale that they are, in fact, taxes, and therefore discriminate, then it seems to me that the Government should also make sure that the inspector provides some guidelines to the municipalities that business licence fees of such a kind would not be viewed favourably.

I will give you an example. There may be certain kinds of businesses that a community just does not want, such as a scrap yard or a body rub parlour. One of the ways that some municipalities have used to try to discourage them is to set the business licence fees so high that no one will apply. The trouble is that if you do that you raise a whole other set of problems about whether this is really a special tax, not a business licence. It seems to me that in a case like that, the Inspector may come along and say, "Look, we share your desire not to have this scrap yard, but this is not the way to stop it. You have to stop it by zoning laws or something, rather than by discriminatory tax."

Mr. Fleming: The Government Leader has explained it very well and I agree that that concept is very good. In a way, it is something that you are giving to the people of the Territory so that they will be able to run their own affairs, and I agree with that, too, in that concept.

However, we must be sure that we do not impose problems on business places, or start little towns like they had in the olden days, where if you did not know the mayor too well you were up before the hanging judge.

I have a question on the matter of voting on certain things. I may be wrong, because in some areas they can vote where if there were four there, and it is two for and two against, it would be in the affirmative. In another area, it is the other way, in this Ordinance. Now, for a business licence, which will be, I presume, by by-law, and we could be voting on it today, and there are two people there who say that business licence should be \$150 a year and Joe and Bill over here say, "No way that has to be that big."

Now, the mayor has to vote, so the mayor is going to vote in this case, and there will be three to two. What happens to that by-law in this case, because, supposedly, I think, by-laws require two-thirds majority. So, if there are five there, you have nothing, yet, as far as

I can see.

I wonder if it could be explained to me what would happen there?

Hon. Mr. Lattin: Mr. Chairman, in that particular case, I would suggest it is just a simple majority, and if there were three for and two against, the by-law would pass.

Mr. Fleming: Mr. Chairman, it is fine for the Minister to say to me that he expects that would happen, but I think the ordinance explains that it is to be a two-thirds majority, and if that is not a two-thirds majority, then just how could it pass, if it is not a two-thirds majority?

Mr. McWilliam: I believe that is a little bit outside of Section 228; however, if we were to refer back to a previous section which has already been passed, in 175, the answer to Mr. Fleming's question about what happens if there is a tie, the question shall be passed in the affirmative. Now, the only places that you require any more than a simple majority are where there is a specific provision in this legislation requiring a two-thirds majority. That, as you will see when we get to passing by-laws to regulate businesses, is not the case. Also there is provision in there that if there is a concern about a licence being suspended or revoked or not granted, there is an appeal procedure provided as well.

Mr. Fleming: I will make the question really simple. I think, this time, I hope. As the Minister said it could be passed in the affirmative, that is three to two, so the mayor may be saying "no" and it is going to be passed "yes" anyhow, if the vote was to raise the licences. It is a hard thing to say. There are two people voting for \$50 and two people voting for \$100, so the mayor could take one or the other position. Now if he takes the position that it should only be \$50, is it going to pass at \$50 or is it going to pass at \$100?

Hon. Mr. Lattin: If the majority of people vote and they say it is going to be \$50 and the majority vote for \$50 as against \$100, I would respectfully suggest it will be the \$50, the majority vote is going to carry. Whatever the majority agree on, that will be what the charge will be.

Mr. Fleming: Then the answer to my question here is that there is no such thing as a two-thirds majority vote in this case.

Hon. Mr. Lattin: That is correct, Mr. Chairman.

Clause 228 agreed on

On Clause 229

Mr. MacKay: Is this contemplating that when you sell an asset you are going to replace it with a similar type of asset? Is that what they have in mind and if that is what they have in mind, what about the circumstances where you sell an asset with no intention of replacing it?

Hon. Mr. Lattin: Mr. Chairman, this particular section, Section 229, provides the capital assets of the municipality may not be disposed of except where the proceeds are used for future capital gains. This prevents a council, say in an election year, from using capital funds to reduce the O&M expenditure and lowering taxes for the year within the municipality, then having to find some means to replenish the capital fund. In other words there is not short term gain or long range cost to the municipality and I would suggest, especially in an election year, it is very advantageous to have this particular clause in.

Mr. MacKay: I appreciate the Minister's written reply. I would, though, like to ask him: That is fine, if you are selling off a grader one year and buying a new one the next year, or some such thing; but what if you are selling off something that you do not intend to replace? Can you not bring that into income of the municipality and give the taxpayers a break?

Mr. McWilliam: Mr. Chairman, the section provides that, where you do dispose of any assets, that those funds would be used for further capital purchases. It may be for some purpose other than buying a new grader, but those funds would be used as future capital.

Mr. Penikett: I am bothered by this section for similar reasons that I am bothered by the other mention of the funds earlier on. It seems to me that it is far less likely that you are going to have some stripping of the municipal assets in order to buy political favour at election time. I am sure that there would be someone like Mr. MacKay or Mr. Fleming around to notice if that was going on. There is another problem here.

I recall a case, I will not mention his name, except that he was a treasurer at the City of Whitehorse during my time on Council, who had occasion, at one point to sell — I cannot recall whether it was some pipe or some tires. It was a perfectly reasonable thing; they were surplus to their needs; they were to be sold and the cash put

into their funds. Now, the City Council at that time objected to him doing this without a resolution or without having prior approval. He, of course, because the sums of money involved were not very large, saw it simply as an administrative decision. Council saw it otherwise and, at great embarrassment to this treasurer, sent him to Haines Junction to buy the pipe or the tires, whatever it was, back again. I do not doubt that he had to pay more to buy it back than what he sold it for. I am not sure that the public was well served by that exchange, but the treasurer was probably rapped on the knuckles, which was very likely the reason for the exercise.

What you have a problem with here is that, if it goes into this reserve fund, it sanctifies the establishment of the kind of funds about which we expressed concern back in Section 221 because it says that while this power under 221(1)(a)(iii): "such sums as the council may consider desirable and necessary to set aside to create a fund for future specified expenditures;" Even though such a device has come into full flower, and I dare say joyous bloom in the City of Whitehorse, it still reads there as if it is an unusual power; as if it is an exceptional one; as if it is one that is a special managerial device for unusual circumstances.

Here we are, in Section 229, prescribing that such a fund should be set up, and we are doing it because it is a perfectly routine transaction for the City to dispose of its own assets. I would guess, normally, the chief administrative officer, the treasurer, would probably be doing that not on a daily basis, but on a fairly frequent basis.

Now, this does not say here that the council would have to approve it, it says that the inspector would have to approve it, and I guess it would have to be by by-law.

I am a little concerned about why it is put into a reserve fund, because I think when you take Mr. MacKay's point, if it is old tires and it is put into the tire equipment replacement fund, that is okay, that is obvious. But it seems to me that that justacerbates the problem I have about council losing control of the expenditures, because then the treasurer comes along when he needs to buy some new tires and he just buys them. The council really does not know what is going on. That money may not be in the budget as revenue, but it is certainly perceived as revenue, and accounted for properly.

If it is the sale of something else, such as where some council has erected a statue in honour of Mr. Lang, and put it in the town centre, and new the council decides they do not really need it anymore, and the Lang Foundation wants to buy it and erect it in Porter Creek somewhere, it seems to me the City could sell it under this, but if you put it in a reserve fund, and you might get a lot of money for it, I do not know, you might want to liquidate that capital. Mr. MacKay could tell me the correct words, you might want to put it into general revenue so you could lower the taxes that year. I do not really see why they should not be able to do that.

Perhaps this section means that with the written approval of the inspector they could do that. As long as they sold the statue and they got the cash for it, they could just lower taxes. I do not understand why the inspector would have to approve it, though.

Hon. Mr. Lattin: Mr. Chairman, I do not have anything further to say on it, at this particular time.

Hon. Mr. Pearson: Mr. Chairman, I am sorry the Honourable Member was away when I gave my eloquent talk to the Member for Riverdale South about why revolving funds are required. I am sure I convinced him that there is a requirement in government for revolving funds, in some cases.

But to specifically answer his question as to whether or not the money can be used for other purposes, other than the revolving fund, yes, Mr. Chairman, there is no doubt about it, it can be used for other purposes, but that should require the written approval of the Inspector.

Mr. Penikett: Mr. Chairman, I apologize for the Government Leader's most recent eloquence. He is eloquent so often and so frequently that I might have missed that one example. I was persuaded a long time ago about the managerial advantages of revolving funds for equipment. I would suspect that a close examination of a certain municipality's financial statement reveals there are funds for other than things like equipment, and that is the kind of fund I was expressing concern about.

Hon. Mr. Pearson: I really think that it is a responsibility of the elected members to make sure they know where those revolving funds are, what level they are at, and how they are being expended. I really take that to be a responsibility of the elected members. They cannot just leave it to the administration to administer a

revolving fund account. That is not responsible government in my estimation, Mr. Chairman.

Clause 229 agreed to

On Clause 230(1)

Clause 230(1) agreed to

On Clause 230(2)

Clause 230(2) agreed to

On Clause 230(3)

Clause 230(3) agreed to

On Clause 230(4)

Mr. MacKay: Just to make sure we do not miss it, because I think it is in here. What this section is trying to do is trying to catch the long-term lease slipping through, instead of a capital expenditure.

I think it is worded generally enough. It says "...where the duration of the lease or other agreement..." It is for ten years or less. Perhaps just a general question: does this also catch a lease-to-purchase, where you wind up with a village purchasing, on a lease, something that really would be \$25,000 if you were buying it directly; will this catch that kind of expenditure completely, or is there still room for the council to go out and lease instead of buying, in order to get around the capital expenditure limits?

Hon. Mr. Lattin: Yes, Mr. Chairman, it is my understanding that it is so, it would apply.

Clause 230(4) agreed to

Clause 230 agreed to

On Clause 231(1)

Mr. MacKay: I am perhaps looking a little bit ahead within this same section. I am concerned about, specifically, I guess, Dawson City, where you are talking about borrowing against tax levies for a current year. It is well known that a lot of tax levies in Dawson City are uncollectable for those lots that are not being used anymore, with no reflection upon the existing inhabitants or to the various estates that land might hold. Is there a sufficient safeguard in this section to prevent Dawson City from going out and borrowing 75 per cent of the next year's taxes when they know full well that 50 per cent is not collectable anyway?

Hon. Mr. Lattin: Yes, I believe so, Mr. Chairman. I would suggest that in section (2), that would be taken care of.

Mr. McWilliam: I believe, Mr. Chairman, that Mr. Lattin has summed it up. We consider there is sufficient authority here to prevent that situation occurring.

Clause 231(1) agreed to

On Clause 231(2)

Clause 231(2) agreed to

On Clause 231(3)

Mr. MacKay: I have a question on that. I notice that section (2) includes the whole of any sums of money remaining due from the governments. The question that has always been there, because in some areas it can be quite significant, the amount of grant-in-lieu of taxes you receive from senior governments. Does subsection (3), when talking about "...the whole amount of taxes levied ...", contemplate the grants in lieu of taxes from senior governments for property that is included? Because, if it does, it seems to me to go against the famous Mainstele lot case.

Hon. Mr. Lattin: Mr. Chairman, I think we are not talking about what is levied, but what is unpaid.

Mr. MacKay: I am sorry, I am speaking of subsection (3), which says, "Prior to the levying of taxes in any year ...". So I am talking about what they can borrow before June 30th when the taxes become receivable. Are they limited to 75 per cent of the revenue from taxpayers, or does that include the revenue they receive from senior governments for grants-in-lieu?

Hon. Mr. Lattin: Mr. Chairman, the way I read it, it is 75 per cent of the whole amount of the taxes levied in the year immediately preceding.

Mr. MacKay: My question is, perhaps, a technical one, because a whole city council had to resign over this once, Mr. Chairman, so it is worthwhile pursuing this. An inquiry into this affair deemed that the taxes levied were not to include grants-in-lieu from senior governments.

What we seem to be doing in the case of where you have a municipality with a large amount of Territorial and Government of Canada property, and Dawson City springs immediately to

mind, you are limiting them to borrowing only 75 per cent of the taxpayers' contributions, exceeding the senior government's contribution. That is the way I read that section. Can the Chairman either answer or refer it to the witness as to whether I am correct and if so, I do not think it is the way it should be.

Mr. McWilliam: I believe that Mr. MacKay's interpretation is correct. What we are dealing with are the taxes to be levied rather than the accessible taxation base. The reason for providing this section in this manner is that with the federal government you are not all that sure of exactly what they will agree to pay in the form of a grant-in-lieu and it would be very difficult to try and include that into the total for borrowing in here.

Mr. Fleming: I have a problem with this whole section right from one end to the other with what the Honourable Leader of the Opposition has been speaking about. I am thinking of the powers to borrow money. Of course the lawful expenditures of a municipality, which we came into before, they are only allowed to borrow, apparently, the amount of monies that are currently unpaid. Of course, I am looking at a small community again, as to the money unpaid or paid would not make any difference, because there is not enough taxes to amount to a row of beans, anyway. Yet the council is allowed to pass by-laws, and I would presume probably to borrow up to \$25,000. Under this, they may not have the power to borrow any more than \$300 or \$400 because of the fact that there is just no tax base there really to borrow on.

Mr. Chairman: The Chair is going to call it 5:30 now and we will resume discussion on this particular clause here at 7:30 here tonight.

Recess

Mr. Chairman: I will call the Committee of the Whole to order. Continuing with Bill Number 57, we are considering clause 231: subsection (3) was under discussion. Any further discussion on that subsection?

Mr. Fleming: I have not had sufficient time to think about it myself, Mr. Chairman, but I believe there was a question asked earlier that was not answered. Just give me a moment to think, unless somebody recalls just what it was.

Mr. Chairman: Mr. Pearson seems to know what it was.

Hon. Mr. Pearson: Mr. Chairman, I think I can recall the question. Really, what the section is saying is that a municipality should not count on grants-in-lieu of taxes from either this Government or the Government of Canada when it comes to borrowing money. What we are saying here is that they can only borrow up to what amounts to 75 per cent of the taxes which they actually levy, and that excludes grants-in-lieu of taxes.

It is a saving factor, Mr. Chairman.

Mr. Fleming: Mr. Chairman, I think the remark I made before was that this possibly would not curtail the borrowing by groups such as small towns, Carmacks, places like this, who only have a very small tax base, and I think that is probably what it is there for. I do not disagree.

Thank you.

Clause 231(3) agreed to

On Clause 231(4)

Clause 231(4) agreed to

Clause 231 agreed to

On Clause 232

Clause 232 agreed to

On Clause 233(1)

Mr. MacKay: We have had considerable discussion going through the bill before, about the ability of taxpayers versus tenants to vote for certain money matters.

I think it is significant to note in passing that this is the safeguard section which allows the Commissioner that power to really hold down a municipality, if in fact they are going overboard. That is why I have held strongly throughout that there was no need to disenfranchise tenants. It is like wearing a belt and having garters at the same time. You have the power here to have the safeguards, on the suspicion that the tenants would be well and duly responsible in all important things that are not for the general, long-run good of a community. You have withheld giving them the vote, and I think, Mr. Chairman, the Government would do well to reconsider their position. I cannot let the section go by without making that argument again. I would like to hear the Government's argument again, in light of this section, as to why they still feel they cannot allow tenants to vote.

Hon. Mr. Pearson: Mr. Chairman, this matter was the topic of a very serious discussion by this side with respect to the whole concept of taxpayers voting on money matters. Mr. Chairman, we are still of the very firm view that it may be a safe enough thing to do in a municipality the size of Whitehorse, but it is our strong view that to allow for non-taxpayers to vote on money matters in any of the smaller communities would be a danger that I submit. Mr. Chairman, could force a strong hardship on the taxpayers of that community.

It is for that very reason, and that reason only, Mr. Chairman. We like to think that we on this side are enlightened and are looking for ways to make forward-thinking law, but we just feel that that is a step further than we feel we can afford to go in this Territory at this point in time.

Mr. MacKay: To close the debate, I appreciate the fact that the Government Leader considers that it would be more forward-thinking to allow tenants to vote.

Clause 233 agreed to

On Clause 234

Mr. MacKay: There is just one delightful little clause in here that I would like to hear the Government's explanation of. When they have a very straight-forward section, it seems to me, where the appeal lies, for every decision of the Inspector, to the Government, who then make a determination, and this is conclusive and binding on all parties, I would have thought that would be quite sufficient. But, no, they have delightfully added the words "including the Inspector" as if he were some special deity who might not normally be affected by the law. Perhaps the Government could explain why they felt it necessary to put it in?

Hon. Mr. Pearson: Mr. Chairman, I do not know why it is there, other than, perhaps, for clarity so that there can be no question about the determination of the Commissioner being binding upon everyone involved. I think it is just a case of clarity.

Clause 234 agreed to

On Clause 235

Mr. MacKay: In section (3)(c), there is a wide open loophole, I think, through which you can drive a very large truck. I have mentioned it before. The definition of municipal services was, I think, held over, and here is the section that really makes it count, because 235(3)(c) allows money to be borrowed without the consent of the taxpayers, for capital expenditures for primary municipal services.

While the argument was put forward that these are very necessary municipal expenditures, or deemed to be necessary, I question whether the taxpayers of any municipality would be happy to see a city hall or a town hall built without them having the vote to say yea or nay.

Hon. Mr. Pearson: Mr. Chairman, the Honourable Member must read this legislation in the intent that it was written, and in the intent that we want it to be passed in this House.

Now, Mr. Chairman, the legislation is explicit. We are talking about primary municipal services. It is the reason we have broken down the municipal services into the three categories. We are talking only of primary municipal services here.

Mr. Chairman, we are speaking of, as primary municipal services, office space or accommodation. It may be, but not necessarily, a town hall or a city hall, or some such thing.

I am quite sure Mr. Chairman, that all Members can accept the intent of the legislation when it comes to primary services. We have made it clear that we feel that no community can function as a municipality unless they in fact do have office accommodation. We have found that out with local improvement districts. L.I.D.s cannot function without an office. They have to have it. It is, we feel, a primary service that they must have in the community.

Mr. Fleming: In 235 (b) when the money is to be borrowed or used for any of the purposes mentioned in the *Housing Corporation Ordinance*, I wonder if you could explain just that one section (b) there; why does it not have something like there is in (d), where you can borrow so much under section 224, that one is left wide open. How much could it be for instance?

Mr. McWilliam: That provision in (b) is similar to the existing legislation. What that provides for is for a municipality to borrow funds for purposes such as staff housing, public housing, et cetera which are provided in the *Housing Corporation Ordinance*. I should also add that in subsection (3), what you are dealing with is cases where the assent of the taxpayers is not required. There is still a requirement for the Inspector's approval.

Hon. Mr. Lang: Mr. Chairman, to give you a better idea of this, there was a cost-share approach to some low rental housing in the Whitehorse area a number of years ago. I believe it was Lot 19. I am going on memory now, but there were certain stipulations expressed in federal legislation as well; it is not just strictly territorial legislation that makes it almost mandatory in some federal programs that municipal, provincial, territorial and federal governments become involved perhaps in certain approaches to certain types of housing. I should add that this particular section has not been utilized that much in respect to the Territory. The Territorial Government overall has taken pretty well full responsibility for the social housing throughout the Territory and rightfully so. But in some aspects where certain circumstances dictate, that power is there, for the municipal council get involved.

Mr. MacKay: I want to go back to the previous question I was discussing, with respect to monies being borrowed for primary municipal services. Do I take it from what the Government Leader has just said that there is no intention of changing the definition of primary municipal services, the definition clause that was held over?

Hon. Mr. Pearson: Yes, Mr. Chairman, I am quite sure that the Honourable Member can take that as being a fact.

Mr. MacKay: That being the case, Mr. Chairman, since we are discussing primary municipal services, I feel very strongly that by this more or less arbitrary division of what is primary, secondary, tertiary, that we are allowing this very large amount of capital expenditure to be able to be voted on by a council, without any reference to the taxpayers. I have heard arguments very strongly to the other side, that taxpayers are the ones who must have the final say, and who should not have an unnecessary burden imposed upon them.

I am now seeing a situation where the town council could vote to install, for example, a very expensive sewage treatment facility without having to go to the taxpayers, which may be the single largest capital expenditure this municipality is going to make in years. Here they are having the power to pass that without having to go to the taxpayers.

I feel that if we are so strong on the question of the responsibility, perhaps the Government has not considered the possibility that — and I am using their own arguments against them, I admit that, but for a purpose. It is that it is quite conceivable that a town council could be made up of non-taxpayers, that in an election to any town council, the individuals, for example in Faro, could easily none of them be taxpayers. Here they have the exact power that the other side was so afraid of, to go out and spend massive amounts of money, because we are talking about some pretty basic things like roads, fire protection, sewage treatment, city halls. We are talking about some very basic things, and there is absolutely no limit, it appears, on what these town councils may do.

We have heard all the strong arguments, and they have some merit, that the taxpayers should not be shanghaied into large taxes; and then to see this section passed by without any consideration for what it really means, is, I think, a very strange paradox.

Hon. Mr. Lang: Mr. Chairman, it obviously is not passing by without any discussion. We are in this particular forum to discuss this type of thing. The Member speaks, for example, of a sewage treatment plant. I think it should be pointed out, as we well know, that sewage treatment plants that have been put in in the Territory are, over-all, pretty well directed because of federal legislation such as the *Inland Waters Act*. Now if borrowing is required, the key is the fact that it has to be approved by the Inspector, which means that expenditures, in fact, one way or another, have to be approved by this House, whether it be by way of a combination of loans or by capital expenditure of this Government through the Capital Assistance Program; there are a number of ways it can be done, through the various financial negotiations which would be undertaken between a municipality and the Government of the Yukon Territory.

I think it is fair to say, Mr. Chairman, that any borrowing would be closely assessed by the Department of Municipal Affairs, and very closely scrutinized, to ensure that any debt load taken on could be carried by that community, or at least a portion of the debt load for a particular, major capital installation in a community. But, at the same time, Mr. Chairman, we also recognize that elected members, at the municipal level as well as here, have a responsibility. They must assess, through their capital forecasts, what has to be made available to a community over a period of time, what the financial negotiations would be. It could well be that

the decision of the government of the day could be, "Look, as far as we are concerned, we are not prepared to go ahead with it". And when I say "government", I am talking about the Yukon Territory, because we are the agency who has to be prepared to lend that money and we also have the responsibility, through examining applications for financial assistance, to ensure that the debt load can be taken on without its being too restrictive on the taxpayers themselves.

Hon. Mr. Pearson: Mr. Chairman, I would ask the Honourable Members opposite to look at this breakdown of the three kinds of municipal services, strictly on principle. Are they grouped in the right three groups?

There was a question raised by the Honourable Members in respect to office accommodation. If they want to talk about that some more, that is fine, we can do that. I think what we are dealing with here, at this point in time, is the principle of whether we can identify municipal services in one, two, three, or four groups for priority, so that when as the next step we get to the *Municipal Aid Ordinance*, we can, at that point in time, say to the municipalities that for primary services this Government will undertake to fund X per cent of the cost of an approved project. For secondary services, we as a senior government will fund Y per cent of the cost, and for tertiary services, we will provide Z per cent of the cost.

It is felt, Mr. Chairman, that it puts this Government in a better position and it also puts the municipalities in a far better position, in that they will know just exactly what they can expect at any given time in respect to planning for their community.

Mr. Tracey: Mr. Chairman, I would like to direct the Members to Clause 239, which also restricts the ability of any council to put the municipality into debt.

Mr. Penikett: Let me say that while there is a lot of sensible things being said on both sides of this issue, I go back to the point I made 140 weeks ago, or whenever it was, when we began debating this thing. I think the problem lies with original definitions and I say this with respect to the Government Leader.

When I listen to the debate about the distinction between renters and taxpayers, I still think there is some confused thinking. I am reminded of, I think it was Frederick the Great, who argued that he had a social contract with his subjects. They could say anything they wanted as long as they let him do anything he wanted.

What you have, and Mr. MacKay is quite right about this, is a situation where renters can vote, they can run for office, they can govern. What they cannot do, if we were to listen to the logic from the taxpayers in small communities, is spend money on certain things.

Now, I think that the distinction nowadays between renters and taxpayers is not as clear as it once was. I think we would all agree, as the Government Leader has admitted, that for most municipal purposes, for general municipal purposes, a renter, someone who lives in an apartment or a large house, is paying property taxes indirectly; he is contributing to the property tax revenue of the municipality. I think it is a pity to disenfranchise such people when you are dealing with a question of a money bill, if you like, on some service, such as a recreation centre, which I think in fairness, let us agree, is probably going to be financed by all the property taxpayers, whether they are direct property taxpayers or indirect property taxpayers in the municipality.

Now there is no doubt, given the definitions we have here and the example I have just given, that the load in such cases will fall more heavily on those people who are rich in property. Someone may have enormous assets outside of the Territory. They may live in the community and benefit from it, but those assets are not going to be taxed. The weakness of a property tax has always been that it is not a very effective wealth tax. I go back to the argument I made before: the purpose of a property tax is to finance services to that property. It seems to me that is not such a hard thing to do, to define what services to property are. It seems to me the only services that should be financed by that kind of tax are services to property. I think it is fairly logical to say that a street in front of your house, unless it is a highway, only serves your house or your business or your neighbour, and is a service to those properties.

I think water service to those properties is service to those particular properties. Some people call them hard services. I think it is quite clear.

There are other things which are more universal, are services to all people in the community; I have always felt, and this is my fundamental argument against school taxes, that they should be

financed by the people who receive them, by the general public at large. Property taxes are not a good way to fund them. Sometimes governments have to fund them through property taxes because they do not have other means. But it is not a good way to fund them; they should be funded by the more progressive forms of taxation, such as income tax, and I think in this regard the AYC would agree with me since they, as the former Minister pointed out last week, passed a resolution a year ago saying that they did not think municipalities should be getting into social services.

Now, there are some other services which are not universal, even though they appear to be services to property, such as garbage collection, as a good example, in this City. Before the advent of country residential lots, it was a reasonable proposition to say the garbage collection in this City was universal — practically everybody got the service and therefore the service could be paid for by property taxes.

During my time on council, we realized that with the advent of places like MacPherson and Wolf Creek, and some of the other areas in the City who are not receiving this service, it was unfair to charge the people who were not receiving this service for the service.

So the charge for garbage collection in this City, was changed from being taken out of property tax money and was put on a user-charge basis. Now what seems to be fair about that is that people who are not receiving the service did not pay for it.

I see Mr. Lang was obviously deliriously happy with the way his garbage was collected previously and has not noticed a significant difference in his tax bill, which is, of course, the point because nothing has changed in the service to him. Perhaps he still has garbage, Mr. Chairman, that he is not happy about.

I think, with respect, that the definition is, as the Opposition Leader says, arbitrary. Well, the Government Leader probably consented that it is arbitrary, I do not know. The Opposition Leader certainly said it was arbitrary; perhaps everybody agrees it is arbitrary.

I think a better distinction in the kinds of services would have been to define two kinds of services: those which are services to property, and those services which are to the population generally.

Let me make the argument with recreation, for example, which is something the municipality is involved in. It is not a service to properties; it is a service to the citizens directly. I think there are services, such as garbage collection, which are not, in this municipality, and some others, which are universal. They do not go to all properties; they do not go to all households; they do not go to all taxpayers or to all residents. That is another category of service.

It seems to me, that if you are to be perfectly logical, and it is a problem because it goes all the way through this thing, that the definitions leave something to be desired. I accept the arguments made by the Members opposite that, if you are talking about a major capital expenditure, one that is really enormous, it is a useful exercise in restraint, for the municipal body to obtain the consent of those people who are going to have to pay the bill directly. I agree with that. But it seems to me that if you are going to be consistent in that regard, notwithstanding the obvious necessity for an administration building if you are going to administer anything, it would be a useful exercise to be consistent and therefore to require it even out of City Hall. Now, let me tell you that I know enough about this City to know that it is already overcrowded in its facilities and it could perfectly legally rent space all over the place without falling afoul of the department here. It is, I believe, a subtle economic decision to make whether you build now, rent space, or buy. It depends on the climate in the economy, the availability of space, and all sorts of other variables which Mr. MacKay could advise us about — whether or not he has room in one of his buildings might be a consideration. But it seems to me that that kind of decision is one which the taxpayers might well have an opinion about as well. It is not something that should be totally removed from their overview if you are going to be consistent and argue that they are to have a voice.

Let me take the extreme conservative argument, for a few seconds, on this question —

Some Member: With a small "c".

Mr. Penikett: I will use big "C" if it will make the Minister of Justice happier; big "C" Conservative argument; Ronald Reagan - capital "C" Conservative argument. We may be hearing a lot more of that.

Hon. Mr. Lang: Mr. Chairman, I would like to rise on a point of order. I would like to point out that we are trying to encourage the

public to come here and we finally start getting some people in the gallery in the evening. Mr. Penikett, then you stood up and started talking and they all left.

Mr. Penikett: Perhaps they were all New Democrats. Mr. Chairman, and they had all heard this speech before.

I could tell you a story about an effect I had on a group of people Friday but perhaps I should not put that on record.

The point I want to make is if you want to take a really conservative argument on this question, you might find that some group of well-meaning citizens have given Carmacks or Mayo, or the North Highway, municipal status, and they are the Village of Falle or the Town of Howard or the Hamlet of Swede, whatever, and they decide that they want to build an administrative building. The problem is that those people may be a very particular unrepresentative group. There may be a very small group of renters in the town who elected those people. They may only represent; to use the arguments across, the feelings of renters. You have no mechanism for the small, much put-upon, oppressed taxpayers in Carmacks or North Highway or Mayo, to object to the building of this hall; then they decide, quite reasonably, and I say this with respect to the Government Leader, that the minimum cost for putting such a facility in might be a couple of hundred thousand dollars — and I do not even know if you could do it that cheaply. What did the one in Mayo cost? One million bucks. And they decide it is nice being a town but for a million bucks, if it costs us a million bucks for the administration building, we would rather be a hamlet.

But it seems to me that is a pretty significant expenditure in a place like that. Your council may not be very representative; they may be everybody who went for nomination or put their names up. There may not have been an election at all. It may be that when the four or five major taxpayers from Mayo got back from their holidays and discovered that they were going to have a million dollar building that they were going to have to pay for, they might not be happy.

My point is that I am concerned that we should be perfectly consistent on this. If we are not perfectly consistent it would not be unusual, but maybe we should try.

Mr. Fleming: I fully agree with the Honourable Member in front of me and the Honourable Government Leader. I do not think the Chairman will rule me out in speaking the way I am on this section because in every section in this "bible", as I call it, you can find where somebody either can vote or cannot vote because he is a taxpayer or not a taxpayer.

Before I ask the question I have, I would like to say that the situation as you have got it in here, in this section and many others, too, is going to cause a rift between the native peoples, the government employees and the taxpayers in every little community in this country. I have stated many times here before, it is going to be a contest between the taxpayer, the local people who are tenants, DPW employees, Forestry, whatever, and the native peoples. Between those three factions there is going to be a contest to see who is going to even be elected, to start with, and who would vote for whom, which I do not think is a good thing to start in a country where all people should be equal and together.

The question I have to ask is that, okay, it is not allowed to vote on certain matters unless you are a taxpayer; however, you may be in that council and there may be even four or five of you, due to the vote at election time, who are not taxpayers. Now, I have not quite seen that in the ordinance anywhere, but maybe it is in here somewhere. What happens to these people then? They are in there and they are not taxpayers, they are just electors, and it says, I believe, you cannot vote as an elector on certain money matters. What do they do in a case like that?

They can have a vote, I suppose, if they are in there. If not, we will not have a vote at all if there are five of them in there.

Hon. Mr. Pearson: I am not sure what I am hearing from the other side, Mr. Chairman. This is a democracy that we live in and what we are saying is that we think there are enough people in these communities to run them on a democratic basis and we want to give them that opportunity.

Mr. Chairman, if the taxpayers of a community wish to sit back and allow a council to be elected, consisting of all non-taxpayers, now that is their free, democratic choice.

They have not got a leg to stand on from that point on. That is entirely up to them. We are not trying to tip one group against another at all. The object of the exercise is to try and get people to work together.

Mr. Chairman, I would like to reply to Mr. Penikett in respect to

the breaking-down of the services. I agree that there is an inconsistency, but in looking closely at the primary municipal services, Mr. Chairman, I would submit that there is really only one inconsistency. There is one service listed there that cannot be attributable to every lot in the community on a direct basis, only one, and that is the administrative office space. He mentioned garbage collection, but I want to point out to him that garbage collection is a secondary municipal service. It is only the garbage disposal that is the primary municipal service.

We feel quite strongly, Mr. Chairman, that what we have in these primary municipal services are those services that every community should have if it is going to be a municipality. They cannot function properly, the basic services cannot be provided to the people in that community, without having those primary municipal services.

Hon. Mr. Lang: Mr. Chairman, I think there are a couple of points that should be made when you take a look at the various definitions and try to picture what has to be additional to the various other communities of the Territory. When it first comes to primary municipal services, there are very few communities that do not have the basic services in the communities already, through assistance from the Territorial Government. Further to that, Mr. Chairman, and I think it was all lost in the debate, the Member from Tatchun made a very good point, if one refers over to 239, in respect to how much they can borrow and the constraints that they are under. So there are a couple of areas that really definitely give guidance through the legislation to the various municipalities, and their ability to pay if they are borrowing X amount of dollars.

Now, also, Mr. Chairman, I think that it is fair to say that with respect to the primary services, we recognize as a Government that these are necessities, these are not frills. They will be made available in such a manner that the direct cost to the property taxpayer is not going to be that great, if at all. Of course, these things have yet to be determined through the *Municipal Aid Ordinance*.

Now, another point, Mr. Chairman, has to be made, and I think that I must take Mr. Penikett to task for this. He speaks so grandly of his short tenure in the world of municipal politics, and I recall very vividly, Mr. Chairman, when all of a sudden garbage pickup was not universal and they were going to make a direct charge on your charge per month as opposed to taking it out of your property taxes. The only anomaly that I found in what he was speaking of, is that I did not see my taxes go down, I saw them maybe increase somewhat, but I also see now that I have got a six monthly rental charge of approximately in the area of between \$150 to \$200 a month.

The point I am trying to make, Mr. Chairman, in order to correct the record, is that if the Honourable Member across the way is trying to indicate that there was a free lunch for anybody involved in the direct property taxation, that is not the case.

Mr. Penikett: Mr. Chairman, I believe it was Andrew Carnegie who said that there is no such thing as free garbage. The Member is quite right. I am sorry that his garbage bill has gone up, but perhaps if he were to exercise some conservation measures at home he would not be placing such a load on the City in terms of garbage pickup requirements.

The point made by the Member that the taxes did not take a sudden drop when we stopped paying for Mr. Lang's garbage out of the general revenues is well taken. There were a couple of other projects started by the City that year. The only point I was making was that we are moving into a kind of community now where some services are not universal, some of them because of lifestyle changes. People apparently do not want the services and the point that Mr. Lang was to take his own garbage out, will have to be taken up with the Mayor because I am not in a position to do it anymore.

The Government Leader was quite correct in upbraiding me for not making any clear distinction between the garbage disposal facilities and garbage collection, that is quite right.

There is, it seems to me, still an argument to be made about some distinction in those services. I do not want to go on *ad nauseum*. The point is that if you want to be consistent in terms of the taxpaying things, the argument about if the taxpayers do not vote — most of them do not anyway. Let us be realistic about it, they do not vote in this City. I think the turn-out is something like 20 per cent. Mr. Graham did. I think that is wonderful. A lot of people did not. Quite right, they get the government they deserve. Perhaps I should stop on that note before I go any further.

Mr. MacKay: Further to my honourable friend's last remarks about the Member for Porter Creek and his property taxes and garbage, I think if he examined carefully the City's accounts he would find that his property tax bill went up because they have socked it away into reserves.

Some Member: Equipment reserves?

Mr. MacKay: That is right.

Just to follow up on the Government Leader's train of thought, which is quite logical, about which services are primary and which are not, I cannot, for the life of me, understand why public cemeteries are regarded as something optional. I have always regarded death as being somewhat inevitable and I have no idea why that would not be included as a primary service, if that is what we are getting at. Again, since we are looking at these things, impoundment facilities; many people form themselves into municipalities purely and simply to be able to control dogs. That may well be the primary reason for them banding together; somebody will have to do something about the dogs. Thus, to see that in secondary services is a little strange.

One could go on, I suppose, and look at each one and make a case for it, so it comes out to purely arbitrary things.

I would go further, though, and suggest that the Government Leader should look at the green paper on Municipal Aid, as far as capital is concerned, and he will find that he will get very little guidance from that, Mr. Chairman, as to what his Government intends to do about capital grants. So I cannot take it from the green paper that there is some wonderful system all lined up where they have X amount of dollars for primary and Y amount for secondary and Z amount for tertiary. It is just not there. In fact, I now understand why it is a green paper and not a White Paper, because there is no way that we could take that as a Government opinion.

The point is that we are hearing some things now coming out in debate, saying that we are going to design our capital funding to match these three levels. That is news to this side of the House anyway. Perhaps if the Government Leader could elaborate on why cemeteries are not primary, what was the logic of that, and perhaps a little more on what kind of percentage they are talking about funding: primary and secondary and tertiary.

Hon. Mr. Pearson: I am sorry, Mr. Chairman, I am in no position to elaborate on what the levels of funding might be, but I am sure that they will be different. It just seems to follow logically in my mind that this is a fair and a reasonable way to set up municipal funding on cost-sharing projects.

Mr. Chairman, I am going to start now using some of Mr. Penikett's arguments to the Leader of the Opposition. I respectfully submit that cemeteries are in the secondary municipal services because they do not apply to everyone in the community, only to those who die; it is the same with the dog provision, they only apply to those people who have dogs. There is also an option to the cemetery thing, which is not in Yukon yet, but it is very likely that it will come sometime in the near future. I suspect that it is one that some municipalities may want to consider seriously as being an option to the cemeteries.

I come back once again, Mr. Chairman, to that basic principle: that the primary municipal services are those services that we perceive that no community can be without, or should be without, not necessarily can be without or should be without. If they wish to have a pounding function in that community, that is fine. That is a secondary service and we deal with that at their request.

Mr. MacKay: I find considerable meat for discussion in the previous speaker's statement. I would suggest that he should recognize the purpose of an animal impoundment facility. It is not for dog owners, it is for the people who do not want to have dogs. So, it really services the community.

Regarding his suggestion of an alternative to public cemeteries, I could only impute from what he says that they are going to pass a law legalizing immortality in some of the communities, because he did not mention any other thing. It seems to me that cemeteries are for the whole community, because that is where we put the dead taxpayers and, at that point, they have paid their way in life and they get duly interred.

It gets a bit ludicrous. I think the whole debate is getting a bit ludicrous so I will sit down very shortly, other than to say I still think that the office space is the one thing that I strongly object to in the primary municipal services. I think it is kind of a choice. What we are talking about there is what kind of monument the citizens want to erect for their council. Tastes can vary widely from "they

should be in a tar paper shack down by the river" to "they should have a very proper and long-lasting townhall". I think it is the kind of decision the taxpayers would dearly love to be in on. I will rest my case on that.

Hon. Mr. Pearson: Mr. Chairman, I do not think I can let it just go that the taxpayers are not in on those kinds of decisions. In fact, this legislation makes it clear that they will be in on the decisions that are made.

Once again, we just cannot see any sense at all. Mr. Chairman, in hiding our heads in the sand and saying that we are going to create a municipality and we are not going to allow them the capability of having office space. We just feel that it is a necessary thing and therefore it should be a primary municipal service.

Clause 235 agreed to

Hon. Mr. Pearson: Mr. Chairman, I wonder if after all this long discussion, could we consider going back to the definition section? Are the gentlemen opposite prepared to clear primary, secondary, and tertiary services?

We seem to have had that discussion now. Are they clear on them?

Mr. MacKay: Mr. Chairman, it may well be that the Government Leader now feels he can pass these things, but it would still be over the objections of at least me, anyway. I find his arguments extremely weak on the business of denying the right of a town to have its own city hall. There are many other provisions which allow them to go out and borrow money for taxpayers' use, and I find that extremely weak. So I cannot accept this section and I will be voting against it. If he wants to go back to primary services, I will vote against that as well.

Mr. Penikett: Mr. Chairman, I guess I have no objection to going back. My problem with definitions is probably quibbling. I probably would have divided or sliced up the pie in a different way, but the contents might have been more or less the same.

The point about the administration buildings is one on which I share some of Mr. MacKay's concerns. But, the more I think about it, the more I think I might have been inclined to a slightly different solution. I doubt very much, for example, if we, in this House, had ever had to go to a rate payers' vote as to whether this building should have been built, and the rate payers here had had to pay for it, that we would ever have got it. By the same token, I doubt very much that we could have functioned very well without it.

There might be an argument for saying, were the money available, were we to have the kind of heritage fund that Alberta has, that probably the most sensible thing to do, for the Territory, in creating a municipality, would be for the Territory in fact to fund and approve in a way that made us accountable for the first administration building. It seems to me that if we are going to be perfectly consistent with the federal great white father creating an edifice like this, perhaps, rather than putting the heat on the first municipal council in a new municipality, the most sensible way to do it, perhaps, would be to make it very clear that it is this body, or the government of this place, that has to approve, pay for, and justify the first administration building. For subsequent facilities and subsequent expansion, it seems to me, the taxpayers and citizens in that community might be able to make properly reasoned judgments about it.

So I guess I do not really have a big problem with going back to clear these sections. I have a slight problem with them, but not enough to cause me to hold it up.

Mr. Chairman: Well, the normal procedure of the House is when the particular is voted on, the assistant clerk automatically initials it, which means that the Clause has already been dealt with.

On Clause 236

Clause 236 agreed to

On Clause 237

Mr. Fleming: On 237(1), this is possibly the same question I think I asked before, a very simple one. If you are elected to council, and there is a by-law for borrowing money submitted and approved by the inspector, and it comes to third reading; can you as an elector, not a taxpayer, vote on that matter?

Hon. Mr. Pearson: Yes, Mr. Chairman, there is no doubt about it. The Member is talking about voting on the by-law in council, is that correct? We are talking about a taxpayer having a vote, only the taxpayer having a vote at the submission level, what used to be called a plebiscite; we are talking about the taxpayers voting on a

money by-law at the public level, at the plebiscite, or submission level, not in the context of the council chambers.

Mr. Fleming: That is exactly what I am coming to and that is exactly what I mean. The Government Leader has said they are trying to have a democratic set-up in this ordinance. I claim that it is not quite so democratic in the fact that you are more or less disenfranchising tenants, et cetera, in voting on a money by-law. Also, you are allowing those people to vote as electors and run as electors, and be voted into council, and those few which may be elected can actually vote on money matters, which is maybe two, three, maybe four or five in some instances, where they might all be electors and they are then allowed to vote on these money matters. So actually I do not find that a democratic process in a way.

What I was saying before is that the Government may feel that they have a democratic process because they are letting the taxpayer elect people and vote and everybody else do the same thing, but I was not speaking of that. I was speaking about the actual fact of what will happen in a community, and I would like to go on record because I know it is going to happen, and at that time I will be able to say, "I told you so" or something to this effect.

With that I will just leave it go.

Clause 237 agreed to

On Clause 238

Mr. MacKay: I hate to stand up with a dictionary. It was not that I was looking at though. Clause 238(1), there is a curious thing at the end of it. It says "...and every such by-law shall recite that the approval of the Inspector has been obtained."

A recital is a formal statement in a document which explains the reasons for the document and the transaction behind the document. That is the definition.

It strikes me that there will be many occasions where the Inspector may very well approve of the format, may very well approve of the way it has been laid out, of the place where they are going to get the loan, but he may not necessarily approve of the purpose, because that is something that he may say that that is up to the individual voters of that municipality to decide. But here he is endorsing, ahead of time, the fact that he has approved of this. I do not think that is probably what was intended here. It was really to say that the formal steps had been followed, but here he is approving it. I think it may very well mislead people to think that the whole thing is cast in stone before it reaches them.

Mr. McWilliam: The previous sections have dealt with what the Inspector's approval may entail. What this section reflects is that any by-law which he has had to consider meets with those conditions which are provided, for example, in Section 233. That is where his approval is.

Mr. MacKay: That being the case, why is it cited on the by-law that such approval has occurred? It seems to me it is more or less like undue influence on the voters at that point.

Mr. McWilliam: As Members have just been discussing, not all by-laws to borrow money are going to go to the electors. Furthermore, I would suggest that a by-law that is going to electors, after having received the approval of the Inspector, should show that it has complied with the necessary technical requirements that the Inspector has investigated it for. I would suggest that is information that the electors may be interested in but which would not necessarily swear them one way or another towards the intent of the by-law.

Mr. MacKay: Could I perhaps have an indication that the wording of this approval would so indicate it that technically it conforms with all the things, but it is not approval in principle of the purpose of the money. That is my objection to this thing, is that it really should not be pre-judging what the electors are going to pass judgment upon.

Clause 238 agreed on

Mr. Chairman: At this time we will take a short break.

Recess

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

On Clause 239

Hon. Mr. Lattin: Mr. Chairman, I would like to ask that Clause 239 be stood aside at this time. I have a couple of amendments which are not yet ready but I will bring them in at a later date.

Mr. Chairman: Is it agreed that clause 239 be stood over?

Mr. MacKay: It has become the practice in the House, when something is stood over, that there is generally some explanation

about the reason that the Committee is standing it over.

Hon. Mr. Lattin: Mr. Chairman, one of the things that we wanted to stand over is the amount of one per cent. We are going to change the amount to two. We felt that one per cent was inappropriate. It should be two. Another amendment we wish to add on to it was that the total debts of a community do not include any money borrowed for local improvements. The extent of the costs of local improvements is to be assessed, levied, and collected by means of a special rate. We just want to clarify this particular section.

Clause 239 stood over

On Clause 240(1)

Clause 240(1) agreed to

On Clause 240(2)

Clause 240(2) agreed to

On Clause 240(3)

Clause 240(3) agreed to

On Clause 240(4)

Clause 240(4) agreed to

Mr. Fleming: Mr. Chairman, I think I have slipped up somewhere. Could I ask a question on (4)? Could I have the Assembly's permission?

Mr. Chairman: Unanimous consent to reopen subsection (4)?

Some Members: Agreed.

Mr. Fleming: Is it (4) or (3), where are we now?

Mr. Chairman: We are on (5).

Mr. Fleming: Well, it was on (3), Mr. Chairman. I was behind.

Mr. Chairman: Unanimous consent to open (3)?

Some Members: Agreed.

On Clause 240(3)

Mr. Fleming: "In addition to any other penalty to which he may be liable, any member of a council who votes for any by-law or resolution authorizing the expenditure of monies contrary to the provisions of this Ordinance is disqualified..." This is one of the reasons I was asking whether a member that is on council — because he is only an elector — is it in the ordinance somewhere that he can vote on money matters in this area? Where does it say that?

Hon. Mr. Pearson: Mr. Chairman, it is very conceivable that a municipality could have a whole council consisting of non-taxpayers. It comes to the point where they have a money by-law that they have to submit to the taxpayers for ratification. We are referring to that by-law or that submission, as a submission. We are trying to do away with the word "plebiscite", a word that is familiar to us, and use the word "submission".

Those five members of the council are not going to be able to vote at the submission stage because they are not taxpayers; however, after they have received the results of the submission from the taxpayers, then they deal with it in the normal manner, back in their council. They have the right to vote for it or against it; they are then voting for a by-law at that point in time.

Mr. Fleming: That is my concern, that I have found nowhere in this ordinance where it says that very thing, except that, I guess, that this is the belief of the Government that that is the way it is. But it is not really said so anywhere here, and they will be voting and will be jeopardizing themselves if it does not say so somewhere here.

Hon. Mr. Lang: It specifies exactly what type of submission and what categories of money would have to go to the taxpayers for ratification in particular instances. I think it is pretty well clearly and succinctly laid out and it states special cases. Other than that, it is all normal procedure. It is nothing new in the procedure at all.

Hon. Mr. Pearson: There is one qualification. If the councillor has a pecuniary interest in that by-law, he then cannot vote.

Clause 240(3) agreed to

On Clause 240(5)

Clause 240(5) agreed to

On Clause 240(6)

Mr. MacKay: Before we dispose of this rather onerous section whereby municipal officers and councillors can go into bankruptcy by casting one vote the wrong way, which might be a little discouraging to potential candidates, is there any provision anywhere in Canada for such people to be able to insure themselves against everybody caught in this kind of bind, a bond or some such thing?

Hon. Mr. Lattin: Not that I know about, Mr. Chairman, but I would ask the witness whether he could tell us any more about it.

Mr. McWilliam: Mr. Chairman, there are provisions which we dealt with in the ordinance, providing for the bonding of employees. I believe though there would be a question of whether or not even a bond would cover you if it could be proved that you were acting in bad faith, which is essentially what this section covers.

Clause 240(6) agreed to

On Clause 241

Mr. Penikett: Mr. Chairman, could I just ask a general question about this section? My question is to the Minister. I have read this, and I must say that I am not nearly as expert about this matter as my friend to my right. What was not clear to me in this section was how you got rid of your auditor.

I remember being in a discussion with some colleagues at City Council here in Whitehorse. We were just idly speculating with no good cause about how we would get a new auditor if we decided we wanted one. One of the things we discovered, according to our reading of things, was it would be very hard to change the auditor, even if we had very good reasons. At least, it appeared that way to us.

I just wondered whether the Minister could explain to me how one goes about it.

Mr. MacKay: Perhaps I could be referred to as an expert witness here. Clause 241(3) is very clear that an auditor can be terminated.

Mr. Chairman: Is it the wish of the Committee to deal with the whole of Clause 241?

Some Member: Agreed.

Hon. Mr. Pearson: Mr. Chairman, to answer the Honourable Member's question: yes, there is provision for terminating. You pass another by-law naming another auditor.

Mr. Penikett: I am sorry, Mr. Chairman, I will hold my comments until subsection (3). Just suffice it to say that notwithstanding the nice neat writing there, it seemed that the auditor's clutches were so deeply imbedded in our flesh that we were not quite sure how we could shake him loose, that was the problem.

Mr. Chairman: Mr. Penikett, the Committee has agreed to deal with all of Clause 241. You could refer to any section you want here.

Mr. Penikett: Mr. MacKay and Mr. Pearson have both given us assurances it can be done with dispatch. Perhaps it is my memory that is failing me rather than the present ordinance.

Mr. MacKay: Let me just say that I think these sections about auditing are pretty good. I see some expertise in them; they were vastly improved by the acceptance of the recommendations of our firm.

Clause 241 agreed to

On Clause 242

Clause 242 agreed to

On Clause 243

Mr. Chairman: There is one typo in section (d)(i): on page 109, line 5, "texts" should be "tests".

Do I have the unanimous consent of the House that there is a typo there?

Some Members: Agreed.

Mr. MacKay: There is also a further typo in the third last line of the page. It should be "any information", not "and information".

Mr. Chairman: Would you like to direct the Committee as to where the typo is again?

Mr. MacKay: The third to bottom line of that same page 109. It should be "...any other person, any information..."

Mr. Chairman: Unanimous consent?

Some Members: Agreed.

Mr. MacKay: There is just one thing that I would raise, more a question of interpretation I think. On Page 110, subsection 6, the auditor shall forward to the Inspector a copy of every report submitted by him to the council or to any officer of the municipality. Involved in the work of an auditor are many technical recommendations, which might be called, for example, a management letter. I am sure the Government Leader is aware of this, because this Government gets these things too and these are not necessarily tabled or publicized. Is it the intention of the Minister that every management letter should be forwarded to the Inspector?

Hon. Mr. Lattin: Yes, Mr. Chairman, that is so.

Clause 243 agreed to

On Clause 244

Clause 244 agreed to

On Clause 245

Clause 245 agreed to

On Clause 246

Clause 246 agreed to

On Clause 247

Clause 247 agreed to

On Clause 248

Clause 248 agreed to

On Clause 249

Mr. MacKay: I have a good eye for these. There is a typo in the first line there, it should be "of" instead of "or". Also I would like some examples of 249(1)(f).

Hon. Mr. Lattin: Clause 249(1)(f) is made more specific by reference to public works instead of services, since local improvements are intended for provision of physical services applicable to the land and services, which in this particular case would be too vague a term.

Mr. Penikett: I want to ask about (e). Now, I would be pleased to be corrected on my facts in this case. As I understand it, where electrical utilities, particularly underground services, have gone in, the supplier of electricity, with or without a franchise, has insisted on putting in their own services and doing their own ditching and trenching and putting in their own cable. That has been the practice in this community.

I believe at one time the City in which we are living sought some advice as to whether they could put this out for tender and do it themselves, and they were told that their legal position was very good because the municipality serviced by the same company had done this in Alberta; the company had refused to hook up the service to the bootleg wires and the municipality had gone to court. The court had ruled that the electrical supplier had to.

I just want to know if this provision in this ordinance is an assertion by this Government that a municipality can, if it chooses, tender this work, rather than just accept as given the right of the supplier of electricity to install their own services in a new subdivision?

Hon. Mr. Lattin: Yes, Mr. Chairman, that is right.

Mr. Penikett: Good, Mr. Chairman.

Mr. Fleming: Just one question, Mr. Chairman, of the Minister, on (d) "making sewer or water service connections to the street line on land abutting a main," which means, actually that it is on the land, abutting.

Would I take it from there that the connection could be made all the way to a recipient's house, in this case, or would it just be to the line of the land abutting the main?

Mr. McWilliam: It is possible that if part of the contract, the hook-up to the dwelling could be done, however, that would be an additional cost over and above the local improvement.

3 Clause 249 agreed to

On Clauses 250(1)(2)

Clauses 250(1)(2) agreed to

On Clause 250(3)

Clause 250(3) agreed to

Clause 250 agreed to

On Clause 251

Clause 251 agreed to

On Clause 252

Clause 252 agreed to

On Clause 253

Clause 253 agreed to

On Clause 254

Mr. MacKay: I spot another typographical error, Mr. Chairman. Fourth line down, "inequitable".

Mr. Chairman: Do I hear unanimous consent that "inequitable" should read "inequitable"?

Some Members: Agreed.

Clause 254 agreed to

On Clause 255

Clause 255 agreed to

On Clause 256

Mr. Fleming: This may conflict a bit with what was said about the Capital Assistance Program. I think that, up to now, you have sewer mains put in and, of course, anything abutting and using that sewer main can be charged. But if you are, say, a block back of that, and not using that sewer main, in a small town, it cannot, right now, be charged for.

This should change that so that the council — I take it if I am right now — the council can now change that and say that the whole town is to be charged for that service, is that right?

Hon. Mr. Lattin: That is correct, Mr. Chairman.

Clause 256 agreed to

On Clause 257(1)

Hon. Mr. Lattin: Mr. Chairman, I would ask that that Clause 257 is to be set aside; we can deal with the rest, Mr. Chairman.

Clause 257(3) stood over

Some Members: Agreed.

Mr. MacKay: I take it this 257(1) is a generally enabling section that permits the municipality to acquire property. My question is when you get to 259(2), it seems to say the same sort of thing, and I am wondering why we have to have two sections that seem to say the same sort of thing.

Mr. McWilliam: Mr. MacKay is correct that this is basically an enabling section to permit a municipality to acquire property or personal property. Subsection (2) deals with those cases where, once property is acquired, it is reserved for a specific purpose. One example I might cite is where land has been acquired under subdivision for dedication for public parks; you would reserve that land for use as public parks and not allow the municipality to use it otherwise.

Hon. Mr. Pearson: Mr. Chairman, it may help clarify the situation if we tell the Honourable Members opposite that we intend to table an amendment that will require that the municipal council has to get the approval of the Commissioner, prior to passing a by-law to remove any such dedicated land, or reserved land, from that specific reservation.

Mr. MacKay: I assume that this will apply equally, then, to lands which are presently held by municipalities, as well as future acquisitions.

Hon. Mr. Lattin: That is correct, Mr. Chairman.

Clause 257(1) agreed to

Clause 257(2) agreed to

Clause 257(4) agreed to

Clause 257(5) agreed to

Clause 257(6) agreed to

On Clause 258

Mr. MacKay: I think this is an additional power that is being granted to a city. Perhaps we could have the rationale for it. It does not seem to be unreasonable. I can remember a couple of incidents where it would have been worthwhile to have it.

Hon. Mr. Pearson: Yes, Mr. Chairman, expropriation, as everyone knows and appreciates, is very onerous, and we are giving municipalities responsibilities; if they wish to avail themselves of the Commissioner's right to expropriate, we are saying to them they have that right by this legislation, but they are going to do the expropriation, not the Commissioner.

So, all we are doing is saying the legislation is there. If they wish to use it then they can do so.

Mr. MacKay: I presume that they will still be subject to all the other limitations, financial, et cetera, that apply.

Hon. Mr. Pearson: Certainly, there is no doubt about that, Mr. Chairman.

Clause 258 agreed to

On Clause 259

Clause 259 agreed to

On Clause 260

Clause 260 agreed to

On Clause 261

Clause 261 agreed to

On Clause 262

Clause 262 agreed to

Mr. Penikett: I am not sure if I have anything to say yet, but since you are clearing clauses faster than I can read my notes on them, it makes it a little difficult for me to know whether I need to speak or not.

On Clause 263

Mr. MacKay: There are some things that the council may do by by-law, that they may not want to do. I think the question has been raised by Mr. Penikett before, with respect to open and operate quarries. I would like to get the Minister's opinion as to whether, by virtue of having this section in here, the council is obliged to supervise such activities, even though they previously have been supervised by the Territorial Government.

Hon. Mr. Lattin: Mr. Chairman, these are enabling powers for the municipality so that they may exercise by-laws. Some new provisions are: operating gravel pits, control advertising signs, et cetera. All others are existing powers that have just been re-worded and recorded for clarity. In connection with the quarries question, I am going to refer it to Mr. McWilliam.

Mr. McWilliam: As the Minister indicated, this is an enabling power. There is no requirement for council to adopt any one of these provisions if they feel that it is not in the municipality's interest. While in Whitehorse you may very well find that they would not be anxious to have such a power, there have been other communities that have actually operated gravel pits, for example, and in the case of Dawson, we discovered that there was not the authority and they would certainly like to have it back.

Mr. Penikett: A couple of things, Mr. Chairman. I was concerned by this because I was party to some of the complicated negotiations between the Territory and the City, regarding the quarrying in Whitehorse. I can say that, given the complicated leases, and some of the dubious sub-contracts regarding those leases, and the curious royalty situation, and the not insignificant environmental problems, I think this City would want responsibility for quarries like they would want a hole in the head. As I understand it, the responsibility right now extends simply to zoning those quarries.

I want to ask about something which I, in a way, gave notice of: this problem of highways. When I asked about it at the beginning, when we were dealing with the definition section, the Minister referred me to the witness and the witness was very good to refer me back to the sections here, essentially 265(3). The municipality is really responsible for highways. It can develop the highways, but somebody else cannot create a highway and force the municipality to become liable for it. At least, the municipality could close it off if they wanted to.

I am obviously not a lawyer and I am not an expert in the law on this, but it seems to me that there has been some confusion in the Yukon courts about what is a highway and what is not. At least, that has been an issue in some cases. There are still, within the limits of this City, a number of mineral claims, as everybody knows. On some of those claims, I guess, roads are acceptable as assessment work: that is, roads on those claims. Those roads, as assessment work, are necessary to keep the claims in effect. What I want to know is, if such roads become highways within the meaning of this ordinance, what is the responsibility of the municipality for them?

Perhaps a more difficult question, then, would be, what rights would a municipality have in connection with such claims? To close such roads? To order the construction of them stopped, if it was discovered that it was on-going? Especially if we were dealing with the situation of claims where the land has not been withdrawn from disposition under the two mining acts. The claims are of long standing and they may be claims that pre-date the annexation of the area into the city.

I recognize that I am asking a several-pronged question and that one of them is a bit complicated, but I think it would be useful for all of us, Mr. Chairman, to understand the proposal on this question.

Hon. Mr. Lattin: Mr. Chairman, I think that due to the fact that there are quite a considerable number of questions there, I would like at this time to take it under advisement and we could start on that the next time we sit.

Mr. Chairman: I move that you do now report progress on Bill Number 57 and beg leave to sit again.

Mr. Chairman: It has been moved by the Honourable Mr. Lattin that the Chairman do now report progress on Bill 57 and beg leave to sit again.

Motion agreed to

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

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

Motion agreed to

Mr. Chairman: I will dismiss the witnesses.

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. Njootli: Mr. Speaker, the Committee of the Whole has considered Bill Number 57, *Municipal Ordinance*, 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 Mayo, that we do now adjourn.

Mr. Speaker: It has been moved by the Honourable Minister of Justice, seconded by the Honourable Member for Mayo, that we do now adjourn.

Motion agreed to

Mr. Speaker: This House now stands adjourned.

The House adjourned at 9:27 o'clock p.m.

The following Sessional Papers were tabled Monday, November 3, 1980:

80-3-32

Sixth Report, Standing Committee on Rules, Elections and Privileges

The following Legislative Returns were tabled Monday, November 3, 1980:

80-3-17

Liquor Sales - monthly tabulation (Oral Question - Page 405)

80-3-18

Indian Land - non-native residency (Oral Question - Page 332)

80-3-19

Taxation rate - flexibility (Oral Question - Page 323)