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HANSARD

Monday, November 14, 1983 — 1:30 p.m.

Speaker: The Honourable Donald Taylor

Yukon Legislative Assembly

SPEAKER — Honourable Donald Taylor, MLA, Watson Lake

DEPUTY SPEAKER — Bill Brewster, MLA, Kluane

CABINET MINISTERS

NAME	CONSTITUENCY	PORTFOLIO
Hon. Chris Pearson	Whitehorse Riverdale North	Government House Leader — responsible for Executive Council Office (including Land Claims Secretariat and Intergovernmental Relations); Public Service Commission; and, Finance.
Hon. Dan Lang	Whitehorse Porter Creek East	Minister responsible for Municipal and Community Affairs; and, Economic Development.
Hon. Howard Tracey	Tatchun	Minister responsible for Renewable Resources; Highways and Transportation; and, Consumer and Corporate Affairs
Hon. Bea Firth	Whitehorse Riverdale South	Minister responsible for Education; Tourism, Heritage and Cultural Resources
Hon. Clarke Ashley	Klondike	Minister responsible for Justice; Yukon Liquor Corporation; Yukon Housing Corporation; and, Workers' Compensation Board
Hon. Andy Phillipsen	Whitehorse Porter Creek West	Minister responsible for Health and Human Resources; and, Government Services

GOVERNMENT MEMBERS

(Progressive Conservative)

Al Falle	Hootalinqua
Bill Brewster	Kluane
Kathie Nukon	Old Crow

OPPOSITION MEMBERS

(New Democratic Party)

Tony Penikett	Whitehorse West Leader of the Official Opposition
Maurice Byblow	Faro
Margaret Joe	Whitehorse North Centre
Roger Kimmerly	Whitehorse South Centre
Piers McDonald	Mayo
Dave Porter	Campbell

(Independent)

Don Taylor	Watson Lake
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Clerk of the Assembly	Patrick L. Michael
Clerk Assistant (Legislative)	Missy Follwell
Clerk Assistant (Administrative)	Jane Steele
Sergeant-at-Arms	G.I. Cameron
Deputy Sergeant-at-Arms	Frank Ursich
Hansard Administrator	Dave Robertson

Whitehorse, Yukon
Monday, November 14, 1983 — 1:30 p.m.

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

Prayers

DAILY ROUTINE

Mr. Speaker: Are there any returns or documents for tabling?
 Reports of committees?
 Petitions?
 Introduction of bills?
 Notices of motion for the production of papers?
 Notices of motion?
 Ministerial statements?
 Are there any questions?

QUESTION PERIOD

Question re: Job guarantees from Kiewit

Mr. Byblow: I have a question I will direct to the acting government leader. I understand that a series of meetings between representatives of Kiewit and the Yukon government were held over the weekend. Can the acting government leader tell the House if those discussions included written job guarantees and business opportunity guarantees in the event that the project should go ahead?

Hon. Mr. Lang: Prior to answering the question, I would just like to inform the House that the government leader is in Ottawa and he will not be returning until Thursday. I know that he intended to inform you that he would be absent.

With respect to the question that has been put at hand, yes, there were a number of meetings with Peter Kiewit and Son. Basically, an initial meeting with Cabinet to update the viability of the project which looks very, very positive; moreso than it did a number of weeks ago as far as the economics of it are concerned. As we noted in the debates and proceedings of the House, that we were in the process of negotiating a social-economic plan or agreement with the company, we had discussions on the questions of job opportunities and, also, business opportunities in that particular project. I do not usually give word guarantees because I do not think anybody could be guaranteed anything. I think the key is to ensure that there are opportunities there and the best efforts will be made by all involved to ensure that the benefits of such a project could accrue to the people of the Yukon Territory.

Mr. Byblow: In a newspaper article, last week, John Lowen, of Peter Kiewit & Son, was quoted as saying that they were fairly sure that there were a lot of economic benefits to be derived from his company's proposed development. I would like to ask the acting government leader if "fairly sure" is a satisfactory assurance of the economic benefits to Yukon?

Hon. Mr. Lang: I would have to laugh at the question being put forward to me. I guess the question is whether or not 600 people or 1200 people working at Cyprus Anvil is beneficial to the territory; the same principle would apply to the project on the North Slope. With respect to the direct benefits that would accrue to Yukon, I use for an example the purchase of equipment; I use the example of the guarantees for the catering that have been put forward to the native population, as well as the maintenance of the haul road that is required for the quarry.

If you take a look at all these, plus a workforce of approximately 400 to 600, initially, on construction, plus the ongoing workforce that would be required of approximately 400 on such a site, on an annual basis during the time it would be operating, I think it is safe to say it would be beneficial to the territory.

Mr. Byblow: The minister recites economic benefits and job opportunities available as a result of the proposal. I want to ask him what position has this government taken with respect to its percentage of employment requirements to Yukoners; not at large, but to Yukoners?

Hon. Mr. Lang: I think it is very difficult to deal with the percentages. The major concern we had, with respect to such a development, was the cost of transportation to those employed on the site; it would be only to certain destination points. The reason I use that is because, in Alaska when Prudhoe Bay was in operation, the companies had their employees commute from wherever they lived down in the lower 48. Once they discontinued the costs of service to the employees for the purpose of commuting down south, they found that either those employees moved into the communities or they did not continue their employment and, subsequently, people locally were hired.

Therefore, that is the line of approach we are taking with respect to the overall rotation of the workforce and as to the transportation costs that would be paid to the various Yukon communities.

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Question re: Jim Light Arena

Mr. Kimmerly: To the same minister. I asked last week about the Whitehorse arena. Is the minister now able to say if money is available for repairs to the Jim Light Arena?

Hon. Mr. Lang: I did have a brief conversation with the mayor late last week. We intend to get together, if we can mutually agree upon a time, this week to discuss that plus other issues.

Mr. Kimmerly: This is obviously an important issue for City Council. Is the minister able to state briefly government policy as to the availability of this money and the control over it?

Hon. Mr. Lang: No.

Question re: Native housing

Mr. Porter: My question is directed to the minister responsible for housing.

On October 27, 1983, *Hansard* records that the member for Whitehorse South Centre asked the minister if he, the minister, considered it part of his responsibility to concern himself with the deplorable state of native housing in the territory. The minister's answer was totally confusing, so I would like to again ask the minister: does he see native housing as a part of his overall responsibility?

Hon. Mr. Ashley: As I informed the member for Whitehorse South Centre, at that time — and it should have cleared the minds of the members opposite — we do not have the responsibility for native housing. It is the Department of Indian and Northern Affairs that has that responsibility, mainly. Now, we do look after some housing of natives, under the rural and native housing. That is done through CYI recommendation; through CMHC and Yukon Housing.

Mr. Porter: That brings me to the second part of my question. Does the minister not agree that, jointly, the Yukon government and the CMHC share a responsibility for native housing directly under Section 40 of the *National Housing Act*?

Speaker's ruling

Mr. Speaker: That question would appear to seek the opinion of the minister. Asking a question if he agrees or disagrees is seeking an opinion, which is out of order in the Question Period. But I would permit the hon. member to rephrase his question, to be more specific.

Mr. Porter: Is there not a responsibility inherent on this government under Section 40 of the *National Housing Act* of the CHMC?

Hon. Mr. Ashley: That is the responsibility of DIAND, the federal government.

Mr. Porter: It has been noted that there is a cost-shared arrangement between the Yukon government and the federal government with respect to the *National Housing Act* and specifically Section 40. There has been some discussion in the past of the Yukon Housing Corporation selling some of their units in the communities to the bands. Has this proposal gotten past the discussion stage and, if so, how many units have been sold to the bands?

Hon. Mr. Ashley: There is no way I can answer that. I will have to get back to the member, but we certainly are selling units if the bands want to buy them. They are for sale. Under the previous

question that was asked, as I had said just prior to that, we have the responsibility for rural native housing and that is the section the member opposite is talking about. But DIAND has overall responsibility for native housing in Yukon.

Question re: Children apprehended by Health and Human Resources

Mrs. Joe: I have a question for the Minister of Health and Human Resources. During the fiscal year 1982-83, 42 children were apprehended by his department. Since statistics are not kept with regard to race, legal counsel and other important matters, could the minister tell us if his department is planning to keep those statistics in the future?

Hon. Mr. Philipson: I do not believe so.

Mrs. Joe: Since the statistics are not routinely available on Indian children placed in Indian homes, could I ask the minister if he would make those statistics available to us before the end of this session?

Speaker's ruling

Mr. Speaker: I believe the question raises representations which, of course, should more properly be done under the motions on the Order Paper. Perhaps I will permit an answer in this case.

Hon. Mr. Philipson: If any statistics are available, the member opposite is welcome to have them.

Mrs. Joe: Since costs for status Indian children are recoverable from DIAND, why does the department not know the number of status Indian children apprehended?

Hon. Mr. Philipson: I will have to take that question under advisement.

Question re: Equity participation

Mr. Byblow: My question again is to the acting government leader. Has the Yukon government asked for equity participation with Peter Kiewit and Sons in return for its support of the King Point quarry application?

Hon. Mr. Lang: We believe that if any one company wishes, and as long as it is environmentally and socially acceptable to the people of the territory, that they should be able to invest without big government coming in for the purpose of saying we want part of the action. It would seem to me that government, through the Government of Canada and the Government of the Yukon Territory, has the responsibility to ensure that they pay an appropriate tax for the resources that they are utilizing and selling. With a combination of the Government of Canada and ourselves, that taxation method is already in place and that would be the vehicle that should be used.

Mr. Byblow: It seems that a piece of the action is what it is all about.

In the apparent absence of ironclad job guarantees and business opportunity guarantees and resource revenue agreements, will this government be considering equity participation, in the future, as a way of ensuring that Yukon taxpayers benefit, in some way, from the Kiewit resource proposal?

Hon. Mr. Lang: We are convinced that the people of this territory, native and non-native alike, will benefit from the project that is being proposed by the proponent. It would seem to me what the member opposite is saying is that the government, no matter what level of government, should go into an equity participation with respect to whatever development is happening in the territory.

If the member opposite is saying to me and to the members on this side, and to the general public, that the government should have bought a share in Arctic Mines, they should have bought a share in Venus Mines, they should have bought a share in Mt. Nanson Mines, then I really have to ask myself what the member opposite really expects that the political people should do with the taxpayers' dollars. It would seem to me, and it is evident in this House and it is evident on the street, that people are having very difficult times paying their mortgage and paying their taxes. It would seem to me this is an opportunity for jobs for the people of the Yukon Territory, which is of the utmost importance to, at least, this side of the House and, I would like to think, to that side of the

House. If those people are not working, then we are going to have a serious look at just exactly what provisions government can continue to provide, in view of the smaller and smaller tax base that we have with respect to paying for those particular services.

Mr. Byblow: It seems to me that government can be participating much more in the kind of proposal that we have before us.

I would like to ask the minister, on the subject of resource revenue sharing, whether the discussions this past weekend took place on that subject, with respect to the Kiewit proposal?

Hon. Mr. Lang: On resource revenue sharing, I want to give a very brief outline of the responsibilities of the Government of Canada. They own the resources, they dictate how the resources are going to be utilized, obviously, in view of the discussion by the Minister of Indian Affairs. We do not have the authority or the power, under the constitution that is the *Yukon Act*, in Yukon, for the purpose of resource revenue sharing. The government leader has indicated to you time in and time out that it is an area we are very concerned with but, obviously, with the present Government of Canada, all we will ever do is talk about it; we will never have the authority.

Now, if the member opposite is saying to me that we should not support a proposal until such time as we get resource revenue sharing in place, that member opposite is going to become hungry, and so are members on this side of the floor of the House, if we try to wait for development to happen.

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Question re: Daycare subsidy

Mr. Kimmerly: About daycare or child care, I have received several enquiries about the availability of daycare subsidies for shift workers outside of the normal working day. Has the minister considered amending daycare subsidy regulations to allow for child care assistance for working parents working shift work?

Hon. Mr. Philipson: At the present time we are not.

Mr. Kimmerly: Are there any plans or initiatives to do so?

Hon. Mr. Philipson: We have daycare regulations that any person who is in need of a subsidy can go to for help. If they fall within the guidelines of those subsidies, they will be placed on a list and get the subsidy.

Mr. Kimmerly: Is there any investigation of the number of people who may benefit from revised guidelines allowing a subsidy for shift workers?

Hon. Mr. Philipson: There are a number of people who are eligible for subsidies in any given month. To this date, the number of people eligible for subsidies and the number of people who have picked up those subsidies have never been the same. I would suggest that the subsidies are there and available for people who need them and, obviously, it is working because they are not being used to their fullest extent at the present time.

Question re: Land use planning agreement

Mr. Porter: This second question is directed to the minister responsible for renewable resources. On October 27, in answer to a question raised by my colleague from Mayo, the minister indicated that a joint land use planning agreement was awaiting finalization by the federal government. Can the minister tell the House if the federal government has approved the proposed land use agreement and, if not, what are the reasons for the delay?

Hon. Mr. Tracey: Well, it is obvious that they have not approved it or it would be signed by the federal government now. It has been signed by the CYI and it has been signed by us. It is awaiting the minister's signature. The minister has told me that he will be going along with the land use planning agreement. In fact, he even makes mention of it in his press release regarding the turn-down on the development of the North Slope. All I can reiterate is that he said that it is going to go through and we are waiting for his signature.

Mr. Porter: The minister, in answers to the same series of questions from the member for Mayo, indicated that the *Land Planning Act*, passed by this legislature last November, was intended only to ensure YTG involvement on any land planning process. Can the minister tell the House if the act was, in fact, used as leverage to obtain the present tentative cooperative land use

planning agreement?

Hon. Mr. Tracey: I would like to clarify one thing. The *Land Planning Act* that we passed in this House allows us the right to plan any land in this territory, including federal government land. And the federal government is aware that we can plan their land. We can also plan our own land. But what we wanted to do was have an agreement with the federal government on a land planning process that we proposed to them approximately two years ago. The *Land Planning Agreement* that is signed by us and by the CYI pretty well follows along the line of what we originally proposed to the federal government. And if he signs it, we will be satisfied with it; otherwise we are going to have to revert back to our own *Land Planning Agreement*, our own *Land Planning Act*.

Mr. Porter: This raises a very interesting problem. I would like to ask the minister, in view of his last response, how can his government use the *Land Planning Act* passed by this legislature to plan on lands held by the federal government and not subject to this government's jurisdiction? Could he explain that please?

Hon. Mr. Tracey: It is very simple. We can plan the land. Whether we can institute the plan or not is another thing. But there is also the other side of the coin: once the land is alienated for any purpose, then it comes under the jurisdiction of the territorial government and then would come under our land plan.

Question re: Child welfare

Mrs. Joe: I have another question for the Minister of Health and Human Resources. Since the *Child Welfare Act* allows justices of the peace to hear child welfare matters, could the minister tell us if JPs who are not designated as JP-3s are hearing temporary custody applications at some of the outlying communities?

Hon. Mr. Philipson: I would think that that would not be happening at the present time.

Mrs. Joe: Since family court matters are heard by a JP-3 in Watson Lake in between court circuits, could I ask the minister if legal counsel is available to those families of children appearing in court on a temporary custody application?

Hon. Mr. Philipson: I believe that question should be addressed to my colleague, the Minister of Justice.

Mrs. Joe: I will direct this to the Minister of Justice. Could I ask the minister if he is aware that, under the *Child Welfare Act*, a justice of the peace may convert a temporary custody order to a permanent custody order at any time?

Hon. Mr. Ashley: As far as I am aware, a JP could not do that — they certainly would not do that — without consultation with a higher-up, such as the chief judge.

Mr. Speaker: There being no further questions, we will proceed to the Order Paper.

Hon. Mr. Lang: I would move that Mr. Speaker do now leave the Chair and the House resolve into Committee of the Whole.

Mr. Speaker: It has been moved by the hon. Minister of Municipal and Community Affairs 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: I call Committee of the Whole to order. We will now recess.

Recess

Mr. Chairman: I call Committee of the Whole back to order. We shall now go on to Bill 31, *An Act to Amend the Motor Vehicles Act*. We shall begin with Clause 1, general debate.

Bill No. 31: An Act to Amend the Motor Vehicles Act

Hon. Mr. Tracey: In the fall of 1982, legislative session, we introduced and passed amendments to the *Motor Vehicles Act*, dealing with operator licencing and suspensions for persons

convicted under the *Criminal Code* for impaired driving. These amendments came into effect on the 15th of December and they have proven to be noticeably beneficial in reducing impaired driving.

We have, in this act, introduced further amendments to allow for blood tests and we are hopeful that will also significantly reduce the incidence of impaired driving in the territory. We also have made some changes in here to incorporate peace officer powers for our enforcement officer and some additional powers to the bylaw enforcement officer of the city.

We have also made the change to have judges, when a person is convicted for impaired driving, to be required to take the person's licence away, rather than what happens now. Although the person, if he did drive, would be driving illegally, it is not required that the judge remove his licence. We are putting that in there so that we know that, if he does lose his licence, it will be removed from him.

Basically, that is the major change. There are a few other housekeeping amendments, but basically, that is the major for the introduction of the bill.

Mr. Kimmerly: In general debate, I will be extremely brief. The only question and comments I have are on Section 8 of the bill and we can debate that during the Section 8 debate.

I would ask two questions, though. The first is: the claim was made that the changes, last year, were noticeably beneficial. What information of any kind is available to support that statement?

Hon. Mr. Tracey: I do not have that information before me. I have the information from my department that it was noticeably beneficial. I take the word of the people who work for me.

Mr. Kimmerly: The next question is: on the explanatory note on the bill, number seven, it talks about a driving prohibition as a result of a blood test. Does that refer to the amendments in Section 246.1, 246.2 and 246.3, or to any other sections, as well? Where is the driving prohibition covered in the bill?

Hon. Mr. Tracey: I would have to go through the bill here to see where it is. However, there is provision in there. In fact, there is a provision there right now that a police officer can take a person's keys away and not allow him to drive for 24 hours. We are providing the mandatory blood test now and we are allowing them to impose the driving prohibition in cases where the driver cannot give a blood sample; in other words, when he is too intoxicated or is too injured.

I believe the penalties are in 246, but we will have to wait until we get to it. I think we should wait until we get into clause-by-clause.

Mr. Chairman: Any more general debate. If not, shall clause 1 carry?

On Clause 1

Clause 1 agreed to

On Clause 2

Clause 2 agreed to

On Clause 3

Hon. Mr. Tracey: The reason for this clause is to cover heavy equipment in the act. There is nothing in the act now that includes heavy equipment operation on the highway and this is the section that will include that and will require such equipment to be covered by liability insurance.

Clause 3 agreed to

On Clause 4

Clause 4 agreed to

On Clause 5

Hon. Mr. Tracey: This is the clause that empowers the bylaw enforcement officer, and also our enforcement officer, with some peace officer status.

Clause 5 agreed to

On Clause 6

Clause 6 agreed to

On Clause 7

Hon. Mr. Tracey: This is the section that allows the removal of a person's automatic license suspension for driving while impaired and refusing the roadside breath test and refusing the breathalyzer test at the police station and/or driving with 80

milligrams per 100 millilitres of blood.

In Section 7(2), the government felt that placing an onus on the convicting judge to inform convicted persons of the mandatory operators licence provision of Section 245 and the requirement to surrender the license, under Section 246.1(3), that there would be less likelihood of convicted persons driving while their operator's license was suspended, which means that we will be removing their license from them.

Mr. Kimmerly: This also answers my previous question about including the blood test section.

Clause 7 agreed to

On Clause 8

Hon. Mr. Tracey: The member across the floor had some questions on this.

Mr. Kimmerly: I had previously advised the minister of some questions. This, of course, is the area where there are serious concerns and some constitutional doubts.

The first question I have is why are the penalties in (a) and (b) changed from the penalties contained in the *Criminal Code* for impaired driving?

Hon. Mr. Tracey: We changed those penalties to be consistent with the penalties that we have with the breathalyzer. They are consistent with the other penalties that we already have.

Mr. Kimmerly: I would ask the minister to reconsider that because that answer, I believe, is factually inaccurate. The present penalties under the *Criminal Code* provide for a minimum fine of \$50 and a maximum of \$2,000 or imprisonment for six months on a first offence. On a second offence, imprisonment for a minimum of 14 days and a maximum of one year. On a third offence, imprisonment of not less than three months and a maximum of two years. These penalties are different and I am asking why are they different.

Hon. Mr. Tracey: They are consistent. They are consistent with the penalties that we have put in here for dangerous driving. The member is saying that we are treading a pretty fine line here on the *Criminal Code*. I would admit that perhaps we are but we have to balance that against the need to try to reduce the impaired driving problems that we have here in the territory and we feel that we are well within our jurisdiction to do it. Actually, I am a little surprised at the members across the floor because I would think that they would be more in favour of this than in disagreement with it. It is within our jurisdiction, according to the advice I received. It will be beneficial for us to follow this through in this manner.

Mr. Kimmerly: I understand those comments. We have previously stated that in principle we agree with the principle of the bill. The question is different. I said a moment ago that the penalties provided for are different from the *Criminal Code* penalties for impaired driving. The first answer I received is they were not and I reiterated and quoted from the *Criminal Code*. It is section 2.3(4) and section 2.3(6). The answer I now get is the penalties are the same as the dangerous driving penalties in clause 4. The original question is why is it that the penalties under this section are different from the penalties established in the *Criminal Code* for impaired driving? It appears that the substance of the criminal aspect of the offence is exactly the same and on first blush one would expect the penalties to be consistent or the same. They are not. I am asking why are they not the same as the impaired driving penalties?

Hon. Mr. Tracey: There is a difference here. If one has an accident and is not capable of breathing in the breathalyzer or they are unconscious or whatever, we are getting in a pretty fine line between the criminal jurisdiction and the territorial or provincial jurisdiction. We are treating this under the provincial jurisdiction, which is to reduce accidents on the highway. If this was just the federal jurisdiction, we would not change it from the penalty under the *Criminal Code*. But we are treating this, in this instance, under the provincial or territorial jurisdiction and we feel that we are perfectly within our rights to increase the penalty up to the same level as dangerous driving. It is an accident and it is within a provincial jurisdiction.

Mr. Kimmerly: I understand that there is a claim that it is within the territorial jurisdiction, and we agree in principle with that

claim for two reasons. The first is, there is an aspect of civil rights which is a provincial or a territorial jurisdiction and it could be argued that Section 237 of the federal *Criminal Code* speaks about a provincial jurisdiction and that this law is primarily about civil rights as opposed to criminality. Also, it is a regulation of the highways, which is a territorial responsibility. That major issue is obviously an important one and will obviously be tested in the courts. We recognize there is a fine line and it is an unresolved question. The minister's answer appears to be that the territorial policy on impaired driving is that the penalties ought to be increased, and I have some problem with that as it sets up a discrimination or inequity, in that the penalty for an impaired driver pursuant to a breath test will be less than the penalty imposed on an impaired driver after a blood test. That appears to me to be an inequity or an unfairness in a substantial degree, and I would ask the minister to respond to that argument as to why the penalties are different from impaired driving penalties.

Hon. Mr. Tracey: Perhaps he feels it is an inequity, but I do not. Usually, in almost all the cases where you have to take a blood sample, there has already been an accident and a person is claiming that he cannot take the breath test. So, what we are saying is that in 99 out of 100 cases or, perhaps, in 100 percent of the cases, there has been an accident, so he is obviously a danger on the road. We feel that is just as serious or much more serious than driving down the road and getting stopped and taking a breathalyzer test and perhaps being impaired. This fellow has already had an accident.

Mr. Kimmerly: I understand that the argument, then, is that in most cases there will have been an accident. It is an interesting argument.

I would suggest that it sets up an anomaly. There are frequent impaired driving cases under the breathalyzer law where an accident occurred. The penalties, in those cases, are going to be different if the charges are under the breath section or the blood section and it is a problem in a perceived inequity and an anomaly in the law, which should be avoided. The possibility clearly exists, and it will occur in the future, that there will not be an accident and a blood test is taken and, in that case, there is also an anomaly and what may be perceived to be an unfairness.

It is my opinion that the penalties should be the same as the impaired driving penalties. It is the same offense and, on its wording, the wording is word for word the same as the *Criminal Code* offence. It is clear and obvious to me that the same kind of criminal activity is being identified and punished and the penalties ought to be the same as the impaired driving penalties. In my opinion, the lack of it is a deficiency in this bill.

Hon. Mr. Tracey: The member across the floor is welcome to his opinion. Our opinion is that the penalty should be stiffer. As I have stated earlier, in almost every one — 100 percent of the cases — there will be an accident before a blood test is required. The only reason we can require a blood test is because a person is unable to give it or he claims that he is injured in some way. We feel that it warrants a stonger penalty.

Now, if the member across the floor can help us convince the federal government to increase its penalties, then I am quite willing to go along with that, but the position on this side of the floor is that the penalty should be higher and we have done that. That is the long and the short of it: we feel that we are within our jurisdiction and it warrants a higher penalty and we have included this because it is our jurisdiction. If we could change 235, we do that, as well, but we cannot do it: it is a federal responsibility.

Mr. Kimmerly: I would like to clear up a factual problem. In my statements I called the penalties different. The minister is calling them stiffer. They are not stiffer in the bill and the maximum penalties are reduced from the *Criminal Code* penalties and the sequence of the second offence and third offence clearly makes the *Criminal Code* penalties stiffer. There is no minimum jail sentence on subsequent offences in this bill and in the code there is. The *Criminal Code* provisions are stiffer. The only way that this is stiffer in a limited degree is the minimum fine on a first offence is \$200 and in the code it is \$50. That is practically of small significance as the fines are normally in excess of \$500 in this jurisdiction and are frequently above \$1,000, which is the

maximum here on a first offence. So it is clear that on the wording and also on the practical effect, these penalties are not as stiff as the *Criminal Code* penalties.

I would argue that the *Criminal Code* penalties are more appropriate because they are consistent and stiffer than these.

Hon. Mr. Tracey: The member across the floor may argue that the *Criminal Code* penalties are stiffer. What we are talking about here is our act, our *Motor Vehicle Act*. If the judge or the lawyers or the police want to press charges under the *Criminal Code*, they are free to do so. What we are saying is under the *Motor Vehicle Act*, we are setting the minimums and the maximums for the first and second offences.

Mr. Kimmerly: I would ask this of the minister in a serious way: first of all, a few moments ago he told me that the penalties were consistent and the same as the criminal penalties. After that, he told me the penalties were stiffer. Those statements were both inaccurate and I would ask that the section stand and that we seriously look at the implications of changing the penalties to this formula. It would be, in my opinion, and I submit it is objectively reasonable, to have consistent penalties. I would ask the minister to seriously consider this question in an effort to improve the bill in a substantial way.

Hon. Mr. Tracey: I stated that this section is consistent with our earlier section. If you go back, Section 4 is consistent with the dangerous driving. I did make an error when I first spoke about it being consistent with the breathalyzer; it is not consistent with a breathalyzer but, on the other hand, the federal government does not have a provision in the *Criminal Code* for taking blood samples or requiring blood samples to be taken when there is an accident. We have included this. We have been trying for a great deal of time to get the federal government to include it, and now it looks like maybe they are moving towards it. We have included blood sample taking when there has been an accident. So, it is consistent, and it is not my intention to stand this section aside.

Mr. Kimmerly: On clause 246.2(1), there is a very serious concern I have, and that is that there is a provision to use force to take a blood sample. I submit that a more humane way to do it and a way consistent with the popular attitude of policing in a free country is to use the model in the *Criminal Code* and that is to require a blood sample and, if a person refuses, to make it an offence to refuse, as occurs in Section 235 of the *Criminal Code*. That would achieve the same result and it would be less of an infringement on some persons who would refuse. It would have a greater chance of getting through the courts on the privacy argument pursuant to the *Charter of Rights* and it would protect, to some degree, the religious considerations of Jehovah's Witnesses as an example. Also, it would reduce the possibility of police and citizen violence which is always a consideration in these cases.

I would ask the minister to answer, why is a refusal to allow a test not considered and the provision for legalized violence substituted?

Hon. Mr. Tracey: I am surprised at the member across the floor talking about legalized violence: we say reasonable force.

It was considered and it was rejected, and one of the main reasons it was rejected is because, if you do not take the opportunity to use reasonable force, there is always the opportunity that the person has to say, "I was suffering from concussion", or "I was not in my right mind", and all of the rest of these arguments that we would have after we tried to convict him for refusing to take the blood test. So, rather than have the legal arguments that we would be constantly facing in court under those circumstances, it was recommended to me that we use reasonable force, instead, to ensure that we get the blood sample.

Mr. Kimmerly: That is not a good argument. It could be easily put in the law that a blood sample, however taken, is admissible evidence and also included in the *Evidence Act*, if necessary. The argument about consent would not arise. That is simply not a good argument. It is simply wrong.

I would say, again, that this is an important principle, in that the incidents where policemen are authorized and, indeed, directed to use violence are strictly limited and controlled. In this case, the action is sticking a needle into a person, which some people would

find extremely objectionable. That right of security to the person should be protected and it is spoken about, in a general way, in the Charter.

The same result can be achieved by making it a legal requirement to give a blood sample and, if a person is unconscious, to provide for taking a blood sample. However, if a person refuses, simply make it an offence to refuse, as is done in the breathalyzer section. Even on breathalyzers, there is a protection, that, if a person refuses to blow, there is no provision to use violence or legal violence to obtain a sample. This is more pervasive and more objectionable to more people.

We agree with the principle of the public's right to know the alcohol level of a driver who is reasonably suspected to be impaired; however, this goes too far. It is entirely possible to avoid this and why was that not done?

Hon. Mr. Tracey: I will give the member the same answer that I gave him the first time around. It was considered and it was rejected. It was rejected for very reasonable reasons and that is because after an accident the person who is involved in the accident, the person who we require a blood sample from, has other legal arguments that he should not, or could not, or would not give a blood sample. We are covering those bases. We are out there to try to protect the general public who are driving on the highway. This person has already had an accident. That is the reason why he is refusing to give a breathalyzer and why he is refusing to give a blood test willingly. So we are trying to protect the rest of the people out there who this person is harming on the road.

While I am on my feet, he also threw out the red herring about Jehovah's Witnesses not wanting blood tests. There is no Jehovah's Witness that refuses that blood test. They refuse blood transfusions, but that is a lot different than a blood test.

Mr. Falle: I was under the impression that this piece of legislation was put in this bill to protect us and actually I find a lot of problems, sitting back here, because I am quite objectionable to anybody sticking a needle in me. If I am out cold — I have had an accident and I am drunk, supposedly — I cannot object to having a needle in me. I am out. But I would probably object if I knew about it. I thought this whole idea was to plug a loophole; like, if a person has an accident on the road right now, and does not want to blow in a breathalyzer test, he can pretend he is knocked out or he is sick, or whatever — any reason. That was a loophole we are trying to plug. Now, what we are saying is that it is mandatory and you have to have it. If you will not give it, I cannot see the difference. I am completely dumbfounded. Like you said, the public should have the right to know what the alcohol content was in the victim or the driver's body. That is going to determine whether he or she is drunk. I do not think there is anybody who likes a needle stuck into him and I bet you they would all object, just basically because it hurts.

Mr. Kimmerly: I will explain it again. Obviously, at least one member does not understand the implications, because he has said so.

Our position is very clear. There is now a loophole in the law and it should be plugged. Our position is the same as the government's on that point and there is no argument on that principle. So that is the first point.

The second point is there is a right to know the blood alcohol level of the person in an accident or reasonably suspected to be impaired. We totally agree with that. There is no argument on the principle. If a person is unconscious and not objecting, we have no argument at all. Our position is the same as the government's. However, if a person objects to a needle, it is possible to plug the legal loophole without actually sticking a needle into the person. It is done in the breath tests in the *Criminal Code*. It is simply necessary to set up a legal duty to allow a blood sample, as occurs in the breath tests under section 2(3)(5) and 2(3)(6). If a person refuses, that can constitute an offence, which is the same offence as refusing a breath sample. If a person refuses a breath sample, they should be in the same position as a person refusing a blood sample and vice versa. The penalties which are imposed for refusing to blow are the same penalties, legally, as the impaired driving penalties and, in fact, the courts frequently impose a larger penalty.

It would also be possible to charge the offence of impaired driving and refusing a blood sample, exactly as is done in a breathalyzer situation. The public is amply protected. The loophole is clearly blocked and it avoids the very unpleasant infringement on peoples' security of their own bodies.

¹⁸ The argument raised about a person giving a consent and later claiming a state of shock or not being in their right mind is simply wrong, because it is entirely possible to put in a section that if a blood sample is in fact taken that evidence is admissible evidence, no matter how it is obtained. That completely solves that problem. It is entirely possible to pass a much better law and I would recommend it be done. It is most unfortunate that the attitude appears to be that these concerns and considerations are simply not considered fairly; it is a terrible shame.

Hon. Mr. Tracey: I know the member is such an expert lawyer that everyone is beating on his doors to come and deal with him. That is why he spends his time in the legislature. But, number one, he did not listen to me. I did not say that the person would consent and then use the argument that he should not have consented: I said he would not consent and then he would use the arguments in the court afterwards that he had other reasons for consenting and we would be faced with numerous court cases trying to prove that we should not convict him because of concussion or some other thing. So we are making sure that those arguments do not come forward. We had the legal people look at it; we did a lot of work on it. And the law as we have drafted here is on the recommendation of lawyers, other lawyers, just as competent as he is and I am quite prepared to accept their argument over the argument of the member across the floor.

So, it is not my intention to withdraw it. If it turns out that there is a problem with it, we can always address that in the future.

Mr. Kimmerly: The minister is opposed to attacking my argument, so he attacks me, which of course is not a very good response to the argument. The re-statement of the consideration is that a person may say later, after refusing consent, that they were not in their right mind or whatever. The same loophole could be covered by other provisions in the law. It could simply be that, if a person refuses a consent, that can constitute an offence in itself, period. And the reasons for that could be closed in the law or the suspected loophole could be closed, and it is very easy to do it. There are numerous convictions every year of refusing to blow into the breathalyzer. The same mechanisms can be used and should be. It is clear that insufficient consideration was given to those points.

¹⁹ It is one thing to get legal opinions in private and in a non-adversarial setting; it is another to publicly discuss the legal opinions. There is obviously an opinion expressed to the minister, either that the loophole cannot be closed, or it would be difficult to close it.

I challenge that. I say that is not so. The same mechanism as is used in the *Criminal Code* could be used and should be. I have not heard an argument that meets that argument.

Hon. Mr. Tracey: Number one, if the member does not want to be attacked personally, he should not be standing up continuously saying "in my opinion that is wrong".

Obviously, there are other people who think differently than he does and have made recommendations to me and, in fact, have drafted this act. I raised the same argument as he did, on previous occasions, and they have told me, in order to cover it totally, we have to go with this. I am quite prepared to take their word for it, even over the word of the member across the floor. As I said, I do not intend to withdraw it. If there is a problem with it, we can address it in the future.

Mr. Kimmerly: Is the minister willing to bring forward the reasons that those other lawyers brought forward to him?

Hon. Mr. Tracey: The member across the floor can phone up and talk to the legal counsel about it any time he wants.

Mr. Kimmerly: It will be too late, then. I wish to put on the record that I advised the minister of this general concern by a note, either a week or two weeks ago. I raised the matter; this is not a surprise argument.

I am bringing forward reasons and suggestions for improvement on the bill. Our position here, on the principle of the bill, is the

same as the minister's on the principle. I am trying to be as cooperative and constructive as possible. I am asking now, before we pass the particular clause, for the reasons which meet the argument I raised. That is an entirely reasonable request before this is passed.

Hon. Mr. Tracey: I have already given the main reason and that is the long and the short of it. He can have on the record that he disagrees with it and he has a right to express that disagreement. The legal people with whom I have dealt expressed a different opinion and wrote it in this act. As I said in my last comments, I questioned the right to use force, as well, and it was made clear to me that, if we did not put the section in to use force, then we were going to have a great many other problems with appeals and so forth, because some persons, although they refused, refused for various other reasons. There would be appeals in the court and other arguments that would be made and the only way to clarify the whole situation was to be able to use reasonable force — and that is reasonable force, that is not knocking a person down and breaking his arm or whatever, it is reasonable force.

As I said earlier, those people get paid a lot of money by the government to give us recommendations. They have done so, they have drafted it in the act and I am prepared to listen to them.

²⁰ **Mr. Kimmerly:** I would simply point out that it is claimed on one side of the argument that allowing for a refusal and a charge of refusal raises a legal loophole and, on the other side, the argument is that it does not; it is adequately provided for in other similar circumstances. For example, the breathalyzer and criminal convictions occur every day in the courts and the same time-honoured, legally tested procedure could be used.

I am asking for reasons why the minister says it cannot be used. He is making that claim and the only reason he gives is some lawyer has told him that. Now, the reason must be able to be expressed and understood otherwise it is worthless; I would ask what is the reason?

The other arguments about the constitutional validity are extremely interesting and I will get to those. In my opinion, this provision is far more objectionable under the constitution than is a refusal provision like the breathalyzer refusal provisions. Those provisions, indeed, are being tested in the courts now after the passage of the Charter. However, the infringement on security of the person and the right against self-incrimination and the right to privacy are far, far less under a refusal provision than a force provision. It is far more defensible under the Charter to act in accordance with the present scheme in the *Criminal Code* than to make it legally possible to involuntarily stick a needle in a person and draw blood.

I would ask the minister to give his reasons so all of us can understand the position he takes.

Hon. Mr. Tracey: I have said as much as I am going to say on the subject. He has one legal argument; the legal people have another and, as I have stated earlier, I am prepared to accept the legal position of the people who we pay to give us this position. If there were not two different opinions, there would never be a court case. Obviously, there is a lawyer's argument on both sides of the court case. So there is an argument and there are arguments. I have said as much as I am going to say on it.

As I have stated, if there is a problem, we can change the law in the future. I would also like to state that if I was involved in a motor vehicle accident and two or three people were killed, I would much rather be charged with refusing to take a blood sample than I would be to have the blood sample taken, when the evidence is right there in front of me and everyone else.

Mr. Kimmerly: There are three points. The minister has said three incredibly stupid things. This is a debate and we are deciding an important question. There are legal opinions on both sides, obviously. It is our responsibility as legislators to understand the arguments and make up our own minds. Lawyers do not run the world by giving expert advice and expecting everyone to follow it. It does not occur that way. It is our duty and our responsibility to listen to the lawyers' arguments and make up our own minds. The minister's refusal to give the reasons and say I am not going to say any more is outrageous.

The second incredibly stupid thing is that he said if there is a problem we will change it in the future. Well, if we legislate by the process of

trial and error, we are not doing our job. It is our job to look at all of the implications of the question before we make a provision a law. We are talking about forcefully taking a blood sample from a person; for many people, I expect, an extremely upsetting thing. It deserves our careful responsible consideration and the attitude that if it does not work we will change it is simply irresponsible.

The third point the minister stated is that if he were in an accident the consideration would be to avoid a test rather than supply evidence of impairment. That is also incredibly stupid because the legal implications are far worse on an avoidance of a test for two reasons, extremely important ones: first of all, after a refusal there are two charges as opposed to one, and secondly the courts draw the inference on a refusal that the impairment or the degree of impairment is very, very high. That is a time-honoured principle of sentencing an impaired driver supported by courts of appeal and the Yukon court of appeal and is well established in our law. So, if a person refuses on two serious points, they are in a worse fix.

Obviously, this is an impasse, but it is an incredible shame that it is.

Hon. Mr. Tracey: The member across the floor might think that I am incredibly stupid. I can think the same thing about him. I have seen a great many instances of things that he has said in this House that are absolutely incredible, as far as I am concerned, and as far as a great many members of this House are concerned. I am sure the member opposite is not the best political brain in the world. In fact, not even the best one in Whitehorse. In fact, I would be fairly confident in saying that he is not. There are other people who get paid a great deal of money to make recommendations to us, and as I stated earlier, I am much more prepared to listen them than I am to the member across the floor.

Mr. Kimmerly: On my final point, the minister may attack my legal judgment or knowledge and that is fine. The argument should not be about who holds the opinions or the expertise of those people on either side. The argument should be what are the reasons for those opinions. It is our duty to listen to all of the experts on both sides and to make up our own minds. It is absolutely impossible to do that because the reasons on the minister's side are denied and that is an incredible shame.

Mr. Chairman: Clause 8(1), 246.2(2), I would like to draw your attention. On the third line there is a typo. "Practitioner" should be "practitioner".

Clause 8 agreed to

On Clause 9

Clause 9 agreed to

On Clause 10

Clause 10 agreed to

On Clause 11

Clause 11 agreed to

On Clause 12

Clause 12 agreed to

On Clause 13

Clause 13 agreed to

²² On Clause 14

Clause 14 agreed to

On Clause 15

Mr. Kimmerly: It is obviously the intent of this section that the regulations be put in place before the legislative sections become law and we have absolutely no argument with that principle; that is entirely proper.

The other implication, of course, is that all other sections of the bill will be law on royal assent. I would question the wisdom of that, with respect to Section 8. Section 8 is clearly and obviously a constitutionally controversial section and I would ask the minister why it is not thought prudent to pass the law and proceed under the new *Constitutional Questions Act* to clear up the constitutional ambiguity there?

Hon. Mr. Tracey: It was raised with my colleagues. It was discussed and it was felt that if we are going to bring in an act, then we should enforce it.

I feel that to refer to the *Constitutional Questions Act* may be the best way to go, but it was decided by my Cabinet colleagues that if we are going to bring in an act, we should be prepared to enforce.

That is the reason why Section 8 is not included in those sections that we have withheld proclamation on. As the member says, it was in order to bring regulations in.

At this time, it is our opinion that we should proceed. Certainly, we know that we may be faced with a court case challenging Section 8 and we have to accept the responsibility for that court challenge. It may be more prudent to challenge it under the *Constitutional Questions Act*.

I would be prepared to set this aside for a few minutes and, perhaps, I could consult with my Cabinet colleagues and we could make the decision of whether we want to face this in a court challenge now, or whether we want to have a constitutional question raised on it. So, if we could set the act aside until we have made that decision, we can deal with it later on this afternoon.

Mr. Kimmerly: I thank the minister for that and raise two points which may be useful in the consideration. The first one is, if it goes through the courts and is challenged in the normal course on individual cases, the decision is probably going to take some time, and it will probably take several decisions of the appeal courts before the outcome is finally known, and probably take a substantial period of time. Also, it is going to put an individual or several individuals to an incredible legal expense in challenging a law which is obviously arguably challengable. That should be a serious consideration for all legislators. I would submit that the decision coming from constitutional questions for reference would be a clearer decision. It would be faster, it would avoid an expense to an individual or several individuals, and it would avoid the law being unclear for a substantial period, thus making an RCMP officer's job much easier.

I would recommend that the constitutional questions of procedure be followed and be followed as fast as possible, because ultimately that is a speedier resolution of the question.

Mr. Chairman: It has been agreed that we will now stand over *An Act to Amend the Motor Vehicles Act* until this afternoon.

Clause 15 stood over

Mr. Chairman: If that is all agreeable, we shall now go on to Bill No. 15, the *Economic and Regional Development Agreement Act*, general debate.

Bill No. 15: Economic and Regional Development Agreement Act, 1983

Hon. Mr. Lang: The act that you have before you is obviously clearly an enabling piece of legislation, simply to replace the general development agreement that has expired. As I indicated to the House, we are presently negotiating the amount of dollars available for the agreement, which would be cost-shared with the Government of Canada. We are talking in the neighbourhood of \$25-30,000,000 over a five-year period. So, as you can see, it is going to be of some assistance but it is definitely not going to be to the magnitude that we initially thought it would be, which was in the neighbourhood of \$50,000,000.

As I indicated to the House here a number of days ago, we therefore have to try to get our objectives down to the point that we can reach them within the confines of the dollars we have been presented with, and that is what we are in the process of doing. We are in the process of discussions with the Council for Yukon Indians, with respect to the agreement, and their involvement as to how they feel the agreement could help them in their long term objectives as well as the government's. We have also discussed it with the Yukon Chamber of Mines and the Chamber of Commerce in the past couple of months.

²³ There are number of things that could or could not perhaps be put into such an agreement. As I indicated to the House, I would be prepared to table at the appropriate time the necessary agreement, if it was signed with the Government of Canada. Things do look favourable in that respect, other than for the amount of dollars. I am hopeful it would be prior to the end of the year. Therefore, I do not have much more to add other than the fact that we are attempting to expedite from our side as quickly as we possibly can, so that we can come to an agreement and have the dollars that are available — limited, granted — available before this forthcoming year.

Mr. Byblow: I think it is quite clear that the minister is quite correct in this bill not having as much as we would have preferred to see in terms of the economic initiatives and the agreements to date. I want to pursue a couple of questions in the general sense, in general debate, on the subject. Stemming from the fact that this agreement has been a long time in the making, I am particularly curious as to why it is not materializing faster. I can anticipate the minister's reaction. More specifically, I would like to ask him, with respect to the agreements that are being developed, what are, in fact, those areas being pursued under which money will flow? Are we looking at agreements related to tourism? Are we looking at agreements related to primary industry development, secondary industry development? Are we looking at some other specific type of economic initiative?

Now, even more specifically, what I would like to ask the minister is: how many areas for agreements are we working on? How many fronts are we developing in the overall general development agreement? I recognize that this is only an enabling piece of legislation and we do not even have the master agreement. I am pursuing the questions as relating to those specific areas being developed. What are the four, the five, the six, or the 10 that are being pursued?

Hon. Mr. Lang: I do not want to debate why it did not come here sooner or governments blaming one another and whatever. The point is we are at this point in with respect to our agreement, that we feel we can bring it forward to the House for getting the necessary legislative approval to go into the agreement. The four areas that we are looking at in general terms are a renewable resource area, non-renewable resource area, the human resource area, and the tourism area. Of course, those are four very broad categories. I do not want to get down to the finite areas that we are looking at at the present time because no firm decisions have been made in that particular area. It gives you a general idea of what we are looking at.

For example, in my opening comments I indicated to you that we have been discussing with the Yukon Chamber of Mines what areas we as government through this agreement could assist them in to make their job, whether it be prospectors or exploration companies, that much easier with respect to getting out and doing the necessary legwork that is so necessary and vital if we are going to have a continuing mining industry in the territory.

²⁶ I will just give you an example of what we have been doing. As I indicated, once we have the agreement signed and the subsidiaries clearly delineated, then I will be in a position to table them in the House and, if the member opposite wishes to debate them at that time, that is fine. Similar to what we asked the House a number of years ago, we need the legislative base to proceed that one step further.

Mr. Byblow: If I am gathering correctly what the minister is saying, I have to interpret that we are developing four sub-agreements under the master agreement in those areas he identified. That, in essence, was the area of my questioning.

I want to pursue, from that, a couple of principles being developed in the overall agreement. The government leader, in previous debates, alluded to a long term objective of his government as being that of economic self-sufficiency. That is a fairly general term and it is a fairly general objective and I think we all understand what has to take place for economic self-sufficiency to eventually evolve in the territory, particularly in the area of resources.

Recognizing that as a common economic objective, could I ask the minister if that goal is highlighted in the principles of discussion with the federal government currently?

Hon. Mr. Lang: It is obviously a goal, a major goal, behind the Economic Regional Development Agreement. We are looking at ways we best could help the general economy of the territory, so that we can create that investment climate that we contend, at least on this side of the floor, is so important for Yukon to progress.

With that in mind, we said that there are four areas that we are vitally concerned with: human resources — that is, the people of the territory; non-renewable resources — obviously, right of the mark, is mining; tourism, which is a major key in our area;

renewable resources — when you talk about the planning of your resources, this type of thing that is going to have to be done over the course of the next four or five years. With that in mind, I think it is very clear that we see this as a step forward.

I do not think the member opposite argues that, but I also have to say that the amount of dollars that we are talking about is not as significant as was once told to the House, approximately, I believe, four or five months ago, because of the economic situation facing Canadians which, in turn, is the Government of Canada. Therefore, we are trying to tailor what we are doing within the confines of the dollars we have.

I think it will help the general economy, but I do not think anybody should be under the illusion that it is going to be the end-all and be-all. I think some impression has been given that the Economic and Regional Development Agreement is going to solve everybody's problems in the territory. I think the member opposite would agree with me that that is not the case.

It will prove to be an incentive. I think it will be very positive for the territory, as opposed to the bad news that we have had in the last little while. All I can say is that we are trying to design it in such a manner that we get the best mileage for the dollars available.

The one critical area that I think is of major concern to us — I do not know about the members opposite — is what they call direct delivery, and that is the question of who delivers the program. I am very concerned, in some cases, that we get a duplication of administration between the various federal departments involved and our departments that are already in place to deliver these with, perhaps, very little added staff for the requirements that are required under the subsidiaries and, in turn, the job implementation.

I have seen, and I have been told, by various governments across Canada — for example, the agreement in Manitoba, where they are very concerned because there has been some duplication of administration — that the taxpayers' dollars, as opposed to going out in the general economy, are being spent on administration. I think that should be a very key concern of our government. I obviously cannot change the Government of Canada's opinion with respect to direct delivery — I think one election would solve that problem — but we are going to do everything we possibly can to try to work as closely as we can with those departments involved to try to ensure that our administration costs stay down so that those dollars get out into the general economy. I think that was reflected in the CYTA agreement through the tourist subsidiary agreement, when you take a look at the number of dollars which are actually spent on administration as opposed to flowing out into the general economy. It was very, very minimal. I think it should be a concern of government that we do not get to the point that we are overstaffed and with all the administrative costs subsequently there are less dollars to go out to the various programs that are being initiated through government. I just stress that as a concern. From our government's point of view, it has been discussed *ad infinitum* at various provincial conferences; for example at the one I was down at on northern development. This was a very major concern — the question of administration — and also the question of priorities; regional priorities as opposed to the Government of Canada's. Shall I say, you cannot get to the position of compromising with the Government of Canada to the point where perhaps you can get to your common objectives.

Now, I will say this, with respect to our agreement, at least to date, in respect of the administration, the federal administration I am speaking of, they have been very cooperative in this and I just hope it continues and I hope I can stand up in this House and say they have done a good job because I can refer back to two years ago when I was the Minister of Tourism and the CYTA agreement that we signed, I think both levels of government administratively did a very good job in respect of expediting those dollars out into the general marketplace. One can argue how they were put out, but they were put out quickly and promptly once the decisions were made. I think that is crucial for the agreement to have the effect that I think we all would like it to have.

I just want to close by saying we are confined within the dollars we have, and I just do not want anybody having the impression that this is going to solve all the Yukon's problems, because it is not.

Mr. Byblow: The minister has alluded to a number of things which could prove to be matters for a long debate, and at least a couple of them I want to draw reference to again.

He makes reference to the CYTA agreement, and now we have what amounts to an ERDA agreement coming up, to use the abbreviated forms. Something must have taken place — and I believe I had some discussions with the Minister of Education on this subject in a previous committee debate — between the delivery of the last bulk of funding and the one that is coming into place now. Something must have taken place in terms of the relationship between this government and the federal government, whereby the minister expresses the concern about the direct delivery system. He expresses concern about the duplicated administrative system, and he expresses some concern about the way the money is going to flow. That raises a whole host of questions relating to what the objective is of the two governments in delivering a program of money or programs of money which has to have a common objective for both levels of government. I am pursuing with the minister in some brief form what has taken place between the two levels of government between the last agreement and this one that is developing.

Hon. Mr. Lang: I do not know where the member opposite has been. It has been in the newspapers — not only here, but nationally — and on the news for a fairly long period of time consistently, this question of direct delivery. The Prime Minister of Canada stood up and said cooperative federalism was dead. Bang, bang, you're dead! Then, the Cabinet of Canada made the decision that they would set the priorities in respect of these dollars which were to be made available. They tax the people in the regions, take the dollars, send the dollars back and say "this is for you and we are being real nice about it", and they could put up their own political signs and everything else.

» That is basically, fundamentally the change.

Hon. Mrs. Firth: It is all over Canada.

Hon. Mr. Lang: Now the other thing that I should point out is that we are not the only one in Canada that does not have an agreement. The only ones that have an agreement, and they felt that they had to sign it in order to get the dollars flowing in their economy — although they did not totally agree with the objectives — were Manitoba and the Northwest Territories.

However, if you take a look at the other provinces — at least, to my knowledge approximately one month to a month and a half ago — there were no other agreements in this particular area.

Hon. Mrs. Firth: They had signed some agreements, but there was no funding.

Hon. Mr. Lang: So, there has been a real major confusion with respect to what does Ottawa have available for the provinces and the territories. That was one of the crucial areas at the ministerial conference that I attended on northern development. Nobody really knew which department was handling what. Those questions were put to the Government of Canada. I do not know if they have been totally resolved yet. However, I do know that the minister responsible, at least in part, Mr. Lumley, was taking those concerns back to Ottawa to see what could be sorted out so that these things could be streamlined.

As far as reaching the common objectives, it is very difficult when you have a direct delivery system as opposed to a system where you have your cost-shared dollars and you have one administrative component and send the dollars out. That is where the problem lies. I will say this, with respect to where we are now, we appear to be getting full cooperation with the Government of Canada. I do not want to undershadow that. However, I am saying that the principle of direct delivery can cause you major problems if there is a major difference of opinion and, subsequently, they go their own way as opposed to the regional government.

All I indicated to you was the commitment that we would do everything that we could and we expect it to be a two-way street. Whether or not it is, remains to be seen. However, I should further say this — and the Minister of Tourism could, perhaps, speak on this more since she is directly involved in the present agreement — that the fact is that there have been regional representatives set up. I think, in one province, the provincial government refers to him as

the "czar" who determines where these dollars go. I do not think that it has been clearly delineated who our representative is. I am sure he will probably be living in British Columbia. However, these are the other things that are happening as far as the Government of Canada are concerned.

I can understand, in part, the political problems of the Government of Canada which, in some cases, may not have received the political credit in some of the provinces that perhaps they should have. I think that here they have. I think both administratively and politically we have gone out of our way, on signs, letters, everything else — you know, the maple leaf and the Yukon flag — trying to say, look, the Government of Canada has been involved. I would like to think that that principle could continue because I think it is in the best interest of the taxpayer and, if we are going to have disagreements, okay, fine, but let us try to refine it and resolve it behind closed doors.

I think, to date, within the confines of our administration for the purposes of negotiating, things have been fairly positive. All I am saying is that from what I have heard from the other provinces and from the experience that my colleague, the Minister of Tourism, has had with respect to negotiating that interim agreement, that is all I have to really contribute to the debate here other than going on the record that these are a number of concerns that we have.

» I am not saying it from a critical point of view. I am saying it hopefully from an objective point of view. Like I say, maybe we can overcome it with the working relationship in between our administration.

Mr. Byblow: I appreciate the minister's comments because he does indicate a note of some optimism in the cooperation that is expected to emanate in the final negotiations of the agreement. But implied in his comments was a very clear point to me that somewhere in the past delivery of the program money to the territory, the federal government clearly was not happy with the recognition that it received.

Hon. Mr. Lang: Mr. Chairman, on a point of order. I want to clarify this. The member opposite is going on the record and taking me out of context. I said "in other provinces". I said specifically here in the Yukon that, as far as I stated, the Government of Canada got its appropriate political credits, similar to the Government of the Yukon Territory, and it worked well. I was referring specifically, if you like, to Via Rail, or these other national issues that have been raised over the past four or five years. So do not take me out of context. I felt that it worked well here. I think the Government of Canada overall felt that it worked well.

Mr. Byblow: It would logically follow, that if it worked well here, then it ought to continue working in that fashion. I understand what the minister is trying to tell me about the direct delivery system. I want to just briefly touch on that administrative process of the delivery system.

Now, we know from the experience of the interim agreement of tourism, about a management board being set up with the representation that it had. Could I ask the minister: in the anticipated delivery of the next set of programs, will we have that kind of a management board demonstrating that kind of cooperation that has previously been the case, and the minister is optimistic about continuing?

Hon. Mr. Lang: We would like to have a joint committee. It is our objective, if we possibly can, to have a joint committee. The federal government is going to have the final say in many facets with respect to the programing itself. We will do everything to have a joint type of working relationship. That is the objective we are aiming for. Unless something changes, I believe that that is what will be put in place. Now, for the record, we are only one player in this act, so if the Government of Canada changes its mind, well, then, that is something we will have to live with. But that is what our objective is.

Mrs. Firth: Maybe I can just add some comments. We talked about this in the tourism budget debate and we could have talked about it in the education budget debate as well. However, we did not get into a lot of the program delivery of the NEED program and so on, because a lot of those particular programs are expiring.

This is a decision that the federal government has made and it is a

decision that is going to be applied all across Canada. For some reason I get the feeling that the member for Faro wants to infer that maybe we have been negligent or maybe we have not been nice enough to the federal government. Well, that is not true, because I know in the last year and a half, particularly, we have done everything we can. It is very difficult to criticize a government in the way they give you money when you are still standing there asking for that money. However, it is a political reality for the federal government that they are anticipating an election campaign and that there are circumstances that have made them very unhappy about the way they have received recognition for the funding that they have given. We have a lot of desperate men in Ottawa who are planning to run for political office again. The way they develop their strategy and the way they plan to do that is really their business, but we do not have to agree with that. We do not. We do not here in Yukon, nor did the provinces and the provincial ministers I have met with who assume responsibilities for the same portfolios I have. Any provincial-territorial-federal conferences I have been to, we constantly hear horror stories of programs, through the NEED program, for example, where funding was given to the province to upgrade a cemetery, in one of the Maritime provinces, then the federal government came along and because their regional expert told them that they should build a cemetery in a particular area, were found building a cemetery right next to the ones that the province was upgrading and the cemetery was not full and had a capacity for many years. We constantly hear these stories. This is the concern we have here in Yukon, as do the other provinces.

We have already had it demonstrated in the area of tourism that the federal government is going to have absolutely no compunction about setting up a duplicate infrastructure to deliver the programs that they are going to be funding. We have already noticed in Yukon that the federal tourism offices have increased in personnel. They were anticipating increasing it more at which time I said to the member for Faro that we hire that individual because we needed his expertise and he was a very qualified individual.

It is not a matter of whether we have offended the federal government or that our relationship is not good with the federal government. It has been very, very good, actually, with the ministers that we have all been dealing with on an individual basis. It is a fact of life that the federal government has adopted this policy and they have every intention of delivering it that way. Even when you indicate to them that you do not like that method of delivery, they are still very pleasant to you, but say to you that that is a fact of life and, if you want the money, it will be delivered on those terms.

Hon. Mr. Lang: Just to follow up and inform the House, it has been brought to my attention, this morning, that, for example, I gather that the Department of Indian Affairs, through the minister's office, is phoning the various communities asking what community projects could be initiated over the course of this winter.

My point is that I have no problem with phoning the communities, but why do I have to find out through the back door that this is happening? I would have thought that we would have been contacted to say, "What are your priorities for Dawson City or Teslin? What programs have you initiated and, perhaps, we could dovetail in and perhaps we could offset, perhaps we could augment the amount of dollars there to make it go that much further". Here you get into a situation similar to the story that the Minister of Tourism just gave with respect to the two cemeteries, and it is not necessary that it happen. We have lists. We are prepared to sit down with the Government of Canada and say, "Look, in Dawson City these are our priorities, check with the municipality, perhaps they have altered somewhat, but that is fine, get back to us and we can see how we can coordinate these things".

If you do those programs, what happens? Somebody has to administer those dollars. We already have a Department of Municipal Affairs in the Government of the Yukon Territory that does have the constitutional right — if you want to become a Philadelphia lawyer — but, more importantly, has the program delivery capabilities, in conjunction with, perhaps, Government Services or the community itself, depending on the particular

situation and the particular project.

My point was, when I found this out, was to contact the minister's office, find out what the list is and say, "Okay, can we sit down now and have a look at what you have compiled and how can we help?", as opposed to seeing the duplication of the taxpayer's dollars. As you see the political game unfold nationally — and it is a national objective. It is not just in Yukon where they are doing is using your and my money. I think the taxpayers should be aware of this and all I am saying is fine, do something to get elected, I do not have any problem with that, I understand that, but let us put the dollars to the best use we can.

All we are doing is trying to be sensible about it. I reiterate, as I said earlier, with respect to the fundamental principle behind the bill and whatever — I do not think the member opposite argues it — is that a major concern is to keep the cost of administration down to a minimum because, if you do not, that means less dollars going out on the various programs and, in turn, assisting the general public with respect to those programs that you are making every effort to implement.

Mr. Chairman: I think we should take a short break now and will continue with general debate when we return.

Recess

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

Bill No. 31: An Act to Amend the Motor Vehicle Act

Hon. Mr. Tracey: We do not have time enough to deal with section 15, of the *Act to Amend the Motor Vehicle Act* and I would like to stand it over until tomorrow.

Mr. Chairman: Very well, we will stand over that clause until tomorrow.

Clause 15 stood over

Bill No. 15: Economic and Regional Development Agreement Act, 1983

Mr. Chairman: We are now on general debate on the *Economic and Regional Development Act, 1983*.

Mr. Byblow: The explanations afforded by the two ministers helped me to understand something more about the delivery process of what I understand to be cost-shared programming, and that is an avenue I want to explore just a little further. Using as the model the Interim Tourism Subsidiary Agreement, it is my understanding that a management review committee has been struck, and are deciding on the appropriation of the money to the projects that have been solicited by application. That constitutes a form of cooperative effort between the two levels of government on selection of what actually goes out in funds. I am trying to understand this from a very practical point of view. In the intended ERDA agreement, is it still the intention to seek the management review committee of both levels of government where the decision making that is going to be joint, in a very practical way?

Hon. Mr. Lang: I cannot prejudice the future. I would like to think — and if the Minister of Indian Affairs could be here, he could make the commitment but he is not, and that is the unfortunate we are in in Yukon — that we would work towards joint cooperation but in the final analysis in those programs that they deliver they have the final decision. They can make the decision themselves after they jointly have discussed it that they would go with a program that perhaps we disagree with. I am hoping that does not happen; I personally do not believe it has to happen. But I am saying that that possibility exists without the process in place that we had via the CYTA agreement, which was for joint decision-making: if one party disagreed with the other, then we would look at a way of tackling the problem from a different point of view. I have been informed by the Minister of Tourism that it has happened; in the present delivery mechanism they have under the present agreement, there have been disagreements and the federal government has gone along and delivered the program that they felt should go ahead, because they claim it is their dollars. So, I am just hopeful that it will not happen in this case, but I cannot guarantee you that.

Mr. Byblow: I have to understand this a little more clearly because I think there is a serious matter at stake here. My perception of the delivery of this kind of agreement and money under it is that it has tremendous import to the economic development of the territory. What I see breaking down is a planning process of that development program. If what both ministers described is correct, in that we have projects being decided from two levels of government in terms of priority, then we do not have a planning process that meets with either efficiency or organized development. If this is what is happening, then we have a matter of some serious concern.

My question, however, is this: it is my understanding, on the basis of the model interim agreement in place now and on the basis of the previous CYTA agreement — they were cost-shared ventures. Granted, they were not tremendously rich on the territorial part; usually it was 90:10, and sometimes even less. In a cost-shared program, are the ministers saying that they are having their money decisions overruled?

Hon. Mr. Lang: No. If the case does happen where there is supposed to be a cost-shared program and we disagree with the program, then obviously we are not going to cost-share it.

Obviously, it will be direct federal dollars. Therefore, I think that is maybe a check and balance in the system, if you like. I am just stating to you the concerns that I have. They have not been realized. I want to impress upon you that they have not been realized, because we have not gone into the agreement. These are major concerns that we have voiced with the Government of Canada, which I believe you have a right to know. Only time will tell whether or not those concerns are legitimate. I hope they are not legitimate concerns. I have indicated to you we will work cooperatively with them and try to get programs that we can jointly agree with and implement.

Hon. Mrs. Firth: These things have already happened across Canada, in some of the provinces. The way the system works is, under the direct delivery system the federal government was not happy with a joint cheque going out, with joint head marks on it, saying Government of Yukon - Government of Canada. They wanted to give their own cheques out that said the Government of Canada on them only. Then they are telling the provinces and the Yukon Territorial Government that they can give their cheque out. When a project goes to the committee — and in the *Tourism Interim Agreement*, we call it a PAC committee, which the Government of Canada wanted to call it. Project Approval Committee — the federal government reviews it on the criteria that have been set out, mainly by them. They set the ground rules because they are contributing the majority of the funds. So they set the guidelines and the ground rules and we abide by those and if we are not happy with those as a provincial or a territorial government, we identify funds on our own, even though they be very small funds, that we can deliver under our own guidelines. That is the position that the provincial governments have been put into, and the territorial government, as we have identified our own tourism small business incentive program. We had \$150,000 last year for it. We have identified \$500,000 this year, so that we can deliver a program along the same lines as the federal government. However, we can apply our own guidelines to it.

What I am trying to explain to the member for Faro is that although it is supposed to be done on a joint basis, we do not have the final say. If we have a project that we are contributing \$2,000 to and the federal government is contributing \$200,000 to, they can say to us, you can approve your portion and we will approve ours, or we will not approve ours. So, partial projects can go through. It is something where our hands are tied, as the provincial governments hands are tied. We do not have any choice and we do not have any option. Like I say, you either say, sorry, we do not approve of your direct delivery system and we are not interested in your money, or fine, we want some projects to go ahead and we will take the money.

Another thing, the Minister of Tourism now, who is the hon. David Smith, indicated to me that we had regional officers, and Mr. Lang and myself have both mentioned these regional regional representatives. I asked him who the regional representative was for

Yukon, because why was I talking to him when it was the regional representative who was going to be picking the projects that should be approved and giving the direction to the federal government as the long term goals of Yukon. Well, he did not know who our regional representative was, because it had not been foremost on his mind, he said. We have not been given any indication as to who that regional representative is.

Mr. Byblow: I would be indeed curious as to who the Yukon czar would be. I am told that the wife of a czar would be a czarina and their children would be czardines.

The question is still uppermost in my mind on several concerns emanating from the discussions and I will probably leave them here, at this point. In addition to the concern about the efficiency of the delivery by the duplication of staffing and other delivery components, there is the concern about planning, because, certainly, one of the priorities that has to be in place with respect to economic development is some semblance of planning, where you do not have projects working at cross-purposes in a region or an area, and you do not have the money available to you working at cross-purposes or with lack of a joint effort.

Of course, too, I have a third concern, in that there is some question about the choice to use taxpayer money in this arbitrary manner.

Hon. Mr. Lang: There is nothing we can do about it.

Mr. Byblow: I want to just move, to some extent, to another question on the general subject and that is with respect to the other jurisdictions who have accepted the programs, namely the NWT and Manitoba. I believe NWT received approximately \$21,000,000 and Manitoba was in the \$100,000,000 magnitude, if not closer to a billion. The minister seemed very optimistic that our funding would be in the magnitude of \$20,000,000 to \$30,000,000. Compared to the NWT, that would be on a direct parallel in terms of amount. Does the minister have any grounds for that optimism and, secondly, what has happened to reduce the amount from the \$50,000,000 we talked about approximately a year ago?

Hon. Mr. Lang: The question you are asking me is largely a federal decision. Obviously, the dollars that they thought they could contribute to these programs across Canada were significantly less than was initially indicated to us.

Yes, we are looking in the ball park range of \$25,000,000 to \$30,000,000 because that is what we have been informed by the Government of Canada is the neighbourhood we should be looking at. Therefore, taking it from that, we are taking them at their word and saying, "Okay, now we will go and try to get a definite amount and go into an agreement and work on our subsidiary agreements". I, for the life of me, cannot speak for the federal government — mind you, I think at least Mr. Chairman would agree and, perhaps, the member opposite would agree that sometimes I think I should be able to speak for the Government of Canada. I think it would be very advantageous for the Yukon Territory. But, humble as I am and, as well as all members agree, we recognize that that is not the case.

So, I cannot contribute much more to the debate, with respect to the dollars or the lack thereof, because I am not in the Cabinet of Canada and the so-called envelopes and the auctions that they go through for the dollars that are available.

Mr. Byblow: I would like to say that the member's humility is only exceeded by his height, but that would be rude.

I want to raise an additional question on the subject of the four areas he cited. He cited that development agreements were being prepared in four areas of resources, namely renewable, non-renewable, tourism and human. I am very curious as to what he means and what he is talking about when he talks about development agreements relating to human resources. What is entailed in that? What are we talking about in terms of development program funding to aid in that area?

Hon. Mr. Lang: That will be all outlined by the subsidiary agreements and we will be able to discuss that at that time. When I have the specific amount of dollars that are available for those areas, then I could discuss the various program outlines.

Mr. Porter: I would just like to ask the minister, in terms of the positions that this government has put forward to the federal

government respecting the four areas, can the minister give us any indication as to the prioritization in terms of funding that this government has attached to the four subagreement areas?

Hon. Mr. Lang: There have been tentative dollar figures put on them but they are not firm. We are basically finding out how much flexibility there is as far as the dollars that are available in respect of these areas. I do not know. I would ask the member opposite a question. We have been dealing with the Council for Yukon Indians and trying to give them as much information as we can to see what areas they perhaps could become involved in and perhaps the member opposite has been involved with that information. I do not know. Perhaps he could inform the House whether or not he has been. But the point being is that we have stressed four areas and we are going to have to tailor the dollars accordingly with respect to those four areas once we are firm on the dollar figure.

Mr. Porter: So the process has been one of which this government simply has been involved in negotiations but there has been no general agreement at this point which would allow the government to inform us as to the general priority in terms of the four areas. For instance, is there going to be more emphasis put on the development of the non-renewable resource sector as opposed to the renewable resource sector? I think this is a very important question, because there are certain areas of our economy that need help more than others.

Hon. Mr. Lang: I do not argue that. We are trying to find out what flexibility there is for the dollars that are available. We have identified the four areas, put tentative dollar figures in; we have had to revise that down because of the fact that we knew they were in the area of \$25-30,000,000 and therefore then we are going to take one more look at them in respect of the dollars available.

I would like to hear the member opposite. Where does he think the money should go?

Mr. Porter: In terms of the question of administration, has the federal government indicated that they will primarily be using the departments of Manpower and the DREE department for delivery of the programs?

Hon. Mr. Lang: The member opposite did not answer my question. I would like to ask him what priorities he thinks the dollars should go into. As far as the federal departments are concerned, that depends on what the program is and exactly what administrative framework is set up to administer it. Those decisions will be made in respect of what the program is and then try to dovetail it into what administration is available.

Mr. Porter: In the structure of delivery and design of the programs at the regional level, will there be a structure put in place that represents the region for the monies being spent. You have talked about there being an overall regional czar with the authority to allocate program funds to various projects that come before him. Will there also be a mechanism such as advisory board that would also include the Government of Yukon and federal officials at the bureaucratic level to further advise in the process?

Hon. Mr. Lang: There will be discussions with the various groups affected on the various programs and whatever. If you are talking about a formal board, government-to-government, plus people involved, I do not think that is the intention. Now, there may be some program involvement to those segments of the population that those dollars are being aimed at, and that has yet to be determined. As far as a czar is concerned, I better clarify the record here. I do not know whether or not one will be appointed for the Yukon territory, to be quite honest. I am just telling you what was experienced in other provinces. I find sometimes I give a little information and all of a sudden it is projected back here at home in the Yukon and all I am trying to do is inform members here of the very major problems other parts of the country are having with respect to this particular area. I would like to hear from the side opposite, where do they think the priorities should be?

Mr. Porter: One final question. The minister talks about there being a \$25,000,000 to \$30,000,000 figure being half on the table at the present time. Can the minister tell us if the funds that have been allocated up front as an interim measure for the tourism area will come off the top or will they be dovetailed into the overall agreement?

Hon. Mr. Lang: My understanding is that this agreement will come to an end and there will be dollars available through this particular vehicle.

Mr. McDonald: I may have missed something. My colleague for Faro asked a very general question about one of the four categories, that of human resources. In my mind's eye, when it comes to the other three categories, I have a fairly clear understanding of what is meant by renewable resources, non-renewable resources and tourism. I understand that renewable resources could mean anything from forestry to agriculture; that non-renewable resources could mean mining or oil extraction; tourism could mean almost anything that has happened under the previous tourism agreement. But what I am still unclear about is what the human resources category would mean. If the minister, rather than tell us that we should wait until the time that the agreement is signed, could give us examples of what he actually means by the expenditure of funds to promote human resources, just for my own information, I would like to know that kind of thing.

Hon. Mr. Lang: In the area of human resources we are basically talking about adult education. One of the primary areas will be the native population, as far as adult education is concerned.

Mr. Byblow: Training them?

Hon. Mr. Lang: I am talking about adult education; I am talking about training.

These are the areas that we are looking at, but also, in concert with my colleague here, who would administer those programs, we are trying to coordinate that with the multitude of federal programs that are available, so that we are not duplicating those.

So, you can see we have a difficult task. If you take a look at any of the federal government books and the various programs that are available, I do not think anybody in Ottawa realizes what programs are available now, with respect to the various departments of government throughout Canada. All we are there to try to do is get the best clout for the dollars that are available. It would just seem to me that this is an area that we should be identifying and looking at how can we best meet the need that is out there, whether it be through community learning centres, or this type of thing.

So, that is all I can really contribute to that aspect, that we are looking at the present time.

Mr. Byblow: The vocational school at Faro.

Just one last question: respecting the anticipated dollar amount of the \$25,000,000 to \$30,000,000, can the minister tell me that, clearly, the federal assistance to Cyprus Anvil has not in any way affected discussions or amounts under negotiation with this government?

Hon. Mr. Lang: You are asking me questions that actually should be put into the House of Commons. It is a question of there being so many dollars available and this is in the neighbourhood of the amount of dollars the Government of Canada has said will be made available in this particular area.

I think it is safe to say, from the Government of Canada's perspective, there are only so many dollars in the total Government of Canada to be made available and, if you grant \$25,000,000 of the taxpayer's dollars over here, there is less over there. So, I would assume that on the overall situation of government, yes, it has probably had an effect — probably marginal, but it is still probably is an effect — because it is less dollars. I am just talking off the cuff here because I am not with the Government of Canada and perhaps the member opposite would argue that, perhaps, I should be.

On Clause 2

Clause 2 agreed to

On Clause 3

Clause 3 agreed to

On Clause 1

Clause 1 agreed to

On Title

Title agreed to

Hon. Mr. Lang: I would move Bill Number 15 be moved out of Committee without amendment.

Motion agreed to

Mr. Chairman: I declare that the *Economic and Regional*

Development Act, 1983, has cleared out of Committee of the Whole.

Hon. Mr. Lang: For the sake of the chairman, I would also move a motion that you report progress on Bill Number 31, *An Act to Amend the Motor Vehicles Act*.

Motion agreed to

Bill No. 26: Constitutional Questions Act

Mr. Chairman: We shall now proceed to Bill Number 26, *Constitutional Questions Act*.

Mr. Kimmerly: I had expected a remark or two, but this bill is essentially uncontroversial in principle although there are a few points upon which we have concerns. I would ask the minister if he would explain to us the answer to this particular problem: the bill purports to bind the federal government as well as the territorial government and it speaks about federal government laws as well as the territorial government. What negotiation or consultations have occurred between the territory and the federal government about that issue?

Hon. Mr. Ashley: This just enables it to happen. I do not see it as binding. There is no way we can bind the federal government to anything. But we do negotiate constantly; we are always talking, discussing and arguing.

Mr. Kimmerly: Was there any discussion with the federal government of the effect of repealing Section 9 of the present *Supreme Court Act* and replacing it by this act? Was the federal government consulted about that issue?

Hon. Mr. Ashley: I am not personally aware of any consultation with the federal government on that section. It is not a habit to consult with the federal government on our legislation.

Mr. Kimmerly: I appreciate that an answer to the question is given but I would comment that there is federal legislation in this area, as the Minister of Justice I assume is aware, and this act certainly governs the situation where a person in Yukon is intending to challenge the validity of a federal enactment; it provides for a procedure whereby that can be done. I would comment, before final passage of the bill, it would be a good idea to speak to federal authorities and consult about the procedure, because it affects them and they will be interested.

That is my primary comment. I will comment on one or two sections on the clause-by-clause reading.

¹¹ *On Clause 2*

Clause 2 agreed to

On Clause 3

Mr. Kimmerly: Is it the position of the department that this in any way changes section 9 of the *Supreme Court Act*?

Hon. Mr. Ashley: Yes, there is a slight change to it, not major changes, legally. What Clause 3(1) basically is, in substance, is a reiteration of what now appears in section 9 of the *Supreme Court Act*. We have been advised to make its meaning clearer. This is what we are attempting to do with it. This subclause relates to cases where the issue is whether the legislation is constitutionally valid. In some cases a challenge to validity would be based on the provisions of the *Canadian Charter of Rights and Freedoms*. In other cases, the challenge might be based on the argument that the territorial legislation was in relation to some matter over which a legislative assembly has no jurisdiction and over which the Parliament of Canada has exclusive jurisdiction.

Mr. Kimmerly: A technical point. In the second last line of 3(3), it provides for notice at least 30 days before the proposed argument on the issue. As I read that, it is an absolute statutory requirement, which means that it could not be waived by all parties. I pose a question. If there is a particularly urgent matter where notice is given and it is in the government's interest to get a decision as soon as possible, it may be that they would wish a court proceeding before 30 days has elapsed. I would suggest that it is prudent to allow for if the government agrees to waive the period, or do it early, that that should be allowed. It would allow greater flexibility for the government and absolutely no danger in that if the government did not agree, it would not apply. I would recommend that it be changed to 30 days or such lesser period agreed in writing by the Attorney General or the Executive Council member, and that

would allow a great flexibility.

Hon. Mr. Ashley: In answer to the member's question, he may very well have a valid point there. We usually will need this time for all parties to be notified in Canada; it is not just us involved in it. It could be any province, and it does take time to get across Canada. All attorney-generals in Canada must be, and should be, notified. That is why we put this clause in. Other jurisdictions have it as well. So that is why it is like that. I do take notice of the request and I will look into that. If we finish the bill before the night, then I will maybe stand that clause over until we come back into committee.

Mr. Kimmerly: I would point out that it is possible that an argument can be made and that, even after the service of the notice, the proceeding could be argued earlier. Government lawyers may raise that but it would just certainly clarify it if the lesser time was provided. It is a small point.

Hon. Mr. Ashley: I accept the member's comments on that and, as I said, I will check that out. We maybe should have "may" in there rather than "shall" and I think that would clarify it. I think we still probably need the time and I think what was mentioned by the member opposite was brought up in committee and discussed, but I will just check back on my notes of that and then get back to committee.

I suggest that subclause 3 be stood over.

Clause 3 stood over

On Clause 4

Mr. Kimmerly: On subclause 4(2), why is it "both" and not "either"? It appears possible that a question could affect only one level of government or, for example, a municipal and the territorial government and it could be that it could say the enactment of the government questioned is concerned and the government in question is a party and that sufficiently constitutes the notice.

Hon. Mr. Ashley: Basically what we have done here is to copy Alberta's act and this is one of the similar conditions. They deemed it necessary and so I did not question it.

Clause 4 agreed to

On Clause 5

Clause 5 agreed to

On Clause 6

Clause 6 agreed to

Mr. Chairman: Clause 3 is stood over, so we shall move on to Bill No. 25, *An Act to Amend the Compensation for Victims of Crime Act*.

Bill No. 25: An Act to Amend the Compensation for Victims of Crime Act

Mr. Chairman: There being no discussion, we will proceed with clause-by-clause reading of the bill.

¹² *On Clause 1*

Clause 1 agreed to

On Clause 2

Clause 2 agreed to

On Clause 3

Clause 3 agreed to

On Clause 4

Clause 4 agreed to

On Clause 5

Clause 5 agreed to

On Title

Title agreed to

Hon. Mr. Lang: Mr. Chairman, I would move that we report Bill Number 25, out of Committee without amendment.

Motion agreed to

Mr. Chairman: I declare *An Act to Amend the Compensation For Victims of Crime Act* cleared through the Committee of the Whole.

We shall now to go Bill Number 30, *An Act to Amend the Municipal Act*.

Bill No. 30: An Act to Amend the Municipal Act

Hon. Mr. Lang: It is my understanding the critic on this particular bill is Mr. Penikett, who is due back this evening. I am

open to the side opposite, whether or not they want to continue general debate at this time, or whether they would like us to have recess a little early and reconvene at 7:30. I give to the floor to the members opposite, like I always do.

Mr. Byblow: It would our preference to defer general debate to 7:30 this evening.

Motion agreed to

Mr. Chairman: We will then recess until 7:30.

Recess

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

Hon. Mr. Ashley: Are you calling for discussion on the *Constitutional Questions Act*?

Mr. Chairman: The critic is not here.

Hon. Mr. Ashley: Is he not coming in tonight?

Mr. Penikett: He will be here.

Bill No. 30: An act to Amend the Municipal Act

Hon. Mr. Lang: Mr. Chairman, perhaps we could proceed with Bill No. 30, and once the critic is here, perhaps, after the break, we could discuss the questions on the *Constitutional Questions Act* if we have time. If not, perhaps we could leave it until tomorrow.

As you recall, we had a number of comments made with respect to the second reading of the bill. As I indicated to you, a great deal of discussion had gone on with the Association of Yukon Communities as well as the Council for Yukon Indians with respect to the piece of legislation you have before you. I think it is all-encompassing. We have tried to make the unproclaimed act more concise. There are a lot of technical amendments to the act which one can see when you go through the particular bill you have before you.

I should further point out that there has been clarification as far as the Yukon Municipal Board is concerned. I think it is safe to say that we have changed procedures with respect to municipal status. In the previous bill, we had them go through a public hearing process. I think in view of the discussion on the bill, and the time that has been put forward, we are going to give a year's transition for the purposes going into municipal status with respect to those LIDs. The same applies to the municipalities.

We have a year's transition period. We suspect that before incorporation to municipal status, as far as the three present municipalities are concerned, it should not take very long once the act comes into place, because really, nothing is going to change in respect to their present method of running their business, and the local improvement districts will follow shortly thereafter.

¹² **Hon. Mr. Lang:** I think it is safe to say that, the bill — the way I see it, and I think I can speak for the association over all — we have reached agreements in principle pretty much all the way down the line. Overall, one of the major principles of the bill is, where it is possible, to put decision-making at the local level. The other principle, of course, is responsibility and accountability that goes along with that decision-making. I think it reflects our philosophy. Perhaps the other side could speak to that, as well. From a philosophical point of view, we believe that this is in the best interest of the communities. Also, at the same time, as time goes on, I think you are going to find more and more people interested in running for public life in the community with respect to the taking on of responsibilities that have been delegated to them.

I just want to say, once again, as I indicated in my second reading speech, I think it is important for people to realize the intentions of the government and, for that matter, of the legislature, as far as this bill is concerned, that municipal status will be coming to those LIDs over the course of this forthcoming year.

Mr. Penikett: I have said most of what I wanted to say, in a general way, about this bill at second reading. I do want to reiterate the approval of this side of the House of the process by which this bill came to be improved and to commend the kind of dialogue and discussion that went on between the AYC and the CYI and the territory.

I will, therefore, spend time in general debate, if I can, putting to

the minister some general questions which I flagged during my second reading speech, some of which I will, of course, expect to pursue with precision when we get to the particular clauses. However, there are one or two issues which are not addressed specifically in these amendments and I will want to ask about those as well.

¹³ During the second reading debate, the minister communicated to the House, by means of body language, I think, so it was not in *Hansard*, that we could expect an amendment to the section referring to Indian bands. I think it was, because the definition that is in the bill right now is in the *Indian Act*. Could the minister indicate what his intentions are in that regard? Before he answers, I would reiterate the concern that we have that Indians, as defined in the *Indian Act*, right now, would not include non-status Indians, which obviously includes a large number of people who would be included in Indian bands, under the terms of the land claims agreements.

Hon. Mr. Lang: First of all, as far as land claims are concerned, if we do come to a successful conclusion of the negotiations, then further changes are going to have to be made with respect to this bill and a lot of it will be in the settlement act, itself. Therefore, that is an area that will have to be sorted out once an agreement-in-principle has been reached.

I should point out that, as far as the definition of Indian bands is concerned, yes, it does state the definition of an Indian band in the definition section, but we go further, with respect to those areas where an Indian band, for the purposes of incorporation or for the purposes of an enlargement of boundaries, can be considered. It states, for example, in Section 5.1(b), "An Indian band, in the opinion of the Executive Council, represents at least 25 persons who are eligible to vote in a band election and who would qualify as electors in the area proposed to be established as a municipality". In other words, the key words are "who are eligible to vote in a band election".

That particular definition came to our attention just prior to the tabling of the bill. We, therefore, felt this was a better way of putting it into the legislation, as opposed to dealing with the definition section. I guess there is a question of legalities, but it clearly states the principle of which you speak, with respect to the eligibility within a band for voting on these matters.

¹⁴ So, I think that question has been addressed.

Mr. Penikett: I am, obviously, the furthest thing from a lawyer in this House — not physically, but intellectually perhaps — but it does occur to me that, notwithstanding the minister's explanation, there could be a problem there. I take his point very well, that the later section, which talks about the forming of municipalities talks about people who are eligible to vote in a band election. The problem is that the band referred to in this bill would, of course, be the Indian band under the *Indian Act* and so the people referred to in that latter section would clearly be, then, only status Indians, because they are people who are eligible to vote in the band and the band in this bill is defined as a band under the *Indian Act*. I do not want to quibble about legalities, but I anticipate that there could be, if for some reason a settlement act did not come forward very quickly, some legal problem in the interim period.

Hon. Mr. Lang: Here we go once again. It depends on which lawyer you are speaking to. My understanding is that this does take into account the bands that are status and non-status and permit them to vote in their band elections. I understand from our legal people that that is exactly 180 degrees from what the member is stating with respect to the eligibility for voting for an Indian band. That is why it was incorporated in the bill in this method. It is a very difficult legal definition when you are talking about the *Indian Act*, the realities of the Indian bands in the territory; you have the offing of the settlement act.

I just want to assure the member opposite that, if we do have problems with this particular definition and the further follow-up through the legislation, I will be the first to propose an amendment, if it is necessary, to the House. What we are told is that this would take care of the situation that the member speaks of, because that is the intent of the sections that I am referring to.

¹⁵ **Mr. Penikett:** I thank the minister for that assurance, and I

express my willingness to second such an amendment should the need arise. My guess is that in those situations now where non-status Indians vote in band elections, they do not do so, strictly speaking, legally. They do so because the band has decided to do so in anticipation of the settlement act, so I submit, it could still be a problem.

Let me ask the minister about the one other outstanding issue from the point of view of the Association of the Yukon Communities; namely, the question of staggered terms for municipal councils, especially in the smaller communities. I believe it is the view of the Association of Yukon Communities that allowing for a situation where part of the council can be elected every year where the terms can be staggered would improve the political stability of those communities and improve the continuity of the councils, especially in those areas where there are new municipalities and there may not be a present body of experience on which the council could build.

Could the minister indicate why that suggestion from the AYC did not meet with his approval?

Hon. Mr. Lang: You will recall that the same principle was put forward in 1980 and again was put forward by the association in 1982 for incorporation within the bill. Serious consideration was given to that principle, but we came back to the argument that if the people in a community were totally dissatisfied with the incumbents in a city council, they should have the right to voice that opinion on election day, as opposed to staggering the terms. That is basically why we came back to that principle.

From where we stand, at least at the present time, we believe that this section should remain the way it is. Now, I am not saying that four or five years down the road, as we get into municipal status, we will not be prepared to review it, but at the present time, our decision is that we believe that staggered terms, although they appear to be good in theory, it is the basic principle of the democratic system that you have an election once every two years; you should have the right to decide who is going to represent you in totality in respect to the overall responsibilities within the municipalities. Of course, the same applies to this legislature.

That is basically the principle that was agreed upon by myself and my colleagues, and we have indicated to the association that we would not be prepared to consider a change at this time.

Mr. Penikett: The minister will forgive me for saying that I am not persuaded.

Hon. Mr. Lang: That is fine.

Mr. Penikett: I will pursue that, perhaps, when we get into some of the relevant detailing in particular clauses.

Another issue which I took up in my second reading speech on the original bill and, again, in my comments on these amendments, but which, I confess, does not appear to be of great interest to thousands of people in the Yukon community, is the change that took place in 1980 from the council manager form of local government to the, essentially, mayor manager system. I understand that it is the minister's view that this bill tidies up some of the problems that I had identified, in that it makes the council clearly responsible for policy decisions.

I submit, however, that it is quite clear that the mayor, because of the supervision of the chief administrative officer, has exclusive responsibility for administrative matters. That mayor, however, is not accountable to the council for the conduct of those administrative decisions, or the carrying out of those administrative decisions. I think that is a particular problem with the electoral system that we have in this bill, because you could well have, in a municipality, a mayor who has, indeed, no better mandate than anybody else in council, and certainly not a better mandate than the council as a whole. You could, indeed, have a mayor who has less of a mandate than council and could be acting, with respect of administrative matters, in direct contradiction of the wishes of council. I suspect that, rather than improving the relationship between the executive and administration as was, I believe, the drafter's intention, that it could have entirely the opposite effect.

Does the minister have any comment?

Hon. Mr. Lang: I am looking for the specific section that the member is referring to because I do not have it right in front of me.

I do not totally agree with the argument that he is putting forward. I can understand his concerns. I do believe the mayor has various responsibilities. He or she who represents the official who is actually giving the political direction on a day-to-day basis. The major concern I have is to ensure that policy emanates from the council and then is effected, through the mayor, to the administration on a daily basis and I see the council as a check and balance system to ask the necessary questions and to ensure those policies that have been considered by council are being followed.

I do believe that, when we get to the section, there is a change in it that meets, in part, the member's concern. I recognize that there are a number of ways that one could set up the machinery, if you like, or procedures with respect to council. For example, the member opposite has also brought up the idea of a working mayor; the administrator-type of appointment of mayor who would also act as mayor and administrator, combining those two facets.

I believe that we can work with the method that we have. I think it is safe to say, and the member opposite would agree with me, that we are going to run across our problems. If anybody does not think that we are going to, that is not the way life winds out to be. There is no question in my mind, that we are going to have some problems in some communities but, overall, I see it working fairly well.

As I indicated, there is a year's transition period for the purposes of going into municipal status. I think that the method that we have outlined in our legislation will work. I can refer to the concept that the member opposite has raised and probably really raise some questions on the other side of the coin that he has raised with respect to this particular procedure. I am content that it will work.

I think that, from where I sit, you will get people running for these offices. Also, it will take a couple of years, but once they recognize the responsibility that is there within the community and that the authority is there and the responsibility and accountability — even in the past, with the local improvement districts — I think overall we will have pretty responsible boards. We have had our problems, too. Dawson City, one time. Haines Junction was another. Whitehorse, a number of years back, was a major problem as far as administrators and whatever, when one looks back in the history of itself.

I personally think it will work. Like I say, it is not going to be without its problems. I am not saying that the system is perfect, but I think we are doing the best to give a procedure that is going to work out in the best interest of the general public.

Mr. Penikett: The minister may well be right in much of what he says. However, my problem with the change that took place in 1980 — a change that has not apparently been substantially amended here — is that it was a significant deviation from the established constitutional practices in this country. It changed the system from a council manager system to a mayor manager system. It also changed, as it has been pointed out quite clearly, the role of the mayor from a presiding officer to a chief executive officer without providing the machinery to produce a strong mayor.

Some confusion, no doubt, has arisen because there are many municipal acts in the country, or much lauded municipal law, which refers to the mayor as the chief executive officer when, in fact, the mayor, in most places, is only a presiding officer. That is a very important responsibility, but it is a different function from the kind of executive powers held by a person such as the president of the United States or the president of a large corporation.

What I would like to ask the minister, in light of his comments, is if he could just tell the House reasons, from this government's point of view, for moving from a council manager system to a mayor manager system? I think it is appropriate that the government, having made this decision, should make at least some brief philosophical argument in favour of it.

I particularly make that request, as the minister will know, because I believe the reason that this change was made — it was not made with any clear, philosophical reason, it was not made with any clear constitutional idea in mind — I think was made as a result of some arguments of convenience because of some situations that operated at the time we were originally debating the bill, situations that do not, now, apply at all.

Hon. Mr. Lang: I do not totally agree with you on that. I think the association, as well as ourselves, firstly believe that the mayor should have certain responsibilities pertaining to the political day-to-day business of the municipality. I think that responsibility has to lie with one individual who is in charge of putting forward and ensuring that the policies of the council are being enacted and that responsibility lies with the mayor.

I personally think that, from my perception right now, the three municipalities we have and the three personalities we have, lend themselves to that type of executive responsibility. There is no question in my mind, when I look at the mayor of Dawson or of Whitehorse, the past mayor of Faro, that that is the way they operated. They operated in cooperation with their councils and, at the same time, saw that the day-to-day problems that arise on a hourly basis are handled, as well as the overall policies of the municipal government. I think that is where, philosophically, we part company. I do believe there has to be a chief executive officer who has his or her political checks and balances in the political arena — which is your city council — but also has the responsibility, politically, for the community in which they serve.

I do not know what the member opposite is driving at, whether he is talking about consensus government or what the case may be, but I think, in the final analysis, somebody has to be held accountable with respect to the community in question. Of course, that figurehead, along with the responsibility, is the mayor, in my opinion. Obviously, we do not philosophically agree, with respect to that. I personally believe that. I think that I take it in the same manner that I take the executive responsibilities that the people on the front bench here are invested with, with respect to their departments.

We have responsibilities for the everyday running of our departments. We have the responsibility within Cabinet in respect to overall policies in our department, to our caucus and to the legislature. There are enough checks and balances in the system to ensure that the will of the overall majority will be done. I think the same principle applies to a municipality. Obviously, if you are going to be the mayor, and you are going to be successful, you have to ensure that you have a majority of people on that council who will support you, and it is up to you as the mayor to retain and to cultivate that support since you do not have party politics and the various other political creations that we have in the 20th Century. Hopefully we will not get party politics into our municipalities because I do not think it is of that much value. I do not think it is good for the community.

From where I sit, I do believe that the mayor has certain responsibilities and he or she should be able to conduct the business of the council and the city in a manner that is businesslike and I think this particular procedure allows for that.

Mr. Penikett: The minister invites me to respond to his general question about what I am getting at. He wondered aloud whether I was proposing some kind of a consensus system. I was not proposing anything except, in some sense, being very conservative and suggesting the system that had applied for well over 100 years in this country is probably a better system than the one that was being introduced without proper thought.

It is, if you want to use a short hand of another level of government, I suppose a choice something like the choice between the British-style Cabinet system which operate under here and the American-style presidential system. I guess the minister will have to forgive me for saying that I prefer the British-style system.

The minister refers to the situation that operates today in Faro, Dawson or Whitehorse. I think it is a happy accident that those communities have strong and effective mayors and supportive councils. The fact of the matter is that there is nothing in the law that provides for or can create the situation that will guarantee that. It is quite possible, and quite likely, that in the next few years, as often as not, you will have mayors elected in those municipalities who do not have support of the councils, because there is nothing in the election machinery to provide the community with a mayor who has the support of council.

What is worse in those situations is that you may have a mayor who has fewer votes than any other member of council under the

system we have here, and therefore, a weaker mandate. The minister talks about checks and balances. I guess that gets to the nub of the problem. My problem is that we do not have any. You do not have any checks and balances in this system in respect to administrative questions, because it is quite clear in this bill that the mayor can direct the chief administrative officer in administrative matters, and there is nothing the council can do. The council could vote against the mayor; they could vote non-confidence in the mayor; they could vote to pass a resolution that they objected to what the mayor was doing and there is nothing to require the mayors to alter their actions or amend their actions to conform to the wishes of council.

It is true that council can make policy. What you are inviting here is an endless argument about, it seems to me, what are administrative matters and what are policy matters. I do not think most people would have trouble deciding what those are, but I suspect that there are a lot of things that are in the grey area. Perhaps the minister does not want to argue with me all night long about this, but I frankly do not think that there are the checks and balances that he refers to. I think the mayor can direct the chief administrative officer in a way that suits the mayor but which could be in a way that is totally contrary to the wishes of council and that could be a serious problem. I submit.

Hon. Mr. Lang: I recognize that we could argue about this all night. However, what I am saying is that the administration that is working for the city council has to know who the boss is. The procedure that the member opposite is pointing out could well have the situation where the alderman is going around ordering around the administration. The point is, from the political direction, the political direction has to go from the council to the mayor to the administration for policy. If a member of the council is unhappy with the administration, they can definitely raise those questions in the public forum that has been created for the purpose of raising questions of those kind.

If they are unhappy the way the city work crew is doing their work — where do you raise that? You raise that in the city council chambers and say, look, I want changes. If there are not changes then, obviously, you are going to have problems within the confines of the city council as far as the overall policy of running the city is concerned. But, I think, from the administration's point of view and from the general public's point of view, there has to be one key individual within those small communities who is politically responsible for the administration and the working of the administration that is accountable to the council.

I disagree with the member opposite. My understanding — and I will doublecheck this — is that this method does work in other parts of the country. It is not a new departure from other areas of Canada or, for that matter, the United States. I submit to the member opposite, that there are places that are run like this and he said that it is an accident that we have three city councils, presently, running the way we have proposed. I submit that it is not an accident. They are people who are seriously taking their responsibilities as the mayor, and yes, have strong support when necessary on council. At times, they have not, either; just read the newspapers. But, they manage to run the overall responsibilities of the city and at the same time have a council that ensures that the policy-making is there. It is very clear in the legislation. Your bylaws have to be supported by council; you have to go through your three readings. As for the laws and for expenditure, and all those things, they are subject to council.

I think that there is enough responsibility there with respect to the council. The other point that I want to make, is that I see over a period of time where the mayor is going to, along with the responsibilities — even now — be getting more and more financial remuneration because of the time he or she has to put into that particular job.

I think that if I were a city councillor, I would see the mayor as being responsible and I have to go to a meeting once every two weeks in the public forum perhaps on another couple of committee meetings, but I do believe the mayor has the political overall responsibility for the administration. If there is a major problem on the streets, I would phone the mayor and say, look, I have major

problems here. I would submit that the mayor would have a responsibility to get to the work crews and get this thing going. I think there has to be a chain of command, otherwise you get aldermen phoning anybody at any time and, obviously, I can get a situation where the left hand does not know where the right hand is.

11 So, we could talk on both sides of the questions. No system is perfect. I am not contending that it is, but I do believe we have a system in practice now and it is working.

Mr. Penikett: I am sorry, the minister has not convinced me. I think he may even be wrong on a couple of things. He suggests that this is a system that operates elsewhere. I think he would probably find that he is wrong about that. I think the only place we have a mayor manager system is usually a place where you have an electoral system that can produce a strong mayor and that is usually a system where the aldermen are elected in wards and where they represent neighbourhoods and the mayor is the only person in the city who has a city-wide or municipality-wide mandate. I think that is a key difference.

I think the other difference is the minister raises the horrible prospect of aldermen running around asking questions of the administration.

Hon. Mr. Lang: No, no...

Mr. Chairman: Order.

Mr. Penikett: They do ask questions, which is how they get answers. I would think that no alderman would get away with ordering, at least in my experience, an official of the city around, anywhere. In fact, even if the mayor were ordering around anybody but the chief administrative officer, there would be problems because, as the minister talks about the chain of command, that would be a violation of the chain of command. Even under this proposed system that we have here, you have a system where all the orders would still be flowing through the chief administrative officer.

The fact of the matter — and I would just leave it with this point — is that the minister talks about there being checks and balances and accountability. With respect of administrative matters, I do not think there are. I think we could have a situation — I do not say will — where the mayor could be directing the administration in a way that did not meet with council approval and, unlike the situation that operates in this House, there would be no accountability. In this House, or in any legislature in our system, if we have a minister who loses the confidence of the House, he or she could be forced to retire or resign or the entire administration could be forced to resign.

That does not operate in this situation. It is quite right, people may complain to the mayor about a problem with the roads, but they might complain to an alderman, too, and aldermen can go to council and complain about it and complain about it and complain about it. It is probable that something will get done, but there is no necessity for it and, of course, there is no necessity in any municipality that it will get done. It might be an unreasonable request, but that is not the issue.

The issue is whether we have, in fact, created or given the mayor additional powers, appropriately or not. I guess that is a question that, I must say to the minister, I will continue to wonder about.

Let me move on to some of the more exciting parts of the bill, since your interest in this discussion, Mr. Chairman, if I may so, appears to be flagging.

Some hon. Member: (Inaudible)

Mr. Penikett: The minister was never very interested to start with, not on this particular issue. It was, I admit, of more interest to me.

Hon. Mrs. Firth: Unkind.

Mr. Penikett: The Minister of Education is complaining about being unkind. I am just telling the truth: I do not think he was terribly interested in the problem I have identified. That is not a criticism of him, it is just a statement of reality.

Let me move on to the next — and this is the more exciting question, I think, from your point of view — question, and that is the issue of the big board, the municipal board. The minister will recall that, in 1980 or so, I was terribly worried about this thing being an octopus, with all sorts of arms and all sorts of functions,

but no clear direction.

12 There has been, I gather, in recent months, some discussion between the local government representatives and this government about whether it is to be an advisory body or a body with some significant authority. I gather this has been resolved in favour of the latter model.

I gather in the weeks and months since we first considered this legislation that various structures have been suggested for the board. I gather discussion has even centered around the possibility of a nine-member board, a seven-member board. I gather, at one point, there was even discussion of a three-member board. What we have, I guess, is a five-member board. Three of the members are to be, essentially, Order-in-Council appointments, or the minister's nominees. Another will be a nominee of the Indian community and another will be a nominee of the other municipalities.

Could the minister make a brief statement to the House about the role of the board; the kind of activities he would see as its principle focus; and perhaps, finally, an explanation of why he felt it necessary to have three territorial government representatives on the board and only two people from the local governments?

Hon. Mr. Lang: In answer to the first question, the member is correct. There was a great deal of discussion about the Yukon Municipal Board and its membership. We came to the conclusion that it should be five. I had discussions with the Association of Yukon Communities, as well as representatives from the Council for Yukon Indians, on this matter, and we came to the conclusion that five would be an appropriate number for that particular board.

I felt that the Yukon Municipal Board is responsible to myself, and subsequently the legislature, and, therefore, the government should have the prerogative of appointing the majority of members to that board. I also recognize the necessity for the two groups that are affected to have some representation and we have written that in. To my knowledge, that is satisfactory to them.

The Yukon Municipal Board will be hearing appeals as far as the communities are concerned. It will be looking at the community plans. We can utilize them for the purposes of appeal for the change of status of a municipality, all these areas where we generally had to set up *ad hoc* boards or whatever. I see this as an amalgamation of the various boards that we have presently. I do not see a board that is going to be sitting on a daily basis, by any stretch of the imagination, but at the same time, they will be called in at various times to look at problems within a municipality, to look at the community plans, all of these aspects that were discussed in 1980.

It would seem to me that it will give, for a period of time, if those appointments are there for a period of time, time for people to get some special expertise in the area. I think it is going to serve a number of very real responsibilities, as I indicated, as far as appeals are concerned.

13 I should point out that, in many cases, it is as the member has indicated, it is advisory in some cases, as far as the minister is concerned. I am very strong on this and I think the member opposite and I share that same philosophy that there has to be responsibility and accountability in the legislature and, subsequently, the more independent "boards" that you create, the less responsibility and accountability there is in this room. Therefore, I feel, in most part, that it has very real authorities but, at the same time, advisory to the minister when the final decision-making does come down to the crunch. Subsequently, then, I, or whoever has this position, has to answer to that side of the House and with very good reason: it is called political accountability.

I think we have made every effort to streamline it. I think the AYC recognizes that the role of the municipal board should be clarified because, in the previous legislation, it did take some of the responsibilities away from the city councils. I was very concerned about that because it goes against the philosophy of the bill. If a decision to be made in the community and the responsibility and accountability is there, why should an outside force come forward and be involved with it.

Therefore, I think we have come up with a board that is going to work in the best interest of the municipalities as I indicated, in most part, for the purposes of appeals, which we have in any case now and we have to create when necessary. I think it gives that

longevity and some permanency. I should also speak from the native communities' point of view; they see it sort of as a buffer with respect to the political arm of government. I can appreciate their concerns in that area. I think it is going to be a learning process for them as well, as far as the municipalities are concerned and how it does overall work throughout the territory.

So, there are a number of purposes for it. I want to say to the member opposite, I would prefer not to have a board, to be quite honest, in my own personal opinion, if we could avoid it. However, there are certain areas that you have to have appeals in and you have to have some mechanism that you can put into place to look at a problem within a community. I see this as the vehicle for us to do that.

Mr. Penikett: I thank the minister for his answer. The minister has used the word "buffer" between the territory government and the local governments, in describing the perception of the board from the CYI point of view. I understand that and I can see that in a board with five members, the Indian representative and the other municipal representative, because they will be in a minority, necessarily, on such a board will see the board, then, or the board will basically provide them with a window or an access or even a voice, I guess, on some of the important decisions that it may be making.

I want ask the minister, though, a question or two about the other three representatives who will be on the board and the nominees of this government. Given the minister's concern about the question of political accountability and given the minister's desire that in respect of what I would probably call political questions, that the board be advisory rather than independent of this legislature and the chosen representatives of the people of the territory, what kind of experience would he be looking for when he is searching for people to work on this board?

Is he inclined, for example, to have senior officials of the department fill the three posts on the board, or is he inclined to look for retired, but experienced municipal politicians, or is he inclined to look for a combination of those things, or is he more inclined to just look for honest brokers, the sort of good citizen or intelligent lay person to carry out these roles? I ask the question, basically, to try and get a better understanding of how the minister sees the board functioning.

Hon. Mr. Lang: I would definitely be looking at one criteria and that is with previous municipal experience, especially at the political level. I would not overlook people who have had administrative responsibilities, at one time or another, within a municipality. I do not think it would be my intention to appoint people who are actively working within our administration, at the present time, because I think I would be putting them personally in a very precarious situation, with respect to their day-to-day responsibilities as opposed to what would be deemed to be political responsibilities, as far as the board is concerned.

I would see, perhaps, probably one, at least, who is a lay person, so to speak, who has good common sense, has overall respect in the communities, an individual who has been here a long time and who recognizes the difficulties we face on a day-to-day basis. I think it is safe to say I would be looking at a combination of municipal or territorial government background, at an administrative or even political level, who was no longer active at a political level but who would be prepared to serve publicly again, and also had good commonsense from a layman's point of view.

I trust that answers the member's questions. To be quite honest, I have not really gone through a list of names for the purpose of such an appointment but, obviously, I will have to in the very near future.

Mr. Penikett: I may want to ask some more questions about that later, but I think I will leave that for now.

Let me move on to another big subject, which is not specifically addressed in the bill. That is why I asked the questions in general debate, rather than waiting until we get to the clause, because there will not be a clause and, therefore, I will not be able to ask the question if I do not ask it now, if you see my logic.

It is a question of charters. It is, I agree, a theoretical proposition and it is, if you like, somewhat of a constitutional abstraction. It

may not be a necessary device, as I thought it might be, to resolve a great conflict between arguments between a two-government system and a one-government system that still operated in 1980. I would emphasize to the minister that part of what I was speaking to, when I advocated such a system back in 1980, was an attempt to resolve what I saw as a great chasm of conflict between those two propositions, namely the proposition for a one-government system and a proposition for a two-government system, which seemed to be irreconcilable back then.

However, having made that argument, sometimes when you have a good idea you discover that other people have had it before you. I have discovered that a couple of scholars who have written seriously about community development, or the evolution of communities in this territory, have proposed something similar. The argument that the number of communities here was so small that many of them had unique aspects and therefore should be treated as individual communities, I think, still has some merit, but let me not get hung up on that.

Let me consider one specific possibility: namely, the situation of our capital city. I think it could be argued that the City of Whitehorse, right now, is an absolutely unique municipality in this territory. It has maybe two-thirds of the population of the territory. It is, as the minister says, a situation quite like Winnipeg in respect to the rest of Manitoba. It is a city with administrative depths and administrative capacity beyond that of any other municipality. It is also, as I said, the capital city, and many jurisdictions in the world have a unique relationship with their capital city and make special provisions for the capital city, as Canada has in respect to its capital and the United States does with its capital, and, I think, it is also true that Great Britain has with its capital. There is a unique body of law, or separate legislation to deal with the capital city.

Now, I am not proposing that we need to have such a law today, but I can conceive of a situation where the citizens of this town, and the government of this territory, would decide that it would be appropriate to have a City of Whitehorse Charter. In other words, a separate law, or charter, providing for the needs of the local government in this great centre.

Now, I know that there was a lot of interest on the part of the Council for Yukon Indians in this charter provision, for obvious reasons, and I am not going to get into them tonight, but the minister will understand some of them.

I think there was some interest from the Association of Yukon Communities, but I gather that the territory was not enthusiastic about the prospect at all; however, in this bill, there is a provision — and I am not going to refer to a specific clause, but I will read the language of the provision — which says, "that nothing in this act shall be construed as impeding the incorporation of a municipality under a separate act to meet special circumstances or needs". It keeps alive the possibility under Yukon's *Municipal Act* that there could be such a separate act or separate charter. I appreciate that and I think that is a good thing, but I wonder if the minister could briefly give the House the benefit of his thinking on this whole broad question.

Hon. Mr. Lang: I personally think that you should have rules that would apply across the territory. The size of population will determine your category, as far as a municipality is concerned. I do believe that there has to be special provisions for such a community as Old Crow, if there was an area that was not covered in our act. I do believe I should have the responsibility, as the Minister of Municipal Affairs, to work with that community and then come forward with the necessary legislation to allow whatever is going to be permitted to happen, and it should be justified in these Chambers. I harken back to the argument that the members opposite always put forward here, saying, "Oh, you are going to regulation, again. You are going by Order-in-Council".

So, it would seem to me, from where I sit, that I have a responsibility to inform the House and the general public if there is going to be a serious change with respect to the delegation or the taking away of authority from a community. From my perception, I do believe these are the Chambers where it should be done.

There is also, as you know, in the section here a special provision for the community of Faro, which has been there ever since the

inception of that particular community. I am just using that as an example. If Whitehorse were to have a special delegation of authority from this government, then I think I have the responsibility to come and justify it to you and to the general public as to why we are doing certain things. That is where I see the *Municipal Act* and how we can utilize that as the vehicle for what the member refers to as charters.

I think the beauty of our system here is that I do not think we want to make it too complicated. We do not have to. We are a very small community. If it is necessary, we can bring in amendments within a month or a couple of months, within days if there is a major problem, unlike the House of Parliament or some of the provincial jurisdiction that have an overload of legislation that they are dealing with on an almost annual basis now, in view of the various responsibilities that they have taken on.

So, perhaps that day may well come, but I am saying, right now, I do believe that there are enough authorities within the present proposed *Municipal Act*. At the same time, I think if there are going to be significant changes in deviation from the principles that we have in the bill, then, I would submit, that I should bring in a special section to apply to that particular community.

Mr. Penikett: I do not think I disagree with 90 percent of what the minister has said, except I am not sure that he answered my question, but that does not matter.

Hon. Mr. Lang: Then, I interpreted your question wrongly.

Mr. Penikett: He may have interpreted my question, as he said.

I raised the questions of separate municipal charters or local government charters. I asked him if the language contained in the clause, which have not been identified by number — because I do not want to violate the rules — but which are in these amendments, allows for the possibility of those charters. The minister has agreed that it would be better to do it by law than by regulation; I agree with that. He has cited the case of Old Crow and that is a good example, but it is not the only one.

Let me make the point to the minister that I can perfectly appreciate that a local government that may emerge in Old Crow might want to have different kinds of responsibilities or would have different priorities — let me use that language, different concerns, different things — that it wanted to preoccupy itself with than the municipality of a place like Whitehorse or the municipality of Faro. Should the minister, at some point, create a separate act for the local government of the people of Old Crow, I think that would be a very good thing. I guess that if it were done with respect to that one community, a separate act, that the wisdom of doing that might also recommend itself to other communities and, in time, we could see other such acts, including one — I think there is at least the possibility of one — for the capital city. I am not suggesting it now, but if you have a separate act for Old Crow, some people might logically argue that it was separate act for Whitehorse.

¹⁷ I guess all I want to say is that while the language of charters has been studiously avoided in the bill, the possibility for them is provided for in one certain clause, and I am pleased for that.

Clause 1 agreed to

Mr. Chairman: At this point I think we will have a short break.

Recess

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

¹⁸ **Mr. Penikett:** I have a very general question I should ask, and I should probably have asked it before, but it can fit under this subject. As I understood, there was an agreement that the amended act would have some kind of discursive preamble in it describing the sort of principles of philosophy or whatever was in the act, but these amendments do not contain such a preamble. I wonder if the minister could explain that.

Hon. Mr. Lang: There was a tentative agreement. We discussed it with our legal draftsman as well as my colleagues and we came to the conclusion that it was not necessary to have it in the bill, from the point of view that we do not have it in any of our

other legislation as far as the preamble is concerned. When you start writing these as though they appear as law, all of a sudden they start becoming interpreted, so therefore, we did bring the bill forward without that agreed-upon preamble once we had talked to our legal draftsman.

Mr. Penikett: I thought you were just inviting more discussion on that. I guess the simple explanation under 2(1) is that now that we are going into councils, we do not have aldermen anymore. There were some questions raised in the major bill about the use of the words "regulating" and "prohibiting", and whether that language was straightforward enough. The minister has a copy of the original bill before him in respect to those sections. There was some question in some correspondence I read — and if the minister will give me a second I will find it — about whether the word "regulating" in that definition was appropriate and whether the word "taxpayer" in the same section was also a straightforward enough definition. If the minister can give me a second I may be able to quote it.

There was a question raised about the definition of "taxpayer" and whether that was a clear enough definition and whether or not the definition which is provided in later 32(5) is not slightly different, but conceivably a better definition of "taxpayer" than the one that was embodied in this definition section. I should emphasize that I am dealing with a problem of a definition that is not in the amendments but which is in the original bill, but which one correspondent found deficient and therefore it is a question of whether that should be here, when it is not.

¹⁹ **Hon. Mr. Lang:** From my knowledge, and I can doublecheck this, but I believe that those particular definitions the member refers to, we were satisfied that they were as well-defined as the possibly could be, from the legal point of view. I will take notice on the question and, maybe later on during the debate on the bill, I will be able to provide more information. To my knowledge, there were never any major problems in those areas, with respect to what we were looking for in those definitions, as far as the law was concerned and what the intent was.

On Clause 1

Clause 1 agreed to

On Clause 2

Mr. Penikett: Regarding Clause 2(2), Indian band, we have already registered our concern about this and the minister has, I guess, given an undertaking and, once the settlement act amends the act, there will probably be a consequent change here.

I must say, though, for the record, that I am concerned that, the minister's assurances notwithstanding, there may still be a problem here.

Hon. Mr. Lang: Just for the record, I will state to the member once again, if he looks, we have further defined the section as pertaining to an Indian band, with respect to those sections that are directly involved as an Indian band, for example, for the expansion of a community. I have been assured by our legal people that, at least for the interim, it would take care of the question raised by the member opposite.

Clause 2 agreed to

On Clause 3

Mr. Penikett: I would appreciate a brief explanation of the change that is contemplated here.

Hon. Mr. Lang: That section is defined as a two-third majority vote of council. At the request of AYC, we agreed that most of the requirements for a two-third majority vote have been deleted and all we simply require is a majority.

Clause 3 agreed to

On Clause 4

Mr. Penikett: On Clause 4(1), I would appreciate a brief explanation of the minister of this change.

Hon. Mr. Lang: This is in reference to Crown property. It is redundant as it includes the term "real property", in this particular section.

Hon. Mr. Lang: With regard to Clause 4(2)(3), just for the record, I want to make it very clear that in the incorporation of the good community of Dawson City, that it will be known for ever and a day as the City of Dawson.

Mr. Penikett: Until it becomes known as the Metropolitan Centre of Dawson, I suppose.

²⁰ *Clause 4 agreed to*

On Clause 5

Mr. Penikett: As I read this, basically what we have done here is deleted the references to inspectors in municipalities. Is that the minister's intention?

Hon. Mr. Lang: This replaces the existing provision for the inspector to propose the establishment of municipalities if the population exceeds 300, either on its own initiative or on the petition of 10 taxpayers. It replaces the present field by 10 percent of the residents in the proposed municipality. And, the Yukon Municipal Board will now hear appeals against the proposed incorporation of a municipality rather than the *ad hoc* Board of Inquiry, presently provided for.

I should point, after the words "proposed" in the fourth line, there should be a comma. And, in the fifth line after the word "for", there should be a comma in there, as well. We could take those as typos.

Mr. Penikett: In 5(1), "8(1)(b)", the minister has heard the concerns expressed by the member for Campbell on this section and I would be interested to hear from the minister the reason for the number 25 in this section. I wonder if he might give us some kind of insight into the discussions that led up to the inclusion of this clause. I understand that both the CYI and the AYC were concerned that a band be able to initiate a procedure under this clause, but that was originally opposed by YTG. I gather, in the process of consultation and consensus, cooperation and agreement and all those good things, that, subsequently, the clause was agreed to. I wonder if the minister could just give us some insight into those discussions and explain to us how they came to settle upon the number of 25?

Hon. Mr. Lang: It is strictly arbitrary but we felt that there had to be a minimum of 25 members to ensure that there was interest in the area that we are speaking of. I guess we could have determined 50, or whatever the case may be, but we decided that 25 was an appropriate number and we were going to go with that. There was no magic formula of any kind, if that is what the member is asking.

Mr. Penikett: In 5(1), "8(2)", the only change I can find here is the reference to public notices. It talks about two issues a week apart of a newspaper. I wonder if the minister could confirm that and indicate the reasons?

Hon. Mr. Lang: The member is correct. It is just strictly a rewording of the previous section to try to make it clearer.

²¹ **Mr. Penikett:** As I understand it, the change here is basically that the time limit for appealing has been added. Is that correct?

Hon. Mr. Lang: That is correct, yes.

Perhaps on some of these sections, 5(3)(a),(b),(c),(d), I should rise and give an explanation. The re-wording is to set a 60-day time limit for filing an appeal and it deletes a reference to the electors.

Mr. Penikett: Could the minister confirm in respect to this clause that the CYI originally wanted appeals to be able to be made by band council resolutions, but that was unacceptable to YTG?

Hon. Mr. Lang: I do not recall that. We needed an appeal procedure and we needed a consistent appeal procedure and we felt that this was the method that should be employed to apply throughout the territory. I do not recall any major disagreement in this area; I think there was a consensus that this would be a commonsense and appropriate way to approach it.

Hon. Mr. Lang: The rewording in 5(5) reflects the Yukon Municipal Board's role in receiving the appeal rather than the Commissioner as was in the previous legislation.

In 5(6), the rewording of the existing 8(8) was to include reference to the Yukon Municipal Board.

Mr. Penikett: The "board" replaces the words, I believe, "for a person holding an enquiry". It allows me an opportunity to ask the minister if he would anticipate that the Yukon Municipal Board would be able to, in most of the kinds of cases that we have had enquiries in recent years, assume those activities? Would that be a correct assumption?

Hon. Mr. Lang: It is obvious that the Executive Council Member has to be approached in respect to kicking in an enquiry, but

this is the vehicle that would be utilized for that purpose.

Mr. Penikett: Could the minister explain the change in 5(7)?

Hon. Mr. Lang: It states, very categorically, that there is going to be a prescribed time and that there is a need to prepare and furnish to the cabinet to report on the enquiry. In other words, there has to be, by the Executive Council member, a timeframe for reporting back so it does not go on *ad infinitum* with respect to an enquiry, no matter what the situation might be.

Mr. Penikett: As a matter of course, is it the minister's intention that such reports should be public documents?

Hon. Mr. Lang: I would assume that once the good minister has had to opportunity to review the report, there would be no question that it would be made public.

Clause 5 agreed to

²² *On Clause 6*

Hon. Mr. Lang: With regard to 6(1), this is rewording in the present bill. I should point out that I do have an amendment here that I believe has been passed around and I think the members opposite have received it. Do you have the resolution of the amendment to the clause?

The purposes of the amendment are very clear. It is to ensure that, in the transition, the taxes to the Government of Yukon are levied, et cetera, and it applies for that transition period between going to municipal status and when the Government of the Yukon Territory is handing over the authority to municipality and ensuring that dollars being levied are going to the proper authorities, et cetera.

Mr. Penikett: I appreciate the minister's explanation. I guess he probably should move the amendment, though.

Mr. Chairman: We would like to do 6(1) first.

Mr. Penikett: Okay. One anomaly deals with the appeals, but the whole section was the subject of some discussion between the three parties, about charters, which we have already talked about. As I understand it, 9(1), the new language replaces the Commissioner's order of creating municipalities, and all that stuff. Is that correct?

Hon. Mr. Lang: Yes, I believe that is correct.

Mr. Penikett: With regard to 9(1.1), it is a good clause.

Hon. Mr. Lang: I would like the member opposite to repeat his question, so I can make sure I am correct in my interpretation of his question on the overall clause. Was he referring to charters, in this case, or was he referring to the period of time and the appeals, with respect to the procedure and the rewording of the clause in question? I do not want to give misinformation.

Mr. Penikett: No, I think the minister heard my question and answered it appropriately.

When I was going through the bill, I was looking at the original subsection 9(1), seeing what was being replaced. It seemed to me what was being replaced was the Commissioner's orders creating a municipality, but I also alluded to the discussions that I understood went on between the parties, which related to the whole charter question and which was obviously relevant here, but which is not specifically addressed, obviously, in the amendment. The only specific question I asked was about the section it replaced and the minister has given me the answer to that question.

Hon. Mr. Lang: There is an amendment to Clause 6(4).

²³ *Amendment proposed*

Hon. Mr. Lang: I move that Bill No. 30, entitled *An Act to Amend the Municipal Act*, be amended in Clause 6, at page 4, by substituting the following for subclause 4: "4. The following are substituted for 9(3) and (4):

"(3) All taxes due to the Government of Yukon, levied in the area established as a municipality, shall be deemed to be arrears or taxes due to the new municipality and shall be dealt with as if it had imposed the taxes.

"(4) All business licences, utility charges or other debts due to the Government of Yukon and remaining unpaid by residents of the area established as a municipality at the time of the order, under subsection (2), shall be deemed to be debts owing to the new municipality and dealt with accordingly.

"(5) The executive council member may direct that all monies collected by the new municipality, under subsections (3) and (4)

shall be paid to the Government of Yukon.

"(6) The Commissioner in Executive Council may make any regulations he deems necessary to carry out the provisions of subsections (3), (4) and (5)."

Mr. Penikett: Originally, the minister was simply proposing to repeal subsections (3) and (4). Could he give some explanation as to what reasons, at this late date, caused him to be concerned about the collection of these taxes and to want to bring in these amendments?

Hon. Mr. Lang: There was some discussion with Finance, in this particular area, and we felt that as opposed to have this authority under regulation, we should try to make it very clear the principles that we were speaking of with respect to the transition that would be required for the financing of a newly-incorporated area within a municipality. This particular section outlines it fairly clearly. Now, we may need some further regulations, but the authorities that we are asking here are very specific and refer back to subsection (3), (4) and (5).

Mr. Penikett: Okay, I may not be following this perfectly closely. As I understand, sections 9(3) and (4) originally were the commissioner's power to revoke the charters, or whatever, of existing LIDs. That was going to be repealed. We now have a situation where they may be wound up or they may change their status and that, basically, all this is guaranteeing or protecting the Government of Yukon's position with respect to monies due from the former entity, whatever it was. Is that correct?

Hon. Mr. Lang: Yes, that is correct. In 6(4), section 9(3), reference to revoking existing charters obviously was redundant. Section 9(4), reference to LIDs being deemed to be municipalities, are inconsistent with new provisions for the fact that, over the next 12 months, they will become municipalities and, therefore, it was not necessary.

I have already explained the reasons for the amendment that I brought forward; it is really to cover the taxes related to areas added to the municipality. There is a clear responsibility, under the *Municipal Act*, clearly defined in that particular area. I think it is safe to say, we will be looking at probably, in the course of the next year, Watson Lake, very seriously, as far as incorporating a new area with respect to that community, which is the adjacent area around the lake. First of all, they have to assume municipal status and the step will follow later on.

I felt that it was important that we have this section in the act so everyone knew what the rules were, and there be no need for Orders-in-Council, which the member opposite takes up the time of this House correcting us on.

Mr. Penikett: I just have to correct that: it is not me who does it, it is really that excellent committee called Statutory Instruments that is, of course, a committee of the whole House and not just composed of opposition members.

Amendment agreed to

Clause 6 agreed to as amended

On Clause 7

Hon. Mr. Lang: This is strictly an inconsistency that we found throughout the act and it should not be "type", it should be "class" because it is used throughout the act and we are trying to clean up some of the terminology to be consistent throughout the unproclaimed act.

Clause 7 agreed to

On Clause 8

Mr. Penikett: Before the minister gets up, I have a problem here and it is a problem dealing with amendments to the bill. I have a question about a clause that comes immediately before that, which is not in the amendments, and I wanted to ask the minister about it.

It is clause 12(1) and the concern is in terms of the finality, if you like, of the decision being at the executive level, in terms of establishing a municipality or changing boundaries. The point has been made that, in British Columbia for example, it is the local people who have the final veto, the final say on what happens, whether it goes ahead or not. In our law, in contravention to the philosophy stated by the minister of local decision making, it is the Commissioner, the Executive Council, who have the final say. That may be an oversight on the part of the minister and he may want to

amend that clause later.

Hon. Mr. Lang: No, I do not believe I do want to bring an amendment back. I am pleased the member opposite raised the question, but I think it is very clear that were the Commissioner, in the public interest, to establish a municipality in conjunction with the development of a natural resource, it gives the leeway for the government of the day to incorporate the area for the purpose of a municipality.

If I recall the conversation on that particular section, it had to do with a new community being built. It gave the Commissioner that authority, as opposed to the steps outlined in the bill that you have before you.

Mr. Chairman: Shall we continue on now? I believe that we were getting a little out of line there.

Mr. Penikett: I want, as a serious point, though, as a point of order, if you like, about bills, where we are amending existing legislation; it raises a question, for me, sometimes when we are going through amendments, that there may be amendments warranted, from the point of view of some member in the House but, if they are not there, we cannot. We may be dealing with, let us say for example, an amendment to clause (a) in a bill, but we may think an amendment is warranted in clause (b). It raises a question when we are going through the bill of how we raise that. It may be that the appropriate way is to raise it under general debate, but sometimes the nature of the debate is such that we may not be aware of the problem in clause (b) until we are in the middle of debate in clause (a).

I would appreciate it, Mr. Chairman, if you might consider the question. I am not asking for a ruling now, and advise Committee as to whether it might be appropriate, when we are dealing with a section of the bill, to even raise matters that are in that section that may not be specifically referred to in the amending clauses that we are specifically considering.

Mr. Chairman: We will rule on that later.

Hon. Mr. Lang: If it will help the Chairman, on that same point of order, that question was raised in respect to a principle of a bill here about 9 years ago now; I recall very vividly it was the *Workers' Compensation Act*. It was the question of discussing the principle of the amendments to a bill, and the members of the day who were not part of the Executive Committee, got into discussing another principle that had not been presented to the House for the purposes of debate. If I recall correctly, the Speaker did make a ruling in that respect. You can doublecheck, but if I recall correctly, he indicated that you had to deal specifically with the principles that were brought forward by the government for the purposes of debate in the House.

I think the member opposite was perfectly correct in saying that on the questions outside that realm, as far as principles are concerned, you could raise in general debate or by resolution in the House, or by some other method, but you could not do it in the preparation of the bill and the clause-by-clause reading.

Mr. Chairman, I just wanted to bring that to your attention.

Mr. Penikett: Just on the same point of order, I was not doing this frivolously, the minister will understand, because the principle I was raising is one that was addressed by the minister in the bill. In fact, what I was referring to is a clause that seems to contradict that principle and that is why I raised it.

Mr. Chairman: I shall rule on that and bring that back to the House.

Mr. Penikett: On 8(1)'13(1)' I would think that there was some explanation in order here. It seems to me that we have gone through a change from percentic criteria on changes of population to the proposal that is here. A brief explanation from the minister might be warranted.

Hon. Mr. Lang: This is a change of status procedure which is now the same as for boundary reduction in the new section 15. The requirement for the approval of electors has been deleted, and the rewording of the present 13(2) is to reflect changes in procedures and role of the Yukon Municipal Board and the proposed change of status.

Clause 8 agreed to

On Clause 9

Hon. Mr. Lang: The present 15(1) provides for the Council or the Commissioner to propose a boundary change. The new 15(1) deals with boundary enlargements only and provides for any taxpayer or an Indian band to propose boundary enlargements as well as the minister and the Council. In other words, there are four vehicles that can kick in this provision, as opposed to the two that were there previously.

Mr. Chairman: In Clause 9 15(6) there is a typographical error. It should be "appellant" instead of "appellent".

Some hon. Members: Agreed.

Mr. Penikett: Before we get past Clause 8(8), I just want to express some concern about the use of language like "where it appears to the municipal board that a large number of residents of the area". I appreciate that there are probably good reasons for not being more specific than the use of the word "large". I just want to express a concern that a word that is so general could be the cause for dispute.

Hon. Mr. Lang: I will not argue that and I would like to hear what the member has to say on this. The idea was that the municipal board would hear a representation and, if they ascertained that it was a very controversial subject, they may well say they were going to have to have a vote on the question to just see what the majority of the people in the area would like.

I share the member's concern, to be quite frank. If the member opposite has any other ideas of how it could be worded, I would be more than happy to listen.

Mr. Penikett: Far be it for me to propose a specific number or a specific percentage, because I think that is not appropriate from my side. I do think a word like a "large" number is — especially when it is for a board that is an appointed board or part-time people or advisory citizens — could cause them some problems. It does not give them specific enough direction.

Let me give you a case in point. You have some change being proposed or some circumstance in Dawson City, a place that has a changing population. Let us say we get 20 people who express concern. Those people may be directly affected and quite angry and very intensely angry about it, but I can see that there might be a lot of quite pointless and lengthy dispute in the board where the 20 was a large number among them. That is what caused me concern.

Hon. Mr. Lang: Can I ask the member opposite: do you agree that the municipal board should, perhaps, be able to have the ability to go to a vote or just to determine that there should be a vote, or should they just have the authority to listen to representation and then, in their good common judgment, make their recommendation? I think that is the question we are talking about.

I do not want to talk about percentages or numbers. I concur with the member opposite. I would like to hear his comments on that because I am prepared to listen.

Mr. Penikett: I do not have violent objections to what is proposed. I want to make it clear that I am only expressing it as a general concern. I am a little concerned that such an instruction or such an advice to a board as "that, where it appears to the board that a large number of residents of the area are opposed to the proposal" ... I leave it with the minister that it is a little vague and I do not have a specific remedy to propose.

Hon. Mr. Lang: Do you think they should have the right to vote?

Mr. Penikett: I think the vote is an appropriate remedy. The problem is the question of whether the board decides. The board has to make a decision as to what constitutes large in every case and I think that could be a problem for them. As all members know, you can have a situation where there is a great controversy, violent discussions in an area, because there are a half a dozen people who are intensely concerned, especially if they happen to be half a dozen people who have power or influence or a great deal of property. They can make a lot of noise.

You might have another circumstance where there are a lot of people, who do not have the same power and influence, who are concerned. I think it raises the difficult point of judgment for the board. I think they may well be able to make it; they may be able to make it as good as anybody here. I am just concerned, as a general point, that the instruction is a little vague for them.

Hon. Mr. Lang: I just want to make the point to the member opposite that I am not hard and fast on this particular area. I think the principle is whether or not the board should have the ability to call for a vote on a certain question. I think that is the question. I was hoping to hear from the member opposite as to whether he agreed that they should have that responsibility or should it be vested with the minister of the day, in conjunction with the council of the area, to determine that within a community if it was that important.

I guess that is the question we should be addressing.

Mr. Penikett: Would the minister object to standing that particular subclause until tomorrow, and perhaps we might have some chance to think precisely about the challenge he has put to us.

Hon. Mr. Lang: I have no problem with setting it aside.

Clause 9 stood over

Hon. Mr. Lang: I would move that we report progress on Bill No. 30.

Motion agreed to

Hon. Mr. Ashley: I would move that you report progress on Bill No. 26.

Motion agreed to

Hon. Mr. Lang: I would move that Mr. Speaker do now resume the Chair.

Motion agreed to

Mr. Speaker resumes the Chair

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

May we have a report from the Chairman of Committees?

Mr. Brewster: Mr. Speaker, Committee of the Whole has consider Bill No. 31, *An Act to Amend the Motor Vehicles Act* Bill No. 30, *An Act to Amend the Municipal Act* and Bill No. 26, *Constitutional Questions Act* and directed me to report progress on same.

Further, Committee has considered Bill No. 15, *Economic and Regional Development Agreement Act, 1983* and Bill No. 25, *An Act to Amend the Compensation for Victims of Crime Act* and directed me to report the same without amendment.

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

Some hon. Members: Agreed.

Mr. Speaker: May I have your further pleasure?

Hon. Mrs. Firth: Mr. Speaker, I move that the House do now adjourn.

Mr. Speaker: It has been moved by the hon. Minister of Education that the House do now adjourn.

Motion agreed to

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

The House adjourned at 9:26 p.m.