



The Yukon Legislative Assembly

Number 25

9th Session

23rd Legislature

Debates & Proceedings

Thursday, December 15, 1977

Speaker: The Honourable Donald Taylor



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Thursday, December 19, 1957

Whitehorse, Yukon Territory

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

Prayers

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

Mr. Hibberd: Mr. Speaker, I would like to rise on a Point of Privilege this morning. It was reported in the local newspaper that the Minister of Northern Affairs had very gratuitously got us back on our path of what we are supposed to be doing by granting us a fourth elected member.

I would like to point out that the situation is actually quite the reverse. There are motions that have been put forward by this Assembly for several years now. I could quote them all, and there have been numerous appeals made to the Minister and they have always been refused. The members of the Executive Committee travelled to Calgary to try and get the approval. When the last Minister was here we directly confronted him and we were refused everytime to have this fourth elected member appointed.

My concern, Mr. Speaker, is that the efforts to get a fourth elected member have been on behalf of this Assembly, and not by the Minister.

Mr. Speaker: The Honourable Member from Whitehorse Porter Creek?

Hon. Mr. Lang: Mr. Speaker, I would like to also rise on a personal Point of Privilege. I feel it is very important. I noticed an article in the local newspaper, the "Yukon News", it stated that "the Clerk of the Assembly's office illegally postponed the release of these documents...", the Housing green papers... "after they had entered the public domain by being tabled in the House. The documents were finally obtained after the intervention of the Territorial Government's Legal Advisor Pdraig O'Donoghue."

I would like to point out Mr. Speaker that the Clerk's Office has a responsibility first to distribute all papers to members in the House, and then expeditiously distribute the same papers to the press and on to the parties, once that procedure has been followed.

It's my understanding, Mr. Speaker, that people that have come from other jurisdictions presently working for the Government are very surprised the way the Clerk's Office can handle the distribution of these papers as expeditiously as they do.

So, I would just like to say for the record, Mr. Speaker, that I believe the Clerk of Assembly's Office has been maligned and I do believe that they should get an apology from the writer of the article.

Mr. Speaker: I think in view of the severity of the question raised by the Honourable Member from Whitehorse Porter Creek, that the Chair will take the matter up with the Press Gallery and determine what can be done in this regard.

We will proceed to the Order Paper. Are there any Documents for Tabling?

Reports of Committees? Petitions? Introduction of Bills? Notices of Motion for the Production of Papers? Notices of Motion or Resolution?

Are there any Statements by Ministers?

We will then proceed to the Question Period. Have you any questions? The Honourable Minister of Highways and Public Works.

ROUTINE PROCEEDINGS**QUESTION PERIOD**

Hon. Mr. McKinnon: Mr. Speaker, I have for tabling today, Legislative Returns in response to:

1. Written question number 27, concerning subdivisions in the Whitehorse area, and, an oral question asked by Mr. McCall on December 12th, concerning the entertainment fund of the elected Executive Committee Members.

Mr. Speaker: The Honourable Minister of Human Resources.

Hon. Mrs. Whyard: Mr. Speaker, I have for tabling Legislative Returns in response to: an oral question asked on November 30th, concerning the transfer of Mines Safety Inspection to the Territorial Government, and an oral question, asked on December 14th, regarding the deduction of medical premiums.

Mr. Speaker: The Honourable Minister of Education?

Hon. Mr. Lang: Mr. Speaker, I have for tabling an answer to an oral question asked by the Honourable Member from Kluane, concerning the Commissioner's annual leave.

Mr. Speaker: The Honourable Member from Hootalinqua?

Mr. Fleming: Yes, Mr. Speaker, I have a written question this morning for the Commissioner. I see the Commissioner is not here this morning. I will direct the question, I guess to Mr. Speaker to pass on or whatever.

Mr. Speaker: Perhaps one of the Ministers could answer the Honourable Member's question or convey it along.

Mr. Fleming: It is a written question, Mr. Speaker.

Mr. Speaker: Proceed.

Question re: Health Care Premiums

Mr. Fleming: To Mr. Commissioner: Since the Government of Canada is responsible for the health care costs of status Indians, will the Commissioner state what arrangements are made by the Government of the Territory to ensure (a) the status Indian workers or their employers on their behalf are not required to pay health care premiums, (b) that employers of status Indians do have to pay Workers' Compensation assessment or the portion of the assessment relating to health care workers, pursuant to the *Workers' Compensation Ordinance*, and also state (c) whether the Territorial Government has any arrangements with the Department of Indian and Northern Affairs to verify and update the list of roles of status Indians, (d) whether the list of status Indians kept by the different Federal and Territorial departments and branches are regularly compared for accuracy, (e) what procedures are used by the Government of the Territory (i) to verify maximized payments due by Canada to the Territory to inspect all contractual services rendered to Indians by the Territory on behalf of Canada, and (ii) to ensure that individuals are not required to make payments to the Territory in cases where payments are or should be made by Canada on their behalf?

Mr. Speaker: Are there any further questions? The Honourable Member from Whitehorse South Centre?

Question re: Strep Infection Treatment

Mr. Hibberd: Mr. Speaker, I would like to direct a question to the Minister of Human Resources this morning, realizing that she will have to go to her federal counterpart for some answers, for this month anyway. In view of the fact that there has been a strep infection recently, the drugs to treat this infection has been supplied by the Hospital, and in view of the fact that, we as yet, do not have a medicare system and there are stores operating in town that make their living by selling drugs, on what authority does the department concerned

bypass these stores and supply people with free drugs?

Mr. Speaker: The Honourable Minister of Human Resources?

Hon. Mrs. Whyard: Mr. Speaker, I will take that under advisement.

Mr. Speaker: The Honourable Member from Hootalinqua?

Question re: Housing Strategy for Pipeline Impact

Mr. Fleming: Yes, Mr. Speaker, a question to the Minister of Education, a written question, dealing with the housing strategy of the pipeline impact. Would the Minister inform me as to the method used in the projection of housing requirements to 1985 tabled 3-1 for the Teslin area?

Mr. Speaker: The Honourable Minister of Education.

Hon. Mr. Lang: Mr. Speaker, you will recall my remarks yesterday. I said that the projections used were a combination of many factors, in respect to trying to project what is going to happen in the future.

The figures that were adopted were a compilation took prior to submissions that were given to the Lysyk Report, as well as statistics given to us by Foothills and statistics that we had within our own Economic Branch in Government. This is where we reached the projected figures, as we foresee things happening.

Mr. Speaker: The Honourable Member from Hootalinqua.

Mr. Fleming: These are written questions, Mr. Speaker.

Mr. Speaker: Yes, I believe that was the intent.

Are there any further questions? The Honourable Member from Whitehorse Riverdale.

Question re: Motion Regarding Yukon Employment on Pipeline

Mr. Lengerke: Mr. Speaker, on March 21st, this House passed a motion that stated: WHEREAS a number of construction and development projects involving large manpower requirements are anticipated in Yukon in the near future, and

WHEREAS specifics must be provided pertaining to the definition of a Yukoner, job preference and contract differentials,

BE IT RESOLVED that this House recommends that the Yukon Government, through its Social Economic Planning Unit and other appropriate Territorial and Federal Government departments, in liasion with private industry and labour representatives, develop an immediate strategy or policy that assures all Yukoners on a priority basis full and meaningful participation in all future employment opportunities."

I am just wondering, Mr. Speaker, if any of the Ministers could tell me this morning just exactly what has happened to that particular motion, what has been done with respect to the actions that are called for?

Mr. Speaker: The Honourable Minister of Education.

Hon. Mr. Lang: Mr. Speaker, this is one of the responsibilities that we have taken under the area of Manpower and, at the present time, we are examining the *Financial Administration Ordinance*, in respect to contracts and this kind of thing.

At the same time, Mr. Speaker, as you know, we gave a definition for the Alaska Pipeline for Yukon hire to the Lysyk Report, which was adopted subsequently by the Lysyk Report and appears to have been accepted by the Federal Government.

We are working very closely with the Federal Government, our provincial counterparts and the Canada Pipeline Advisory Council in this particular area.

At the same time, we are looking at the Shakwak Valley Project to see what can be done in that area as well.

So, we do have it under constant scrutiny. At the same time, Mr. Speaker, I would expect that there would be some sort of a reply to that motion, after the Christmas recess.

Mr. Speaker: There being no further questions, we will proceed to Orders of the Day to Motions.

MOTIONS

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

Mr. Speaker: Is the Honourable Member prepared to discuss Item 1?

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 Kluane, that the Sixth Report of the Standing Committee on Rules, Elections and Privileges be concurred in.

The Honourable Member from Whitehorse South Centre.

Mr. Hibberd: Mr. Speaker, this report deals with the Legislative Executive split at the Clerk's Office and the undertaking was on the basis that the Legislature requires a full-time clerk.

As far as the history of the evolution of the Clerk, Mr. Speaker, the Clerk of the Assembly, is by parliamentary tradition, going back to 1363, a position of honour, status, and independence. The Clerk must be completely non-partisan, dispensing procedural advice to all elected members. She must obey the rules of the House and owe allegiance to the person, regardless of position. It is the Clerk's first duty to uphold the authority of the Assembly.

In the childhood of the Canadian provinces, the Clerk performed duties on both the executive and the legislative sides. However, as the systems expanded and grew more sophisticated, it became evident that the Clerk was in an untenable position, both with regard to overwhelming workload and to the obvious conflict of interest. Consequently, the job was split into two positions, Clerk of the Legislative Assembly, and Clerk of the Executive Council. In Yukon's quest for constitutional development, a step forward into political maturity could be accomplished by splitting the legislative program away from the executive powers. This move would be viewed as securing independence for the Assembly from the government arm and an essential prerequisite of the Canadian system of parliamentary democracy.

It is asked why the split, Mr. Speaker, and the division of loyalty is one of the major reasons why this split becomes necessary. By reporting to the government and to the legislature, the Clerk is forced to violate the principle of the independence of the House. For those interested in political autonomy, this is an unacceptable situation.

Members must realize that the Clerk now owes allegiance to them and to the Commissioner of Yukon. As those two factions are answerable to very different masters; that is, the electors of the Yukon in the case of the members, and the Federal Government in the case of the Commissioner. It is very difficult for the Clerk to serve both with equal neutrality. It can only be expected that she will be privy to information that should be known only to one side or the other, thus individual relationships of complete confidence with each other.

Mr. Speaker: Any further debate?

Motion agreed to

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

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

Mr. McCall: Yes, Mr. Speaker.

Mr. Speaker: It has been moved by the Honourable Member from Pelly River, seconded by the Honourable Member from Watson Lake, THAT it is the recommendation of this Assembly that Dr. Jack Hibberd be appointed to serve on the Executive Committee of the Government of the Yukon Territory.

The Honourable Member from Pelly River?

Mr. McCall: Thank you, Mr. Speaker. As the mover of the Motion, I am gratified we have now reached another milestone in the political evolution of the Legislative Assembly, acquiring finally, after continued utterances of ourselves towards the Minister of Indian Affairs. I think they have, on this particular matter, come to their senses. They know that we need a fourth elected member, and I think most of, if not all, the Honourable Members in the House today are gratified that this accomplishment has been reached without it being dragged out any further or any longer. I'm going to support the Motion, Mr. Speaker.

Mr. Speaker: The Honourable Member from Kluane.

Mrs. Watson: Mr. Speaker, I have no problem standing up in this House and criticizing the Minister and his advisors on their decision to refuse assent to a very basic Bill that I believe there was no right to refuse.

I had no problem criticizing, and very strongly, but by the same token, Mr. Speaker, I would have no problem today to commend the Minister and his advisors for finally understanding the need in the Territory for a fourth Member to the Executive Committee.

I think it was an opportune time. The Minister, when he visited the Yukon, advised us at that time that he had no problem with going with a fourth member after the next election, when the total body of this Legislature would be 16 in number, that he has been convinced and he has been able to understand that the need is there now, in order to prepare for the rather extensive economic development that we can look forward to.

So, Mr. Speaker, I would like to commend our Minister today.

Mr. Speaker, I have to speak on the principle of this Motion. To me there is a very basic, strong principle in the Motion and, unfortunately, when someone speaks on a principle, it often is interpreted as being a criticism of the individual involved, and, Mr. Speaker, this is not my intention today.

I am not speaking about the name that has been inserted in this Resolution. I am speaking about the principle that we have 12 members on this Legislature, five of them represent constituencies within the City of Whitehorse and seven of the members represent constituencies outside the City of Whitehorse.

The make-up of our Executive Committee today, three elected members, everyone of them represent ridings within the City of Whitehorse. Mr. Speaker, there is a very strong imbalance in our representation on the Executive arm of Government.

Mr. Speaker, I think it is most unfortunate that we did not take the opportunity, when the fourth member was granted to us, to try to correct that imbalance and to provide for representation on the executive arm from the outlying areas.

Mr. Speaker, there were people who were interested in accepting that role, and I think that we should have given that principle more recognition than what we did.

I must again reiterate the fact that my remarks this morn-

ing are certainly not directed at the individual, but there is a very basic strong principle at stake, which we cannot lose sight of and, Mr. Speaker, I cannot support that Motion on that principle.

Mr. Speaker: The Honourable Member from Whitehorse Riverdale?

Mr. Lengerke: Mr. Speaker, I would also like to comment on this Motion. I was more than pleased that we finally reached the point where we are going to have a fourth member, and I certainly took note of the remarks this morning by the member, Jack Hibberd, with respect to the fact that this Assembly has put forth more motions that really required to make the Federal Government realize that we do need a fourth member. This is fine, it has been at the direction of certainly this Assembly and others before it. But I also would like to say that I commend the Minister, the present Minister for reacting as quickly as he did, and I say this from just my personal conversation with him when he was here. I felt that he had not been at the job very long, and certainly his positive reaction to the suggestion that a fourth member be appointed even at the time of the next election, and then when we talked to him a little further and pointed out to him the needs and requirements because of the pipeline, because of the native involvement, and the other aspects, I think his mind was changed considerably.

I think with the pressure that we did keep on him and put on him, that he finally changed his mind and came through, which is commendable indeed.

I too have some difficulty, and it probably sounds, I don't know, I will be questioned, I will be criticized for saying this, no doubt, but I am going to say it, I too have some problems. I would like to have seen a member on the Executive Committee from the outlying areas. There is no doubt about that in my mind whatsoever, and I have made that position clear before. It is no reflection on the member named, because I know he will do an excellent job, but I too would have liked to have seen that balance, because I think it would have augured well for all of Yukon. I think this is what it is all about. We are trying to get some participation by a greater cross-section of this Territory.

With that, as I said, I will support the Motion, but I would have liked to have seen an outlying member.

Mr. Speaker: The Honourable Member from Whitehorse North Centre?

Hon. Mr. McKinnon: Mr. Speaker, I didn't want to rise on this Motion in any way shape or form, and I neither want to believe what I heard from the Honourable Member from Kluane. I am in rather a state of just a little unsteadiness in hearing, after a caucus decision, and I thought that that was the reason that we met in caucus on the appointments to Executive Committee and to boards and committees, that we had our say in there on issues as she has raised.

I'm sorry, Mr. Speaker, I find this to be, when the Honourable Member says that she will not support the Motion which is before the House, a very serious breach of that confidence, of that caucus, Mr. Speaker.

I think it is a lot more serious than many Honourable Members and I know that the Honourable Member from Kluane realizes the seriousness of this situation, because she knows the rules of caucus and the rules of Executive Committee and the rules of the game.

Mr. Speaker, I think that most of the members have got a little more class than the Honourable Member from Kluane in this respect, and will give the support of caucus to the Honourable Member, the choice of caucus, for the fourth elected member.

I wouldn't breach, I wouldn't breach, Mr. Speaker, the

terms of caucus, but I wonder if an enterprising member of the press would ask the Honourable Member from Kluane whether she allowed her name to stand as a possible fourth elected member of the Executive Committee at this time, as an experienced member of this House, a member of this House from outside Whitehorse and a former member of the Executive Committee, and whether she allowed her name to stand to be elected by her colleagues to be a member of Executive Committee for the next eight months, until the next Territorial election.

I think, Mr. Speaker, that probably would be a question that could be answered at this time.

Mrs. Watson: Mr. Speaker, on a Point of Personal Privilege, I think I should have the opportunity to speak on the...

Mr. Speaker: Order, please, the Honourable Member has already spoken.

Mrs. Watson: Mr. Speaker, this is on a Point of Personal Privilege.

Mr. Speaker: Would the Honourable Member state her Point of Privilege, please?

Mrs. Watson: Yes, Mr. Speaker, I was accused of a breach of caucus confidentiality. Mr. Speaker, that is absolutely incorrect and the Honourable Member knows full well it is.

Mr. Speaker: Order, please, I believe that the Honourable Member has no Point of Privilege.

Mrs. Watson: That is a Point of Privilege, I am have been...

Mr. Speaker: Order, please.

Mrs. Watson: I have been insulted in this House and I should be allowed to defend myself, Mr. Speaker.

Mr. Speaker: Order, please, allegations as to fact in a dispute between two members does not constitute a Point of Privilege.

Mrs. Watson: Mr. Speaker—

Mr. Speaker: Order, please.

Mrs. Watson: Mr. Speaker, then the facts were not stated in the first case. The facts were not relevant to the Motion in hand.

Mr. Speaker: Order, please. Is there any further debate? The Honourable Member from Hootalinqua.

Mr. Fleming: Yes, Mr. Speaker. I rise in support of the Motion. I have no problem playing the ball game.

I may or may not have put my name forward, that is nothing that will come from me out of caucus, one way or another, however, I do have a problem with the system of the Government, as I think everybody well knows, that I have never been completely in favour of our concept of the Executive Committee, as the Minister and the Government of Canada wish to have our affairs run, because I am not the type that wishes to be a colonial son any longer and I would like to see evolution a little faster than what it is coming.

I also know when I am beat in the game and I accept and thank the Minister very much for this opportunity to at least strengthen the Executive Committee and maybe lessen their job and also have more voice from the Government, because I myself, when I said before, I can sit over there, or sit over here, across from the Government and see seven Members over there, there is political or non-political, and my decision would make not difference as long as there are the majority of this House running the departments of the Government and the affairs of the Yukon Territory. That day I will be happy for.

I will thank the Minister for this small token and hope that he doesn't drag his feet when he goes up the stairs and we will

maybe have another member some day.

Mr. Speaker: The Honourable Member from Pelly River?

Mr. McCall: Thank you, Mr. Speaker, just a few words I would like to say in closing off this debate on this Motion. First of all I, as the Chairman of Caucus, I take exception to the Minister's remarks. They were unwarranted and uncalled for, it was not necessary. I am a little frustrated, Mr. Speaker, when we have a motion like this on the floor when we see a couple of Honourable Members start nit-picking. The decision was taken, it was unanimous, and I see nowhere, Mr. Speaker, for any member of this Legislative Assembly to start dragging out the ballots that had already been counted for any reason. I don't like to see this, Mr. Speaker, because it was unanimous and that's the way it is going to stand. The person that wishes to speak on the Motion—

Hon. Mr. McKinnon: Mr. Speaker, I have a Point of Personal Privilege.

Mr. Speaker: Order, proceed.

Hon. Mr. McKinnon: Mr. Speaker, that is my whole Point of personal Privilege that the Honourable Member from Kluane has stated that is not going to be unanimous, that she is voting against the Motion. That was my whole purpose for rising and my sole purpose for rising, Mr. Speaker.

Mr. Speaker: Order please. In this matter I would refer Honourable Members on these Points of Privilege to annotation 113 of Beauchesne, which in part states: "a dispute arising between two members as to allegations of fact does not fulfill the conditions of Parliamentary Privilege." Perhaps, if members would agree, we could continue the debate with the least interruption.

The Honourable Member from Pelly River?

Mr. McCall: Thank you, Mr. Speaker. I think the Motion, as it stands on the order books, has nothing really to do with what happened in caucus. It is now a dead issue, the caucus discussions, the decision was taken, there is a Motion on the floor, it should be voted on, it is the prerogative of each member of this House, Mr. Speaker, to vote in the affirmative or negative. That still has nothing to do with what took place in the caucus and I do not think it should have been brought up at this time by the Minister. Thank you.

Mr. Speaker: The Member having twice spoken has closed the debate. Are you prepared for the question?

Some Members: Question.

Mrs. Watson: Mr. Speaker, I had no intention of calling division, but under the circumstances, the Minister has asked me to call division on the question.

Mr. Speaker: Order please. Are you agreed?

Some Members: Agreed.

Mrs. Watson: Disagreed. Division.

Mr. Speaker: Division has been called.

Mr. Speaker: Madam Clerk, would you poll the House.

Hon. Mr. McKinnon: Agreed.

Hon. Mrs. Whyard: Agreed.

Hon. Mr. Lang: Agreed.

Mr. McIntyre: Agreed.

Mr. Hibberd: Agreed.

Mr. Fleming: Agreed.

Ms Millard: Agreed.

Mr. McCall: Agreed.

Mrs. Watson: Disagree.

Mr. Lengerke: Agreed.

Madam Clerk: Mr. Speaker, the results of division are

nine yea, one nay.

Mr. Speaker: It would appear that the yeas have it.

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 Pelly River, that the House, at its rising, do stand adjourned until it appears to the satisfaction of Mr. Speaker, that the public interest requires that the House shall meet. Mr. Speaker may give notice that he is so satisfied and thereupon the House shall meet at the time stated in such notice and shall transact its business as if it had been duly adjourned to that time, and

In the event that Mr. Speaker being unable to act owing to illness or other cause, the Deputy Speaker shall act in his stead for the purpose of this order.

The Honourable Member from Whitehorse Riverdale.

Mr. Lengerke: Yes, Mr. Speaker, I would call question.

Motion agreed to

Madam Clerk: Item Number 4, standing in the name of the Honourable Member, Mrs. Watson.

Mr. Speaker: Is the Honourable Member prepared to discuss Item 4?

Mrs. Watson: Yes, Mr. Speaker.

Mr. Speaker: It has been moved by the Honourable Member from Kluane, seconded by the Honourable Member from Riverdale, that the Green Paper on the appointment of a fourth elected member of Executive Committee be referred to Committee of the Whole for consideration.

The Honourable Member from Kluane.

Mrs. Watson: I would call question, Mr. Speaker.

Mr. Speaker: The Honourable Member from Whitehorse North Centre.

Hon. Mr. McKinnon: Mr. Speaker, in light of what has happened so far this morning, I will be voting against the Motion.

Mr. Speaker: Is there any further debate?

The Honourable Member from Whitehorse Porter Creek.

Hon. Mr. Lang: Mr. Speaker, I was very disappointed to see what happened this morning. I think it is a tragedy and I do believe, along with the Minister of Local Government, that it was a breach of confidence—

Mr. Speaker: Order, please.

Hon. Mr. Lang: —in respect to the Motion that was discussed earlier and for that reason, Mr. Speaker, at this time, I can't support this. I don't think we should end this Session with a dog fight.

Mr. Speaker: Is there any further debate?

Division has been called.

Madam Clerk, would you poll the House?

Hon. Mr. McKinnon: Disagree.

Hon. Mrs. Whyard: Disagree.

Hon. Mr. Lang: Disagree.

Mr. McIntyre: Disagree.

Mr. Hibberd: Disagree.

Mr. Fleming: Agree.

Ms Millard: Agree.

Mr. McCall: Agree.

Mrs. Watson: Agree.

Mr. Lengerke: Agree.

Madam Clerk: Mr. Speakers, the results of division are five yea, five nay.

Mr. Speaker: It is generally assumed that the Speaker would vote in the negative and I would vote nay.

We will now proceed to Private Member's Public Bills.

PRIVATE MEMBER'S PUBLIC BILLS

Mr. Speaker: The Honourable Member from Ogilvie?

Amendments to Bill 103: First and Second Reading

Ms Millard: Mr. Speaker, I move, seconded by the Honourable Member from Whitehorse Riverdale, that amendments to Private Member's Public Bill Number 103, entitled *Animal Protection Ordinance* be now read a first and second time.

Mr. Speaker: It has been moved by the Honourable Member from Ogilvie, seconded by the Honourable Member from Whitehorse Riverdale, that the amendments to Bill Number 103, be now read a first and second time.

Motion agreed to

Mr. Speaker: When shall the Bill be read for a third time?

Bill 103: Third Reading

Ms Millard: Now, Mr. Speaker, I move, seconded by the Honourable Member from Whitehorse Riverdale, that Private Member's Public Bill Number 103, entitled *Animal Protection Ordinance* be now read a third time.

Mr. Speaker: It has been moved by the Honourable Member from Ogilvie, seconded by the Honourable Member from Whitehorse Riverdale, that Bill Number 103 be now read a third time.

Motion agreed to

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

Ms Millard: Yes, Mr. Speaker, I move, seconded by the Honourable Member from Whitehorse Riverdale, that Private Member's Public Bill Number 103, entitled *Animal Protection Ordinance* do now pass and that the title be as on the Order Paper.

Mr. Speaker: It has been moved by the Honourable Member from Ogilvie, seconded by the Honourable Member from Whitehorse Riverdale, that Bill Number 103 do now pass and that the title be as on the Order Paper.

Motion agreed to

Mr. Speaker: Private Member's Public Bill, Number 103 has passed this House.

The Honourable Member from Pelly River?

Mr. McCall: Mr. Speaker, I would move that 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

Speaker leaves the Chair

COMMITTEE OF THE WHOLE

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

Mr. Lengerke are you prepared to deal with Bill 104?

Mr. Lengerke: Just a second, Mr. Chairman, I think I am, yes, I am.

Mr. Deputy Chairman: We will deal with Bill 104 after recess. I will declare a brief recess.

Recess

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

We will now deal with Bill Number 104, *An Ordinance to Amend the Condominium Ordinance*.

On Clause 1

Mr. Deputy Chairman: Mr. Lengerke.

Mr. Lengerke: Mr. Chairman, just a few words. I think I explained, on introducing the Bill, that it is very, it is a very simple amendment and it is really made specifically to empower a condominium corporation to mortgage property and, as I stated earlier, it is not a new power that we are asking for. They can do this now, but in the present Ordinance, Section 11.(9), it says: "The corporation may own, acquire, encumber and dispose of real and personal property for the use and enjoyment of the owners".

What we are really trying to do is just emphasize that point, Mr. Chairman, and that is strictly, exactly the purpose of this amendment. We are not hiding anything else. It doesn't give the corporation any new powers or it doesn't interfere with the by-laws that they have to set to govern themselves. They still have to abide by all the other terms and it is strictly, as I say, just a re-emphasis of the power they already have, but, apparently people have a little difficulty interpreting the word "encumber".

Encumber, if you look up the legal definition of encumber, does allow them, in fact, to mortgage, claim against property or an estate or whatever securities the corporation does in fact hold.

Mr. Deputy Chairman: Thank you, Mr. Lengerke. Is there any further discussion?

Clause 1 agreed to

Mr. Deputy Chairman: The Commissioner of the Yukon Territory, by and with the advise and consent of the Council of said Territory enacts as follows: *An Ordinance to Amend the Condominium Ordinance*.

Mr. McKinnon?

Hon. Mr. McKinnon: Mr. Chairman, just one point. I am not an expert on condominiums or mortgages, and I will tell you that the government has asked our legal department to take a look at the *Condominium Ordinance* and the amendment to it, and what would it do to the total *Condominium Ordinance*. I call tell you that our legal department has been under some pretty great pressure in doing other things, which are priorities in the last while, and they haven't had a chance to respond to me at this time whether this is exactly what the Ordinance says. I have no reason not to believe that it is exactly what the Honourable Member has said it does do, but I just want members of Committee to know that we have sent a request as to how this amendments fits into the total context of the *Condominium Ordinance* and that analysis of it, from the legal department, has not been returned to me as the Minister asking the question, at this point in time.

Whether Honourable Members want to proceed on that basis, with the *Condominium Ordinance* or would prefer to let it remain in Committee until such legal opinion or advice is forthcoming for all members including those of us on the government side is the decision of Committee, Mr. Chairman.

Mr. Deputy Chairman: Mr. Lengerke?

Mr. Lengerke: Just further to that, Mr. Chairman, I would

just like to make sure that members understand, I did seek legal advice. I got advice from our legal draftsman on it, that is the advice that I did get, and I did emphasize that I did not want to change any powers other than what I mentioned, just to re-emphasize or make it very specific that they could in fact do what they already can do, but just highlight it a little better.

I am assured that that is all we have done. Now that is the basis that I am going on. I certainly have no intention of changing other powers or granting them other powers as well.

Mr. Deputy Chairman: Mr. Hibberd.

Mr. Hibberd: I am certainly not an expert on this and I don't really understand the significance of it, but I am wondering if the Member would consider it important, at this time, to be passed at this time or would it be permissible for us to consider it at a later date? Is there any urgency to having this passed now?

Mr. Deputy Chairman: Mr. Lengerke.

Mr. Lengerke: Mr. Chairman, yes, there is some urgency in the fact that the Condominium Corporation were trying to negotiate a loan, I think, with some of the lending agencies and one of the reasons why they tell me that it couldn't be considered is because of the interpretation, that they were not clear, in fact, a corporation could raise a mortgage.

Now, we are not trying to give it further powers by saying that they have better securities or anything else. Any lending agency who is going to consider this has to still look at the corporation's assets, they have to look at their management, they have to look at many other things, before they can grant them that. But first off, they want to make sure that, in fact, number one, that they can consider such a thing.

I am convinced, that a condominium corporation can go to a bank and can raise a mortgage, just by the very words in 11.(9) and I can see that there is some problem with the interpretation there and that is why I seek legal advice to see if the word "encumbered" does, in fact, give them that right, which I am told it does.

So, I said, can we not put that in other words and these are the words that have been given to me as shown in the amendment. That again, is the only reason, it is not tampering with their by-laws, it is not tampering with giving them any further management capability or anything else. They still have to prove that and go on that merit in order to raise any monies.

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

Mr. McIntyre.

Mr. McIntyre: Mr. Chairman, the ability to encumber is detailed, or, I shouldn't say detailed, it is just mentioned by the word encumber in Section 11, but the definition encumbrance, in the Interpretations part of it, gives not to the definition to what they mean, because they say an encumbrance means a claim that secures the payment of money and I think that this amendment, all it is doing is outlining what a claim is and it is not granting any further powers, in the Ordinance, to a corporation, but is merely explaining the meaning of a claim.

As far as I am concerned, I think that the original Ordinance gives the necessary power to encumber and that this amendment merely lists further definitions of an encumbrance.

Mr. Deputy Chairman: Any further discussion? As I have already read the preamble, I will call question on it. Shall the preamble carry?

Some Members: Agreed.

Mr. Deputy Chairman: Shall the title carry?

Some Members: Agreed.

Mr. Deputy Chairman: Shall I report Bill 104 out of Committee?

Some Members: Agreed.

Mr. Deputy Chairman: At this time I will declare a recess until 1:30.

Recess

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

Mr. Lengerke.

Mr. Lengerke: I move that Mr. Speaker do now resume the Chair.

Mr. Fleming: I second it.

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

Motion agreed

Mr. Speaker Resumes Chair

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

May we have a report from the Chairman of Committees?

Mr. McCall: Thank you, Mr. Speaker.

Mr. Speaker, the Committee of the Whole have considered Bill 104, *An Ordinance to Amend the Condominium Ordinance* and directed me to report the same without amendment.

The Committee also directed me to ask leave to sit again.

Mr. Speaker: You have heard the Report of the Chairman of Committees, are you agreed?

Some Members: Agreed.

Mr. Speaker: Leave is so granted.

The Honourable Member from Whitehorse Riverdale.

Bill 104: Third Reading

Mr. Lengerke: Mr. Speaker, I move, seconded by the Honourable Member Kluane that Bill Number 104, *An Ordinance to Amend the Condominium Ordinance*, be now read a third time.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse Riverdale, seconded by the Honourable Member from Kluane, that Bill Number 104 be now read a third time.

Motion agreed to

Mr. Speaker: Are you prepared to adopt the title to the Bill? The Honourable Member from Whitehorse Riverdale?

Mr. Lengerke: Mr. Speaker, I move, seconded by the Honourable Member from Kluane, that Bill Number 104 do now pass and that the title be as on the Order Paper, *An Ordinance to Amend the Condominium Ordinance*.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse Riverdale, seconded by the Honourable Member from Kluane that Bill Number 104 do now pass and that the title be as on the Order Paper.

Motion agreed to

Mr. Speaker: Bill Number 104 has passed this House.

At this time, we are prepared to receive Mr. Administrator in his role as Acting Lieutenant-Governor to give assent to certain Bills which have passed this House.

This House now stands in recess.

Recess

Mr. Speaker leaves the Chair

MR. DEPUTY COMMISSIONER ENTERS THE CHAMBERS ANNOUNCED BY THE SERGEANT AT-ARMS

Mr. Speaker: Mr. Administrator, this Assembly has passed a number of Bills to which, and in the name, and on behalf of the Assembly, I respectfully request your assent.

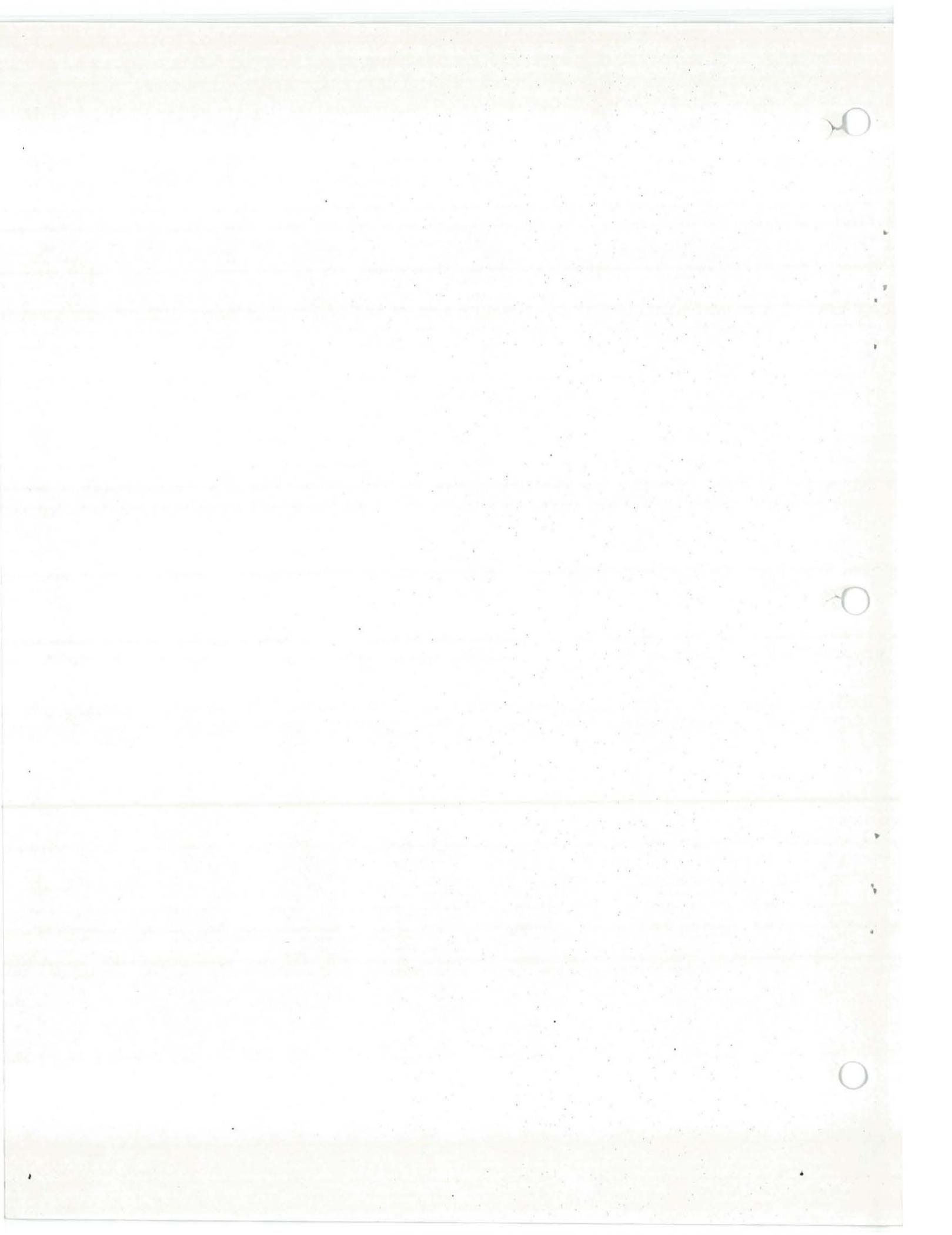
Madam Clerk: Bill Number 2, *An Ordinance Respecting Assessment in the City of Whitehorse*; Bill Number 9, *An Ordinance to Amend the Workmen's Compensation Ordinance*; Private Member's Public Bill Number 103, *Animal Protection Ordinance*; Private Member's Public Bill Number 104, *An Ordinance to Amend the Condominium Ordinance*.

Mr. Deputy Commissioner: I hereby give Royal Assent to the Bills so enumerated by the Clerk.

Mr. Speaker: This House now stands adjourned.

Adjourned







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