



# The Yukon Legislative Assembly

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**Thursday, December 1, 1977**

Speaker: The Honourable Donald Taylor

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## Whitehorse, Yukon Territory

December 1, 1977

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

## Prayers

**Mr. Speaker:** We will proceed with the Order Paper. Are there any Documents for Tabling?

The Honourable Member from Whitehorse Riverdale.

## ORDERS OF THE DAY

## TABLING OF DOCUMENTS

**Mr. Lengerke:** Mr. Speaker, I would like to rise on a Point of personal Privilege this morning, if I might.

Yesterday, when I arrived home I was greeted with a copy of the "Whitehorse Star". It tells me that Stu McCall, MLA, resigns from House Rules Committee.

Mr. Speaker, I wasn't aware of that yesterday, and oddly enough, I just didn't know that he resigned as a matter of some action on my part. I regret that because I really never had any problem with the Honourable Member from Pelly at any time, in Committee work or any place else. I have always understood his position. He has made it clear and possibly, I envy him for making that position clear. Maybe I have not. Maybe I have been very remiss in not making my position clear with respect to a number of matters that have been before this House and opinions that are expressed and everything else.

Mr. Speaker, it concerns me that this might be the case and I would like to clarify. I would like to clarify today my position with respect to a number of matters for all Members, so that they do know where I stand, and that you can, you know, you can judge me the way you want.

With respect to Bill 101, I think Members know my position there, that I will support that Bill if it is presented, if it has to be presented in its entirety, I will support it because there are too many important matters. There are five parts to that particular Bill and four of them, to me, are very, very important and should be supported and I will support it. If this House deems that that Bill has to go through that way, I will support it.

**Mr. Speaker:** Order please. I believe the Honourable Member is ranging almost into debate. Would the Honourable Member kindly get to his Question of Privilege?

**Mr. Lengerke:** Mr. Speaker, my Point of Privilege, as I say, I would like to clarify my position to a number of matters and it is not going to take five minutes. It is going to be rather lengthy.

**Mr. Speaker:** Will the Honourable Member kindly get to his Point of Privilege?

**Mr. Lengerke:** Yes, I will. The situation with respect to my activity in the Rules and Privileges Committee, Mr. Speaker, I think, has been of responsible participation and at no time in this House or in Committee have I leaped up and down and expounded on the name of MLA or Legislative Assembly.

**Mr. Speaker:** Order please.

**Hon. Mr. McKinnon:** Mr. Speaker, I think that the question of a Point of Personal Privilege is extremely narrow, and it seems to me that the Honourable Member has all kinds of methods through debate to make his positions known on any of these issues that he may not have made himself clear on in the past, may have been misquoted on, but if all Honourable Members every time that they think that perhaps their mes-

sage isn't going out properly, rise on a Point of personal Privilege. I dare say that that is all we will do in this House is rise on Points of personal Privilege and that will be the debate for the day, Mr. Speaker.

**Mr. Lengerke:** Mr. Speaker, I accept that.

**Mr. Speaker:** Order, please. The Honourable Member from Whitehorse North Centre has made a very valid point. Perhaps if there is a question of Privilege the Honourable Member from Whitehorse Riverdale could now state it, otherwise I would have to rule that he has no Point of Privilege.

The Honourable Member from Whitehorse Riverdale?

**Mr. Lengerke:** I'll leave it at that, Mr. Speaker. I will raise the point and I am sure I will have the opportunity.

## ROUTINE PROCEEDINGS

**Mr. Speaker:** Are there any documents or correspondence for tabling this morning? The Honourable Member from Ogilvie?

## TABLING OF DOCUMENTS

**Ms Millard:** Mr. Speaker, I have for tabling this morning papers dealing with the Alberta Heritage Fund.

**Mr. Speaker:** The Honourable Member from Whitehorse South Centre?

**Mr. Hibberd:** Mr. Speaker, I have for tabling this morning further correspondence between the Committee on Rules, Elections and Privileges and the Minister of Indian Affairs and Northern Development.

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

Are there any Reports of Committees?

Petitions?

Introduction of Bills?

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

Notices of Motion or Resolution? The Honourable Member from Mayo?

## NOTICES OF MOTION

**Mr. McIntyre:** Mr. Speaker, I give Notice of Resolution, regarding pharm-care for old age pensioners.

**Mr. Speaker:** The Honourable Member from Ogilvie.

**Ms Millard:** Mr. Speaker, Notice of Motion, moved by myself and seconded by the Honourable Member from Hootalinqua, that this House request the Executive Committee to forward to all Members immediately upon receipt, recommendations which will be given to the Commissioner from the Yukon Electrical Public Utilities Board in the next weeks, concerning the feasibility of electrical equalization throughout the Territory.

**Mr. Speaker:** The Honourable Member from Whitehorse South Centre.

**Mr. Hibberd:** Mr. Speaker, I would like to give Notice of Motion to put into Committee the correspondence previously referred to, but I would also request of the House to waive Standing Orders so that this further correspondence can be moved into Committee at the same time as the other correspondence which was so moved yesterday.

**Mr. Speaker:** I don't think the Chair has quite got that straight, however, if it is the intention of the Honourable Member to give Notice of Motion at this time, perhaps he may

wish, under Motions, to consider the question of proposing the appropriate motions.

Are there any further Motions or Resolutions?

The Honourable Member from Ogilvie.

**Ms Millard:** Mr. Speaker, Notice of Motion, moved by myself and seconded by the Honourable Member from Pelly River that

THAT WHEREAS Section 31 of the *Fair Practices Ordinance* reads, "No employer shall refuse to employ or to continue to employ a person or adversely discriminate in any term or condition of employment of such person, because of their race, religion, religious creed, colour, ancestry, sex, marital status or ethnic or national origin of such person", and

WHEREAS the corrections matrons and corrections officers employed in the Department of Human Resources are one pay range apart and are expected to perform similar duties, and

WHEREAS the assurance was given this House several months ago that this situation would be rectified,

BE IT RESOLVED that this House urges the Government to immediately act upon its own Ordinance and investigate the circumstances of the Government continuing to employ women in positions which adversely discriminate in their terms of employment, and

THAT this House further request the written report on this situation by the next sitting of this House.

**Mr. Speaker:** Are there any further Notices of Motion or Resolution?

Are there any Statements by Ministers? The Honourable Minister of Human Resources?

#### STATEMENTS BY MINISTERS

**Hon. Mrs. Whyard:** Mr. Speaker, I am pleased to inform the House that Mr. Stanley C. Mounsey has been appointed Director of Corrections for the Yukon and will take up his duties on January 5th, 1978. Mr. Mounsey is one of seven area administrators in Ontario responsible for corrections, he is in the Ministry of Community and Social Services. He has vast experience in corrections, probation and after care services. Mr. Mounsey received a Diploma in Public and Social Administration and a certificate in Applied Social Studies from the University of Oxford and the University of Bristol. In 1970 he graduated from the University of Ottawa with a Masters Degree in Correctional Administration.

Since his arrival in Canada, he has held several postings with the British Columbia Correctional Services, was Senior Probation Officer at the Lower Mainland Correctional Centre, and in Ontario has been Chief After Care Officer with the Ministry of Correctional Services, Western Region.

As Yukon Director of Corrections, he will be responsible for developing and co-ordinating a number of comprehensive programs governing the treatment and rehabilitation of adult offenders including those incarcerated on parole or probation. As well as regular administrative duties, he will be responsible for the development of community type programs and ensuring the provision of an effective in services training program.

**Mr. Speaker,** I would also like to inform members, for their own interest that we have filled two other positions in our branch this week. Mr. Martin Bach has accepted the position as Supervisor of Youth Services and Mr. Jim Akitt has accepted the position as Supervisor of the Youth Services Centre.

Thank you, Mr. Speaker.

**Mr. Speaker:** This will take us then to the Question Period.

Have you any questions? The Honourable Minister of Highways and Public Works?

#### QUESTION PERIOD

**Hon. Mr. McKinnon:** Mr. Speaker, I have for tabling today Legislative Returns in response to one written question number 19 concerning the subsidy for the Commissioner's residence and to a question asked by Mr. Berger on November 9th concerning the possibility of establishing a government owned insurance corporation.

**Mr. Speaker:** Are there any questions?

The Honourable Member from Klondike.

#### Question re: Fourth Elected Member to Executive Committee

**Mr. Berger:** Yes, Mr. Speaker, a question to the Minister of Local Government: I wonder if the Minister could give this House a progress report or just a simple report, maybe, if there is no progress, on the standing of the fourth elected member?

**Mr. Speaker:** The Honourable Minister of Highways and Public Works.

**Hon. Mr. McKinnon:** Mr. Speaker, as I understood it that the Minister of Indian Affairs and Northern Development had agreed in principle to the immediate establishment of the position of the fourth Executive Committee member. His only short-coming as to the appointment immediately was that he had to clear it with the Prime Minister and, up to this moment, I do not know whether he has had the ability to discuss it with the Prime Minister.

It is on that type of basis that the fourth Executive Committee member should be approved once it is cleared with the Prime Minister. From everything I hear, for certain reasons, the Prime Minister seems to be a fairly busy man these days and the Minister just can't get his ear at any moment, Mr. Speaker.

**Mr. Speaker:** The Honourable Member from Ogilvie.

#### Question re: White Paper on Decentralization

**Ms Millard:** Mr. Speaker, a question for the Minister of Local Government: at the end of last week he said that he would bring back information to the House on the tabling of the White Paper on Decentralization.

I am wondering if he has anymore comments to make on that White Paper?

**Hon. Mr. McKinnon:** Mr. Speaker, I believe that it is almost at its final form and I think that it is on the agenda to be examined at the Executive Committee meeting as of this Friday so it will probably be ready for tabling next week, in the House, Mr. Speaker.

**Mr. Speaker:** Are there any further questions?

The Honourable Member from Pelly River.

#### Question re: Modular Home Manufacturing, Second Report

**Mr. McCall:** Yes, Mr. Speaker, I would like to direct a question to the Minister for Local Government.

In the Speech from the Throne, we were advised that the Second Report on Modular Home Manufacturing would be tabled in the House, and I was wondering if the Minister could advise me at what stage this particular report is at?

**Mr. Speaker:** The Honourable Minister of Highways and Public Works.

**Hon. Mr. McKinnon:** Mr. Speaker, I will have to take that question as notice. I know where all of my papers are presently, but for the other Members of the Executive Committee,

I will have to bring that information to the House.

**Mr. Speaker:** We will then proceed on the Order Paper to Motions.

## MOTIONS

**Madam Clerk:** Item Number 1, standing in the name of the Honourable Member, Mr. Fleming.

**Mr. Speaker:** Before we proceed with Item 1, on November 30th, the Honourable Member from Whitehorse West rose in the House on a Point of Privilege and stated: "Mr. Speaker, I would ask for a ruling. I believe that this report has now transgressed and gone far beyond the terms of reference given to the Standing Committee on Statutory Instruments".

"They are now dealing with the body of the Bill which is before Committee of the Whole and have gone far past any draft Regulations. Mr. Speaker, I would like a ruling on the power of this Committee. Is not it supplanting the Committee of the Whole to review legislation in this House?"

At that time I advised the Honourable Member that I would take the Question of Privilege under consideration and re-report back to the House. Beauchesne, in Annotation, of 323 states: "That a committee report may be ruled out of order though it has been received by the House and a motion to concur therein cannot then be undertaken." Subsection (2) also states that "a report from a committee cannot be amended by the House, but it must be referred back to the committee."

Annotation 322 of Beauchesne tells us that "when a motion to concur is proposed, the report may be referred back to the committee for further consideration, or with instructions to amend it in any respect. It is not competent for a committee to reconsider and reverse its own decision, but if the House resolves that such a reconsideration is necessary, the correct procedure is for the House to give the committee instructions which will enable it to consider the whole question again."

In considering the Honourable Member's Point of Privilege it is necessary to refer to the terms of reference as laid down in the establishment of the Standing Committee on Statutory Instruments. The Standing Committee was established by Resolution of this House on March 9th, 1977, empowering the Standing Committee to review all Regulations as they are published. On April 14th, 1977, it was ordered that the Standing Committee on Statutory Instruments review all Regulations and any draft Regulations that may be circulated to bodies outside the government before being promulgated.

In stating the Point of Privilege, the Honourable Member from Whitehorse West noted that the Committee Report was dealing with the body of a Bill that is currently before the Committee of the Whole and have indeed gone far past any draft Regulations. In further considering the Fourth Report of the Standing Committee on Statutory Instruments, it would appear that indeed the Report is dealing with draft legislation before Committee of the Whole, and indeed has gone far beyond the terms of reference affecting that Committee.

The Chair is empowered to rule out of order this Report, however, noting the work and effort that has gone into its construction it would appear that the Report ought to be referred back to the Committee with instructions to amend it, and so I would find that that Point of Privilege raised by the Honourable Member from Whitehorse West is valid and I would await the direction of the House in this regard.

The Honourable Member from Mayo?

**Mr. McIntyre:** Moved by myself and seconded by the Member from Kluane, that the Motion in question be amended by deleting the words "be concurred in" and substituting therefore the words "be not now concurred in", but that it be

recommitted to the Standing Committee on Statutory Instruments with instructions to delete therefrom any recommendations respecting Bill Number 1, the *Motor Vehicle Ordinance*'.

**Mr. Speaker:** It has been moved by the Honourable Member from Mayo, seconded by the Honourable Member from Kluane, that the motion be amended by deleting the words "be concurred in" and substituting therefore the words "be not now concurred in", but that it be recommitted to the Standing Committee on Statutory Instruments with instructions to delete therefrom any recommendations respecting Bill Number 1, *Motor Vehicle Ordinance*.

Is there any debate.

*Motion agreed to*

**Mr. Speaker:** It has been brought to my attention the fact that we have now passed an amendment. Are you prepared for question on the Motion?

*Motion agreed to*

**Mr. Speaker:** So ordered.

**Madam Clerk:** Item Number 2, standing in the name of the Honourable Member, Mr. Hibberd.

**Mr. Speaker:** Is the Honourable Member prepared to discuss Item 2?

**Mr. Hibberd:** Yes, Mr. Speaker.

**Mr. Speaker:** It has been moved by the Honourable Member from Whitehorse South Centre, seconded by the Honourable Member from Mayo, that correspondence between the Standing Committee on Rules, Elections and Privileges and the Minister of Indian Affairs and Northern Development be referred to Committee of the Whole.

The Honourable Member from Whitehorse South Centre.

**Mr. Hibberd:** Mr. Speaker, there was tabled this morning further correspondence with regard to the same issue and I would request permission of the House to waive Standing Orders so that that correspondence tabled this morning could also be committed to Committee.

**Mr. Speaker:** The Chair would feel that all documents now being tabled would properly form part of this Motion.

**Hon. Mr. McKinnon:** We are probably going to quote them anyway.

**Mr. Speaker:** Is there any further debate?

*Motion agreed to*

**Madam Clerk:** Item Number 3, standing in the name of the Honourable Member, Mr. Lengerke.

**Mr. Speaker:** Is the Honourable Member prepared to discuss Item 3?

**Mr. Lengerke:** Yes, Mr. Speaker.

**Mr. Speaker:** It has been moved by the Honourable Member from Whitehorse Riverdale, seconded by the Honourable Member from Kluane, that the Green Paper entitled "The Establishment of a Yukon Pipeline Impact Information Centre" be referred to Committee of the Whole.

*Motion agreed to*

**Mr. Speaker:** The Honourable Member from Pelly River.

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

**Mr. Fleming:** I second that.

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

*Motion Agreed to*

Mr. Speaker leaves Chair

## COMMITTEE OF THE WHOLE

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

We will be proceeding the consideration of the *Yukon Legislative Assembly Ordinance* and, at that time, I would also suggest that we deal with the correspondence previously mentioned.

I declare a brief recess.

*Recess*

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

Bill Number 101, *An Ordinance Respecting the Legislative Assembly*.

*On Clause 1*

**Mr. Chairman:** In leading off in general debate, I thought that it would be appropriate that the correspondence tabled between the Committee on Rules, Elections and Privileges and the Minister, it would be appropriate at this time to have that as part of our general debate. It tends right with it. And apropos to that, I thought I might read part of the final letter that was sent to the Minister yesterday.

"Dear Mr. Faulkner: Thank you for your letter dated November 29th, 1977, in response to mine of November 8th, 1977 on the subject of the proposed *Legislative Assembly Ordinance*.

I am glad to note from your letter that there are two matters which now appear to be settled. Firstly, as your letter deals virtually exclusively with the use of the name Legislative Assembly, I assume that you take no other objection to the Bill as it now stands. As the Bill contains several other provisions which we regard as particularly important, for example the new conflict of interest provisions, I am glad that we can now narrow the issue to the less important matter of the name.

However, I would ask you to clarify your position as to paragraph 5 and to advise me as soon as possible whether you consider that the insertion of the money resolution is, by itself, grounds for holding the Bill *ultra vires*. That is the only Section left in the Bill which repeats a *Yukon Act* Section. It is a restrictive provision rather than a granted power and one which all provinces have seen fit to repeat from the *British North America Act* because of its great importance.

Secondly, I note that you do not object to the name Legislative Assembly in principle. In the past there have been differences of opinion between us and your department about the appropriateness of the name. Much of the argument in my earlier letter was directed to that issue, rather than to the legal power to change the name. Therefore we can now regard the issue as one relating to legal power only.

I was somewhat disappointed that in the second paragraph of your letter, you did not advance any argument on our position that the *Yukon Act* does not make the name 'Council of the Yukon Territory' an element of the constitution of that body, except merely to say that you disagree. The fact is that the *Yukon Act* does not anywhere state that the Council shall be known by or is to be named and styled by that name.

In Section 9.(1) of the *Yukon Act* it had been intended to make the name an element of its constitution, it would have been worded:

'9.(1) There shall be a council to be styled and known as the Council of the Yukon Territory'.

Such wording would then establish the name in the same manner as the name of the Commissioner is established in Section 3 of the *Yukon Act*. The basic difference in the wording of Section 3 and 9.(1), has to be recognized as having a significance in the interpretation of these sections and you have offered no other explanation of the difference.

In conclusion",

without reading the full body of the letter, "we are considering the Bill at present in the House and while hoping for your early response to all the points raised in this letter, I would ask that you give particular urgent attention to the question raised as to Section 35 of the Bill and respond, at least to that point, by Monday, December 5.

Finally, I must request you to discontinue misrepresenting, through the media, that the Bill is in issue of name only. We have spent over a year's concentrated effort to produce the Bill which covers many important practical issues and which we believe to be a responsible approach to the need to make suitable provision for the running of our legislative body as it assume greater responsibility in matters within its present jurisdiction and to prepare it for further constitutional development."

Mr. Taylor.

**Hon. Mr. Taylor:** Mr. Chairman, I wonder if, at this time, we are prepared for general debate?

**Mr. Chairman:** Yes.

**Hon. Mr. Taylor:** Mr. Chairman, as you know that it is not very often that I have the opportunity to speak at second or third readings of bills in relation to my duties while in the Chair, but, perhaps Committee will permit me at this time to deal with the very serious question relating to the change of name of this Legislature and in particular, the significance of this change.

Certainly in view of the past three years of common usage, and the wide media coverage given to this Order of the House, the people of the Yukon must wonder as to why this House is so determined to enshrine its name, "Assembly", in deference to its alternate name of "Council".

Indeed, it can be referred, Mr. Chairman, to as either, you know the difference, of course, is that the wish of this Assembly is that it be known as an Assembly.

The use of the term "Yukon Legislative Assembly" was first introduced by resolution of the House in 1974 and was widely accepted until about a year or so ago. Since then, however, the Federal Government, through several successive Ministers of Indian Affairs and Northern Development, have repeatedly downplayed its use for some reason or another.

Inasmuch as the new name for the old Council conveys no additional powers or rights to Yukoners, it surprises me, Mr. Chairman, as to why our landlords in Ottawa have so vigorously been determined to stamp it out, notwithstanding its widespread recognition throughout Canada and, indeed, the Commonwealth of Nations.

Mr. Chairman, the question uppermost, I think, in everyone's mind today is simply, does this Legislature have the right in law or privilege, expressed or implied, to redefine itself as have some of the other provinces in Canada? Does this Legislature wish, in its own interest, to revert to its former 18th Century colonial status, or, indeed, does it really desire, on behalf of the citizens of Yukon, to remain in the 20th Century where we presently exist?

In short, Mr. Chairman, we are expected to bow to the dictates from Ottawa or alternately stand in a confrontation

with the Minister of Indian Affairs and Northern Development in the common interest of parliamentary democracy for our people, even in deference to the stated position of the Crown in this matter.

It is my view that the Crown is wrong, their advisors are wrong, and that the time to right these wrongs is at hand. I say stand and fight for at stake in this confrontation are the very privileges of this parliament, Mr. Chairman. I say to you also, that it is the duty of this House to protect, at all costs, these privileges which we jealously guard and most vigorously protect.

Three years ago in December, Mr. Chairman, the House, by Resolution, proposed the following: "WHEREAS this House has hitherto been known and recognized as the Yukon Legislative Council and where the Members of this Twenty-third wholly elected Council are, for the purposes stated in this Resolution, desirous of changing the name and style of this House; AND WHEREAS" and I think that this part of the Resolution is very important, Mr. Chairman, "AND WHEREAS the Members are desirous of advancing the development within the Yukon Territory of a fully responsible Legislature, NOW THEREFORE this House resolves, so far as may be consistent with the terms and intent of the *British North America Act* and the *Yukon Act* and the privileges of this House, it is hereby resolved that henceforth this House be known and styled as the Yukon Legislative Assembly."

It should be noted that the Resolution clearly stated the purpose of the Resolution; was to advance the development of a fully responsible Legislature, and nowhere did the Resolution imply the acceptance of any greater powers than were already granted to this House by virtue of the *Yukon Act*.

The Resolution further stated, Mr. Chairman, that "This action must be consistent with the terms and intent of the *BNA Act* and the *Yukon Act* and the privileges of this House." I say to you today, that indeed the actions we have taken by Resolution is consistent with the *British North America Act* and the *Yukon Act* and particularly with the privileges of this House.

Commissioner Pearson has stated that the House, in wanting recognition as a Legislative Assembly, does not have the legal power under the *Yukon Act* to call themselves an Assembly and continued by saying that if MLAs insist on retaining the words of the "Legislative Assembly" to mean Territorial Councillors, they could be running into a conflict with the *Yukon Act*. Could be running into a conflict with the *Yukon Act*, which only the Federal Parliament can amend. He further stated, Mr. Chairman, that if MLAs expect more recognition and further moves towards responsible government and more power, they are going about it in the wrong way. He suggested that the MLAs should show their own responsibility under the current limitations of power and then ask for more authority.

Mr. Chairman, the Minister of Indian Affairs and Northern Development in a letter dated November 29th, which is now under consideration by this Committee to the Standing Committee on Rules, Elections and Privileges has stated that he is unable to concur in the substitution of the term Legislative Assembly for Council in the proposed Bill because the *Yukon Act* makes provision for a Council, rather than a Legislative Assembly. He states that the advice that he has received from law officers of the Crown makes it clear that the Council does not have the authority to change its name through its own legislation without an amendment to the *Yukon Act*.

He goes on to suggest that it would be unwise to proceed with legislation along the lines of the legislation that is before us at this time.

It is then very significant to me, Mr. Chairman, that both the Minister and Mr. Commissioner have carefully avoided rec-

ognition of the existence of privileges which attach to all Legislatures of Canada and the Commonwealth and equally apply to this House.

Let us then, for a moment, take a look at the privilege and how privileges, in fact, apply to this House. Beauchesne, in Annotations 7, tells us that a collective right of the House is to settle its own procedure. This is such an obvious right that it has never been directly disputed, that it is unnecessary to enlarge upon it, except to say that the House is not responsible to any external authority for following the rules it lays down for itself, but may depart from them at its own discretion.

This is equally the case where a House is dealing with a matter which is finally decided by its sole authority, such as an order or resolution, or, whether like a bill, it is the joint concern of both Houses. For such purposes, the House can practically change or practically supercede the law. The proceedings of the House are governed by statutes, by rules and orders adopted by themselves and by those usages which have grown up, in the course of time, and consequently became a part of their own practice, or are derived from the common law of Parliament by which they have consented to be guided in all matters of doubt.

The House has always asserted the right to provide for the constitution of its own body, the right to regulate its own proceedings and the right to enforce its own privileges. It has always been admitted by the courts that the House has the exclusive right to regulate its own internal concerns. Mr. Chairman.

Parliamentary privileges described by Erskine May, as the sum of the peculiar rights enjoyed by each House, collectively, as a constituent of the High Court of Parliament, and by members of each House individually, without which they could not discharge their functions and which exceeded those possessed by other bodies or individuals.

Thus privilege, Mr. Chairman, through part of the law of the land, is, to a certain extent, an exemption from ordinary law.

Parliamentary privilege can also be defined as the sum of the fundamental rights of the House and of its individual members, as against the prerogatives of the Crown, the authority of the ordinary courts of law, and the special rights of Mother Parliaments.

The leading English case on the rights of the House of Commons is *Bradlaw versus Gussett*, 1884. The learned justice refers in that case to Blackstone's Commentaries, Volume 1, page 163, where that learned author says, "The whole of the law and custom of Parliament has its origin from this one maxim, that whatever matter arises concerning either Houses of Parliament, ought to be examined, discussed and judged in that House to which it relates, and not elsewhere".

Judge Steven then refers to judgments in *Stockdale versus Hansard*, and these are points of law, Mr. Chairman. This is what I am bringing to this Committee. We are told, well, this could be against the law, and this may be against the law. This is the law.

Judge Steven then refers, "Whatever is done within the walls of either Assembly, must pass without question in any other place".

Judge Littledale said, "It is said that the House of Commons is the sole judge of its own privilege", and so, I admit, as far as the proceedings of the House and some other things are concerned.

The judgment of Judge Patterson states, "Beyond all dispute, it is necessary that the proceedings of each House of Parliament should be entirely free and unshackled, that whatever is said or done in either House shall not be liable to examination elsewhere".

And so forth, I could go on, given more time to research.

Mr. Chairman, both the Minister and Mr. Commissioner have stated that the exercise of privilege that this House has exercised may be contrary to law. Let us then see what the law, as it applies to Yukon, may say, Mr. Chairman.

In the case of *Chamberlist vs. Collins, Livesy, and Castonguay* that many, I am sure, of the Members will recall, the learned judge, Justice Parker, while giving his reasons for judgment in that case stated, and I quote: "The *Yukon Act* creates the Council of the Yukon Territory. This is an Act of the Parliament of Canada and it gives the Council of the Yukon Territory substantially the powers of a Legislative Assembly, and sets forth the field in which it may legislate. It seems clear to me that this Council of the Yukon Territory which is a legislative body has powers to regulate its own constitution in as ample a sense as enjoyed by provincial legislatures." That is in the Yukon law books. Who is the Minister, who are these people that tell us that we may be contrary to law, the very right to determine our own constitution, as is the right of any legislature in the Commonwealth of Nations.

So we find that the Yukon Legislative Assembly as redefined from the former title, "Council of the Yukon Territory" is in fact a parliament within the Dominion of Canada, established and given its authority to legislate by provisions contained in the *Yukon Act*. Were this not the case, all laws enacted by this body, this Legislature, since 1908 would surely be invalid and inoperative.

In redefining itself from a Council to an Assembly, the House neither lost nor did it gain any additional legislative authority, Mr. Chairman, other than that authority described in the *Yukon Act*. In the Resolution of the Legislature proclaiming the Yukon Legislative Assembly, the House exercised one of its privileges. As I have stated earlier, the House has in fact two names, the colonial approach is simply that of Council, the positive and contemporary approach is that of Assembly and that is what this Assembly has decreed and that is what this Assembly is.

In a letter to the Standing Committee of some days ago which is being considered at this point, the Minister noted that where the names of Territorial Legislatures have been changed to Legislative Assembly in Canada and Australia, that this has been done by Federal Statute, other than Ordinances of the Territorial Legislatures themselves. The Minister was very careful not to point out that the Quebec National Assembly was defined by that body in difference to the *British North America Act* which refers only to a Legislative Assembly of Quebec, and a parallel situation in the Canadian experience was found in the Legislative Assembly of Ontario and its members calling itself a provincial parliament.

I say to you today, Mr. Chairman, that this was through an exercise of parliamentary privilege that these two esteemed and large provincial legislatures of the Dominion accomplished the redefinition. It is in this context that the Council of the Yukon Territory have redefined themselves along the lines of these two important precedents within the Dominion, accepting or assuming no greater or no lesser constitutional authority.

I am reminded, Mr. Chairman, at this juncture of the words of His Excellency General, the Right Honourable George P. Vanier, former Governor General of Canada when he stated, and I quote: "One hundred years ago, there were many who said the little settlement near Lake Winnipeg would never grow on anything more than a trading post. Later still men denied that the prairies would ever be opening up for grain growing. The same kind of people have doubted that there is a future for one-third of Canada, or thereabouts, that lies north of the 60th parallel.

For those who have seen the Northland, there can be no

pepmissison. The vitality and freshness of the country, the integrity and humanity of its people proclaim its destiny."

I say to you, Mr. Chairman, that the integrity of the people of this people are at stake in this most important matter. This is a grave matter of concern to me, Mr. Chairman.

A question arises, is it the ignorance of our position in terms of Yukon as being a Crown colony within Canada, that we get the type of flack that we have been getting from this one federal department, and, perhaps, one Crown corporation in Canada? You know, Mr. Chairman, that in this respect I am reminded that in 1967, when Canada celebrated its birthday, another Crown corporation known as Air Canada, published a brochure and made it available on each of its flight for each of its passenger, which stated, "The 365 days which stretch between January 1st and December 31st, in 1967, will witness the celebration of the longest, biggest and most colourful, most meaningful birthday party the ten provinces and two territories have ever seen.

"It was in 1867 that the Fathers of Confederation, representing the two founding races, established a Dominion which ultimately stretched from sea to sea. Significant, however, is the fact that these 100 years of Canada's nationhood are unmarred by any stigma of colonialism or aggression"

Here is a Crown corporation obviously forgetting about the Red River uprising, for instance, and this Crown corporation was obviously disinterested in the status of our Yukon as one of the few last remaining Crown colonies, within the Commonwealth and certainly within the Dominion, Mr. Chairman.

So, it can be seen then that, at all cost and in perpetuity, we must maintain the preservation and development of those rights, those freedoms, and those privileges enshrined in this Legislature, which are dictated by; tried and tested age-old traditions, Mr. Chairman, experience, useage and convention.

Just how much longer must the Yukon bear this repugnant stigma of colonialism in which it has been enshrouded for so many years? What has become of that desire for rational and practical parliamentary development for Yukon and its citizens? Are we prepared to leave the generation that follows, a legacy of indifference and total subservience to our distant landlords in the east? I don't think so, and I know a great many concerned Yukoners who don't think so either. Our community of interests, ideals, and experience, Mr. Chairman, are unique perhaps in national terms, but nevertheless, we are destined to play an increasingly significant and meaningful role in Canadian affairs. We can no longer afford to be second best Canadians, we must at all costs reaffirm that determination to the realization of full, responsible and democratic government at the legislative level within the true meaning and intent imposed upon us by the *Yukon Act*.

I say again that the redefinition of this Assembly is consistent with the intent of the *Yukon Act* and the privileges of this House.

Mr. Chairman, let us look for a moment at the role of the Minister in relation to the *Yukon Act*. The role of the Minister is defined in Section 4 of the *Yukon Act* which states: "The Commissioner shall administer the government of the Territory under instructions from time to time given him by the Governor in Council or the Minister." There are two things about this section that puzzle me, Mr. Chairman. First is that it is clear, at least clear to me, that the Minister only gives direction to the Commissioner in terms of administration of the small 'g' government. This gives rise, of course, to the second thing that puzzles me about Section 4 of the *Yukon Act*. The government, referred to as a small 'g' government, and in fact the *Yukon Act* does not provide for an entity known and styled as the Government of the Yukon Territory, which nevertheless is in place today. For that matter, Mr. Chair

man, there is nothing to be known and styled as the Council of the Yukon Territory in the *Yukon Act* either. Perhaps if we were to question this we would receive a reply that oh well, this is just a product of usage in convention.

If there is no Government of the Yukon Territory in law at this point, there can only be an administration which I presume to be a wing of the Federal Government of Indian Affairs and Northern Development. Perhaps then, Mr. Chairman, the Minister has misinterpreted his role as intended by the *Yukon Act*.

This became quite apparent when he instructed Mr. Commissioner to refuse assent to Private Member's Bill 102 during this Session. It is my contention that Mr. Commissioner must receive his instructions from the Governor General and not the prerogative of the Minister, whatever by any shades of interpretation of the *Yukon Act* to instruct the Commissioner on matters of assent.

The prerogative of the Minister extends only to those matters of administration, and the Minister has no right, nor has any other external body any right to interfere with the privileges of this Legislature and the exclusive prerogatives of the Governor General in Council of Canada.

Mr. Chairman, let us for a moment go back to the *Yukon Act* and Section 20 thereof which states: "A copy of every Ordinance made by the Commissioner in Council shall be transmitted to the Governor in Council within thirty days after the passing thereof, and shall be laid before both Houses of Parliament as soon as conveniently made thereafter." Maybe these Bills aren't supposed to get that far, who knows, Mr. Chairman.

Clearly then it ought to be the both Houses of Parliament, or in fact the Governor in Council who would refuse the several Bills which seem to be imperiled by the bureaucracy which ought not to be concerned with their validity. Subsection (2) states that: "any Ordinance made after the coming into force of this subsection or any provision of such Ordinance, may be disallowed by the Governor in Council at any time within one year after its passage." The controversial Bills now before the House and before this Committee also have a coming into force clause permitting the Commissioner to proclaim the Bills at time of his choosing.

So it seems to me, then, Mr. Chairman, that the Commissioner ought to assent to all bills. Firstly, to allow the Governor in Council and the joint Houses of Parliament to determine their validity and, second, to give recognition to the will of the elected representatives of the people of Yukon, who have clearly expressed their desire by passing appropriate legislation not inconsistent with civil or common law.

Mr. Chairman, there are some who would say that the issue is just not important enough to imperil the passage of these several bills. There are some who attach little importance to what is in a name, but what is at stake here? Involved serious and important principles in precedence.

The rights and privilege of this House are questioned by external authority. The passage of these bills are imperiled by the threat of refusal of assent. These are, in fact, the real issues and they must be resolved at this time, or the Yukon will never, ever recover from the total dominance of the Federal Government over its internal affairs.

Mr. Chairman, there is clearly no law which prohibits the fullest expression of common parliamentary privilege as it affects this House. There is simply no law which grants to the Minister the right to counsel the Commissioner, in respect to assent of bills passed by this House.

To quote a letter, which I have dispatched to the Governor General, on behalf of the House:

"We consider this to be an abrogation of an important princi-

ple of our democratic system and an apparent attempt to dispense with the traditional part of the Commissioner's duties, which equate to those of a Lieutenant Governor.

"As a result, we find ourselves being governed as if we were a subdivision of a republic, without the protection which the position of the Crown affords in a constitutional monarchy."

Mr. Chairman, this leaves us some points to consider. Firstly, in law, we possess the rights, privileges and immunities which attach to a parliament of the Commonwealth, and this is absolutely recognized by the judgments I have earlier referred to, and, more particularly, in the judgment quoted from the Supreme Court of the Yukon Territory.

These rights are being challenged by the Minister of Indian Affairs and Northern Development at this time. If, for instance, as the Minister has stated, no authority for redefinition exists in the *Yukon Act*, how in the devil then, from an administrative point of view, does the Minister permit the use of the term "Government of the Yukon Territory", when no such entity is proclaimed in that same Act?

Mr. Chairman, the Minister has carefully avoided any reference to the precedence established within Canada by the Province of Quebec in redefining itself, to the Legislative Assembly of Ontario redefining itself as a provincial parliament. Neither of these definitions appear in Federal statutes and they stand as a lasting precedent in the Canadian parliamentary experience, as I have mentioned before.

You know, Mr. Chairman, most people of Yukon are deeply concerned about our future. As most Members will recall a short while ago, several community organizations, who are sometimes at loggerheads with each other, nonetheless, joined together in a public meeting in an effort to determine just what was going on, in relation to pipeline activity and generally looking for both answers and leadership in this regard. Neither was made available to those concerned Yukoners at that meeting.

The fault lies not with this Assembly, for God knows we are attempting to obtain answers to these questions and information for the people of the Yukon. The fault lies not with our Ministers, who have also attempted with all their skills and abilities to obtain this type of information. The fault lies squarely with the shrewd and implacable Federal Government who have permitted to continue to do so, will take such firm and absolute control of the Yukon section of this gas pipeline that this government could experience very little more than a token role in any aspect of this mammoth project.

This is only the tip of the iceberg. If the Federal Government are allowed to successfully bluff the citizens of the Yukon and members of this House into believing that they are working in our interests, rather than their own, then they shall have affected eventually the greatest take-over of people and resources in the history of this continent, Mr. Chairman.

It was reported in the "Whitehorse Star" on Tuesday, November 29th in an article originating in Ottawa that Northern Development Minister, Hugh Faulkner, is said to be concerned that the Yukon is wasting too much time and energy on minor constitutional issues. He is quoted as saying, "This sort of fighting distracts from the business of the day," said the official. There is too much wheel spinning." The Minister then downplays these two important principles as being nothing more than constitutional issues unworthy of the attention of this House.

Mr. Chairman, in replying to the Speech from the Throne over a year ago, I stated that the Federal Government of Indian Affairs and Northern Development are interested primarily in the destruction of credibility of this government and this Legislature in the narrow interests of total and absolute control forever of the resources of our Territory. This, Mr.

Chairman, seems to be at the very roots of our current dilemma. No matter how you slice the pie, the politics of Canada are no longer based on negotiation, Mr. Chairman, but the politics of Canada are those of confrontation.

We have had many discussions over recent years with the several ministers responsible for Northern Development concerning constitutional development, and we have been encouraged to believe that such development would be coming forward. But to arbitrarily restrict our power to legislate is a retrograde development and puts us nearer the year 1900 than the year 1980.

Mr. Chairman, if we do not now stand and fight for those principles, those lawful rights and privileges which are at stake here, we shall have done a great disservice to the people of the Yukon, and I repeat again, Mr. Chairman, it is not our name which is at stake, as the Federal Government would have our people believe, for that is an already accomplished fact, respected and recognized throughout the Commonwealth.

No, Mr. Chairman, it is the right and privilege of this Legislature and the people it represents that are at stake. The law is with us, Mr. Chairman, let us in the interest of all our citizens stand and fight for the preservation of these rights. Should we back down now, we shall have set back legislative democracy in this colony and Territory to a degree unparalleled in the history of the Dominion.

I say, Mr. Chairman, call Ottawa's bluff and let the joint parliaments of Canada or perhaps the Supreme Court decide the outcome. Thank you, Mr. Chairman.

**Mr. Deputy Chairman:** Thank you, Mr. Taylor.

Mrs. Whyard.

**Hon. Mrs. Whyard:** Mr. Chairman, that is a very tough act to follow. I want to commend the Honourable Member on his erudite and very competent review of the situation which has brought us to the point we have reached today, and I am not going to attempt in anyway to cover the same ground, but to try to touch on a couple of other areas, which, if I may say so, I feel are very practical. One of the hurdles which seems too high for the Federal Government to leap at any time, is the proposal that any change should be made in the *Yukon Act*. I don't know why this seems to be so hard to swallow, Mr. Chairman. It is a Federal Act, we don't have to bring it home from British Parliament, like *BNA*, to restore it to our own area of authority.

I would like to remind Honourable Members, as they well know, that the *Yukon Act* is frequently changed in Ottawa, through sections of other federal statutes, as a matter of course, with no discussion or reference or involvement of this Government.

The most recent example that comes to mind, Mr. Chairman, was a change in the *Auditor General's Act*, which contained a small, insignificant section, amending a section of the *Yukon Act* at the same time, which now requires the Auditor General's Report to be presented here, rather than to the Commissioner.

The point I am making, Mr. Chairman, is that it can very simply, very easily be done. What we are asking of the Federal Government can be done with no problem without going to a Supreme Court for a decision, in any act which is now before Parliament. I would commend to Honourable Members the suggestion that it could be done in the *Canada Elections Act*, which has now passed second reading and is in Committee, in Ottawa, and in which Act we wish to have a special section added to empower us to run our own election next year.

These things can be worked out very easily and I would like to suggest to Honourable Members that that is one way that we should be going and that we should be asking the new Minister

of Indian Affairs and Northern Development to be looking at it in this way.

We should be quoting to him his own words, in a letter of recent date, last week or so, to the Chairman of the Standing Committee on Rules, Elections and Privileges, of this House, in which he said:

"In my opinion, the most expeditious method of bringing this matter to a satisfactory conclusion is to have the proposed change of name examined as part of the Constitutional Review process which I discussed with you in Whitehorse.

"If a change in the name of the Council is recommended, as a result of this review, I will propose to my colleagues in the Cabinet, that an appropriate amendment to the *Yukon Act* be introduced for consideration by Parliament at the earliest opportunity."

And, he went on to say, Mr. Chairman,

"As I promised when I was in the Yukon, I will be making an announcement about the Constitutional Review process, before the end of the current session.

"In my view this is a matter of considerable urgency and importance, and I intend to ensure that it be given the fullest possible scope to deal with the questions you have raised as well as any other constitutional proposals that Council and Yukoners generally may wish to recommend."

Mr. Chairman, I think we can offer the Minister a very simple way to effect a change which is certainly obvious, obviously the wish of the people of the Yukon without having all the mandarins and all the legal beagles and all the advisors and all the administrators and executive and other assistants having to spend six months preparing some kind of draft. It is very simple, it is very straightforward, and it is very easy to do.

There is just one other thing I want to say, Mr. Chairman, I am not going to get into the Legislative Assembly Bill itself, I would just like to refer to this constitutional process. It seems to me, and I think most mothers would agree with me, that each time we ask the Federal Government for one small change in our growth process in this government, that we are put off and the excuse is we are going to do it all in one package. Don't ask for this now, we are going to get it all in one package.

Mr. Chairman, that is like saying to a child who has outgrown his britches, wait, we are going to buy you a whole new outfit, shoes, all, all at once, wait. Well, Mr. Chairman, we know that is not the way you deal with a growing body and this body is growing and we have outgrown the britches, and we have to have a whole new outfit, but we get it now, and we do not wait and get it one piece at a time.

Thank you, Mr. Chairman.

**Mr. Deputy Chairman:** Thank you, Mrs. Whyard. Mr. Lang?

**Hon. Mr. Lang:** Mr. Chairman, in respect to the Bill before us now, I would like to commend the Committee on Rules, Elections and Privileges for the work that they have done. They have done a lot of work and now we are seeing the final draft in respect to the Ordinance that they were requested to bring forth to this House approximately a year ago.

I am rather perturbed that during the course of this Session that the importance of this Bill has been overshadowed with the confrontation basis that Ottawa has put on in respect to this Bill, namely the name of the Yukon Legislative Assembly. I think it is very important that the public know, Mr. Chairman, that the members of this House have been responsible enough to bring forward the conflict of interest guidelines for

members who will sit in this Legislature after the next election. I think it is very, very important, and I think it will give that much more credibility to the members that sit in this House.

Mr. Chairman, one thing that really does surprise me, and that is the attitude of the Federal Government to Yukon. I think it is totally and absolutely hypocritical. Here we are as a nation, Yukon being part of that nation today, being questioned whether or not we are going to stay a nation in the decades to come. You have one province threatening to leave, yet you have two territories in Canada asking for more authority and asking for leeway to enter into confederation, the rightful place that they belong.

Mr. Chairman, I want to refer you to a presentation that I gave to the Alberta Legislature, approximately two months ago, when a delegation from this body went down at the request of the Alberta Legislative Assembly.

I stated at that time, I said:

"The basic question which must be asked, is what will Alberta and Canada gain with Yukon as a more distinct political region of Canada?"

"Presently, the whole concept of Confederation is being subjected to severe scrutiny and I would submit to you that Yukon could play a major part in keeping Canada together.

"With the induction of Yukon into Confederation under terms and conditions acceptable to the people of Yukon, the positive aspects of being a distinct political identity within Canada, could be demonstrated to our fellow Canadians in Quebec.

"Benefits would also accrue directly to the Western Provinces. With another voice from the West at the various federal-provincial conferences, the Government of Canada would have another viewpoint from the West, which would make them that much more aware of our regional problems and, subsequently, it would help to insure that the concerns of Western Canada are acted upon."

Mr. Chairman, day in and day out we watch the National News and we hear about national unity, of what one particular province is going to do and what they are going to do when they withdraw from Confederation, and the Federal Government is always on the defensive, saying, no, no, please don't, and here they have the opportunity to use an identity within Canada to show to our fellow Quebecers the positive aspects of Confederation in Canada, as a nation today, and for that matter, tomorrow.

Mr. Chairman, at the same time, I find it entirely ludicrous, when I read in the newspaper that the Chief Negotiator for Land Claims is going to get \$65,000. We watch the Minister of Finance, Jean Cretien, saying to all Canadians, we are in economic trouble, we have to tighten our belts. And as a Canadian, I agree with him.

But, at the same time, we find one part of the Cabinet saying, we are concerned about principles. It is the legality, the principles of a legislature. At the same time, Mr. Chairman, they don't even watch their own financial management.

I would also like to say, Mr. Chairman, it is my understanding that the Prime Minister of Canada makes \$65,000, so I think it brings it into a proper context in respect to where Yukon is and where the Federal Government is in respect to their priorities.

I think they had better get their priorities straight so that we, as Canadians, not only as Yukoners, can go forward in the future with a political economic future, because if they keep misspending their money, you and I are going to pay for it, our

dollar is going to devaluate, and eventually there is going to be nothing but chaos.

At the same time, Mr. Chairman, I would like to say with respect to the Legislature that now sits, the other day I emphasized the concept of political parties. We have a responsibility in the Yukon, we can't blame it all on the Federal Government. I think that we have matured in the last three years, over the last decade, in respect of political advancement. But at the same time, Mr. Chairman, there is one move that has to be made in my view, and that is to party politics so that there is a government and there is an opposition so that Dan Lang, the Member from Porter Creek, and if he is voted into the government side and is a Minister and he goes to Ottawa, he says we have a mandate from the people of Yukon, the majority of the people from the Yukon and this is what we want.

So, Mr. Chairman, in any case, the street always goes two ways, and we have a responsibility to get our legislative body in order. I think we have a duration of eight months where party politics can get organized and people can go to the polls and the people of Yukon can determine who their leader is going to be, an elected leader in respect to Yukon and the future for the next four years after the next election.

Mr. Chairman, in respect to the Bill again, I just would like to say once again I think that the Members of the Committee have been very responsible and they have brought forth a very good piece of legislation.

**Mr. Deputy Chairman:** Thank you, Mr. Lang. Any further general debate? Mr. Lengerke?

**Mr. Lengerke:** Thank you, Mr. Chairman. My comments on Bill 101 will be somewhat, as I indicated, or started to indicate on a Point of Privilege this morning, I know, as part of that Committee, well over a year ago the work that was put into it. I know too that the actions of the Committee in recent weeks has probably caused some change in that position. That is with respect to the fact that we corresponded with the Minister, we took on that obligation asking him for his opinion and getting it back, and now we have got that to deal with.

I have said before, and I say again, that the Bill contains five very important sections, and certainly four of them are very much of priority. In its total package I would certainly support it. But I think members know, I just want to make my position clear on that, that my position with respect to correcting Yukon's situation of colonial status has never been postured from a position of wanting to be called a Legislative Assembly or MLAs. I have never emphasized that.

I think members will realize or recall that I rose in this House on a Point of Privilege one other time and I asked the Speaker for a ruling on the matter, and I accepted that ruling as very reasonable, logical, and I can tell you that I have fostered that position with my constituents and interested citizens in a quiet, and what I think is a logical way.

I certainly well recognize the work of past and current members of this House, of this Assembly, with respect to constitutional development for Yukon and those goals. But maybe their priorities, in my respect, have not just been, you know, the same wave length. Certainly, my comments, and I have restrained some of my comments not to dampen that enthusiasm and dedication. Maybe that is my fault, Mr. Chairman.

It only goes so far, however, and I know that I just can't get excited and shook-up with certain aspects of this matter with respect to Legislative Assembly and the name.

My priorities are very much different. My concerns are, they have always been, with respect to putting in place a plan or a committed strategy of where the heck we are going, and what we expect for Yukon and to follow it. Certainly, part of that plan of strategy is responsible government for Yukon.

As you know, I am a strong advocate and a believer in that step, providing, of course, that satisfactory commitments are made with respect to our financial requirements, and that we continue to demonstrate our ability on a daily basis to run the efforts of Yukon, run the affairs of Yukon.

I believe, contrary to some, to what some people may say, that we in Yukon have certainly accomplished much and are ready to accept that responsibility now. But I think, however, in our frustration of waiting for that great blessing from the East, that maybe we have got blinkers on and that maybe now that we are not exercising our responsibilities, our present responsibilities, in the most efficient manner.

I have been discouraged on many, many occasions, Mr. Chairman, and I should have then expounded by views and not now, and I guess I wanted to say this morning, that I guess I can thank the Honourable Member from Pelly for getting me off my butt.

My concern and my opinion is that we are not presently demonstrating to our own people, never mind the Feds, that we are capable of running our own affairs. I have been confronted many times by my constituents by citizens saying, when are you going to get to work? When are you going to get off this route of confrontation with the Feds on the matter of MLA's and Legislative Assembly?

Most people in Yukon know the situation, they have heard it. They have heard it since the first time that a council was ever formed for Yukon. They know that there is a continuing pressure that has to be put forth to make sure that the Feds realize that we do want full responsible government and believe me, I do not want to let go of that kind of pressure, but let us pick the battlefield if we are going to have a confrontation today, let us pick it on some good business.

I believe that we must work as hard, you know, we have heard some excellent speeches and some excellent research, we must work as hard on the matters of Land Claims and resource development and policy, land policy and mining and transportation and the rest of it, as we have been putting our efforts into this other matter.

I commend the Member from Watson Lake, because, my gosh, he has always done an excellent job at that. And certainly the Member from Whitehorse West, with respect to the constitutional package there, you know, here we are, what have we presented to the Minister? We have presented a *Yukon Act* that is complete in itself. It has got all the building blocks in it, so certainly the Minister of Northern Affairs has no excuses there. He knows what our constitutional package is.

The Member from Porter Creek says party politics. Yes, I agree, we have got to get that line down there and we have got to get going. We have got to get our act in order.

We should be developing and presenting the Feds, I think, with a solid plan for regional growth in Yukon based on and to be achieved by legislation that not only controls, but encourages the kind of thing to happen. I am sorry to say that to date, I have not felt part of such an effort or part of such a team committed to such a goal, and I am sorry to say that. Probably that is my own fault, and maybe that feeling or reality is in the case due to the fact that I was not involved in the selection of our present elected members on Executive Committee, and maybe I don't have a commitment however strong that commitment might be, in the present situation by which we operate.

Mr. Chairman, it is apparent to me that we have a situation whereby there is no leadership as a result of the void that should have been filled by either a strong elected individual committed to Yukon's development, or through the working together of a group of people with the same goals and a full understanding of the method and system by which we must

operate.

Mr. Chairman, if I have offended anyone personally, I apologize for that. That is really not my intention, but in conclusion, I would just like to say that I truly believe that we now substantially demonstrate to our own people of Yukon, as well as to all Canadians, the ability to provide a firm and comprehensive legislative and administrative responsibility with respect to, well, the pipeline project, because certainly it is of a global nature, it is in global focus, and its related matters, along with a continued and positive practical ability to manage the every day affairs of this Territory. We will undoubtedly, undisputedly have removed the doubt from those who now deny us the final step to fully responsible government for Yukon. That is the way I would like to proceed.

**Mr. Deputy Chairman:** Thank you, Mr. Lengerke. We will continue the general debate for a little while longer. Mr. Berger?

**Mr. Berger:** Thank you, Mr. Chairman. I would like to answer the Honourable Member from Riverdale because I completely disagree, and agree with him. I agree with him to the point that he is confused. On one hand he is talking about us not having a plan, on the other hand he says we have a plan and then he says we haven't got anything. He is praising his work on the Committee on Constitutional Development because the Committee came forward with a plan toward its constitutional development yet in the same mouthful, he comes up and says we haven't got a plan.

I wonder, Mr. Chairman, what he is really talking about. Is he only thinking about material development? Or development where we have the control of this material development, and this is what we haven't got right now. This is what I think is really at stake right now.

As the Honourable Member from Watson Lake mentioned, correctly and I fully agree with him, at stake isn't the name of this Assembly, if it is a Council, a Senate, or whatever else you want to call it. At stake is, right now, who controls the natural resources in the North? This is really what is at stake, Mr. Chairman.

And it is, to me, it is most amply shown to this House, to all the people in the Yukon, by what happened recently with the Pipeline Agreement. We were sold out down the drain, Mr. Chairman, because the control is in the hands of the Federal Government, not in the Yukon where it should be.

We were told we can make a billion dollars. Well, Mr. Chairman, mathematics was never a real high point in my life, but even in my simple mathematics, I can figure out that we can lose our shirt over 35 years of that pipeline agreement if we follow the route that the Federal Government suggests to us.

This is what really is at stake and I think that if we want those plans and the developments that the Honourable Member from Riverdale talks about, first of all, we are going to have to have control of these resources. We are going to have to have control over this House, over this Assembly, Mr. Chairman.

**Mr. Chairman:** Thank you, Mr. Berger.

Mrs. Watson.

**Mrs. Watson:** Yes, Mr. Chairman.

Mr. Chairman, I found this the most interesting debate, this morning and if you ever wanted to divide yourself on party lines, just read your "Votes and Proceedings" and you could draw that line quite nicely.

I happen to agree with a lot of the things that the Honourable Member from Riverdale has said this morning. I think that he is right on in some very, very, very important areas.

I agree, too, and I am not waffling at all, with the comments.

made by the rest of the Members on the importance of the constitutional development, on the importance of being able to direct our own affairs in our own House, of the importance of the name, of the importance of the *Legislative Assembly Ordinance*.

I agree with all of these, but I don't always agree with the priorities in which we place them. I would hope not, that the *Legislative Assembly Ordinance*, I would hope it would not be lost because of the name, even though the name is very, very important to me.

But there is so much important in the Bill, that affects the people of the Territory who we represent, that we would be so foolish, really, to let all of that go down the drain just because we can't agree with some very small thinking, as I said yesterday, civil servants in the Department of Indian Affairs.

We will get that straightened eventually, that name business. Somehow or other we are going to make them eat crow sometime. But right now we are not going to make the people of Yukon eat crow, because we have a principle. For too long, and I know, and anyone who has run for election in this Territory, the guidelines for conflict of interest, the various procedures that should be taken for elections have been terribly cloudy and they have left a great deal in doubt. I know of people who have been sincerely interested in serving the Territory and running as a candidate. They look at what they could let themselves in for because of the lack of direction for the conflict of interest and they way no way, no way am I going to get involved in that in the Yukon Territory.

So, it is very, very badly needed. The general *Elections Ordinance* is very badly needed. I would hope that we do not set our priorities in the wrong place and set our priorities on the name rather than the substance of those two Bills.

We have spent time, a lot of very important time working on these two Bills. The people of the Territory, often because of the news media report, the name rather than some of the material, because it is something that people can grasp quickly, it is their business. Unfortunately the people of the Territory don't realize just the amount of work that has gone into these two Bills and how they can benefit.

Mr. Chairman, in all of the time we spent debating on the direction that we should be following and the fact that we should have political parties and the fact that we should divide the House, we spent a lot of time talking about it, and I think this is what the Honourable Member from Riverdale said, but we don't do anything about it. I think that's a very, very important thing. We want political parties, we want that difference there to show that there are different political philosophies in this House, but we are so entrenched in our little seats here that we are not going to change around. We are not going to make the effort to try to show that we do believe in political parties.

**Hon. Mrs. Whyard:** Come on over, anytime.

**Mrs. Watson:** Gee, that's the first the invitation I have had.

I think, Mr. Chairman, that there are many things that the Honourable Member from Riverdale touched on that are important. I think that the little confrontation that the Feds have got going with us on the name is a great diversion for the fact that they had nothing, and that's nothing for us in the Throne Speech on the pipeline. Nothing specific, absolutely nothing. No one really knows anything. They have got people all churned up so they have an impact centre. What for? We don't know anything about a pipeline, much less why the impact centre.

We know nothing about land claims, imagine. Imagine, they are talking about signing an agreement in principle by the end of the year, and that is a short month away, when our rep-

resentative, the Territory's representative sitting at that table, is Ottawa's appointment who is that civil servant from Ottawa.

Should we not have had a White Paper on some progress, some reporting? The Indians have a lot more sense than that. They threw over their whole political machinery and we are diverted. We fall for it. We are diverted because of the name and we let, I was going to use the phrase, which I shouldn't, and we let them pull us around by the nose and say everything is fine.

It isn't fine or they would be telling us specifically it is fine. When we don't hear from them it is not them, it is not fine.

We sit here and talk about the name and talk about whether that Commissioner should come in here and answer questions. I wish he would me in. I would like to ask him a few on the Land Claims because I am not getting them from anywhere else and it doesn't look as though we are going to get them because he has probably had his order. "Tell them you have no comment."

Resource Development, the Shawkak Project, many, many of these things where Ottawa should be making some decisions so that we can make some, are not being done. We are getting nothing in this House and we are squabbling over a name, because they, really, are not doing anything for the Yukon, and passing it down so that we can deal with it at our level.

I wouldn't mind the type of constitution we have. I think we could even live with it, if they played their part. But they play politics with us all the time and they don't play their part and they want to interfere with our part.

So, Mr. Chairman, I would hope very much that we go through this Bill, the *Legislative Assembly Ordinance* and give it all the consideration it needs, because it is very complex and it is very important. I would hope that that sections on the name aren't the ones that will be the ones that are in question.

Thank you, Mr. Chairman.

**Mr. Chairman:** Thank you, Mrs. Watson.

Is there any further general debate?

Mr. McKinnon.

**Hon. Mr. McKinnon:** Thank you, Mr. Chairman.

Mr. Chairman, I am of the opinion that if we lose the Bills, the *Elections Ordinance*, the Government's Bill, and the *Yukon Legislative Assembly Ordinance*, on the name game, that other people than members of this House want us to, I think, devote the majority of our time to, I think that it will probably be the first time in history that a group has marched backwards to get into a battle in a war that has already been won.

Mr. Chairman, I think the strategy of the resolution that was passed by this House was right on and is coming to fruition where we styled ourselves as a Yukon Legislative Assembly. I remember the debate at that time. I remember the Committee meetings at that time and the whole purpose of it was so that, during a period of time, through useage, custom and tradition, and through our ability to act responsibly, that the members of the public, the Federal Government, the Provincial Governments, and everyone would see that we should be styled as Yukon Legislative Assembly.

Mr. Chairman, the strategy was that instead of starting the battle five years down the line when we went with the Federal Government to open up the *Yukon Act* again, that the name and the custom and the usage would be there, to such a degree that the Federal Government would have given up the battle and would say that is a point that is already won. When the *Yukon Act* is open, the change will be made and you will be styled as a Legislative Assembly.

Mr. Chairman, I say that point is there. I say that we have been accepted by the Federal Government, by our provincial colleagues, by the public of Canada, by the House of Commons and the Senate of Canada, by provincial legislatures and by the public that if we continue to act responsibly, there is no reason why there will be any indication at all of reluctance when the *Yukon Act* is accepted to specify that name to the Yukon Legislative Assembly.

I believe, sincerely Mr. Chairman, that the present incumbent, the Minister of Indian Affairs and Northern Development has already indicated that he is sympathetic towards that change and there will be no problem in getting those changes to the *Yukon Act* as quickly as possible.

Mr. Chairman, I think we forget how much we progress over the course of the years. I was just looking back in my notes on this subject. It is only a year and a half ago that we saw this type of headline in Canada's national paper, the "Globe & Mail", "The North at the Back of the Bus, at the Conference at Manpower", where my friend from Porter Creek was one day given a tag, "Dan Lang, Yukon Territory" and the next day given a tag, "Dan Lang, Canada", where they ripped the flag, the Yukon flag off the wall and sent him packing because he had the audacity to proclaim himself as a Minister at the Manpower's Conference. Counter that, Mr. Chairman, with the type of response we receive now as elected members of the Executive Committee. From Minister to Minister, glad to confirm that Yukon representatives, at the Minister's of the health conference, will participate fully at the table.

Mr. Chairman, the letters that come addressed from Federal Government Ministers to the Minister of Local Government, Warren Allmand to the Minister of Local Government, and the Treasurer of Ontario, and if anybody needs any further proof from the Government of Quebec in both official languages, Mr. Speaker, addressed to the Minister of Municipal Affairs from the Minister of Municipal Affairs in Quebec. It goes on and on. From the Minister of Fitness and Amateur Sports to the Minister of Local Government. From the Minister of State to Small Businesses to the Minister of Local Government. From the Minister of State to Small Businesses, to the Minister of Public Works. It is an accepted fact now that we have won the battle as to the terminology that the members of this Legislative Assembly and the Ministers style themselves.

So, Mr. Chairman, it seems such folly to know that this has been accepted, to lose the work and the principle that this Committee have worked on for over a year, in both the *Elections Ordinance* and the *Yukon Legislative Assembly Act*, both comprehensive, good pieces of legislation, innovative pieces of legislation, unique pieces of legislation, on a battleground. We didn't pick the battleground, nobody has seen, nobody has commented on the work and the effort in what is contained in those two pieces of legislation, which makes the Yukon unique, because of its unique situation in elections in the whole of Canada.

We are going to lose that because the Federal Government is so small, so piqued, so nit-picking on a term of a name in which, in the broad principle, they have already accepted the strategy of the members of the Assembly was correct, and there is no war any longer, as far as the styling of this Assembly is concerned. They are trying, and the media is trying to get us involved in a battle on a name, in a war which has already been won, and lose the very sensible, unique, positive legislation which this House has before it.

Mr. Chairman, I have been around too long and, I hope, too politically astute, to get trapped into that sort of a game and not to progress with the business of this House, the way that the people of the Yukon want to progress and get side-tracked on these pique issues, which the people of the Yukon, through their representatives, have already won.

I agree, it is the wrong time and the wrong issue. Let us get on with the very important business of this House, that the people of the Yukon want us to get on with and the biggest problem facing the members of this Legislature, at this moment, is the pipeline issue, where I have stood over and over again and said that there is a hell of a lot more questions than there are answers. Let us get busy and get some answers, because the people of the Yukon, the ones who have been here for some length of time, are scared silly on what the pipeline is going to do to them as far as their pocketbooks are concerned and as far as the Yukon being the place where they have lived for some many years, and the people who have come here in the last few years, are very concerned about what the job offerings will be and whether the Yukon will be, still be the place with the pipeline that they want to remain and stay and raise their families.

These are the issues, these are the ones that we should be addressing. We have won the war as far as the Yukon Legislative Assembly, because, at that time, we did sit down and plan strategy, as a caucus and as a Committee and it was the right strategy and it was the right approach, and for goodness sakes, I think that I have been around just a little too long to allow the Federal Government and the media to trap me on a battleground of their choosing, to get into a constitutional issue that the people of the Yukon do now want us to get involved in at this present time, but rather let us, to see us act as responsible members, to pass the legislation that we were set here to incorporate, to initiate, which we have done very responsibly and very well with the *Elections Ordinance* and the *Yukon Legislative Assembly Ordinance* and the name is there, it is coming, and the next changes in the *Yukon Act* will see it enshrined.

Mr. Chairman, I just say that this is not the time to get sidetracked on a meaningless, and I mean a meaningless constitutional issue, with the work of the House and with the mandate that the people of the Yukon want us to fulfill at this present time. There is just too many important things to do to get sidetracked.

Thank you, Mr. Chairman.

**Mr. Deputy Chairman:** Thank you, Mr. McKinnon.

Mr. Fleming.

**Mr. Fleming:** Thank you, Mr. Chairman. Mr. Chairman, I won't take up long and I won't take up Committee's time, however, I have listened this morning very well to many arguments. I myself, as the Minister of Local Government has said, feel the way he does. However, I also feel that the Minister himself, in refusing, more or less, because of this name, just because of the name, I feel that the Minister and the Federal Government is losing the battle by even arguing with us about the name if that is all they have to argue about. We can be called whatever we like. It is not what we are called, it is what we do.

I would fight for that name, and I will continue to fight for that name because that is what we have called ourselves and some day we will get it, I hope.

Right now, I think he has just absolutely lost his own battle by arguing a simple thing like a name over Bills such as these that are really needed so that we can run our own affairs.

The *Elections Ordinance*, I think we need the *Elections Ordinance* in this Territory. Why shouldn't we have the *Elections Ordinance* there, why shouldn't we be able to run some of our own affairs. Nothing that is international or anything like that, but our own everyday affairs. Why shouldn't we have a *Yukon Legislative Assembly Ordinance*. Why? They can find no real excuse as near as I can see, except that they don't like our name.

Mr. Chairman, I am going to, hopefully, with the rest of us,

go through those two Ordinances and do a good job of it, and hopefully pass them. If it boils down to where the majority of this House suggest that we don't go along with the name, I will be with that majority, however, if the majority really wish to fight the battle as I said again, I would like to fight it, but not maybe right at this time.

I think we should get our work done and in the meantime really step on a foolish thing that they have actually done to try to thwart us from doing the job we are here for.

**Mr. Deputy Chairman:** Thank you, Mr. Fleming.

Committee will recess until 1:45.

*Recess*

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

Before we go back into the reading of Bill 101, I would like Committee's concurrence that consideration should be given to the Green Paper on Pipeline Impact to be prepared and ready to go on Monday and to give everybody the opportunity this weekend to study the Green Paper that has been presented. I am seeking the concurrence of Committee that this will be ready to go on Monday.

Agreed?

**Some Members:** Agreed.

**Mr. Deputy Chairman:** We were still on Section 1(1), general debate. Ms Millard?

**Ms Millard:** Mr. Chairman, the interesting and informed debate this morning has really been good for us I think and certainly has revealed, I hope, to the people of the Yukon where are at constitutionally and that we are not concerned so much with the name as what the name means to us and to the people of the Yukon in the future.

While I was listening this morning, I was thinking of a friend of mine whose original language isn't English and a couple of weeks ago, she asked me, "What does it mean, a red herring?" And I thought after the debate this morning and our concerns with the name "Legislative Assembly", I think now I can define it for her because I think that is what the Federal Government is trying to do to us is to have a red herring running around in front of us so that they will force us to get off the path we are now on.

I think this is what I was saying in my reply to the Speech from the Throne, that we cannot lose sight of our long-range problems and our long-range solutions. Those issues are very important to us and we cannot allow ourselves to get diverted from it for any reason. I believe that the Federal Government is trying to just that.

I must agree with Mr. McKinnon that we have had three years of constitutional development. It has been slow, it hasn't been splashed around in the newspapers, but we are beginning to style ourselves as a Legislative Assembly. We have Standing Committees, one of the most progressive moves that we have ever made. We are becoming more professional as MLAs within that Legislative Assembly, or whatever we call ourselves, a rose by any other name smells of sweet. We are a Legislative Assembly.

To have come to that point we have shown great responsibility. We have passed Bills in this House that have shown complete responsibility, the reports have been excellent. The latest report from the Standing Committee on Rules, Elections and Privileges, I was proud to say came from this House. I think we showed great restraint.

In reorganizing the constituencies we have shown reflection of the people in the Yukon Territory. Mostly I think we have shown responsibility in that we haven't gotten into worthless, emotional arguments with Ottawa over this silly point of the name of the Legislative Assembly. We haven't allowed our-

ives to become battling on the front pages of the paper over the name, and we have to make that clear to people. I think we have to get on with the real issues, the Bill that we have in front of us and the pipeline issues that are so important and whether we pass those Bills in the name of the Council of the Yukon Territory or as the Legislative Assembly of the Yukon Territory, those Bills will still be in effect.

I think, Mr. Chairman, that we have told the Feds where we are at, and it is up to them now to act.

**Mr. Deputy Chairman:** Thank you, Ms Millard.

Mr. McIntyre?

**Mr. McIntyre:** Mr. Chairman, I think that we lost the basic power struggle in this Session when the Bill to amend the *Public Inquiries Ordinance* was refused assent. It would be foolish for us to continue that same type of confrontation in the passage of this Ordinance and the one also dealing with the name Legislative Assembly.

I think that we would be wasting all our time if we went through this Ordinance without making the necessary changes to accommodate a rather short sighted policy on the part of our Minister.

There is one thing that I think we have all forgotten though, that really points out the status of this House and that is that when we pass a bill and it receives Royal Assent, it is called an ordinance. When a Legislative Assembly passes a bill and it receives Royal Assent, it is called an act or a statute.

**Mr. Deputy Chairman:** Thank you, Mr. McIntyre.

Any further general debate on Clause 1?

With the Committee's concurrence, I would like to go through the first review of this Bill, before any amendments are proposed.

Agreed?

**Some Members:** Agreed.

**Mr. Deputy Chairman:** I would like to call upon the witness, Mr. Mike Clegg, to assist us in this matter.

I declare a very, very brief recess.

*Recess*

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

We now have Mr. Clegg to assist us with Bill 101.

We will proceed to Section 2.(1), Interpretation.

*On Clause 2*

**Mr. Deputy Chairman:** Mr. McIntyre.

**Mr. McIntyre:** Mr. Chairman, I would suggest that any sections in this Bill, as we are reading through it, that refer to Legislative Assembly or Legislature, be stood over automatically.

**Mr. Deputy Chairman:** Any discussion on Section 2.(1)?

Ms Millard.

**Ms Millard:** Mr. Chairman, are we going to have any problem with the definition of "Executive Committee", since it is really the Advisory Committee on Finance?

**Mr. Clegg:** Mr. Chairman, my understanding is that the existing authority for the Executive Committee is an order of the Minister, however, we do, at this stage, have an Ordinance on the Statute Book which does refer to the Executive Committee and that is the *Elections Ordinance*, as it now stands and as amended at the last Session. No objection was taken by anybody to that and I think that it could stand.

**Some Members:** That's a relief.

**Ms Millard:** That's different.

*On Clause 3*

**Mr. Deputy Chairman:** Mr. Clegg.

**Mr. Clegg:** Mr. Chairman, in view of the recently introduced *Electoral Districts Boundaries Ordinance*, I would like to suggest that this be stood over because I am proposing it be slightly changed to refer to that Ordinance as well.

**Mr. Deputy Chairman:** Thank you, Mr. Clegg.

*On Clause 4*

**Mr. Deputy Chairman:** Mr. McKinnon.

**Hon. Mr. McKinnon:** Mr. Chairman, I wonder if Mr. Clegg could tell me exactly what 4.(1) means?

**Mr. Deputy Chairman:** Mr. Clegg.

**Mr. Clegg:** Mr. Chairman, this is inserted in this Ordinance and this is also provided another Legislative Assembly Act for the provinces to avoid any suggestion that it is necessary to name a date for reconvening the Assembly on the time that it is prorogued. I am not aware of at what stage this has been challenged. I just made this insertion necessary traditionally, but it is included most of the Legislative Assembly Acts across Canada.

It is to clarify the power of the Commissioner to prorogue the Assembly without defining the next sitting date and as to the commencement of the next session.

**Mr. Deputy Chairman:** Thank you.

*On Clause 5*

*On Clause 6*

*On Clause 7*

**Mr. Deputy Chairman:** Mr. Berger?

**Mr. Berger:** Mr. Chairman, with permission, I would like to go back to 6.(2) once more and ask a question of the witness. The way I read it here it is possible for a member of the Legislative Assembly to sit in the Senate and in the House of Commons. Is that so?

**Mr. Clegg:** No, that is not so, Mr. Chairman. It specifically provides that any person who does that is ineligible to be a member of this Assembly.

**Mr. Deputy Chairman:** Ms Millard?

**Ms Millard:** In 7.(2), the way I read it, referring over to 8.(1) as well, it does not state that anyone with a federal contract is ineligible. It says anyone with a territorial contract in 8.(1), but it doesn't mention the federal government at all. If you didn't have an office, a commission or employment in the federal government, but had a contract with the federal government, would you still be eligible to run?

**Mr. Clegg:** Yes, Mr. Chairman, you do. That distinction was made deliberately.

**Mr. Deputy Chairman:** Mr. Berger?

**Mr. Berger:** With all due respect to the witness, it says here: "A member of the Legislative Assembly who sits or votes as a member of the Senate or of the House of Commons", so how can it become a member of the Legislative Assembly, I have to also be a Member of Parliament in order to vote in the House of Parliament?

**Mr. Deputy Chairman:** Mr. Clegg?

**Mr. Clegg:** Mr. Chairman, the purpose of Section 6, subsection (1) is to prevent the person who is already a member of the Senate or Commons from becoming an MLA here. The purpose of subsection (2) is to provide that if a member of this Assembly subsequently becomes a member of the House of Commons of Canada, he is automatically then disqualified here. It caters to the two different circumstances. We cannot prevent him, it is not within the jurisdiction of this Assembly to prevent him from becoming nominated or elected to the House of Commons. That is the jurisdiction of the *Canada*

*Elections Act* which does presently state that he would not be eligible as a member of this Assembly but if he nevertheless was elected, if the *Canada Elections Act* was changed and ignored the person's status here, the purpose of subsection (2) of Section 6 is to disqualify him as soon as he becomes a member of the Commons.

**Mr. Deputy Chairman:** Mr. McKinnon.

**Hon. Mr. McKinnon:** Can a member of the Senate or the House of Commons run, be elected, then resign from a seat on the Senate or the House of Commons.

**Mr. Clegg:** Mr. Chairman, the present provisions of the *Canada Elections Act* are that a person may not be nominated as a candidate in a federal election, while he is a member of the Legislative Assembly of a province and that, by the *Interpretations Act of Canada*, covers this Assembly.

So, the answer is no, his nomination would not be accepted in a federal election while he was a member here and he would have to resign immediately before his nomination if he wished to run for federal office.

If we don't provide this section, then we are leaving it open to the *Canada Elections Act* to retain that disqualification. There is a lot of consideration being given to whether that provision in the *Canada Elections Act* is not rather unfair, because it does force a member of a provincial legislative assembly to resign before he is even nominated and therefore to lose his position in his provincial assembly before he even knows whether he will be elected into the House of Commons.

The opinion has been put forward that this is unfair and a person who is serving his province shouldn't have to throw away that position and he can't get it back until the next provincial election unless he is certain that he will be admitted to the House of Commons, otherwise a person who was in that position would lose both positions. So, it is possible that this could be amended in future and they might then say, well, we are not interested in what status he has in a legislative assembly in a province. If he is nominated and he is elected, we will accept him.

So, I think we should unilaterally from this side, provide that he becomes disqualified as soon as he is elected in case that is changed.

**Mr. Deputy Chairman:** Mr. McKinnon.

**Hon. Mr. McKinnon:** Mr. Chairman, I would like to see it this way. As I understand it that the *Canada Elections Act* prohibits the Territory, the Legislative Assembly here from making such a law, one, that a member of the Senate or the House of Commons would be allowed to be nominated and to run for officer here, but, if he were elected, he would immediately have to get into this frame, give up his cushy job as a Senator, or as an M.P. to have to sit in this House if he wants to, he would have to join this frame and give up the Senate seat or the M.P. seat.

As I understand it, I think that would be sensible type legislation, but I understand the *Canada Elections Act* is the Act that prohibits us from making legislation in that manner.

**Mr. Deputy Chairman:** Mr. Clegg?

**Mr. Clegg:** The *Canada Elections Act* only deals with qualifications of persons to become nominated and be elected to the House of Commons. They are not concerned with a person becoming elected here.

**Mr. Deputy Chairman:** Mr. McKinnon?

**Hon. Mr. McKinnon:** What is the reason that a provincial house or this House would object to a member of the House of Commons being nominated and running for a seat in this Assembly, providing that upon election he has to give up his seat in the Senate or in the Federal House. That would seem to me a sensible thing.

**Mr. Deputy Chairman:** Mr. Clegg?

**Mr. Clegg:** That is a substantive decision which has to be made by the Committee. It is a political decision.

**Hon. Mr. McKinnon:** I don't think anybody would do it.

**Mr. Deputy Chairman:** Mr. Fleming?

**Mr. Fleming:** Do you want to read all of 7 first, or are you just going by subsections?

**Mr. Deputy Chairman:** I am allowing open discussion, Mr. Fleming.

**Mr. Fleming:** Section 7.(2): "A person who accepts or holds any office, commission or employment in the service of, or at the nomination of the Crown to which is attached a salary or other profit accruing from any source, is not eligible to be a member of the Legislative Assembly or to sit or vote in the Legislative Assembly."

My problem with that Section is there is no time at which he must not have the salary or whatever, and I presume that further on in the Ordinance, I have read it before, that there is a Section or all sorts of places where you actually requalify a person, and it doesn't say here, you know, notwithstanding this Section, there is another section in here, and I am wondering about all sorts of things: grants, and so forth and the native people today and their large grants which they have, which are actually from the Crown and they are working and they are more or less, I don't know how you would consider it, but they are from the Federal Government, and if they resign from the job, I am presuming they would be all right, although it doesn't really say so in the Section. It just says that they will not be eligible.

**Mr. Deputy Chairman:** Mr. Clegg?

**Mr. Clegg:** Mr. Chairman, this Section says that he is ineligible when he holds the office, and when, of course, if he doesn't hold the office he is not ineligible.

**Mr. Deputy Chairman:** Mr. Lengerke?

**Mr. Lengerke:** Mr. Chairman, I think Mr. Fleming was getting at, say a native person were running and he does receive money from the Crown, what is the situation there? This is the interpretation I think Mr. Fleming is trying to make.

**Mr. Clegg:** Mr. Chairman, could the Honourable Member clarify under what circumstances he would hold that money. Would he hold that money has an office of profit, as employment, or as a grant or in what way? It would make a difference.

**Mr. Deputy Chairman:** Mr. Lengerke?

**Mr. Lengerke:** Because it could well be in the form of a payment.

I'll just say, let us use an example if we had a native person receiving treaty money. What would happen there?

**Mr. Clegg:** By a native person receiving treaty money, I would understand that that does not give him an office or it is not an employment, it is a grant of money in the same way that the receipt of family allowance by a citizen is a grant of money. That would not disqualify.

But if he became an officer of the Crown in some way, if he was employed by the Crown, then he would become disqualified and he would have to choose between receiving that benefit or serving as a member here and receiving the benefits which come from this office.

**Mr. Deputy Chairman:** Mr. Fleming.

**Mr. Fleming:** As to that, I do agree. I think that that is probably what they are getting at, which, you know, would be very good.

However, it does say "...other profit accruing from any

source" and that, to me, is fairly plain that it, you know, it is just actually a little bit loose. It could be, maybe possibly, used by somebody else that didn't want that some person to be there or something and I am just wondering if maybe it shouldn't be looked at a little more carefully.

**Mr. Clegg:** Mr. Chairman, the words "from any source" were intended to tighten the disqualification to avoid a situation where a person is given an office or an employment and if it is not paid for it directly from the Crown, but from some other fund, but it was an employment of the Crown or a nomination of the Crown, to avoid him, so that such a person would not get around the disqualification just because he received his money from a different source, if he is an employee of the Crown, he is then accountable to the Crown and he has two masters.

The conflict arises and that is the basic principle behind this disqualification section and if he says, well, my money comes from a trust fund which was set up by the Government and doesn't come directly from the Government, then I am not disqualified, that the purpose of this phraseology is to avoid a special arrangement to allow this to happen, to prevent any special arrangement being made, because once a person is employed by the Crown in an office where he does get a benefit, then he is in a conflict situation. It doesn't matter from which source the money comes, whether the money comes... He might, for example, be employed by the Territorial Crown, but paid by the Federal Crown, or he might be employed by the Federal Crown but paid by another provincial Crown, but he is still in the employment of the Federal Crown and would be accountable to them and therefore in a conflict situation.

**Mr. Deputy Chairman:** Thank you.

Ms Millard.

**Ms Millard:** Mr. Chairman, I thought I had it clear before but I don't anymore.

What if a federal contract is actually a contract for employment, because I understand our witnesses said that a federal contract doesn't make you ineligible, but it would under these circumstances. If, for instance, a native person were hired by the federal government to do six months worth of work in something, would he be ineligible?

**Mr. Deputy Chairman:** Mr. Clegg.

**Mr. Clegg:** Yes, he would be ineligible.

The section which deals with contracts specifically says that this section does not relate to a contract of employment. A contract of employment is really an office of profit and that is dealt with in Section 7 and covers both federal and territorial Crown.

**Mr. Deputy Chairman:** Mr. Berger?

**Mr. Berger:** Mr. Chairman, to proceed with this further, there are a lot of native communities receiving Federal Government grants. This creates employment, are these people affected by this Section?

**Mr. Clegg:** Mr. Chairman, as I said before, if they are receiving a grant, they are not disqualified; if they are employed and they are receiving money as payment for the employment they are disqualified.

**Mr. Deputy Chairman:** Ms Millard?

**Ms Millard:** I don't think that follows through in logic though, because what we are trying to do is have the person not influenced by that monetary reward that he gets. Wouldn't employment be less of an influence than a grant. It seems to me that a grant would have much more power on that person's decision-making in favour of the Crown if you were given, it seems to me, a contract or a grant or something. It would have more influence on him than a regular sort of employment.

**Mr. Deputy Chairman:** Mr. Clegg?

**Mr. Clegg:** Mr. Chairman, I think that is a judgmental point. The traditional exclusions relate to employment and to contracts. The contract indeed can be worth a great deal more than a grant or a great deal less, but it is the amount of money that is perhaps the biggest factor. I don't know whether it is common for people to receive grants which are much in excess of their income that they would have than in employment.

If that is the case, then of course a grant does bring in more money than employment in some cases. That is a political decision as to whether you exclude people who receive grants. They are not, by receiving the grant, necessarily the servants of the Crown, therefore, their dealings are not governed by the Crown as a term of the grant normally. What they do in employment they are accountable to the Crown and they are therefore not necessarily free to serve the Assembly in an unfettered way because of the commitment they have under that office of profit. I am not aware of whether the grants carry with them equivalent to obligations of employment.

**Mr. Deputy Chairman:** Thank you, Mr. Clegg. Mr. Fleming?

**Mr. Fleming:** Yes, Mr. Chairman, I am still very concerned, because I read the Ordinance and when you go to the penalty section on 13, when you get to 13, I think possibly it can be brought up again there, and that was what I am really worried about. Whereas any member of the Legislative Assembly can be more or less a watchdog over somebody else and this section to me could be very harmful for such a small matter as possibly, I don't know how this would work, but of a person even being on the fire fighting situation in a small town that does receive a \$10 cheque for going to put out a fire. It comes from the Yukon Government, or whatever, and of course when you go to 13 you will see there where if he was watched very carefully for a while in the House by some other member that things could be very hard on him. I would not argue the point any longer, but I would like to leave that Section if possible until we do go through the penalty sections. We are going through them again, Mr. Chairman?

**Mr. Deputy Chairman:** Oh yes, Mr. Fleming.

**Mr. Fleming:** Okay.

**Mr. Deputy Chairman:** Mr. Hibberd.

**Mr. Hibberd:** Mr. Chairman, clarification as far as subsection (e) is concerned: I know we encountered this in going through it. What about in the event that if this Assembly evolves and the committee work does become heavy and there is reimbursement for Committee members other than their expenses?

**Mr. Deputy Chairman:** Mr. Clegg.

**Mr. Clegg:** Mr. Chairman, if that reimbursement is pursuant to a resolution of the Assembly, then (e) would save the member from disqualification, but if the reimbursement was not authorized by resolution of this Assembly or was not authorized by ordinance, then the member would be open to disqualification.

I would anticipate that any such provision would be covered for in the legislation.

*On Clause 8*

**Mr. Deputy Chairman:** Mr. Clegg.

**Mr. Clegg:** There is a typographical error in (f), the third line, it is a grammatical error, in fact. The word "being" should be "is interested".

**Mr. Deputy Chairman:** Thank you, Mr. Clegg.

Mrs. Watson.

**Mrs. Watson:** Mr. Chairman, I note that 8.(3) says "This section does not apply to a contract of employment". Does that mean section 8, when we refer to "section"?

**Mr. Clegg:** Yes, that does and the result of that is that contracts of employment are dealt with under Section 7, as offices of profit.

**Hon. Mrs. Whyard:** Mr. Chairman, I would just seek reassurance that subsection (j) would not eliminate medical practitioners who are made under the Medicare Plan of this Government.

**Mr. Clegg:** Mr. Chairman, the purpose of paragraph (j) is to insure that that does not happen.

**Mr. Fleming:** Mr. Chairman, yes. I think maybe I have it clear, but I would like a little clarification as to (a). 8.(1)(a), where it says "under which any payment, loan or guarantee provided for by public funds accrues to such person" and they say will not be eligible in that section.

However, they go on in subsection 2, and on (b), (c) and they undertake there to say that you can receive a loan or guarantee as long as the rest of the public. I understand it, is, that loan is available to them under the same terms.

**Mr. Clegg:** Mr. Chairman, that is correct. The provision of this paragraph is to ensure that members of this Assembly are not denied rights which they hope that they should be able to receive in common with all other citizens of Yukon, or with other citizens of the class to which they belong, say for example parents.

**Mr. Deputy Chairman:** Mr. McKinnon?

**Hon. Mr. McKinnon:** Mr. Chairman, 8, subsection (1), this would allow a person to be able to sit as a member of the Yukon Legislative Assembly and to bid on a contract that came out for public tender, I would take it?

**Mr. Deputy Chairman:** Mr. Clegg?

**Mr. Clegg:** Yes, he would be able to bid on it, but he would not be able to accept it.

**Hon. Mr. McKinnon:** All right, now say that person, it was obvious he had a public company and was on the books of the YTG that he was a 60-40 shareholder or 50-50 or over 10 per cent, he bid on a contract, he got the contract, but the moment he got the contract, he divested himself down to 10 per cent of the company, transferred it over to his wife or his solicitor or someone in order to be able to accept the contract. Would he then still be eligible to sit as a member of this Assembly?

**Mr. Deputy Chairman:** Mr. Clegg?

**Mr. Clegg:** Mr. Chairman, this would depend precisely on how he transferred those shares away from himself. If he transferred those shares away before he signed the contract in such a way that the person to whom he transferred them was not holding them in trust for him in any way, but held them absolutely, and if he thereby reduced his ownership and beneficial ownership to less than 10 per cent in the company he would not be disqualified. However, the specific example you cite of a person transferring the shares to his wife, or his solicitor, or her husband, would in many cases imply that the shares are being held in trust for him, and as —

**Hon. Mr. McKinnon:** Would only imply?

**Mr. Clegg:** By imply I mean be interpreted as.

**Hon. Mr. McKinnon:** By who?

**Mr. Clegg:** By a judge who was deciding whether or not he was disqualified. If those shares were transferred to his solicitor absolutely, and there was no way in which he could compel the return of them, or there was no way in which he benefitted from it, then he would not be disqualified. But if he had any beneficial ownership in them, if they were in fact held either specifically or be deemed by law to be held in trust for him then he would be disqualified because the word beneficially is included in the section here.

**Mr. Deputy Chairman:** Mr. McKinnon?

**Hon. Mr. McKinnon:** Mr. Chairman, 8, subsection (e), if a member of the Legislature had a block of land prior to him becoming a member of the Legislative Assembly and he decided to sell that block of land, you are saying that the normal market procedure would not prevail, that it would have to be one fixed by a procedure established by law, what kind of procedure would that be approved by the judge?

**Mr. Clegg:** Expropriation. Mr. Chairman, if he was going to sell the land to the Crown, he would have to proceed either by expropriation proceedings, if you have an expropriations Ordinance, or if you have available expropriations proceedings or some other way means whereby the value is fixed by a court or he would have to apply to the Supreme Court for an order that the amount paid was fair and reasonable.

This would make sure that he was not getting any particular benefit, over and above what he was entitled to have for that land, because of his influence as a member of the Assembly.

**Hon. Mr. McKinnon:** Mr. Chairman, and I would imagine 8.(2) is to allow the Honourable Member from Hootalinqua to receive his \$2.47 cheque. I believe, from the Yukon Territorial Government for his Homeowner's Grant?

**Mr. Deputy Chairman:** Mr. Clegg.

**Hon. Mr. McKinnon:** But that's the type of thing, where there is a Homeowner Grant that is general.

**Mr. Clegg:** Mr. Chairman, I would imagine that 8.(2)(a) would cover a Homeowner's Grant.

**Mr. Deputy Chairman:** Thank you.

Mr. Fleming.

**Mr. Fleming:** Yes, Mr. Chairman, I have another example I am wondering of, in the case of a business transaction, whereas a person intended to run for the Legislative Assembly, sold the business, however, the business, in some indirect way, would still be doing business with government contracts, here or there or wherever, and, of course, it would not be a cash settlement, it wouldn't be a cash settlement. If there was money coming to him from the sale, accruing from that sale for the next ten or fifteen or twenty-five years, or whatever the agreement was, then, in this case, would he be eligible or would he not be eligible?

**Mr. Deputy Chairman:** Mr. Clegg.

**Mr. Clegg:** Mr. Chairman, the Honourable Member has raised a very interesting and complicated point.

My feeling is that if the cash settlement was one which was fixed in advance as a sum certain payable over fifteen years, then there would be no problem. But if, in fact, it was payable as a proportion of profits, then there would be a difficult question here.

If his interests had, in the past, been ten per cent, if he was selling more than a ten per cent interest and if the reimbursement which he took for the sale of his business or the sale of the shares in the business was by way of a share of profits over future years, which is rather unusual, because by that time he has relinquished control, then he would be in trouble. But if it is a straight payment that he receives \$2,000 a year for ten years, then, I see no problem here, because, in fact, it is just a means of payment rather than a sharing in profit ability and he would not gain any particular benefit, as a result of that business gaining the government contract.

**Mr. Deputy Chairman:** Mrs. Watson.

**Mrs. Watson:** Mr. Chairman, 8.(2)(f), purchase of land, even though you purchase land when it goes to public tender, a member of the Legislative Assembly bids, has the highest bid and does receive the land, is that still taboo.

**Mr. Deputy Chairman:** Mr. Clegg.

**Mr. Clegg:** Mr. Chairman, I believe that that would be a disqualification.

**Mr. Deputy Chairman:** Mr. Fleming.

**Mr. Fleming:** Yes, Mr. Chairman. I seem to have a lot of problems today.

I am thinking, I am wondering, I have lost that area in here where it does say something about the land, but it does state that if you are, you have the land, in your own right, however, I am wondering at the situation, whereas you have applied for the land, and, of course, you apply for the lands and it takes years and years to actually acquire the title to that land. I will I can state a little case now of properties on the lakeshore that there is a title, supposedly, to come and it is under a five year agreement, which has not expired yet, and therefore at the moment, say, if I was sitting in the Assembly under this Ordinance, and I didn't have the title, it is coming, would that affect me in any way?

**Mr. Deputy Chairman:** That is subsection (f) Mr. Fleming.

**Mr. Fleming:** Yes, sorry.

**Mr. Clegg:** Mr. Chairman, it would seem that it depends on the precise terms on which you hold an option on the land or whether you may, by the result of a lottery or by waiting on a waiting list, acquire the right to purchase the land. If these pieces of land are sold one by one as they become available to persons on a waiting list, then the disqualification problem arises when the actual purchase is concluded. While you are on a waiting list, you don't even have an option to buy the land, but an option is deemed to be an interest in land, so if you acquired an option to purchase land, then that would be a disqualification, an option as a registerable interest in land. A right of first refusal is not, a right of refusal is not a legal interest in land.

I don't know how this system of land allocation works. I doubt whether it is an option, I would imagine it is a system whereby a person's right to buy land comes up over a period of time or after expiration of a certain period.

**Mr. Deputy Chairman:** Mr. Hibberd?

**Mr. Hibberd:** Mr. Chairman, I am a little confused on this issue. You are referring to the option of whether to purchase or not. What if the attempt to purchase is for a fixed price, there are twenty lots and as they develop they come on line at \$10,000 each. There is no option over the price at any stage, but you would still be disqualified by exercising your option even though you couldn't control the price, am I right?

**Mr. Clegg:** That is correct. The control of the price is irrelevant, it is merely the actual conclusion of a contract to purchase.

**Mr. Deputy Chairman:** Mr. McKinnon?

**Hon. Mr. McKinnon:** Mr. Chairman, I do see some real problems here that I don't have the answer for. Maybe they are involved in one of these subsections, if I can just find that out. I have no problem with the concept that a person has a block of land and wants to sell it to the YTG. The normal market forces don't apply, they have to be either an expropriation or a judge of the Supreme Court says it is fair and reasonable, I agree with that. That is one of the penalties you pay for being a member of an Assembly such as this. I do have problems with the area where a person, as an ordinary member of the public, the only developer of land, residential and presently is the Territorial Government, and the person makes the normal application for a residential lot along with all other members of the public, it would seem to me that subsection (f) would now allow a member of the Yukon Legislative Assembly to go through the normal sales procedures in order to buy a residential lot on which to build his home. Am I misunderstanding this section?

**Mr. Deputy Chairman:** Mr. Clegg?

**Mr. Clegg:** That is correct, as the section is drafted, Mr. Chairman.

**Mr. Deputy Chairman:** Mr. Fleming?

**Mr. Fleming:** Yes, Mr. Chairman that was my problem too. Going back to the option, if, for instance, it is federal lands that people would, you know, naturally hoping to own and I see no reason why they shouldn't be in this Territorial Assembly here just because they need a home, so they do sign an option. It is normally, I think Mr. McIntyre might be able to clear this up, there is a lease with an option to buy. I don't think you can get one now, but there are some still in existence so there is the same thing with the Federal Government, more or less the same as Mr. McKinnon was speaking of with the Territorial Government, I think that should be looked into because I don't know who would actually be able to run for the Territorial Assembly if he didn't have a home at the time or something because every agreement runs over a couple of years at least before you can get the title to your home, even now when you buy it and pay for it, you still don't get the title for two years which I would say is an option.

**Mr. Deputy Chairman:** Mr. Lengerke.

**Mr. Deputy Chairman:** Thank you, Mr. Chairman.

I am concerned with that section, but I wonder, have we missed a point on line 5, or in that area, page 4. Isn't that a saving section in there, that if a person, and as it says here that "...the Commissioner which provides that he, in common with other members of the public or other members of a class of the public of which he is a member, may acquire, hold or enjoy that right". That right, for instance in the case of land on public auction or for sale publically, that is enjoyed by all. Why isn't that, wouldn't that be a privilege of a member of this House?

I think, in Committee, wasn't that discussion evolved around that and we were hoping that that would be provided for, I believe.

**Mr. Clegg:** Mr. Chairman, that would not be covered by paragraph (a), because paragraph (a) is limited to public money, payment, loan or guarantee. In other words, it is limited to fiscal benefits.

At one stage, my recollection is that that Committee did consider the word "benefit" included in there, but it was taken out as a decision of the Committee at a later stage. As it stands now, in my view, it would not cover a purchase of land under subsection a, and if the Committee wishes it to cover a purchase of land on terms common to other members of the public, then subsection (a) will have to be modified.

**Mr. Deputy Chairman:** Thank you, Mr. Clegg.

Mr. Hibberd.

**Mr. Hibberd:** Mr. Chairman, I think there was some misunderstanding in Committee and I think Mr. Lengerke raises a mood point. We did consider this and I think we are really facing a dilemma regarding the purchase of properties here and I am wondering if the witness has any other alternatives by which we can solve this?

**Mr. Clegg:** Mr. Chairman, my suggestions are that there are two ways of approaching this. One is to deal with the matter in a general term and to add the word "benefit" into line 3 on page 4, so that paragraph (a) would allow a member to get any benefit which he would enjoy on terms common to other members of the public.

The other approach is to make a specific provision for the purchase of a residence and to make a special exception in here that a member is not disqualified as a result of purchasing land from the Territorial Government for the purposes of residence.

Those are the two options open to you.

**Mr. Deputy Chairman:** Mr. McIntyre?

**Mr. McIntyre:** Yes, Mr. Chairman, I was going to point out that the same disqualifications apply to members of Parliament in connection with dealing with the Federal Crown land and the same type of disqualification also applies to federal civil servants dealing with Federal Crown land. I don't see why we should take umbrage at having that type of control placed on us. We are in a far better position to acquire a piece of territorial land to our advantage than any federal civil servant is to acquire a piece of Crown land to his advantage. They can only acquire Crown land by having a special Order in Council passed for each one.

I think we are taking too close a look at this. I think we should have some control over what we do in dealing with ourselves. We are not dealing at arms length when we are dealing with the Territorial Government land matters.

**Mr. Deputy Chairman:** Mr. Hibberd?

**Mr. Hibberd:** Mr. Chairman, I would submit that is an argument that we did have some difficulty with in Committee, but I do think with the unique situation we do face here in the Yukon regarding the purchase of residential property in particular, that we must be able to make some concession along this line. It is a very small area, and I don't think the arms length principle would be defended too much.

I would like to ask Mr. McIntyre if this purchase of Crown land by MPs applied to Quiet Lake?

**Mr. Deputy Chairman:** Mr. McIntyre, you wish to comment?

**Mr. McIntyre:** Well, I wouldn't care to comment on that because it is a subject of a file about that thick in the Federal land office.

**Mr. Deputy Chairman:** Mr. McKinnon?

**Hon. Mr. McKinnon:** Mr. Chairman, I just say that I do have real problems on a chunk of residential land. The only developer at the present time, and things may change, is the Yukon Territorial Government. What we want in this Legislative Assembly, I would think, are home owning tax paying citizens of the community who are raising their families and putting their money in investing in a home in Yukon. It is impossible for them under the restrictions of this Ordinance presently to get involved in one of the great lottery or line up extravaganzas of the Department of Local Government to be able to get a residential lot on which to build a home.

I can't see how they can have any advantage by going through the methods which are presently in place to buy a piece of residential land. There is no possible method that there could be any hint of them receiving any type of special benefit with the sale procedures that are presently used.

To deny a person the right to be able to purchase a piece of residential land from the only developer in the Yukon, because he wants to take the responsibility as sitting as a Member of this Legislative Assembly, just seems to me too restrictive. I would think rather than a benefit put into the general section, that a specific section outlining exactly what we would require in the purchase of residential land only would be sensible, because I just find it too restrictive if the right is taken away from a Member who could contribute to this Assembly.

I sure would like to see this changed to allow that residential piece of property to be purchased by a perspective or a member of this Legislative Assembly, Mr. Chairman.

**Mr. Deputy Chairman:** Mrs. Watson.

**Mrs. Watson:** Mr. Chairman, is there anything in the land lottery that prevents a person from buying more than one

residential lot over a period of time?

This is one area where there might be an abuse if you did allow them to buy residential lots and then they decide to sell their house to make a profit off it and then build a new one. That is almost a type of business in the Yukon, today. It is a type of business all over the country, with the increase in land values and if you can work it somehow, that you can get a lot, a Crown lot that has been developed, whether you get it yourself or have your brother-in-law stand up and get it and then you buy it from him and you build your house and then sell it for a profit.

So, it is a type of business and if you are going to let members of the Legislative Assembly, in fact, buy residential land, then you had better put some restrictions on it, too, because the thought is always very good. Yes, we don't want to prevent anybody from being able to own their own home and be able to buy some Crown land because the government is the only agency in the Yukon who develops land. That is fine, but let us face it. There is going to be loop-holes and there is going to be ways and means of getting around this and using it and the blatancy of some of these things that are coming to the public destroy the whole idea behind it.

So, let's make sure that it can't be used before we go that far. There is no use closing the gate after the damage is done.

**Mr. Clegg:** Mr. Chairman, I fully appreciate the importance of what the Honourable Member has just said and I would comment that if we do draft a specific provision to go in here, it will be very difficult to draft it in such a way to prevent a member dealing in the land, without, again, putting unreasonable restrictions on him.

If, for example, the limit was made one lot per member, would that mean one lot per legislature or one lot per year or one lot per lifetime? If it was one lot per lifetime, that might turn out to be very unfair because the member will, inevitably, at some stage in his life, want to develop his family home and maybe move.

If it is made one lot per legislature, it looks a little bit ridiculous because it appears that members are allowed to turn up once in every four years to get a lot.

I would comment, in general terms, that the immediate provisions of this Ordinance are not the only control on a member's behaviour. If a provision is put in here to allow members to purchase residential lots for their own use, and if a member does in fact abuse the privilege and buy and sell continually, it will become a matter of public knowledge and he will be criticized publically for it and he will have to accept the political pressure for it.

So, in the circumstances you mentioned, there would be controls other than the controls in the Ordinance.

**Mr. Deputy Chairman:** Mr. Clegg, if you couldn't acquire Crown land, could your spouse or members of your family be in that position?

**Mr. Clegg:** Yes, Mr. Chairman, the provision of this Ordinance does not disqualify you if your spouse enjoys the right which you may be prevented from enjoying. The circumstances would have to be examined as to whether your spouse was holding it in trust for you.

There is still remaining a discrimination in Canadian law against men in that where men hold property, in a marriage they are sometimes deemed to hold this in trust for their wives, whereas if wives hold property, then they are not necessarily deemed to hold it in trust for their husbands.

I mention that not to get into the matter of matrimonial law, but to say that the issue is far from clear as to whether your spouse holds land in trust for you or not. If the house is in the name of the husband or the wife, it is not a matter on which one

would place a heavy reliance, whether or not it was held in trust for the other spouse, or half of it.

**Mr. Deputy Chairman:** Only in divorce procedure Mr. Clegg.

Mr. McKinnon?

**Hon. Mr. McKinnon:** Mr. Chairman, it's getting worse. We are getting into the field of rank discrimination now. If you are a married person, that is fine because your wife can go into the lottery or your wife can go into the line up which is a lot better, go on stand in line, I don't have to, I can't you have got to stand in line up for the lot. It is against the law by the Yukon *Legislative Assembly Ordinance* for me. But if you are a single person, male or female, you are finished, you just can't buy a piece of land, that is all there is to it, so we are in the field of rank discrimination against the single male or the single female.

As the law stands now, everybody signs a statutory declaration when they go to purchase land that they haven't purchased a piece of land from the Territorial Government for residential purposes within the prior two years. There is a protection that way and I agree with the witness, that if a member of the Legislative Assembly, every two years is building a house, selling it and going and buying another one, then I would expect that he should be taken to task by his colleagues in this Assembly for making a business where all we want him to do is have a piece of residential land like anybody else can, on which to build his home.

With the safeguards already in place with the sale of land by the Territorial Government, I can't see the objections to a member having the ability to pick up one piece of residential land on which to build his home. I just find it much too restrictive. That is fine for people who now own their homes. That is discriminatory again against young people who are just starting up, who want to eventually live and have a home in the Yukon. They won't have that ability the ability that other members of this House already have. No, it is too restrictive, Mr. Chairman.

**Mr. Deputy Chairman:** Mr. Fleming?

**Mr. Fleming:** Yes, Mr. Chairman, I wish to go further than the Minister of Local Government. I think we had better make sure, and I have to agree also with Mr. McIntyre when he says you know, let's control things. I agree, and I also agree that possibly, a member of Parliament with a substantial wage, I would presume, and in that position, yes. All sorts of good things. However, we mustn't forget the fact that we are going to have, I hope, sixteen constituencies in the Yukon. When you are just speaking again of residential, that bothers me some.

You speak of only residential, because in the little areas, and of Whitehorse, too, I would presume, there is plenty of businessmen who would like to run for the Legislative Assembly and probably they would be very good members in this Assembly. However, under our contracts and so forth to get land at all, we are tying it up pretty tight here and I would be afraid that there would be many, many instances in the country especially in the outlying areas, whereas a small little businessman who really, he hasn't normally got a beanry to start with, you know, it is nothing big, and he has got a contract with the government to pay for that land and acquire the title in two to three years, or whatever, and he would be held back from running for office for that little town, which probably people might want him to do.

It worries me a little. I think we should take a good look at it. I really believe there should be some restrictions, but I think we had better just go a little further than worrying about just completely the residential idea, because many little places, their residence is their little business and probably will be for

some years, I hope, if the government doesn't intervene too much on this.

**Mr. Deputy Chairman:** Mr. Hibberd.

**Mr. Hibberd:** Mr. Chairman, I don't think I have this straight yet, regarding spouses. I thought that 8.(1) covered that, when it used the word "interposition of a trustee or third party". That is not a wife?

**Mr. Clegg:** The wife...

**Mr. Deputy Chairman:** Mr. Clegg.

**Mr. Clegg:** Mr. Chairman, the reason why, if a third party is interposed in a circumstance, which means that they are holding it for the other person, for the member, then he wouldn't escape disqualification. If the wife's tenure of the land is such that she does not hold it for him, and is not held through her or she doesn't hold it in trust for him, then, of course, he is not disqualified.

But, as I did say, the question of whether a wife holds land or a half interest in the family home, in trust for her husband, is a difficult one and not one which I would advise members to rely on as a way around this.

**Mr. Deputy Chairman:** Ms Millard.

**Ms Millard:** Just commenting on the discrimination against single people which I can't let go by.

If all single people were as poor as me, they wouldn't have to worry, because I can't even afford to buy one piece land so, that is just fine.

I am not really concerned, personally, with almost any these because of that reason, because I just rely on this salary and hope for the best, but I am interested in what is the legal definition of "any interest in land"? How would a native person who is living on land which has been set aside for native people by the Department of Indian Affairs and Northern Development, for instance, would that be concluded to be an interest in land?

**Mr. Deputy Chairman:** Mr. Clegg.

**Mr. Clegg:** Mr. Chairman, I don't think I know the answer to that question.

I think what it means here, really, is a registerable interest in land. If your Land Titles Office will allow the Indian band to caveat their right of occupation against that piece of land, then the band would have an interest in land. The individual may well not and I think it is rather unlikely that there are any individual native people here who have a caveatable interest of occupation in land.

Either the land is their own or it is Crown land on which they have a continuing right of occupation. But I really do now know whether that is caveatable and that is something on which we might have to, if the Committee felt it was a matter on which we should take more specific instruction, I would have to talk to the Registrar of Land.

**Mr. Deputy Chairman:** You made reference, Ms Millard, to the salaries of the elected representatives. You fully realize the public now knows we are one half step above welfare.

**Ms Millard:** Yes, we are one half step above welfare because that is exactly the case. The only problem will be, Mr. Chairman, nobody will offer me any land.

**Mr. Deputy Chairman:** Mrs. Watson?

**Mrs. Watson:** Mr. Chairman, on this matter of land, I agree with Mr. McIntyre, maybe I am a little pugged nosed on it, but there is one area where I think there could be a problem because we are going into the Executive Committee concept more and more and I very strongly believe that we need representation from the outlying areas on the Executive Committee, at least half and half, and that means people are going to have to take residence in, or three outlying to one inside

Whitehorse, that's fine. That means that people are going to have to change their residence or they are going to have to take residence up in Whitehorse and a second residence in—it might become quite a problem if they cannot buy land for that reason. We might be cutting off some of our own executive people from being able to settle in Whitehorse and then the excuse will be well we will have to have them all from Whitehorse again.

**Mr. Deputy Chairman:** Mr. Hibberd?

**Mr. Hibberd:** We certainly don't want to see any discrimination against the outside Whitehorse members, Mr. Chairman, and therefore I think that Mr. Clegg has indicated Committee will take that back and have a look at it.

*On Clause 9*

**Hon. Mr. McKinnon:** Mr. Chairman, I wonder if Mr. Clegg could give me an example of 9, subsection (2).

**Mr. Clegg:** Mr. Chairman, the purpose of 9.(2) is to prevent members being disqualified from voting on issues which affect their own remuneration as members. The only person who would be disqualified would be the Speaker, for example, when the matter of the Speaker's salary was being discussed, and the Deputy Speaker, and those are the only two individuals who are exclusively provided for at the present time in the Ordinance.

*On Clause 10*

*On Clause 11*

*On Clause 12*

**Mr. Deputy Chairman:** I will declare a brief recess.

*Recess*

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

Mr. Berger.

**Mr. Berger:** Thank you, Mr. Chairman.

Mr. Chairman, I was just wondering, in outlying areas lots of times there is only one restaurant or one lodge operator who sometimes serves meals to government employees. Sometimes those meals are served on a contractual basis, through meal sheets. That way, it is my understanding right now, he wouldn't be eligible to run, but he could refuse the meal sheets and accept cash for the same services, and would be eligible to run. What is the difference here?

Another question, Mr. Chairman, under the same circumstances in small areas, sometimes the government needs services done by small operators, may it be a tow truck, sometimes in the case of an emergency, they may need the services of a dump truck or any kind of equipment the person has, and the person is going to be reimbursed, but because of an emergency nature, would this person also be ineligible to run?

**Mr. Deputy Chairman:** Mr. Clegg.

**Mr. Clegg:** Mr. Chairman, I would agree that there is a distinction between receiving a payment in lieu of a meal and receiving a meal in the way that this Ordinance treats it, because it make special provision for payments of money received under a situation of commonality with other people, other members of the public. The only way to avoid that inconsistency is to even further widen the exemption, and it is a question for members to decide whether that should be done.

As to the issue, the second issue that the member raises, where he is required to make available his equipment to the government on an emergency basis, he would indeed be contracting with the Government, and if it was with the Territorial Government, that would be a ground for disqualification, although it might be a relatively minor matter.

Even if it was an emergency, the way around that would be to not receive payment for it.

We have provided in here a section which enables a member to return or refuse a payment which he receives as a matter of inadvertence or by mistake if he does something and doesn't intend to get paid for it. Suddenly he receives a cheque from the government which would disqualify him, he can return that and that is a special provision to prevent members being disqualified by somebody else's act which they didn't intend.

**Mr. Deputy Chairman:** Mr. Berger?

**Mr. Berger:** Mr. Chairman, sometimes there may be a substantial amount of money involved, especially, for example in Dawson City, as I have seen it in the flood situation, there is a threat of flood and the government commandeers every vehicle that is mobile in order to haul gravel or stuff like this and this can go for two weeks. So in other words, the member would become ineligible, but yet he was forced more or less to submit his equipment to the service of the government, he can't receive any payment for it. I think we should, somewhere along the line, allow for services like this. Under emergency conditions, there should be an exemption or something, I think.

**Mr. Deputy Chairman:** Mr. Fleming?

**Mr. Fleming:** Yes, Mr. Chairman, just to carry on a little further I think it is a very viable question. Also it is going to be a very large problem in the Yukon, if we don't have some changes made. I will have to speak again on the subject of, for instance, the wrecker calls. In this instance where a private business is operating and actually has no business with the government normally, under normal circumstances, however, a vehicle is abandoned on the highway and it is the RCMP who give the order to retrieve the vehicle, and it will be paid for, in time, by the Government because the RCMP did order the job done. This is the one concern of mine that you cannot stand back and say well we won't do the thing. As the witness has said we can stand back and say well we won't take the money, however, it involves sometimes 2 or 3 or \$400 and a large amount. A small businessman just no way could let that happen to him.

The other one, I am not quite clear yet, as to the Territorial Government handling their personnel whilst on the road, out of the City of Whitehorse, or out from anywhere. In the small hotels, gas stations, all the small service stations, they gas the vehicles up on a credit card system. Sometimes there has been other ways, where you signed forms that just said you got the gas and they would go back to the oil company. There are all sorts of different ways they do it, but, right now, most of it is done under the credit card system, which is then paid for by the Territorial Government, I presume, in a round about way, but, nevertheless, it is..

The other one is the restaurant business, and I myself have this problem already. I don't know whether I am illegal today or not, you know, I admit it. What are you going to do? You can't do anything, really. You serve meals. I would not accept contracts, I will not sign a contract with anybody, however, a meal sheet that the person signs and says I had dinner, and it was three or four dollars... They come, they pick them up, they take them and then they pay you the money.

Now, this is the same thing. I would presume they are paying you money and you, under this Ordinance, definitely, would be ineligible.

So, I think we had better take a very, very good look at it and realize that, in the Yukon, we are going to shut off many, many people from running, definitely, that is for sure, and, including myself and that would be a real crime.

**Mr. Deputy Chairman:** To whom, Mr. Fleming?

**Mr. Fleming:** To me.

**Mr. Deputy Chairman:** Oh. Just for clarification.

**Mr. Fleming:** I need this little extra cash to subsidize what I can make at home.

So, I think we should take a very, very good look at it and make sure that we know that it is more serious than possibly we are thinking of right now. It sounds like a joke, but it is not, really, it is serious. We had better take a good look at it.

**Some Member:** Are you suggesting Ms Millard get a dump truck?

**Mr. Fleming:** No, I'm...

**Mr. Deputy Chairman:** Ms Millard.

**Ms Millard:** Mr. Chairman, I simply have to agree that these complications are very serious and I think one of the serious things that we are not considering is that it is restricting people from running, and that is what bothers me. People will think that there are so many conflicts of interest that it is not worth the effort of even trying, and so we are eliminating possible good candidates.

I was wondering if it had been ever considered to allow a maximum amount per year that a person is allowed to receive from government funds, because in the Yukon it is very difficult for anyone, in a small place where most of the employment is by government and, of course, a lot of the industry is government or intertwined with government in ways, and so it restricts everyone in a little town from running.

I was wondering if it is possible to have consideration of that kind of concept of allowing, say, I don't know what the maximum would be, that would have to be decided, but, say \$2,000 to \$5,000 a year, something like that, allowable. If it is proven that a person has received more than that, then they are in conflict.

**Mr. Deputy Chairman:** Mr. Hibberd?

**Mr. Hibberd:** Mr. Chairman, I would like to hear more of what Committee has to say about this. It was a very difficult problem to try and face in our committee because we did recognize the necessity of having pretty stringent regulations in order to be a member of this Assembly. Where do we draw the line?

**Mr. Deputy Chairman:** Mr. McKinnon?

**Hon. Mr. McKinnon:** Mr. Chairman, I can say that you are not going to get much sympathy from members of the Executive Committee to go into much more stringent conflict of interest regulations than are present in this Assembly. We have already agreed that it is an extremely difficult position to draw the line. We had to do it, and I think members of the Assembly have to bite the bullet too.

**Mr. Deputy Chairman:** Mr. Berger?

**Mr. Berger:** Mr. Chairman, the Honourable Member from Whitehorse North Centre has spoken very well on that, but the thing is that we actually might be discriminating against the small areas in the hinterland of the Yukon really. Because people are much more reliant on governments for services, for work, for livelihood than people here in the Whitehorse area. Are we trying to do what it seems to be, create a Whitehorse with a population of 25,000 or 30,000 people and ignore the other areas of the Yukon. I think that now is the time to look at those matters.

**Mr. Deputy Chairman:** Thank you, Mr. Berger.

Ms Millard?

**Ms Millard:** Yes, I think it is just more than biting the bullet. It is inadvertently getting involved in a conflict of interest position without even realizing. For instance Mr. Berger, if he accepts a collect parcel for the YTG and has to go, you know, does he give that service free simply because it is the government?

**Mr. Deputy Chairman:** Mr. Lengerke?

**Mr. Lengerke:** Thank you, Mr. Chairman. I can certainly appreciate those comments from the Member from Klondike and the other ones that have been made with respect to the restrictions. As Mr. Hibberd said, the Committee had extreme difficulty here because we recognize the unique situation in Yukon and we wanted to certainly give as much latitude as we could and yet we just didn't know where to draw the line, so no doubt we will probably leave this in Committee and we will have to give some further consideration to it. I certainly concur and I would like to think about it and see what we can come up with.

**Mr. Deputy Chairman:** Thank you.

*On Clause 13*

**Mr. Deputy Chairman:** Mr. Berger?

**Mr. Berger:** Mr. Chairman, just a very short comment. Why didn't we say thirty pieces of silver?

**Mr. Deputy Chairman:** Ms Millard?

**Ms Millard:** I would like to comment on that section as well. I had a question, first of all, on 13.(1) where a person: "shall remain so ineligible". It doesn't say for how long. Does he remain ineligible for the rest of his life, or only until he is proven to be eligible again, or what is the limitation?

**Mr. Deputy Chairman:** Mr. Clegg.

**Mr. Clegg:** Mr. Chairman, at point which just came through my mind as I was writing a note here.

The intention is that he shall remain ineligible while the grounds for his disqualification exist. Perhaps the words to that effect should be added in that subsection.

**Mr. Deputy Chairman:** Ms Millard.

**Ms Millard:** Yes, I think that would clarify things, for me anyway.

Under Section 3, where the 30 pieces of silver are mentioned, I certainly don't like this, just at first glance anyway, because I really feel that is going to entice people to, by money, to do things that they should be doing otherwise.

But also, there was a question in my mind about the person who accepts the one-half payment of the fine. Isn't the fine government money, so that it wouldn't enable another person who is a member to accept money, having charged this other person with being not entitled to vote.

**Mr. Deputy Chairman:** Mr. Clegg.

**Mr. Clegg:** Mr. Chairman, that is my opinion, that a member could not take benefit of that particular proceeding.

**Mr. Deputy Chairman:** Thank you.

**Mr. Fleming:**

**Mr. Fleming:** Yes, Mr. Chairman, if I understand the witness right, he said that a member could not take the money, could not?

**Mr. Clegg:** A member could not use this proceeding against another member or, he could not take this proceeding and accept the money from the proceeding for bringing an action against a member for a penalty for sitting while disqualified. He could bring the proceedings, but he couldn't accept the money.

But, this remedy is not really provided primarily for members, because members have every opportunity to criticize the qualification of their colleagues from day to day, and it is more provided for members of the public, in most remote, most unusual circumstances.

I don't know of any Canadian precedence where this has been used. I understand there has been one. Somebody told me there had been one, but I don't know what it was. But it does

exist as a significant threat to make sure that members do comply with the grounds, and it can be regarded as bounty-hunting, but, on the other hand, it can be regarded as an incentive to members to keep very close compliance with the Ordinance.

**Mr. Deputy Chairman:** Mr. Fleming.

**Mr. Fleming:** Yes, Mr. Chairman, that I can understand, although I never have agreed with anybody watch-dogging another person for gain, so I still don't care for the section 3, as worded there.

But, I have a question and I think it refers back to 7.(2), where it says that a person who, by this Ordinance or by a court pursuant to *Controverted Elections Ordinance* is made or declared to be ineligible to be a member of the Legislative Assembly and who sits or modes therein while he is or has been declared to be so disqualified...is subject to a penalty of \$200 for every day on which he so sits".

Now, as I understand this section, he can only be fined \$200 a day, from the time that his election or his seat has been declared void. I would be a little leary of 7.(2), if this is not the case.

**Mr. Clegg:** Mr. Chairman, Section 12.(1) says that no disqualification arising out of 7 or 8 is deemed to affect your right to sit until it has been determined by a court, and that is partly because it is usually a very complicated matter. However, a disqualification which arises from other sections of this Ordinance, for example becoming a federal MP or ceasing to be qualified as an elector would make a member immediately ineligible. The most common example of ceasing to become qualified is to lose his residence in the Territory. Of course it would be most inappropriate for a member who lost his residence in the Territory to remain as a member.

It is true, the commencement of disability or of ineligibility under 7 or 8 depends on the court determination, the commencement with disability on other grounds of this Ordinance, commences when the facts arise, and if the matter is before an election court, it depends on the determination of the court.

**Mr. Deputy Chairman:** Thank you. Mr. Hibberd.

**Mr. Hibberd:** Mr. Chairman, I might be wrong in this, but it seems to me that reference in Section 13.(1) regarding the time interval, is that not taken care of by 14?

**Mr. Clegg:** Mr. Chairman, 14 provides that the seat becomes vacant forthwith when a member becomes ineligible. This is just to clarify that a by-election may be held immediately that a person is declared to be ineligible by a court or is made ineligible by one of the automatic provisions of this Ordinance.

**Mr. Deputy Chairman:** Mr. Hibberd?

**Mr. Hibberd:** Mr. Chairman, he has been declared ineligible, and as soon as he is declared ineligible his seat becomes vacant, so why is it necessary to put a time interval on his ineligibility as far as that present election is concerned.

**Mr. Deputy Chairman:** Mr. Clegg?

**Mr. Clegg:** Mr. Chairman, I don't understand the question about time interval on ineligibility.

**Mr. Deputy Chairman:** Mr. Hibberd, do you wish to clarify?

**Mr. Hibberd:** Well, Mr. Chairman, the problem was raised that if a person was ineligible and their ineligibility continued until that ineligibility was relieved. But as soon as the person does become ineligible, their seat is declared vacant, so we would only on the next election if their ineligibility were to continue. That's the only way it would apply.

**Mr. Clegg:** Yes, that is correct, Mr. Chairman. The pre-

face of that earlier section which said that a person remains ineligible means that he can't immediately stand in the by-election in his riding which is for the seat which he has deemed to have vacated, unless he has divested himself of the disqualification.

It would only refer to a subsequent election.

**Mr. Deputy Chairman:** Thank you.

Ms Millard.

**Ms Millard:** I wanted to clarify, in Section 3, where it says a person who would be entitled to vote and has grounds to believe that a member is subject to a penalty under subsection 2".

So that only refers to an elector who knows that somebody has been declared ineligible and is still sitting in the House. Is that true? It is not on the basis of any other ineligibility, except on the declaration of his eligibility by a court?

**Mr. Clegg:** Clause 13.(2), refers to a member who had been made ineligible by one of the automatic provisions of this Ordinance. In other words, one of those which does not depend on a court determination, one of those which does not arise under 7 or 8, including, as I gave as an example, becoming a member of Parliament or ceasing to be resident in the Territory.

That wouldn't have to be determined by an elections court to be effective and he would be immediately ineligible and he would be immediately susceptible to the penalty if he remained a member.

The purpose of this is to force a member to resign when he should do, and not rely on being subjected to discipline from the House to expell him. If a member becomes disqualified, he should, of course, resign immediately and then there would be no penalty.

*On Clause 14*

*On Clause 15*

**Mr. Clegg:** If I might comment on the complexity of this section, it seems that we are providing for some fairly remote circumstances here, but it is very important that a member is able to resign instantaneously if he wishes to. For example, if he does become disqualified, and that is why provision has to be made for the absence of the Speaker or the absence, even, of the Deputy Speaker and the Speaker.

**Mr. Deputy Chairman:** Thank you.

*On Clause 16*

*On Clause 17*

*On Clause 18*

*On Clause 19*

*On Clause 20*

*On Clause 21*

*On Clause 22*

**Mr. Deputy Chairman:** Mr. Lengerke.

**Mr. Lengerke:** I just wonder if we could get just a little better explanation. I am not quite clear on it. Does that mean if somebody resigns, there is nothing to prejudice him running again at a further election, is that part of it here?

**Mr. Clegg:** Mr. Chairman, the purpose of Section 22 is to prevent a member from escaping liability under a provision of this Ordinance for doing something improper as a member, by resigning and thereby thwarting the proceedings.

The proceedings may still continue against him in respect to the time in which he was a member.

**Mr. Deputy Chairman:** Thank you, Mr. Clegg.

*On Clause 23*

*On Clause 24*

*On Clause 25*

**Mr. Deputy Chairman:** Ms Millard?

**Ms Millard:** Mr. Chairman, I am just curious in 25.(1) why it says "may elect a Deputy Speaker" where it is shall for the Speaker. Is there any case where you may not have a Deputy Speaker?

**Mr. Clegg:** Mr. Chairman, the drafting leaves the option open to the Assembly whether or not they do elect a Deputy Speaker. This wording does not make it obligatory.

**Ms Millard:** Yes, I understand that. I am just wondering what sort of case there would be for someone not electing a Deputy Speaker?

**Mr. Deputy Chairman:** Mr. Clegg?

**Mr. Clegg:** Mr. Chairman, there is no particular reason why one should not be elected, but a Deputy Speaker is not always elected immediately upon the first sitting of the Assembly and therefore the Assembly may proceed for several days without a Deputy Speaker, and this provision, or this election makes certain that the proceedings are not invalid or in any way challenged by the fact that the Deputy Speaker has not been elected.

**Mr. Deputy Chairman:** Thank you, Mr. Clegg.

*On Clause 26*

*On Clause 27*

*On Clause 28*

**Mr. Deputy Chairman:** Prohibitions.

*On Clause 29*

**Mr. Deputy Chairman:** Mr. Hibberd?

**Mr. Hibberd:** Just perhaps an academic point, Mr. Chairman, would the Legislature be functioning in its capacity as a court in this situation, or would it take the normal judiciary to deal with this kind of problem.

**Mr. Deputy Chairman:** Mr. Clegg?

**Mr. Clegg:** The provisions of this Ordinance allow the Assembly to act as a court to punish members who break its provisions. So in a case where there was a breach of this particular section, this could be dealt with by the Assembly. In fact, it is quite possible that a court would decline jurisdiction as court has traditionally stated that the jurisdiction of the Assembly with its own internal proceedings is exclusive.

I would mention for members' benefit that the provisions of the *Criminal Code*, Section 109, deal with bribery of public officers and if a member of the public wished to bring proceedings in the courts against an MLA who had taken a bribe in order to promote a matter in the Assembly, he would use that section of the *Criminal Code* which is, in fact, a very severe section.

This section of this Ordinance permits the Assembly also to discipline its members in this regard.

**Mr. Deputy Chairman:** Mr. Berger.

**Mr. Berger:** Yes, Mr. Chairman.

With your permission, Mr. Chairman, maybe, I was just thinking about this, my question that I asked previously on emergency services for people in the outlying areas and I was reading through here. Wouldn't that be covered under Section 8.(2), really? Because he really would not get any more monies than any other members of the public would be getting.

**Mr. Clegg:** Mr. Chairman, the limitation on 8.(2)(a), which might prevent this from applying here is that 8.(2)(a) applies to statutory or other legally established rights. If there is a provision in the ordinances which permits a local authority to require the services of a member of the public to provide vehicles in an emergency and to pay them for that, then this

might be covered.

If it is merely an administrative act where the member is not necessarily compelled but very strongly urged to give his vehicle, then, of course, he wouldn't be covered here by the present drafting.

**Mr. Berger:** I see.

**Mr. Clegg:** But, I am just thinking this question out. It would probably, therefore, save from disqualification a member who was compelled, by legal right, which the authority had to give his equipment or his personal services.

**Mr. Deputy Chairman:** Thank you, Mr. Clegg.

On Clause 30

**Mr. Deputy Chairman:** Mr. McIntyre.

**Mr. McIntyre:** Wouldn't the provisions of this section, Mr. Chairman, be held *ultra vires* the *Criminal Code*? Because the provisions are in the *Criminal Code* for prosecution for these very things we are listing here and I can see where we can possibly handle something. If we were to sit at a court, I don't think that we would be entitled to enact legislation where there are already provisions in the *Criminal Code* for this same thing?

**Mr. Deputy Chairman:** Mr. Clegg.

**Mr. Clegg:** Mr. Chairman, the legal argument here is that there is no objection to a province or a territory enacting a provision that something which is also a crime, in addition, has consequences under a territorial ordinance.

For example, it would not be *ultra vires* this Assembly to state that a person who has committed a crime suffers some other disability under a territorial ordinance such as not being permitted to drive a vehicle.

If a person is convicted under the *Criminal Code* for drunken driving, it is quite possible that your highway traffic act already provides that he may, upon that happening, he will lose his license. This is often provided in provincial acts and I think you will probably find there was precedent there and what that is doing is saying, if you commit a crime and are convicted for a crime, we will add another penalty.

What this section is saying is that we are not making it a crime and you won't be proceeded against under the *Criminal Code*, but what you are accused of doing could also in fact be deemed to be criminal, we are also making it a statutory offence in the Territory.

I think your jurisdiction in this regard is very, very similar, if not identical to that of a province. Every province, or almost every province to my knowledge, has the same provision in their Legislative Assembly Act as is in here.

**Mr. Deputy Chairman:** Mr. Lengerke?

**Mr. Lengerke:** I think that is under Section 16 of the *Yukon Act* isn't it. Is there a section that refers to it?

**Mr. Clegg:** Section 16 of the *Yukon Act* is the one which defines your legislative powers, yes.

**Mr. Deputy Chairman:** Mr. McKinnon?

**Hon. Mr. McKinnon:** Mr. Chairman, I swallowed my distaste the first time we came to this section, but I have just got to declare my repugnancy with these sections of the act where a person watches every move of his Member of the Assembly on the hope that he may stumble and fall and 'wapo' he can gain his just reward in monetary fines from the Supreme Court. It has always bothered me the concept of the *Income Tax Act* where you could respect your neighbour or business of doing things against the *Income Tax Act* and gaining part of the fine if the person has not been filling out his books correctly. It seems to me, if I recollect the number of complaints that go in with a number of judgements that it is found, that most of the people are bitches, whiners and complainers and

bellyachers that just don't like what is going on. They figure this is a way we can get this guy who was successful or who is doing this or doing that and sends in a complaint under the *Income Tax Act* they have to act on.

You know, the members of the Legislature do have a tough time under pretty adverse conditions and there is a lot of people that a lot of times that just don't like what they are doing, and I know for a fact that there would be an awful lot of people at certain times, just because of what was happening under some pretty pressure situations, saying well, we will throw a wrench into it by starting an action that this or that is or is not happening. Of course, there is no penalty at all, never is, to the person who wants to start that type of an action. The total name of the member who very naively at first let his name stand for election because he really believed that he could accomplish something for the good of the people of the Yukon, gets his name dragged through the whole court and the whole bit again, and certainly, if a person feels that strongly that a member of the Legislature is breaching the terms of the *Assembly Act* then he should have enough moral guts to go into a Supreme Court and start an action without holding out gain of reward.

I would think more of my colleagues on the Assembly that they know pretty well what their colleagues are up to and that they would have got it long before it went to the point that a member of the public had to take it on himself to police the members of the Assembly. I just can't say how repugnant I find these sections, and I can find all kinds of harm coming from them and very little good, Mr. Chairman.

**Mr. Hibberd:** Mr. Chairman, before we conclude proceedings for the day, I might mention that our witness has previous commitments and he will not be able to be with us for several days at least, next week, and it will be some time before we will be able to return to consideration of this Ordinance.

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

**Mr. Deputy Chairman:** Thank you, Mr. Hibberd.

**Mr. Fleming:** I second it.

**Mr. Deputy Chairman:** It has been moved by Mr. Hibberd, seconded by Mr. Fleming, that Mr. Speaker do now resume the Chair.

Motion agreed to

**Mr. Deputy Chairman:** Thank you, Mr. Clegg, for all your assistance.

Mr. Speaker resumes Chair

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

May we have a report from the Chairman of Committees.

**Mr. Hibberd:** Mr. Speaker, the Committee of the Whole have considered a motion concerning correspondence between the Standing Committee on Rules, Elections and Privileges and the Minister of Indian Affairs and Northern Development, and directed me to report progress.

The Committee of the Whole have considered Bill Number 101, *An Ordinance Respecting the Legislative Assembly*, and directed me to report progress and ask leave to sit again.

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

**Some Member:** Agreed.

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

At this time, we are prepared to receive Mr. Commissioner in his role of Lieutenant Governor to give assent to certain bills which have passed this House.

This House now stands in recess.

Recess

LEGISLATIVE RETURN # 31  
1977 (Second) Session**SERGEANT AT-ARMS ANNOUNCES THE COMMISSIONER**

**Mr. Speaker:** Mr. Commissioner, the Assembly has passed a Bill, to which in the name and on behalf of the Assembly, I respectfully request your assent.

**Madam Clerk:** Bill 12, the *Electoral District Boundaries Ordinance*.

**Mr. Commissioner:** Mr. Speaker, I hereby give Royal Assent to the Bill enumerated by the Clerk.

**Mr. Speaker:** I will now call the House to order.  
May I have your further pleasure?

The Honourable Member from Whitehorse Riverdale.

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

**Ms Millard:** I second it.

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

*Motion agreed to*

**Mr. Speaker:** This House now stands adjourned until 10 a.m., Monday next.

*Adjourned*

Mr. Speaker,

Members of the Assembly

On November 23, 1977, Mr. McCall asked the following question:

"A subsidy figure of \$3,000 was budgeted to subsidize the Commissioner's residence. In view of the fact that the Federal Government pays the Commissioner's salary, why are the taxpayers in the Yukon being asked to subsidize the Commissioner's residence and which other government civil servants are getting the same benefit, Federal and or Territorial?"

The answer to the above question is as follows:

This benefit is voted only for the residence of the Commissioner. The YTG subsidy on the Commissioner's official residence is a matter of long standing and is designed to partly offset the costs that the Commissioner bears in maintaining an official residence recognized as "government house" for the Territory. In this respect it is similar to the Provincial pattern.

*Nov 30/77*  
Date

*[Signature]*  
Signature

LEGISLATIVE RETURN # 32  
1977 (Second) SessionMr. Speaker,  
Members of the Assembly

On November 9, 1977, the Honourable Member from Klondike directed a question to the Commissioner regarding the current status of the Economic Research and Planning Unit study to examine the possibility of establishing a government owned insurance corporation.

THE ANSWER TO THE ABOVE QUESTION IS AS FOLLOWS:

I am pleased to inform the Honourable Member from Klondike that the study to examine the possibility of establishing a government owned insurance corporation is underway. Letters have been sent to other jurisdictions in Canada where the government has taken an active interest in the insurance business. However, there is an enormous amount of information which must be gathered because of the complex nature of the question being studied. The resolution that was passed in this House was not specifically related to any one type of insurance. Consequently, the entire range of insurance businesses, vehicle, life, general, and fire, must be investigated. This requires a great deal of time and effort. In the Province of British Columbia, for instance, a Royal Commission was formed in January of 1966 to look into automobile insurance and make recommendations to the government. The report of that Commission was two volumes in length, required in excess of two hundred man months of work and was not presented to the Lieutenant-Governor of British Columbia until July 1968, two and a half years later. Our situation may not be as complex as that in British Columbia due to our smaller size, but we must still cover much of the same ground. In addition, the work must be done by a very small staff which has a number of other responsibilities in addition to this one. We are hopeful that sufficient information will be gathered in the ensuing months to allow us to present a preliminary report to this House in the spring session.

November 30, 1977.

*[Signature]*

**The following Legislative Returns were Tabled (December 1, 1977)**

77-2-31

Commissioner's Residence Subsidy  
(Written Question No. 19)

77-2-32

Government Owned Insurance Corporation  
(Oral Question - Page 60 - November 9, 1977)

**The following Sessional Papers were Tabled (December 1, 1977)**

77-2-30

Alberta Heritage Savings Trust Fund Papers

77-2-31

Further Correspondence between Standing Committee on Rules, Elections and Privileges and the Minister of Indian Affairs and Northern Development









