



COUNCIL OF THE
YUKON TERRITORY
CANADA

VOTES AND PROCEEDINGS

First Session 1972

Volume 2

Mr. Speaker reads the daily prayer. All Councillors are present.

Mr. Speaker: Mr. Clerk, is there a quorum present?

Mr. Clerk: There is, Mr. Speaker.

Mr. Speaker: The House will now come to order. Are there any Documents or Correspondence to be tabled? Are there any Reports of Committees? Are there any Bills to be introduced? Are there any Notices of Motion or Resolution.

Mr. McKinnon: Mr. Speaker, I have a Notice of Motion concerning Yukon Wilderness Unlimited.

MOTION #12

Mr. Speaker: Are there any further Notices of Motion? Are there any Notices of Motion for the Production of Papers? As there are no Motions for the Production of Papers, we come to Motion No. 11. It has been moved by Councillor Taylor, seconded by Councillor Stutter, that it is the opinion of Council that an agreement be entered into with the Federal Government which would transfer to the Government of the Yukon Territory the responsibility for freshwater fisheries, as outlined in Sessional Paper No. 5. Are you prepared to proceed with this Motion at this time, Councillor Taylor?

MOTION #11

Mr. Taylor: Yes, Mr. Speaker. In Committee yesterday, we had some discussion on this subject. The reason I have brought this forward at this time is I think if we are to accept the responsibility of freshwater fisheries, those responsibilities outlined in Sessional Paper No. 5, it is necessary that licences be printed for this forthcoming year. Until this matter is resolved at this Table, it is not possible to determine who will issue the licences, the Government of the Yukon Territory or the Federal Government. Without being repetitious, I can only say that we have laboured long in an effort to accept this responsibility in the Territory, and I would simply say that I would ask for the full support of all Members in relation to this Motion.

Mr. Speaker: Are you prepared for the question? Are you agreed? I declare the motion carried.

MOTION CARRIED

*MOTION
CARRIED*

Mr. Speaker: We now come to the Question Period. Mr. Clerk, would you see if the Commissioner is available. We will now have a short recess.

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RECESS

Mr. Speaker: The House will now come to order. Are there any questions?

Mr. Taylor: Yes, Mr. Speaker. It was reported on the media last evening that informed sources at Fort Simpson, their names were not disclosed, reported that there would be a shift in Government priorities in respect of the construction of the Dempster Highway over the Simpson Trail. It was suggested that this, indeed, is the case. In view of the importance of this Dempster Highway to the economy of the Yukon, and indeed, the MacKenzie Delta area and the oil exploration taking place in the north, I'm wondering if Mr. Commissioner, at the very earliest possible moment, would express to the Minister our concern in this matter, that being the concern of many people here in the Yukon.

*QUESTION R.
DEMPSTER
HIGHWAY*

Mr. Commissioner: Well, Mr. Speaker, I would want something an awful lot more substantial to express our concern on than reports from the media, because if you're going to depend, as a source of information to petition the Minister, on everything that you hear in the media, why, it's a pretty unreliable source of information, Mr. Speaker. If the Honourable Member has something more concrete, I will certainly, make representations.

Mr. Taylor: A supplementary question; has the Commissioner received any indication from the Minister to this extent?

Mr. Commissioner: None whatsoever.

*QUESTION RE
HEALTH CARE
PROGRAM*

Mr. McKinnon: Mr. Speaker, I would like to ask a question of the Executive Committee member in charge of Health, Welfare and Rehabilitation. Does my thirteen month old son need a social security number to be eligible for benefits under the Medicare Program?

Mr. Chamberlist: No, Mr. Speaker. The Honourable Member's son doesn't need a social security number, but he needs a number, and we are using social security numbers as a means to do this.

Mr. McKinnon: So, in effect, an application has to be made in his respect for a social security number.

Mr. Chamberlist: For a number. It happens to be that we are using, Mr. Speaker, the social security number, but it's not specifically for social security. The purpose, of course, to explain further to the Honourable Member, if we had a different number for Medicare, it would mean that every person would have two numbers instead of one. This way, we can ...

Mr. McKinnon: I wonder, Mr. Speaker, whether fingerprints could be taken at the same time. Then, Big Brother could have complete control over us.

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

*QUESTION RE
HEALTH CARE
PROGRAM*

Mr. Taylor: Yes, I have a question I would direct to the Honourable Minister of Health, Welfare and Rehabilitation. I would like to know if the Minister could indicate whether it is his intention to prosecute anyone in the Territory for failure to register by February 12th on this Medicare Plan.

Mr. Chamberlist: There is no intention to prosecute anybody for failure to register at this time. No consideration has been given to that. The Government of the Yukon Territory has no intention of prosecuting anybody until such time as the program goes into effect.

Mr. Taylor: Thank you, Mr. Speaker.

*QUESTION RE
LOTTERIES*

Mr. Stutter: Mr. Speaker, I have a question for the Commissioner. On October 20th, 1971, there was a letter sent to the Yukon Betterment Society stating that the Administration would look into running of lotteries in North America. After they received this information, they would consider having a meeting with the Executive Committee to discuss the aims of that Society. My questions are, has that information been obtained, and have the aims of the Society been discussed by the Executive Committee? If so, are those aims approved by that Committee?

Mr. Commissioner: Mr. Speaker, portions of this question, I could answer, but I wonder if I could have notice on it. Then, I could bring forward a proper answer to this Honourable Member's question.

Mr. Stutter: I would be perfectly willing to do that, Mr. Speaker.

Mr. Speaker: Are there any further questions? We wish to thank the Commissioner for his attendance. As there are no Private Bills or Orders, and no Public Bills or Orders, may I have your further pleasure?

Mr. Taylor: Mr. Speaker, I would move that Mr. Speaker do now leave the Chair and Council resolve into Committee of the Whole for the purpose of discussing Bills and Sessional Papers.

Mr. Speaker: Is there a seconder?

Mr. Stutter: I second that motion, Mr. Speaker.

Mr. Speaker: It has been moved by the Honourable Member for Watson Lake, seconded by the Honourable Member for Dawson, that Mr. Speaker do now

Mr. Speaker continues ...

leave the Chair for the purpose of convening in Committee of the Whole to discuss Public Bills and Sessional Papers. Are you prepared for the question? Are you agreed? I declare the motion carried.

MOTION CARRIED

MOTION
CARRIED

Mr. Speaker: The Honourable Member for Watson Lake will please take the Chair in Committee of the Whole.

Mr. Taylor takes the Chair.

Mr. Chairman: I call Committee to order.

Mr. Chamberlist: Mr. Chairman, I would ask that we proceed with the Bill No. 8. As Members know, we have already reported progress, but I would like to see it moved out of Committee without amendment so that assent can be given to the Rental-Purchase Housing Ordinance as early as possible, so that Treasury Board in Ottawa may now go ahead with the funding of the program.

BILL #8

Mr. Chairman: Is Committee agreed that we go to Bill No. 8? What is your pleasure?

Mr. Chamberlist: Mr. Chairman, I would move that Bill No. 8 be reported out of Committee, without amendment.

Mrs. Watson: Mr. Chairman, I second the motion.

Mr. Chairman: It has been moved by Councillor Chamberlist, seconded by Councillor Watson, that Bill No. 8 be reported out of Committee without amendment. Are you prepared for the question? Are you agreed? I declare that the motion is carried.

MOTION CARRIED

MOTION
CARRIED

Mr. Chairman: The next item of business in Committee, I believe, is Bill No. 13, the Taxation Ordinance. Last evening, we had arrived at section 2. Have you anything further on section 2? (Reads section 3)

BILL #13

Mr. McKinnon: Mr. Chairman, I'd like to ask Mr. Legal Adviser how stringently clauses (d) and (e) are followed. The point I'm getting at is can any group of people get together and say "Look, we're calling ourselves a Holy Something or Other, and we apply to the Government for relief from taxation."?

Mr. Legal Adviser: I don't think, Mr. Chairman, there is any realistic method any more of trying to find out which is the true religion. They must, I think, be the judge themselves.

Mr. Tanner: Mr. Chairman, the only reason the Member questioned this before I did is because I couldn't find my place on this page. I wonder whether, in this day and age, we should continue to exempt these organizations at all. Do you really think that they are ... when the exemptions were given years ago, the reason was different. It was a very much, every day, ongoing part of our life. Today, they are just another organization and whether or not they should be exempted at all, I find it very difficult to believe.

Mr. Stutter: Mr. Chairman, I was going to raise a point on paragraph (d), too, because I know of an instance, without being absolutely specific, where the minister's home in the winter time, is being used to hold Communion services on a Sunday in cold weather. Because his home is being used for that purpose, it has been exempted from taxes for a number of years. Now, this, to me, seems to be an abuse of paragraph (d). I think that, perhaps, each case in itself, should be reviewed by the Council, rather than setting a general rule such as in paragraph (d).

Mr. Legal Adviser: Mr. Chairman, that would no longer be exempt. The expression here covers this. It must be chiefly used for divine services.

BILL #13

Mr. Stutter: Mr. Chairman, I think that same phrase is used in the old Ordinance, unless I'm mistaken.

Mr. Tanner: Mr. Chairman, to continue that, in paragraph (c), we miss out school. I can see, in my opinion, that if an institution was privately set up as a school, if permissible, it would have more reason to be exempt from taxation than paragraph (d). I would ask Committee Members to give consideration to striking paragraph (d) altogether.

Mr. Legal Adviser: In answer to the Honourable Member for Dawson, the definition has changed. The old definition, at least up to 1961, was churches and buildings used for the purpose of public worship.

Mr. Chairman: Is there anything further on section 3?

Mr. McKinnon: Mr. Chairman, I can see us getting into all kinds of difficulties here. Imagine if we were in an area like California, which we could be, the number of religions that just crop up overnight, hundreds and thousands of them ... it's not out of question. It's the same thing. I think there are quite a few sects in Whitehorse, now, and there could be many more sects. Under the terms of the Ordinance, all of these people, whether they are actually doing any good in the community or not, or whether their philosophy is consistent with the ethics of the community, can apply to the Territorial Government for relief from taxation. There is no way that the Government can't give them this relief under the present Ordinance. If the Administration, or anybody, saw fit to limit it so that the religious schooling type of purposes was exempt, or the educational part was exempt, and the properties that dealt with just religious services are there for taxation, I would agree with eliminating this relief from the Ordinance.

Mr. Chamberlist: Mr. Chairman, I should point that this piece of legislation also joins in municipalities. Now, in some areas, the Honourable Member who has just spoken has said let the municipalities decide for themselves. Now, he wants Territorial Council to decide for them. So, the question now arises, again, which way do we go? Do we allow the municipalities to do this, because they have asked for this? Or, do we wait until they come along and say to us that they would like to be able to exempt these people? There has been no suggestion from them in this matter. Perhaps, when they come along, after we have gone through the Bills, we could let this point be raised by them.

Mr. Tanner: Mr. Chairman, I disagree with the Honourable Member. I'm going to stand up here and tell him right now that this is one area which I, personally, think shouldn't be in there, and I'm prepared to make the decision. I think we should make the decision here because it is an area which covers the whole Territory. I think we should make the decision right now for the Territory.

Mr. Chairman: I wonder, from the Chair, would Mr. Legal Adviser be in a position to draft such a section, in keeping with the suggestion that has been made on this topic in Council this morning.

Mr. Legal Adviser: It's very difficult for me, Mr. Chairman, to sort out the hints and the suggestions. I think if the Council wants something specific, I can be called on to do it. Fairly well, indicate what the position is because this is prickly subject for the Legal Adviser to venture into.

Mr. Tanner: Mr. Chairman, it is my suggestion to Committee that we strike paragraph (d) in any event.

Mr. McKinnon: Mr. Chairman, I'm willing to listen to more argument on it. As the Honourable Member from Whitehorse East has said, we are going to have municipal authorities before us on all these Ordinances dealing with municipalities. As I say, I think that we probably can hear more argument and get more input from them. I'd be better prepared to make a decision after hearing reasons for them wanting the exclusion or not wanting it. I think that, after hearing from them, we can make a wiser decision.

Mr. Legal Adviser: There is just one point I would draw the attention *BILL #13* of the House to. The taxing power here is the taxing power given to an authority. Each municipality is a taxing authority within its jurisdiction. This House is a taxing authority for all the remainder of the Territory. So, they have an equal input into this thing with the municipalities.

Mr. Chairman: May I proceed?

Mr. McKinnon: I'd like to hear more argument ...

Mr. Chairman: (Reads section 4)

Mr. Tanner: Mr. Chairman, why do we, in subsection 4(2), say that if they are a servant of the municipality, they are not exempt from tax, but if they are a servant of the Territorial Government, they are exempt from tax, or the Federal Government? I don't see the distinction.

Mr. Legal Adviser: They have the power to deal the position themselves. They are dealing with their own officers. We are dealing here with the privilege of the Territory and the Crown within municipalities, that we don't grant the converse privilege backwards in the Territory to a house occupied by a servant of the municipality. Not necessary.

BILL #13

Mr. Commissioner: Mr. Chairman, the nub of this question is something that has bothered me for a long time. I simply raise this so that all Honourable Members know what is involved here. What 4(1) says, is that if there is a military installation created in the Yukon Territory that comes under the Visiting Forces Act, which is basically speaking, the NATO Treaty. This is ... if this gets created in the Yukon Territory, we do not have the power to tax the occupants of that property under our Taxation Ordinance. I just want the Honourable Members to know that this is basically involved here. In other words, our recourse for taxation is ... in this instance, can be to the Federal Government for services that we provide. It is a very, very important point and I just don't want it to be passed by, so that Members say that they didn't know about this. This is a very important section.

Mr. Chairman: Anything further on section 4? (Reads section 5).

Mr. Tanner: Mr. Chairman, I made a note of this particular paragraph quite some time ago. The situation now, in the City of Whitehorse anyway, is that the assessor is assessing the shacks, or whatever you like to call them, that lean up against the trailers, and consequently they are adding the amount of taxation to the trailer where in an occasion, people living in trailers are paying as much as three hundred dollars taxes. I think that they should be tax assessable, but I also think that a person living in a trailer, no matter how big it is or irrespective of the fact of how big it is, should be paying taxes which are comparable but lesser than people living in houses. I don't think that this is the situation now. It seems to me that a three hundred dollar tax to live in a trailer is too much. There are people living in Porter Creek who own the property that they live on, or anywhere in the city. They own the property they live on, own the house and have the right to make a profit from selling that land, which the trailer owner doesn't have. Consequently because of that paragraph, and because they can take into account the lean-tos that are built against the trailer, which incidentally cannot be moved, when the trailer is moved, they can be taken down like any other building can, but they can't be moved per se. I think that we are imposing a hardship on an area of the population, which I think, by paying a tax, which we all went through last year, is sufficient. I would ask other Members to comment on it. Also, I would ask the Administration to look at that, and consider really the implication of what they are saying there.

Mr. Legal Adviser: I have no comments, Mr. Chairman, except to say that it would be a bit awkward to have to legislate one type of property owner is taxable on a shed, leanto, shack or garage and another type is not. It is an awkward situation to handle.

Mr. Tanner: Mr. Chairman, sure but there are lots of them, in that case how do we legislate paragraphs (b) and (e) in 3. We are legislating one for religious authorities, so I can't go along with the Legal Adviser's illustration of the difficulty. I am sure that all the way through this whole Ordinance, there are exceptions and deviations. I think that we can make one here in this case. There is one other thing that I would point out to the Honourable Members in this case. Many, many people who are living in trailers are there because they can't find the down payment to buy a house. So, consequently they have to buy a trailer, and because they can't get very long term financing, they are paying extremely high payments, as much as \$250 a month on a place to live. Now, they are not coming to the Government or the state to ask them to supply a place to live, they

BILL #13

Mr. Tanner continues ...
are doing their best to house themselves under their own responsibility. By imposing this extra tax, I have never argued, in fact I argued for it, if all Members will recall, that they should be taxed. I think that they should contribute to the costs of running the Territory as much as anybody else. I do think that by adding in those leantos that we have gone just a little bit too far. Again, I would ask Members to consider striking that out as far as trailers are concerned.

Mr. McKinnon: Mr. Chairman, aren't we doing it in the wrong area. I mean, we have to have the ability to tax any real property that is situated anywhere in the Territory. Certainly, it has been the method of assessing that we should be looking into for relief from where inconsistencies are. As I understand it, this is just giving the Territory the right to be able to tax the real property of the Territory, and when we start eliminating any type of shack or leanto it means that we eliminate them everywhere, not only on trailers but in other areas which should be taxable. Certainly, the relief that should be sought, if there is injustice being done to people through high rate of taxation, has to be through a different method of assessing different pieces of real property, and not in the Ordinance itself. The one thing that I am worried about, I don't understand, I think, but ... Does section 5(2) take into consideration those areas where shacks, buildings and mobile homes are squatting on Crown land.

Mr. Legal Adviser: Yes, this is a very important section, Mr. Chairman, very, very important. The Taxation Ordinance as such is originally designed to tax the ownership of the land itself, and the structures on it in the hand of that owner. There is a tremendous amount of Crown land, either held by the Commissioner or held by the Federal Government on which people have got buildings. They are not all squatters, a large number of them are lessees. It is essential to have a section such as this to enable us to tax the interest they have. This is absolutely essential.

Mr. Tanner: Mr. Chairman, the reason that I brought this up at this time is because, in actual fact I didn't feel that in the Trailer Taxation Ordinance which we passed in the First Session 1971, that we gave the assessor the authority to go ahead and assess those sheds. I find out, subsequently, that we did. The reason that I bring it up now, is that the Honourable Member from Whitehorse West is right. We should get it out of the other way in this particular place we should be giving relief to those people, if what my philosophy or if what I am saying is true. The tax assessor read the Ordinance that we passed, exactly as it said, and the interpretation that he gave to four words gave him, he said the authority to tax the leanto and the words were in the same way in the whole of paragraph 2(5)(a). Members must remember that the tax assessors job is to collect the maximum amount of taxes that he can. That is what we pay him for. In this particular instance, I think that he was doing his job, but I think maybe it wasn't written clearly enough and consequently he has penalized people, who I think are being unfairly dealt with.

Mr. Chamberlist: Mr. Chairman, I wonder if this point could be raised when we come to those sections dealing with assessors and assessments. As has already been indicated, basically is an authority for taxing, but the method of getting an assessment out, is something that goes beyond the tax roll. Assessment is the housekeeping arrangement to get the taxes in. I think that the Honourable Member from Whitehorse West has explained the point that I feel strongly as well. I agree to one extent, there should not be a taxation on a temporary shed. All it is really, in most cases, is to act as a wind breaker. Where it is installed as a permanent matter, and it is in most cases, consideration has to be given there. You can't go and put a shed up against a building, an ordinary house to make a wind breaker, and nail it to the house, and then not tax that. This is the other side of the picture. It becomes exactly the same manner as putting up a similar type of shed on a trailer. You can't tax a person who

Mr. Chamberlist continues ...

BILL #13

owns a house and not a person who owns a trailer. There are some areas, I see where for the winter time, there is a shed made which is hooked and just put together temporarily to put over the entrance to a trailer. This might be considered a temporary area. Where it is properly constructed and attached to the trailer, it must form part of the trailer taxation. This is the difference as I see it. That there is a difference between these panel type of protection that, for instance some people use outside stores, to stop the weather, to stop the... where a person opens a door, they go into the store, there is some wind break, so they are a temporary type of panels made, in the spring they are taken off, in the winter they are hung on. Certainly, I wouldn't feel that we should tax anything like that. Where the taxation deals with a similar type of permanent entrance to a trailer, it is pretty difficult to discriminate against one taxpayer to a detriment of another. I don't think it should be done.

Mr. Rivett: Mr. Chairman, Mr. Legal Adviser, isn't the criterion a tax for a permanent as far as real property is concerned?

Mr. Legal Adviser: No, Mr. Chairman, there is very little in the Yukon that can't be moved somewhere else. What the assessor does, he goes to the property and he taxes the property as he finds it at the time he visits it, or if any reports are made to him, he returns to see if there is any further structure. That is his criterion. I would hesitate to give him any other criterion, because if we are going to deal specifically with moveable property, then all people who hold Crown leases of various sorts, all the people who are squatters, will in fact be found to be in some sort of temporary accommodation. We will destroy the spirit with which this Ordinance is constructed, if we tamper with it too much.

Mr. Commissioner: Mr. Chairman, with respect, what you are attempting to do in any of these taxation items is attempt some sort of equity. I would hope that Honourable Members will bear in mind that every exemption that is given, simply moves the total tax burden to those who are left. It doesn't lower the tax requirement, so in every exemption that you toss in, simply means that somebody else has to pick up the consequences of that exemption.

Mr. Chamberlist: I don't want to get into an argument with the Commissioner this time because I am not seeing eye to eye on this particular point with him. I will say that quite clear. There is a lot of difference between an exemption and something that should not be assessed. There is a big difference. There is a lot of difference. If you go to one of these stores out there, if an assessor goes to a store out there now, and in a couple of places, the owners of the property for the comfort of the customers that go in there for two or three months of the year, hang a temporary door and a temporary shutter over. Now if he goes and he has to assess that door, you know, I say no go. He can go at the end of the month and then it is not there again. This is a temporary measure. I don't think that type of thing should be assessable. Certainly, where there is a structure put in, I don't care whether it is for a trailer, or for a house, if it is put in on the basis of being part and parcel of that home, then it should be assessed in exactly the same way as the other. This separates, what I consider to be exemptions. It is not an exemption. The question of exemptions we are going to discuss afterwards, as we have indicated.

Mr. Tanner: Mr. Chairman, just to tidy this up a little. If the exemptions that the honourable Member is talking about can't be made for one area of society, I don't think that they should be made for another area of society. I suggest that we strike (b) and (e) from paragraph 3.

Mr. Chamberlist: We are going to do it.

Mr. McKinnon: Why not Universities then?

BILL #13

Mr. Chairman: Anything further on section 5? (Reads 6(1) to (4)). Just a question, who is the authority again?

Mr. Legal Adviser: In the municipality, it is the city council. Outside the municipality, it is the Commissioner.

Mr. Chairman: The Territorial Government, yes. (Reads 6(5) and (6)).

Mr. McKinnon: I wonder, Mr. Chairman, if anybody could tell me where in the regulations, the time limit is stated on how long a trailer may stay in a trailer park prior to being assessed taxation?

Mr. Chairman: Clear on 6? (Reads sections 7, 8, 9). This of course is referring to the Territorial assessor, not the municipal assessor?

Mr. Legal Adviser: Yes, because the Commissioner doesn't have to be debited with the costs on salary to the Territory.

Mr. Tanner: Mr. Chairman, what happens if the city does get their own assessor?

Mr. Legal Adviser: This is a good question, Mr. Chairman. With the view to making uniform assessments and measurements throughout the Territory for this and for other very important Ordinances which will be forthcoming, it is essential at this stage to make sure that the assessments throughout the Territory are kept on even measure. Whatever the rate of tax which an individual authority will impose, the measurement will be constant throughout the Territory.

Mr. Tanner: Mr. Chairman, I can see that that particular point of view has a great deal of merit. Really, what the Legal Adviser is saying is that there is going to be one assessor, then, and he will be employed by the Territorial Government?

Mr. Legal Adviser: Yes, Mr. Chairman.

Mr. Tanner: Mr. Chairman, could I also ask, that when that comes before us, that particular school of thought comes before us, whether it was the intention of the Territory then to have their own assessment manual rather than using the Alberta one.

Mr. Legal Adviser: That is another very good question, Mr. Chairman.

Mr. Commissioner: Mr. Chairman, the answer is in the affirmative. It has been our wishes to do this for some time, but it has not been a possible or practical thing because there was some question as to, and I believe this was raised here in a court case or was potentially going to be raised in a court case some time ago, as to whether or not we actually had the authority to inflict our own assessment manual throughout the Territory. If Council sees fit to go along with the proposal in front of them now, this will make this possible and practical and certainly, it will be our wishes to proceed to establish a Yukon assessment manual as soon as it can be done.

Mr. Tanner: To pursue this a little further. Are we going to receive another Ordinance or will it appear in an other Ordinance where this is going to be set out as a policy or is that what we are doing now, in effect?

Mr. Legal Adviser: That is being done here, Mr. Chairman. What this section here is doing here is making legal what in fact has been happening for many years, and then makes it legal for the future.

Mr. Tanner: Mr. Chairman, in this particular case. I don't want to cast dispersions anywhere, but it seems to me that it might have been explained that this is what we are doing. It is quite a change. It is not explained in the Explanatory Note.

Mr. Chamberlist: It is not a change, with respect, Mr. Chairman, in relation to an assessment being taken, to taking place. It is a

Mr. Chamberlist continues ...

different type of assessment method that would be used. It may be that the method is identical to the method in Alberta, it may be identical to the method in British Columbia, but the idea as it is now, as we are putting it forward now is to prevent any possibility of one municipality using one type of assessment with a different assessor, another municipality using another type of assessment with another different assessor and the Territorial Government using a type of assessment with a different assessor. Now, this way we have the same assessment with the same assessor. The method of assessing property remains the same right throughout the Territory. I think that it is a great advantage all the way around.

BILL #13

Mr. Tanner: Well, Mr. Chairman, I am not arguing with the advantages. In fact I concur with that thought completely. All I am saying is that up until this Bill is given effect, up until that ... for example the City of Whitehorse could by invitation and in fact did, invite our assessor to do their work for them. It was their choice. Now, we are not making it their choice. All that I am saying is, I wish that this could have been pointed out in the first place without us making the arbitrary decision. However, I suppose that is what we are going to do.

Mr. McKinnon: I think including type, place and method of assessment should be the same throughout the Territory. I agree with the fact that there should be a set down policy of assessing in the Yukon Territory, through a Yukon assessment manual. I can see an area of very great confrontation eventually coming through the Territory saying that the city has to use the assessor that the Territory thinks that they should use. An assessor could be doing a job for the Commissioner and the Commissioner thinks he is doing a wonderful job. The city could say that the assessor, they don't think that he is doing the job possibly at all within their jurisdiction, and that they would like to be able to have the ability which they had in the past to bring in assessors from out of their jurisdictions. As I understand it now, that this is not going to be allowed to be able to be done. I think that we are just heading for some period of time a classic confrontation between the city and the Territorial Government by not allowing them the ability, if they disagree with the assessment work being done by the assessor that the Territorial Government forces upon them, the ability to go out and hire their own assessor.

Mr. Tanner: Mr. Chairman, the Honourable Member has missed the most obvious point of all, surely. That is the fact that a servant of the Territorial Government is assessing property within the municipality which belongs to the Territorial Government, and on which the Territorial Government will finally pay taxes. There is a real conflict of interests there.

Mr. Legal Adviser: In many places it's quite common, this central office which assesses everywhere. The evaluations or the assessments are fairly uniform throughout. It has tremendous advantages. The real test of the value of this is in the courts. As far as can be examined as to whether the assessments are being upheld by an independent Board of Revision. A Board of Revision is appointed ... each municipality appoints it's own Board of Revision to review the assessments at the request of the people who have a complaint to make. The Board sits, an independent board. There is an appeal to the Territorial Court. Provided you keep the level even, the quest will be efficient and it is then a test for the courts to decide in the event. There is plenty of protection in it.

Mr. Stutter: I would like to ask one question, of the Legal Adviser probably. If a basic formula is used for coming up with an assessment, and two completely independent companies or assessors were to make absolutely independent assessments, is the result apt to be exactly the same?

Mr. Legal Adviser: No, Mr. Chairman, I don't think so. It's a hard

BILL #13

Mr. Legal Adviser continues ...
thing to give an answer to that. This is why in expropriation cases when land is expropriated, even on identical formulas, that different people will value in a different way. The essence of the assessment process is to apply an even measure in either inches and feet or use metres and square metres. The measurement must be the same throughout the area, so that the taxes are measured evenly for the people.

Mr. Stutter: Well, Mr. Chairman, in the answer that we just received from the Legal Adviser, then, the only way that you can come up with an overall assessment that is fair throughout the Territory is not only to use the same formula but to use the same assessor. If you use the same formula but two assessors in different areas, you are going to come up with different results anyway.

Mr. Legal Adviser: Correct. It won't be the same individual who is doing everything, but it will be done in uniform style and uniform office with access back and forth. So the thing will come out even, if you use one office, one person. It is the best.

Mr. Chairman: I wonder just prior to recess if Deputy Chairman would take the Chair? I wonder if I might be excused at this time?

Mr. Suttter takes the Chair.

Mr. Chairman: Is Committee agreed? I think at this time I will declare a brief recess.

RECESS

RECESS

Mr. Chairman: We will continue will Bill No. 13. (Reads 10(1)(2),11(1)(2)(3),12(1))

Mr. McKinnon: Mr. Chairman, I wonder if I could ask Mr. Legal Adviser, how far is the assessor allowed to go under 11(1)? It is pretty broad and sweeping, it seems to me. Say that the assessor wanted the person's bank statement to see what rent, or things of this nature had been credited to him. Does he have the ability to demand these types of information from the property owner?

Mr. Legal Adviser: If, you look at these sections cautiously, Mr. Chairman, you will see that what he can demand is, "the particulars required to be entered in the assessment roll..". The particulars in the assessment roll are the size of the property, possibly the value of the property. He might be entitled to demand, on being informed that a sale took place, he might be entitled to demand what was the cost of the piece of property. That is all he can demand. A statement in writing explaining the particulars required to be entered in the assessment roll. Supply him with a form and ask him to have that filled in.

Mr. Tanner: Mr. Chairman, as far as I understand the working of the assessor, the only occasion where that would arise is when the assessor puts a value on a piece of property. The person that owns the piece of says, well I just sold the thing and I didn't get anything like that; I only got ten thousand and you claim I got twenty. The assessor comes in and says, you prove that to me. That is the way I understand it works.

Mr. Legal Adviser: Pretty much. I don't think anyone actually falls out with the assessor, occasionally they fall out with the assessment and they take him to Court, but I don't think they fall out with the assessor. He is a gentle person.

Mr. Chairman: Clear on 12? (Reads 13(1),14(1)(2))

Mr. Tanner: Mr. Chairman, could I ask the Legal Adviser, if, in that case, that is only when the manual would say, property under these circumstances is worth a certain amount, but the assessor in his discretion looks at the property and says that all those things apply, but in this particular case, as it says here, the location is not good so I am going underestimate the evaluation.

Mr. Legal Adviser: This is correct, Mr. Chairman. Allows the assessor to go down on his assessment, but not above. In other words, if, the manual says a certain property should be assessed at say, ten dollars a square foot, and it happened to be in an area subject to flooding, he can downgrade it. But, if the manual says it is ten dollars a square foot, and somebody puts a park beside it, gives it a better view, he can't raise the assessment to twelve dollars.

Mr. Chairman: There is one question, I would like to ask from the Chair. What recourse does a person have outside of a municipality, when a assesment is made?

Mr. Legal Adviser: The same as in a municipality. There is a Board of Revision set up. In the first instance, when the notification goes he can complain back to the assessor. If this is not satisfactory, he can then appeal to a Board of Revision which is set up for the purpose of appeal. It is a Board of Revision for all the Territory, not within municipalities as well as municipality. If, he is dissatisfied with that he can go to the Court. So, he has got a double appeal.

BILL #13

Mrs. Watson: Mr. Chairman, a point in question; this Board of Revision, does it sit just in Whitehorse, on behalf of property within the Territory outside of municipalities, or does sit in other areas?

Mr. Legal Adviser: It is supposed to go and deal with it, in a manner satisfactory to the party. So, it will occasionally happen that there is an appeal in Watson Lake and the Board of Revision will go to Watson Lake and look at the property. There have been occasions when the Court toured Whitehorse, in a car on the eventual appeal, arbitrarily putting values on property for the purpose of the appeal which was a compromise between all the parties.

Mr. Tanner: Mr. Chairman, I am pretty sure to my knowledge that the Court of Revision, perhaps the Honourable Member from Dawson could correct me, has sat in Dawson within the last year or two.

Mr. Chairman: I am not aware of it if they have. I know that the municipality has their court of appeal every year.

Mr. Legal Adviser: There is not very much property, territorially, in Dawson because the municipality is there, but if, there is an appeal in the municipality of Dawson, of course that is where the Board of Assessment would have to go. Just one thing; sometimes it is cheaper for the people to have their appeal in Whitehorse, because if they are engaging a lawyer to present them, or an engineer, or an outside value or two give evidence in their favour, it is cheaper for the property owner to come into Whitehorse, rather than bring his witnesses out at expense. It usually is the option of the property owner where the convenient place for hearing of the appeal will be. In many cases, they opt for Whitehorse for that reason.

Mr. Chairman: But, surely it is not usual for a person to hire a lawyer, when they are first going to the Board of Appeal. If, the Board of Appeal turns them down, then they would naturally.

Mr. Legal Adviser: Lawyers are fairly common on the Board of Revision. The Territory doesn't normally have a lawyer to represent the Territory; municipalities will have a lawyer to represent the municipality. Normally, only if the appellant is going to engage a lawyer himself. You then, met force with force.

Mr. Chairman: (Reads 14(3),15(1))

Mr. Tanner: Mr. Chairman, is there any reason that section 14(3) is put in? Any specific reason?

Mr. Legal Adviser: Yes, a very specific reason, Mr. Chairman. The point was raised by a private litigant of note, in the Territory. To prevent the point from arising again, this has been inserted.

Mr. Chairman: (Reads 16(1),17(1)(2),18(1)(2))

Mr. Tanner: Mr. Chairman, shouldn't there be something in that section saying that there is an obligation on the part of the assessor or the Administration to publish the fact? Besides the mere fact of sending the notice on the first, and an appeal by the fifteenth; or any corrections made by the fifteenth, shouldn't there also be some obligation of the Government to notify the people with an advertisement, that they are now awaiting appeal?

Mr. Legal Adviser: It hasn't come to that yet. You have got to wait till it comes to the point and you will find a very precise system of notifying the people concerned. It is actually expanded in this Ordinance, from what it was before. A system of notifications, times, appeals, setting up the Court of Revision, and so on. It is very carefully delineated here.

Mr. Chairman: (Reads 19(1)(2),20(1))

Mr. Tanner: Mr. Chairman, going back to 19(2), generally speaking it would work in the best interests of most taxpayers, that if they didn't take an arrear assessment for five years they probably, generally

Mr. Tanner continues ...

speaking, their property would be higher in value than it would have been the previous year, or the previous five or four years. That is a fairly reasonable assumption, isn't it? Values of property go up as the years go by. There would be, in a case for example by changing of city zoning laws, or in the case of a natural disaster, where they could go down. Is the only recourse in that case, where the city or the authority, uses the last assessment roll and a taxpayer, or potential taxpayer feels that he is going to be hurt by that. His property, in his opinion has gone down in value. Is there any place that he can appeal to the Appeal Court, or can he appeal before he gets there?

Mr. Legal Adviser: I don't want to correct the Honourable Member, but if you would wait before examining the appeal provisions and the rights of the people, we have got a few more sections ahead and you will see that individual property owners have a tremendous number of rights, in this Ordinance.

Mr. Chairman: (Reads 21(1),22(1)(a)(b)(c)(d)(2))

Mr. Tanner: Mr. Chairman, could we amend that say not "two issues", but what I would like to see is; an issue not concurrent with one another.

Mr. Legal Adviser: For two weeks. Yes, I think so, Mr. Chairman. I think that that would be sensible.

Mr. Chairman: (Reads 23(1)(a)(b)(c)(d)(e))

Mr. McKinnon: I have always disagreed with the double standard sections, as far as Government is concerned, yet the public make an error in their dealing with the Government and you're just screwed blue to tatoed, but the Government can make any type of error that they want in form and they still prevail. It is just a straight double standard, one for the Government and one for people and I just don't buy it. No way.

Mr. Legal Adviser: This is merely reducing, Mr. Chairman, what any Court would normally do, if the Court were given power to do, and that is defects in form do not effect liability. The spelling of person's name wrong, if the person is in the list of residential property, when it happens to be commercial property and so on, giving rise to technical points which do injustice to the other people who must bare the share of the load.

Mr. McKinnon: An error in any notice. The Government makes an error in the assessment notice, the guy pays his taxes due and lets the assessment go on, he gets a letter a month later that says, I'm sorry but we made a mistake in your form, you owe us three hundred dollars more than it says on your form. The guy thinks he has got his taxes off his back for that year and gets nailed again.

Mr. Chairman: There is one point here that I would like to bring up here, from the Chair and that is (d) "the non-return of the assessment roll at the time specified". Now, I don't believe that was in the old Ordinance, and it does seem to me that if the assessment roll is not back to the authority in time, how are you going to set up your Board of Revision for one thing? I know of a case last year, as a case in point, where the assessment roll was not in fact back to Dawson in time for the assessment or for the Board of Revision to be set up. That whole roll was thrown out for that one year.

Mr. Legal Adviser: Would the Honourable Member not agreed that it is a bit harsh that because of an error in date of a particular document that one or more or a whole city should avoide a liability?

Mr. Chairman: But surely, again from the Chair, if you do not set a date and hold to it, a date that the assessment roll must be back to the authority, the chanches are it isn't going to be back to the authority by that date.

BILL #13

Mr. Legal Adviser: I think, that it might have been a change in the assessment roll, they will be tied to the assessment roll for the previous year. That is what I think, they had to do in Dawson. So, they missed out a certain sum of money and in fact the people did escape the liability. The new construction was not charged, in Dawson, in that particular year. They escaped the liability.

Mr. Chairman: This is true but in this particular case, the one that I have brought to your attention, was the year that about six or seven dwellings were moved into Dawson, so, there was no previous tax roll, to go on. So, there was in this case quite a loss to the City, but I still make the point that if you don't set a date and make the taxes at the assessors office, get the assessment roll to the authorities by that date, you are, in fact cutting down the time that a person can prepare his appeal.

Mr. Legal Adviser: Ever so, but as an extension of time, itself then it will be granted, if the person is in anyway wronged. I think that it is a generally fairer section, but if the roll was returned to the authority, say a week late, the person should still be liable for his taxes because he owes those taxes, but he gets extra time to appeal.

Mr. Tanner: I don't think that in fact happens, Mr. Chairman, because I know a couple of instances last year, somebody had, what I thought was a justifiable reason for asking for an extension, but he wasn't able to get it. The wheels of the whole thing had started and there was no way he could get up to it?

Mr. Legal Adviser: An individual is a different kettle of fish. I don't see any objection to saying that, we should add in after two, but the failure to return the assessment roll in time would grant an equivalent delay, of the appeal period, Court of Revision and so forth, in order that substantial justice, we will say at the request of the party, you don't have it automatic, but at the request of the party, in order that substantial justice will be done. I think, that this would be fair. I can't say what will go in but I will recommend it. It would go in around about that place.

Mr. Chairman: (Reads 24(1)(2))

Mr. Chairman: (Reads sections 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37) *BILL #13*

Mr. Commissioner: Mr. Chairman, could I ask a question here, at this point? This business of making a complaint is very often a great difficulty as far as the ordinary taxpayer is concerned. Now, this is fine. I mean, the Honourable Members have access to paper and pencil and ink and stamps and envelopes. They have a command of the English language. There's no great difficulty involved. But, I'm wondering if Committee might like to give consideration for a requirement that a city tax notice, or any tax notice, I shouldn't call it a city tax notice ... that any taxing authority require, as part of the notice of assessment that is sent out, that a simple signature or a return of a portion of that notice before a certain day would automatically establish that the person wanted to appeal, or have his assessment appealed before the Court of Revision.

Mr. Legal Adviser: I doubt if it needs something in the Ordinance. It's a question of the prescribed form. I am with the Commissioner wholeheartedly on this suggestion. I think all court forms, all these legal forms, are designed by lawyers, primarily for lawyers or to comply with the statutes and ...

Mr. Commissioner: Some of them can't read their own gosh darn language.

Mr. Legal Adviser: Yes. ... and not intended to be simple. In normal court form, I'm in favour of having a simple claim that a person can tick, or a lawyer can tick, where it arises, and have a back on it so that the defence can be put in by a series of obvious defences, or a space for an extra defence. When that simple form is sent back to the court office, or anybody, it constitutes notice of the intention to defend and the case cannot be started without notice to the person making the defence. Certainly, I'm very much in favour of the Commissioner's suggestion.

Mr. McKinnon: Could it be done with all Government forms?

Mr. Legal Adviser: I just haven't quite the time to do it, but I've set out on an exercise to try to simplify all the court forms, and to that end, even if necessary, breaking away from the forms used in British Columbia in courts. We've set out on a special exercise in Small Debts Court to make the forms different colours, if necessary, even different coloured sections with boxes and so forth, with a leaflet of instructions, so that all the person defending has to do is to tick that he is defending and what he's defending. Even if he's not there, the court can, at least, have something before it of what he says.

Mr. Tanner: Mr. Chairman, the ... I was extremely pleased to hear the Commissioner make this recommendation. I would certainly recommend to Committee that we adopt it. I wonder if I could go a little bit further and suggest, perhaps ... and I don't know how you can do it in simple language. There is a genuine misunderstanding, or non-understanding, in the public's mind about what an assessment is and what a millrate is. Many, many people don't understand that because they can do something when they get their assessment notice, they cannot now do something when they get their taxation notice. Is there a simple explanation? I've yet to see the person ... If a simple explanation could be included in there, too, maybe on the very back of that leaflet you're talking about, I think it would help a lot.

Mr. Legal Adviser: There is one slight difficulty. The average member of the public is frightened of forms, and he's frightened of Civil Servants, and he's frightened of lawyers. When he gets a form, he deliberately closes his eyes to what is there. He sees in a little box that it is a tax notice, and he throws it, not in a wastepaper basket,

BILL #13

Mr. Legal Adviser continues ...

in the drawer and says, I'll look at it tomorrow, and never does. It's difficult to make a form attractive so that the person will actually read it and be apprised of his rights.

Mr. Tanner: Mr. Chairman, maybe, I could suggest that we apply to Mr. Hugh Hefner who has had a lot of success in this field. Maybe he could give us some ideas.

Mr. Legal Adviser: Mr. Chairman, Hugh Hefner had a very good idea. He printed a girl, undraped, on his stock certificates with the intent of making people actually read what was there. He succeeded.

Mr. Tanner: Mr. Chairman, could I also specifically ask, in that case, when paragraphs (d) and (e) are struck from this thing here, that those people will receive those types of forms.

Mr. Legal Adviser: Form designing is really an art and this Government doesn't pay enough attention to ... really, this is true ... designing a form. But, the recommendation of the House will be conveyed to the proper authority, and I think the Commissioner might even, at some point, consider setting up a committee to design all our forms and make them readable and intelligible to people who receive them.

Mrs. Watson: Mr. Chairman, I'd like to add one more suggestion, if we are going to draw up this type of form. We should also ... a person should also be able to indicate where they want the Court of Revision to sit. People in the outlying areas, if they felt they had to come into Whitehorse, might say, well, what's the point. If they can indicate that they want it in their own area, I'm sure you would have more people attend.

Mr. Chairman: Can we take it, then, that this suggestion of the Commissioner is definitely being looked at? Does it in any way, affect the legislation at this point?

Mr. Legal Adviser: It's up to the House. I feel that the House has given favourable note to this and would all welcome the simplification and rationalization of forms.

Mr. Commissioner: Well, in that case, Mr. Chairman, this will be taken care of in regulation, where we have the authority to establish what is known as prescribed forms.

Mr. Chairman: I think, at this time, I will stand Committee in recess until 2:00 o'clock.

RECESS

Mr. Chairman: At this time, I will call Committee back to order. The last section to be discussed was section 37. Councillor Taylor, do you wish me to continue at this point.

BILL #13

Mr. Taylor: I will resume the Chair.

Mr. Taylor resumes the Chair.

Mr. Chairman: Is there anything further on section 37? (Reads sections 38, 39, 40, 41, 42)

Mr. Tanner: Mr. Chairman, Mr. Legal Adviser, in that case, if because of some oversight, the municipality fails to send out an assessment notice on a particular piece of property for three years, this is the case in the past anyway, could they then put the house up for tax sale? In spite of the fact that they haven't sent out tax notices?

Mr. Legal Adviser: Well, "could" and "should" are two different things. Partly, they could; but, no court would uphold the sale or anything in relation to it. If the person had suffered by the defect, they wouldn't allow it to be sold.

Mr. Tanner: Well, in that case, Mr. Chairman, what's the point of having that note in there?

Mr. Legal Adviser: So that the person is still liable the three years' taxes. He has a good break if he has the amount of his taxes with five or six percent interest, in his pocket for three years. Admittedly, he may have spent it, but he has had this break.

Mr. Chairman: Clear? (Reads sections 43, 44, 45, 46, 47)

Mr. Tanner: Mr. Chairman, in subsection (3), is that the total cost of the court proceedings which cannot exceed fifty dollars?

Mr. Legal Adviser: Yes, that's the limit, fifty dollars.

Mr. Tanner: Mr. Chairman, is it normal to fix those costs before they go into court. For example, last year, there was a case in the Court of Revision, coming to the court and it lasted a week. Obviously, fifty dollars didn't cover the cost at all of that. In that case, the court would have been out of pocket, I assume.

Mr. Legal Adviser: I have never heard of courts being out of pocket in circumstances.

Mr. Tanner: Mr. Chairman, the Legal Adviser knows what I mean. Are we incurring costs which could, in the case ... is the Government incurring costs which could, in actual fact, be brought against somebody who made an appeal and lost? Why should we limit ourselves to incur costs if they have made the complaint and a judge says that they are wrong in the complaint? They should have to pay the costs, shouldn't they?

Mr. Legal Adviser: It cuts both ways. It cuts down expenses; it cuts down litigation. There is less tendency, where the costs are limited, to go ahead with expensive witnesses, counsel and so forth, and the bulk of appeals are lost in the court. So, it's an ease for the people who are appealing.

Mr. Chairman: Clear? (Reads sections 48, 49)

Mr. Tanner: Mr. Chairman, that ... to go back to my fifty bucks, I don't think that's reasonable. You'll notice, in all those Ordinances, as each one becomes revised, we've increased all the fines and so on and so forth. We've realized that the cost of doing business these days is higher than they were when the Ordinances were written. This one isn't changed, and I think that a hundred dollars is far more reasonable limit, as a practical value of what it costs to go to court.

BILL #13

Mr. Legal Adviser: Well, I can't help but agree with the Honourable Member. We can look into this, but the reason is there. It's to help the appellant, not to help the Crown.

Mr. Chairman: Clear? (Reads section 50)

Mr. Tanner: Mr. Chairman, I want to bring up what I think is a very basic point here. We've been through it before and I want it clearly stated ...

Mr. McKinnon: When the Commissioner comes back, I want to debate this point, too.

Mr. Tanner: Well, maybe we can continue, Mr. Chairman. Would you take note that I'd like to come back to that section.

Mr. McKinnon: Mr. Chairman, I want to debate section 50 at some length, and I would hope that Mr. Commissioner and Mr. ... who's the other guy ... the Honourable Member from Whitehorse East, will be here in the House when the debate takes place. I would ask that we skip it for the time being and come back to it.

Mr. Chairman: Would you like Mr. Clerk to see if the Commissioner is available? Mr. Clerk, would you see if Mr. Commissioner would be available at this time.

Mr. Tanner: Mr. Chairman, maybe I could recommend we go on reading, perhaps, and then we could come back to it. Obviously, we can come back and deal with it.

Mr. Chairman: Yes, I was going to suggest that we should notify the Commissioner, if he is available, that we would like him, and then we could proceed with reading of the Bill. (Reads section 51) Could we have an explanation of that, subsection (2)?

Mr. Legal Adviser: It's a common form. A main sewer is constructed down a certain line and people abutting on the sewer would, of course, be serviced by that sewer. But, other people will link into the sewer one, two, three blocks back. So, the whole thing becomes a local improvement and they all have to share the cost because they benefit. It has been accepted as the standard form in all municipalities and has already been discussed in the Municipal Ordinance in relation to other local improvements.

Mr. Chairman: Clear? (Reads section 52)

Mr. Tanner: Mr. Chairman, could the Legal Adviser perhaps, tell us what or if that is exactly the same as it is now?

Mr. Legal Adviser: I think so. This might be referred to, Mr. Chairman, as a Porter Creek franchise amendment. This was put in at the request of Councillors for Dawson, Mayo and Whitehorse North, as the Honourable Member then was, in order to take account of the fact that there must be some method of computing the cost where the front was very wide or very narrow and average it out in pie-shaped lots and take account of this.

Mr. Chairman: What if one exceeds the other; it's wider in front than at the rear?

Mr. Legal Adviser: That's the purpose of the section. It comes only into play when one does exceed the other and it's taken then, as an average.

Mr. Tanner: Mr. Chairman, I, of course, wasn't privileged to be a Member. In fact, the Honourable Member across the way from me sat in this chair at that time. But, I understood that this had been changed by regulations since then, and they are now taking the front plus a side, instead of one side, or alternatively, they are now taking the front plus half the back. I wonder whether you might ascertain ... perhaps the Clerk could ascertain, from the Tax Assessor, exactly what method he used, for example, last year, in Porter Creek.

Mr. Legal Adviser: As I understood it, there was a second subsection in here which permitted a different form of averaging. It worked out on the ground as the assessment was actually being as being unjust. In response to a request, we, this House, repealed subsection (2), which did, in fact, do an injustice to certain people who were serviced on two sides and therefore, were liable to be taxed, in effect, twice, because being in the corner when the pipe went around the bend, they had two fronts and two backs. There was some system of averaging which took account of this. But, the length of the lots was greater than the frontage and therefore, anyone who was serviced and had his side deemed to be the front, so to speak, was paying a much higher rate of tax than the other people. So, account was taken of this and an amendment was introduced in the House to meet the point and this is the result. The amendment was last year, I think.

Mr. Tanner: Mr. Chairman, I'm not a surveyor and I'm not that brilliant at mathematics, nor speaking, apparently. But, there is a third group of lots, and this is becoming a favourite way of designing subdivisions now, on a crescent basis. This third group of lots is now being penalized a different way, because the lots are shaped out that way and you have a very long back and a very, very short front, and by taking both sides, you get a much greater length. I don't want to pursue it now, but I think this is worth looking at. Maybe the Administration could get some advice from their assessors, but I know there is a third way of doing it.

Mr. Legal Adviser: Yes, the old section read, subsection (2), "for the purpose of computing the frontage of real property abutted on two or more sides by a system, the frontage shall be deemed to be fifty percent of the aggregate length of the abutting sides". So, what was happening was that, in places like Crestview, where the sewer line came down and around, people were abutted on two sides and therefore, were, in effect, capable of being taxed twice. In fact, apparently, when they made representations, the assessor took account of their representations, what I think, shows the higher of the two ways of doing the thing, of giving them relief. But, this was done by the assessor and didn't have any legal sanction. So, of course, to get it reduced to the front and the side and the back again, it needed an amendment. I don't think the people have any complaint at the moment.

Mr. McKinnon: Yes, because that section there took care of corner lots and it doesn't any longer. They can now be charged for both sides where the system comes by on a corner lot.

Mr. Legal Adviser: They could have, but that was repealed, in 1970, Third Session. There is only one front and one back to each lot. There are two sides. I know this may sound silly, but this is what the section only talks about, front and rear sides.

Mr. McKinnon: What happens now on the taxation of a corner lot. The corner lot, after it was all squared away, was just charged frontage tax, where they could have been charged double. Now, are they, under this new Taxation Ordinance, going to be charged both sides?

Mr. Legal Adviser: No. To put it a simpler way, the accident that a person happens to have a corner lot and the pipes are running on two sides of his premises, doesn't inflict any greater element of taxation on it. He is charged the same as the neighbour on one side, along the normal street front. He doesn't ... isn't charged anything extra for being a corner lot.

Mr. McKinnon: Where does it say that?

Mr. Legal Adviser: By repealing the section which enabled it to be done. I would appeal to the Honourable Member who used to represent Whitehorse North to assure the Honourable Member that this amendment was done at the specific request of that Honourable Member and at the request of the residents in Porter Creek and admit that their wishes were done.

Mr. McKinnon: I've been screwed so many times by the Taxation Ordinance, Mr. Chairman, I suspect everything now.

BILL #13

Mr. Chairman: Order, please. Let's keep out language parliamentary in this Committee, if we could. Have you anything further on section 52?

Mr. Tanner: Mr. Chairman, while the Honourable Member for Whitehorse East is away, and the Commissioner, I wanted to bring up this subject of subsection (2), "Where, by a resolution, the Territorial Council has so approved, the Commissioner may vary the rate of tax levied under this section according to the location of the real property to be taxed." At the last Session, I went out of this House and I, in my own mind, was assured that the Commissioner could not levy taxes until the Council passed the right of taxation. Now, that's the way I read it, and that's the way, I think, a majority of the people read it. But, I saw that in December, the Commissioner set the rate of tax outside of the Metropolitan area two mills higher than it was before. In other words, he set the rate of tax. To me, the word vary meant he couldn't vary the rate over the area over which he had taxing authority, but that he could set the rate. Now, I would like to be assured, again, maybe three or four times, that the Commissioner has now, not got the authority to either set or vary the taxation rate before it comes to Council.

Mr. Chamberlist: The taxation rate is already a set rate.

Mr. Tanner: The mill rate, then.

Mr. Chamberlist: The mill rate is already a set rate. This particular subsection makes it quite clear that the Commissioner can't do anything unless there is a resolution by Territorial Council. My impression is that this was what was wanted. This is what has been given, that the Territorial Council first be asked. So, if Territorial Council ... if the Government wanted to vary the rate, it would come before Territorial Council and say that they wanted to vary the rate and could they have a resolution from Territorial Council. This is the way it reads.

Mr. Tanner: Mr. Chairman, that's what I understood it meant before, but it didn't. The Commissioner, by Commissioner's Order, and I can probably find the actual number, set the rate in December for those areas outside the municipalities. It was two mills higher than it was previously. I understood that he couldn't do that before. In fact, I'm sure that many Members thought that that was what we passed a year ago, within the last one or two Sessions. The idea that I had was that he couldn't vary the rate between localities. Well, I don't want him, not only not to vary the rate between localities, setting the rate either. I want the assurance from the Honourable Member that he cannot now set the rate unless it has been to Council.

Mr. Chamberlist: Well, this is my understanding. That two mill rate that was being discussed which was something that we had done two years ago, where we had made provision for an increase of two mills per year ... we haven't gone beyond that.

Mr. McKinnon: Mr. Chairman, this whole question of the authority of who has the ability taxes is still, I think, up in the air. When I brought the amendment before the House, I asked that the tax rate be set by the Commissioner-in-Council, because I felt that the Commissioner-in-Council should be the tax setting authority every year, and the tax setting authority only. The House was reneging its responsibilities by allowing the Commissioner to fulfil that function of setting the tax rate. I told the House that I felt, in my estimation, that I had been sucked in once before, where we gave the Commissioner the ability to set the rate to take care of the Hillcrest problem, because nobody knew what the rates were going to be in that area. He used this ability that we had given him to set the tax rates over the whole of the Metropolitan Area and in fact, the whole of the Yukon. I came before Council and I asked Council. I said, look, we've given up our right and our ability to set the mill rate; we did it for a good cause. The Commissioner has, I in my mind felt, abused that right that we have given him for a specific area and used the authority to set the mill rates across the Territory. Let's take it away; let's put it back in the hands of the Council by the amendment that the Commissioner-in-Council sets the mill rate. I brought this, in those words, to the Council Chambers and was told that because of my political ... my political situation that this could only come from the

Mr. McKinnon continues ...

Government. I think that's a fair statement, by a Member who was a part of the Government. This was to be brought down at the next Session. It was, but it wasn't what we wanted. We thought it was what it was. With respect, I think that I was, and I think that Honourable Members, including the Member from Whitehorse North, were sucked in. What we wanted was the power of the Commissioner-in-Council, and the Commissioner-in-Council only, to be able to set the mill rate of taxation that the people of the Territory were going to be charged. If Members will turn to, in the Third Session of 1971, Volume 1, page 25. where this was debated, ... the Bill was Bill No. 7, "... the Members of the Council to provide that variations in local rates of taxation can only be made by the Commissioner with the prior approval of the Council." "All Members will recall, Mr. Chairman, that I indicated at last Session, that this would definitely go up before the next Session, and as usual, the Government of the Yukon Territory keeps its promises ..." that was Mr. Chamberlist speaking. Mr. Tanner, and I sure wish that I had followed him on this, smelled the rat right away and came up and said "Mr. Chairman, could I ask the Honourable Member from Whitehorse East to explain why the wording was put in this particular way." And, Mr. Chamberlist said, "I'm going to pass this one to Mr. Legal Adviser ... as often the suggestion was made that we should use Commissioner-in-Council, but then we came to the opinion that this is more definite by making sure that there is a resolution provided by the Council before the Commissioner can vary any taxes. We thought that this would be a much more stronger way. Council wanted us to be strong and firm, and here it is." Here is Mr. Legal Adviser, "We don't use the words Commissioner-in-Council normally in our own legislation, we use the Council, and we give the authority to the Council. The Council will have the authority to initiate resolutions or not on the basis as specifically laid out. It is just a drafting point, really, to put it in one sentence to make it crystal clear to the Council. The Council has the overriding power to assent to or prevent the Commissioner from varying the rate of tax in accordance to this section. It takes a simple resolution." Then, Mr. Taylor who was in the Chair, he started twigging to what was happening too, and he said "Here is a question from the Chair. You say, whereby a resolution the Council has so approved, the Commissioner may ... Can this be construed as giving the Commissioner the power to levy without the consent, because it doesn't expressly say so?" Mr. Chamberlist, "No. Yes it does, it says where by resolution ... It has got to be by resolution.", and Mr. Legal Adviser gets in with "It is only really a drafting point ... 'may where a resolution of the Council is so approved', the tax ... because this is just the way you do it, you are putting the real boss in the front.". Mr. Chairman, I admit that we have been sucked in twice in this area here. There is only one way to get the taxing authority back into the hands of the people, where it belongs. The only way is by putting the words in "Commissioner-in-Council". If the Council is not in Session before the first day of March, then call the Council to Session because this is the one area where the Council has the right and the ability and it is their power, to say what the tax will be upon the people who have elected them to serve them. Nobody else. Nobody can renege on their responsibility except the Members of this House who set that tax and we have to have Commissioner-in-Council in this section, in order to allow the Members of this House to properly set the mill rate and properly set the tax rate which the public is going to be charged. Mr. Chairman, I want to move that section 50 of the Taxation Ordinance be amended to read "On or before the first day of March in each year, the Commissioner-in-Council shall in accordance with this Ordinance, levy taxes on the assessed value of all real property in the Territory not within a municipality liable to taxation." I think every Member left this House after the last amendment not thinking that the Commissioner, any longer, had the ability to set the mill rate and taxes without the prior approval of the Members of the Legislative Council before. We just got home and we find that the Commissioner has raised the mill rate two mills in those areas outside the municipal boundaries of Whitehorse. This is our responsibility, to do so and we have to put it crystal clear in the Ordinance so that the Administration understands it, we understand it, that we are going to set the mill rate, not the Administration.

Mr. Chamberlist: Well, Mr. Chairman, once again I think that was a first class speech, but I don't think that there is much sincerity in it for the simple reason there is a change of opinion from last time around. As the Honourable Member has already read from the records, that I take the same stand now as I took then. The Commissioner cannot act without the resolution of Council. That is quite crystal clear. Whereby a resolution the Territorial Council has so approved then the Commissioner may then, but he can't do it until such time as the Territorial Council does simply that. That is clear and that would be clear in any court. It is clear to the public and it is clear to anybody who reads it, without any argument at all. They've done it. Certainly every Member of this Council knows full well that I have for a long, long time attempted to make sure wherever possible, when it comes to any matter in relation to dollars and cents that Council is involved. Here is a specific area where we are saying, where we are spelling out Territorial Council. Now, that means us. This is the point that the Honourable Member should recognize. It is alright to say, I want Commissioner-in-Council in there. This means the same, and it is a matter of just arguing with words. It is quite often that the Honourable Member who has just spoken, argues about people speaking and putting forward semantics. This is one specific case of a semantic. Certainly, I would bend over backwards if I saw any reason why this should not remain as it is. The Government has to remain firm in certain areas. The Government will remain firm on this one. This has been spoken, the way that it is written, if Territorial Council wants to change it, of course they have the privilege and the prerogative to do so. I could not support that motion, because it is just a matter of trying to change words which give it the same meaning.

Mr. McKinnon: Well, Mr. Chairman, the Honourable Member is absolutely wrong. I agree with him when he makes the point of being able to vary from the standard, that it has to be a resolution of this Council prior to the Commissioner saying, look it is going to be twenty mills in one place and sixteen mills in the other. The right to set the basic mill rate, is the one that we also have to get back into our hands and we have to have the ability to get it back. We don't have it, now, because section 1 is giving the Commissioner the right to set the mill rate, and then if we feel that we want it changed from area to area, under section 2, by resolution, we have the ability to ask him to change it. We also have to have the ability not only to vary the mill rate, Mr. Chairman, we have to have the ability to also set the mill rate. The first section deals with the setting of the mill rate and that has to be in ... with respect, Mr. Chairman, I think that the Honourable Member from Whitehorse East got sucked in with the rest of us. He feels that we are setting the mill rate. We are not, all we can do is vary the mill rate if once the Commissioner sets it, we feel that it should be varied from area to area. If the Honourable Member from Whitehorse East will really examine this closely, he will find that the Commissioner still has the power. I wish Mr. Legal Adviser was here to back me up on it, because he knows darn well, that under these sections the Commissioner still has the ability to set it. Our ownly prerogative under the changes is the ability to vary it after the Commissioner has set it. We have to have both rights in this House. It is incumbent that we have both these rights.

Mr. Chamberlist: Mr. Chairman, with respect, the Honourable Member is forgetting a very important group in this body and that is the Financial Advisory Committee in conjunction with the Budgetary Committee that knows what monies are required to carry out the functions of Government. Knows what money is required that has to be obtained. Certainly, the Honourable Member knows full well that this is a matter of money that is discussed in Financial Advisory Committee. The Commissioner doesn't even form part of the Financial Advisory Committee. He is advised by the Financial Advisory Committee what funds have to be raised. It is not a matter of the Commissioner saying, you know,

BILL #13

Mr. Chamberlist continues ...

I am doing this all by myself, this is what the mill rate is going to be, this is the tax that we are going to raise. The Commissioner is a figure head, and it is about time people realize now, that he is only a figure head at this time where you have elected representatives. He has always since we have been in this job, taken the advice of the Executive Committee. You seem to forget that he has accepted this. Perhaps if it were another person who was the Commissioner, he would not accept this. The point is that he has accepted this. This is why I will go to bat for the Commissioner, because the Commissioner is being attacked at this point as to his integrity in this matter. I will defend him on this particular point. He doesn't have the say. He can have the say as far as the Yukon Act is concerned, but he is recognizing the fact that there is an Executive Committee. He is advised accordingly. I can assure Honourable Members that if the Commissioner went ahead and did without going to this Council anything that related to taxation or raising money, I would be the first one to scream too. As this is written up, I think that the Honourable Member is trying to put into a fear that doesn't exist.

Mr Tanner: Mr. Chairman, if that is the case, why did the Commissioner by Commissioner's Order in December set the mill rate in the outside areas at 2 mills higher than it was before?

Mr. Chamberlist: As the Honourable Member from Whitehorse West knows full well, that we had arranged this some two years ago. I have forgotten the exact date, that there would be an increase in 2 mills over three years, I think it was. I am just talking off the top of my head right now. I think that this is how we worked it. This is why I think that the Honourable Member from Whitehorse West will agree with me even when he said that. This was all that was done. It was complying with legislation that had been approved by the Territorial Council. We hadn't gone beyond that.

Mr. McKinnon: Mr. Chairman, the first question that I really want to ask, just before we go any further in this debate. Does the Commissioner feel, himself, that he is nothing more than a figure head in the Yukon Territory?

Mr. Chamberlist: I didn't put it that way. I am sure that the Commissioner will stand up and support the point that I make. That he acts upon the advice of the Executive Committee. I wonder if he wants to stand up and say that. I am getting a little bit worried myself.

Mr. Commissioner: Mr. Chairman, if you are going to stand around in semantics you know, you can bash this thing around for the rest of your life. We form a working group in the Government, this Council is a part of it. The Executive Committee is a part of it. We attempt to work with just one thought in mind, and that is the benefit of the people of the Yukon Territory. If someone feels, you know, that I am charging around my office, and doing nothing but thinking up ways and means of increasing such things as mill rates without taking advice from other people and talking these things over. This is just not the case. This is the point that the Honourable Member is attempting to make. I may say that, I believe that it was two years ago, when a decision was made and advice came to me from the Advisory Committee on Finance that the property mill rates in the Territory had to be changed. At that time the recommendation was, that the mill rate in the areas within Metro but outside the city boundaries would immediately be doubled from, I believe, six mills to twelve mills, and that this same equity would be attained in the other areas of the Territory, the unorganized areas by an increase of two mills per year until the rate of twelve was reached. This is exactly what was given affect to. The document came to my desk calling for these extra two mills, and quite frankly it was signed simply on that basis. If the information and advice that I have been given is incorrect, well okay, fine, I mean, I am prepared to stand corrected. This wasn't anything that I personally dreamed up.

Mr. McKinnon: Mr. Chairman, I would like to follow this up. The Council has the ability under the legislative authority of the Yukon Act to set the taxation rate in the Yukon Territory. We have given this right to the Commissioner to set the taxes. It doesn't matter which way you read it. People are saying it is semantic, it is not semantic, it is crystal clear, the Commissioner shall levy taxes on the assessed value of all real property in the Territory. That is a right of this House, and that should be read in the Ordinance, that it should be the Commissioner-in-Council. That is when it is clear. Now, what happens on the advice of I don't care who it is, probably the Financial Advisory Committee, the Executive Committee. A Commissioner's Order is issued saying that the Commissioner has set the mill rate. That mill rate should be set in this House, in open Council by the Council. The Financial Advisory Committee, the Executive Committee should come in and say, the mill rate for this year to conduct the business of the Government of the Territory is going to such and such a mill rate, and it should be debated in open Council. That is the way if you look in section 3 that the municipal council does it. The council of every municipality shall in accordance with this Ordinance. The council of the municipality comes in and says, this is the mill rate that we feel we are going to have to set this year in order to be able to conduct the business of the City of Whitehorse. It is debated. It is either chopped down set up or gone as to what the mill rate that is brought into the House. That is the proper and the right way for an elected legislature to conduct the business of setting taxation. It is the way that taxes are set in the Federal Government House, in the provincial legislatures, in the municipal councils. It is the right and the supreme right of the House to levy the taxes upon the citizens, and section 1 giving the Commissioner only, that right by legislation to do it, should be taken from the statute books. It should be absolutely clear that the right to set the mill rate and the right to vary the mill rate is the right of the Commissioner-in-Council. Then we don't have any semantic difficulties, then we aren't playing games by Commissioner's Order. Then we are accepting our responsibilities as legislatures to put a tax upon the people.

Mr. Chamberlist: Well, Mr. Chairman, I want to show the inconsistencies of the Honourable Members last remarks. First of all, he likened a municipal council to the Territorial Legislature. The reason why the municipal council deals with this is because the municipal council is the government of the municipality. In our set up we have a cabinet type of operation, right now. Now, also the Honourable Member, Mr. Chairman, has indicated that this is what happens in Federal Legislation and provincial legislation. This is what happens, ... what happens is that budget, the Tax Act comes into being, and is debated. This forms the part of that debate. I would refer to you, section 12(3) of the Yukon Act, "the Commissioner shall consult with the Committee", and it refers to the Financial Advisory Committee, "in the preparation of the estimates of the expenditures and appropriations required to defray the charges and expenses of the Public Service of the Territory for each fiscal year". That is the time that it is done, and the time that it is done is at the time of the discussion of the budget. If, for a particular reason, the Council at the time of discussion of the budget, do not accept the budget, or is capable of reducing the budget, then of course the amount of money that is required is less. Then the Commissioner will then ask for a ... ask the Territorial Council or the Territorial Council may recommend that the mill rate be reduced. It is a responsibility of the Government of the Yukon Territory to bring that forward to Territorial Council at that time. With respect, Mr. Chairman, the point that has been made by the Honourable Member is outside completely of the particular section that we are dealing with. I am satisfied in my own mind that the Territorial Council is protected completely by the fact that it has the power to do this by resolution, whether it comes to a case of varying, whether to give the power or not to the Commissioner. Also it has, as has been indicated in the past, by the Honourable Member that the budget itself, and the bills that go with the budget are the most important pieces of legislation that comes before Council to deal with these particular matters.

Mr. Chairman: Councillor Stutter will you take the Chair?

Councillor Stutter takes the Chair.

Mr. Chairman: Councillor Taylor.

BILL #13

Mr. Taylor: Mr. Chairman, with all respect, I think there is a smoke screen gone up again. Let us put this in perspective again. When we talk about the Advisory Committee, and the powers the Commissioner .. I'll restate the same section, the Commissioner shall consult with the committee in the preparation of the estimates of the expenditures and appropriations required to defray the charges and expenses of public service to the Territory for each fiscal year. It does not expressly say, that he is in charge of the revenue, that he must consult. He talks about; the required, the expenditures and appropriations required to defray the charges and expenses of the Territory. This doesn't say anything about revenues. It does say another thing in the Yukon Act, which should be noted, the Commissioner-in-Council, may, subject to the provision of this Act, and any other Act of Parliament of Canada, make up ordinances for the Government of the Territory, in relation to the following classes of subjects, namely, and (a) is the one we are concerned with, direct taxation within the Territory. So, I strike this difference, that he consults the Committee in one area but, certainly, in terms of taxation, direct taxation within the Territory in order to raise the revenue for Territorial, municipal, or local purposes he consults the Commissioner in Council. That is written into the Yukon Act, and that is expressly clear. What we have asked for, for the past several years is, the amendment that was suggested by the Honourable Member who is about to propose a motion, that; we write the Commissioner - in-Council, back into this section, so then, indeed, it becomes crystal clear, that the people then, must be consulted. This should be on an annual basis, I would submit, before any tax is levied, a tax or impost, levied upon the people. I would direct, Mr. Chairman, a question to Mr. Commissioner. Would Mr. Commissioner have any objection to writing in the amendment, as suggested by the Honourable Member from Whitehorse West, to write Commissioner-in-Council, back into this section.

Mr. Commissioner: Yes, Mr. Chairman, I would have very strong objections to it. It doesn't serve the purpose of which you are attempting to do. You have the right under the Yukon Act, to levy direct taxation via the Ordinance. If, you do not wish, if it is not the Councils wish to give the Government their right, as it is asking for in sections 51, 52, and 53, then the thing to do is that you eliminate that entirely, and there is an ordinance brought forth each year. As far as writing, Commissioner-in-Council, into the Ordinance, forget it. It just doesn't mean a thing. We've been told this once, we've been told this fifty times, maybe Mr. Legal Adviser wants to go through the routine again, I don't know.

Mr. Tanner: Mr. Chairman, I note that the date that the taxation has got to be set by, has been pushed forward two months. If, I am correct it use to be January the first and now it is March the first. Is the reason for that because in practice, it is the intention of the Government to bring that budget forward, before such a time that the Commissioner has to set the mill rate and that in effect, we will be discussing the mill rate until, before he actually sets the mill rate. If, that is the intention, then I am prepared to go along with it, as long as we get the assurance that it won't ever again, what happened this past December.

Mr. Chamberlist: The method that happened in the past December was something that we had agree upon. It was in the Legislation, and the Legislation had been complied with. I was somewhat amazed to hear the Honourable Member from Watson Lake, pore the words out, in estimates of expenditures and appropraions required to defray the expenses, then in said but "Ah, not the revenues" Appropriations, appropriations are revenues because this is where you get your money from, you appropriate. You should try and understand the meaning of appropriation, Mr. Chairman, the Honourable Member should before, he raises that certain point. I can't help it, if, he doesn't understand this Legislation, perhaps

BILL #13

Mr. Chamberlist continues ...

it shows a good reason, why he is arguing with these things, not understanding it. However, I appreciate the point that the Honourable Member from Whitehorse West and Whitehorse North have made, but all I can give is my assurance, that I am there to protect money interest of the people of the Territory, as well. I am just not here to let these things go by that are going to effect the people. After all the Honourable Member understands too, Mr. Chairman, that we all have an interest, in these things, in making sure that things are done properly and correctly. This is the point, that it hasn't got much strength, otherwise, I would go for it, I would support the particular stand that he has taken. I think, that we are amply covered in this area. We really are.

Mr. McKinnon: Mr. Chairman, ask the Legal Adviser a direct question does section 50(1) of the Taxation Ordinance the way it is written, allow the Commissioner to set the mill rate within the Yukon Territory by Commissioner's order?

Mr. Legal Adviser: Yes, Mr. Chairman.

Mr. Chamberlist: But, I think,...

Mr. McKinnon: By resolution, only.

Mr. Chamberlist: What should be pointed out, again. This is where Mr. Legal Adviser didn't continue because he was on something specific. When it says, Commissioner's order, there is not a Commissioner's order today, that is signed by the Commissioner, unless it is seen by members of the Executive Committee. They are circulated, so, we know what is going to be signed before and we have our input, if, anything is really, wrong it is the stop key, doing these things. We are the peoples protection, this was the idea of having an elected representative in Administration. We are doing that very job, that we have been put there to do.

Mrs. Watson: Mr. Chairman, I wonder, if, I could ask the Members to leave this with us. Maybe we can come up with something that will be acceptable to the rest of the Councillors.

Mr. McKinnon: I still would like to make a point. I am really, doing myself a disfavour, by trying to get this in, via a resolution of the House. When it comes out to the public, that it is nothing but a Commissioner's Order, allowing the Commissioner, which it does come out willy neely to set the mill rate. It is beautiful for political popularity to say, "Damn Commissioner, look what he has done again, without any say to the House at all, he has just gone willy neely and raised the mill rate a couple of mills again. What a son of a gun, isn't that something". We should have the right to do this in the House, and we should be able to stand up and be accounted for, defend or object to the mill rate. Instead, the Commissioner takes it all on his shoulders because it is done by Commissioner's Order and the House escapes unscathed for any mill rate increase that comes about. For goodness sake let us accept our responsibility, and put the taxing power in the Members of the House where it belongs and stand up and say we support this mill rate of such and such, or that we object to it. By a resolution of this House, where it should be, comes the tax rate for the Yukon Territory for any given year. Let us do it, the proper way.

Mr. Tanner: Mr. Chairman, could I suggest, that at this time we have a recess. Also, the Member should not make his motion just yet, until we find some solution to the problem.

Mr. Taylor: Mr. Chairman, the only real solution to the problem is to bring in any tax levy, as has been suggested by Mr. Commissioner. To rewrite this section, to be more consistent with the legislative powers, conferred upon this Legislature by the Yukon Act. Write the Commissioner-in-Council, back into this section and every year when it is necessary to alter or change the levy of taxation in the Territory, bring it in the form of a special ordinance, for that purpose, before this

Mr. Taylor continues ...

House. I would think, that anything else, to me or to those that I represent, would be repugnant, as this has been repugnant since day one.

Mr. Legal Adviser: Mr. Chairman, might I just say one or two small things, this is a Taxation Ordinance which is related to municipal purposes. The bulk of the population of the Territory resides in Whitehorse, and the taxing power that this Ordinance gives no taxing power to the Commissioner in relation to those places. He has no power, either on the advice of his Executive Committee, or otherwise to impose any tax in relation to Dawson, to Whitehorse, or to Faro. In 1958, when this Ordinance was first passed, there were a bigger proportion of the people living as what would be termed in other provinces as the unorganized areas of the Territory. There were constituted at that time two municipalities and they were given taxing powers for the first time in this form of tax, in 1958. So, the decision had to be made at that time. How would the municipal taxes necessary to give services, be imposed in relation to the people who did not live within the City of Whitehorse, or the City of Dawson? The Council at that time, had the full authority to impose these taxes, but it delegated the right to fix the rate to the Commissioner of the day. That power has remained in the Commissioner's hands until now. The form of tax itself, in relation to a provincial power, is anachronism, and no other province, except here, and I presume the Northwest Territories and British Columbia, exercises this power as a provincial power. It is delegated to the municipalities to raise taxes for their revenues. In relation to unorganized areas, such as provinces like Alberta, they delegate the power to a Municipal Board, and although the Minister may impose it, it is on the advice of the Board, and the money raised forms some fifty or sixty percent of the expenditure on the municipal services, or municipal-type services in these unorganized areas. The purpose of the revenue raised by this taxation is for that type of expenditure. When, as we advance, a board or some form of elective body, will be expending the monies in these unorganized areas, the correct place to find it would be with the elected people coming from those unorganized areas. It is perfectly correct to say that constitutional power to impose the taxes, here, as elsewhere, rests in this House. It rests in this House, this House appropriates the money but it first must raise it by taxation, but it has the authority to delegate that particular power to anyone that it likes. For the last twelve years, thirteen years, this delegation reposed on the Commissioner. When the amendment, that the Honourable Member spoke of, was introduced, we followed this specific request insofar as we could. It was asked for at that time and I certainly didn't think that I was deceiving the House in any way in supporting the amendment; in drafting it. I looked, I confess, I looked at the debate; I checked out that the specific request that was made by the Honourable Member was in fact complied with I felt it was my duty, and I think that the other Members of the Committee that did this, did the same thing. We didn't want to go behind anyone's back; there was no attempt to deceive anyone. We complied with the exact requests that were asked for. If the Honourable Members didn't understand what was being done, well then, they should have said so and more detailed explanations would have been given. I think, if they consult the debate they will find that during the debate, the people who were supporting it from the Government side, and I think the Commissioner was present, made it quite clear that the power was still delegated to set the basic tax, by the Commissioner, variations in tax from place to place were done by resolution of this House. The accustomed constitutional procedure for imposing a tax elsewhere, is by a Bill for the purpose. At first, the way is paved by the introduction of the budget. When new taxes are proposed, a resolution is proposed by the people about to bring in the legislation. They ask the Legislative Assembly, of the particular problems, for their consent, by an affirmative vote, to the particular proposal. I wouldn't attempt to deceive you and suggest that the date here, of the first of March is inserted for the purpose of allowing this House to discuss the Commissioner's Order. The date happens to be programed into a series of other dates linked in with the municipality. The second consideration, their fixing of dates, the second consideration is, that from an accounting

BILL #13

Mr. Legal Adviser continues ...

point of view, when the notices go out, as they must do, the tax is legally, accountably, deemed to have been paid the day the notices are sent out. That's part of a carefully drawn scheme to demonstrate that the taxes which are being paid in the calendar year of 1972, are payable in respect of a calendar year. Exactly as the taxes were deemed to have been paid in the first year that the Ordinance was written. From an accounting point of view, the Territorial Treasurer, in his public accounts, debits the taxes in the financial year in which the notices went out; so not financially, not dollar wise, but accountably wise, we would lose a complete years' revenue, if, the notices weren't send out before the thirty-first of March in that particular financial year. We would suddenly appear with a paper deficit. This is the latest we could move the date, in order to allow the notices safely to be sent out before the thirty-first of March, and that is the primary purpose of that date. Account is also taken of the fact that it delays the time of the Commissioner making the order. Under the Ordinance as it is, and I think that it was explained to the House at the time that the amendment was introduced, it would be physically impossible in many years to summons the House into Session between the first of January, and the thirty-first of January. Certainly, at the time the amendment was introduced, it certainly was deemed to have been a part, in fact the House came into Session on the thirty-first of January. In a normal year, I would apprehend that the financial business of the House will be discussed well before that so that the House would have an opportunity to discuss it and to nullify the resolution. My prediction is, that this power that the Government would be asking this House, at some future date, to delegate the power, not to the Commissioner, acting on the advice of the Executive Committee, but to a board elected by the people, on whom the money will be spent, and who will be asked to pay this revenue. That will take some of the local Government aspect away, from this particular House, and put it where it should belong. The people at the lower level of Government, who are expending it.

Mr. McKinnon: Mr. Chairman, one thing that I don't deny, the Honourable Member at all, his ability, as long as he holds the majority of this House, to act as a Government. That's what he should be doing. I have no time, to even deny him the ability and his right to be able to do that, but if, we are going to act as Government, in the normal sense of the way, let's act as a Government. Let us take all the responsibility, on our shoulders that is available to us, under the Yukon Act, let us bring in by resolution, in this House, what the taxes, set by the Government, set by his Governing Body, is going to be for any fiscal year. Debate it, and then pass it on to the people. Let us not hide, behind that poor old tired figurehead, of a Commissioner, through Commissioner's Order to do our dirty work for us. It's better for me if you leave it the old way, but I am telling you to all of us are renegeing our responsibility that is directly given to us under the Yukon Act and one which we are duty bound to assume.

Mr. Chamberlist: I just want to reply for a few minutes, I'm sure I appreciate what the Honourable Member has just said, but I would suggest that he wait until the appropriate time to make the resolutions. This is the point that I make, but this isn't the time, when the budget comes along this is the time for any suggestions, or resolutions or motions...

Mr. McKinnon: No, this should be eliminating.

Mr. Chamberlist: Each, Honourable Member should make at that time. I would suggest that, we wait so that the Government does have the opportunity to reply when a resolution is made, at the time of the budget. I am quite prepared to consider it, at that time.

Mr. McKinnon: But, these sections should be eliminated from the Taxation Ordinance, to put the onus directly on the Government of the

Mr. McKinnon continues ...

day, made to by resolution, bring in what the tax is going to be to the people of the Yukon Territory for any fiscal year. Not, by Commissioner's Order, which as long as this remains in the Taxation Ordinance, still ostensibly gives that right to the Commissioner. *BILL # 13*

Mr. Chairman: I think we shall have a short recess, at this time.

RECESS

RECESS

Mr. Chairman: I now call Committee to order.

Mr. Taylor: Just for the record's sake, Mr. Chairman, I wonder if we could have some assurance that this matter will be reviewed as suggested by the Executive Committee group and brought back before the Table for further consideration before this Bill is passed.

Mr. Chamberlist: Well, Mr. Chairman, everything that is reviewed is brought back to the Table for further consideration.

Mr. Chairman: Mr. Clerk, will you so note. (Reads sections 53, 54)

Mr. Taylor: Mr. Chairman, this particular section, section 54, is I think, directly linked to the mandatory provisions of the Local Improvement District amendment, and right now, this matter is under study by at least one of the Local Improvement Districts. I'm wondering if we could come back to this section before we do anything with this Bill. I think it's rather important we do. We have some arguments to present in relation to this, but I have not got those arguments put together as yet.

Mr. Legal Adviser: Mr. Chairman, I don't think this is directly linked to Local Improvement Districts or the legislation concerning that. True, the constitution of a Local Improvement District may come afterwards, but I think, in a normal case, this section comes into operation in a completely unorganized area. This is what I think, but we can review it.

Mr. Taylor: Mr. Chairman, I think that is ... I accept that also as a smoke screen. When we get down to the Local Improvement Bill, we will find that the Administration has proposed that the Commissioner shall transfer local improvements in a district to that district. He shall do that and the Board of Trustees shall operate and maintain any improvements in that district. This is another element of dictatorship, I would respectfully suggest, Mr. Chairman. This is why I ask that this section be set aside until such a time as those people involved may be able to assist me in giving some representations in respect of this section.

Mr. Tanner: Mr. Chairman, I think the opposite words in there, in both subsections (1) and (2), are "a majority of taxpayers". Surely, they have the control.

Mr. Taylor: It says that "The Commissioner shall consult ...", but where is the right of appeal from any decision he makes?

Mr. Tanner: Mr. Chairman, it says, "The Commissioner shall consult ... where a majority of taxpayers agree ..." in both subsections. Surely, that's it right there. There will be a plebiscite taken of the taxpayers and their decision will be binding on the Commissioner.

Mr. Taylor: I'm talking about inter-relation between the two, between the Local Improvement District Ordinance, where the compulsion goes down to the Local Improvement Districts. They are both related subjects and until we get some representation from people who are now studying these things in a Local Improvement District, I would like to reserve the right to come back to this section. That's what I'm saying.

Mr. Chamberlist: Granted.

Mr. Taylor: You're all heart.

Mr. Chairman: Can I take it that this section will be reviewed then?

Mr. Taylor: And that the records will show ...

Mr. Chamberlist: It is not being reviewed, Mr. Chairman. It is just allowing the Honourable Member to come back to it, as he indicated.

BILL #13

Mr. Chamberlist continues ...
he would like to do.

Mr. Chairman: (Reads sections 55, 56, to paragraph (2)(c))

Mr. Chamberlist: Mr. Chairman, could ... Mr. Legal Adviser, it seems to me the words "all rates" are excepted now because we're not using it anywhere else. Well, we're not using "rate".

Mr. Legal Adviser: Yes, this may well be. This is just taken directly from the old Ordinance. It's all taxes and charges.

Mr. Chairman: (Reads section 56, paragraph (2)(d), section 57)

Mr. Tanner: Mr. Chairman, this ... is that then giving the assessor the right, having passed one up for one year, and if he picks it up the second year ... he can cover up his mistake. If that is so, and there might be an argument that that should be right, can he do this for a five year period, until the next assessment? How long ... when does the poor fellow who is paying the taxes ... he says to himself, well, I've beat them for three years and now I'm clear.

Mr. Legal Adviser: There must be a period, a statutory limitation, in this. What it would be, I don't know. I think it might be six years.

Mr. Chamberlist: I'm a little bit disturbed about this. I'd like to take this back for review. I'll give an example of what might happen when a person buys a premises. He buys a piece of property and in the settling up of the property, he pays the taxes that are outstanding at that particular time. Three years later, he finds that he can be back taxed six years back. So, it's been three years and he can't go after the people that he bought the property from. I think we should review this. It's a risky thing here.

Mr. Legal Adviser: It's stood the test of time without much complaint. Most property owners make sure that they pay their taxes and arrears, generally. But, as I say, we can look at it.

Mr. Chairman: (Reads sections 58, 59) Councillor Taylor, do you wish to take over?

Mr. Taylor resumes the Chair.

Mr. Chairman: (Reads section 60, to subsection (3))

Mr. Tanner: Mr. Chairman, I'm somewhat confused here. Is the intention of this section, should the municipality want to impose a business tax, and if that is the case, they are imposing it on the business per se ... why do they have to know the details of the buildings? Surely, they get that when they are doing their assessment for regular city taxes.

Mr. Legal Adviser: Mr. Chairman, this power to impose a business tax is already in the law but has never been actually exercised. The House will remember that it is not within the power of this House, pursuant to the financial agreements with the Federal Government, to impose any form of income tax. So, if they wish to tax a business in any way, either a municipality or anyone else, the city can do it only by means of either a property tax on a licence. Then, they can only do it after certain conditions have been met. It cannot be above a certain height per annum and it can't increase more than a certain percentage per year. This is part of the financial agreement. But, this tax has never been used, yet it is still the law.

Mr. Tanner: I'm a little confused now, Mr. Chairman. Why bother to put it in if you can't utilize it?

Mr. Legal Adviser: You can utilize this because it is a property tax.

Mr. Tanner: We've gone through eleven pages talking about property tax. Now, we're giving the authority and retaining it for ourselves to impose a business tax, which as a matter of interest, I happen to think is a

Mr. Tanner continues ...

good thing. But, I don't see why we have to impose it in this manner, with details of the property, unless the Legal Adviser's advice to us is that in actual fact, we can't do this because of our Federal agreements and we're getting around it another way. Is that what you're saying?

BILL #13

Mr. Legal Adviser: We can do it. It's just been a power that has not been necessary. This is the method which was chosen already in the Ordinances and there has been no departure from it. It would mean that, exactly as it says here, where a particular premises is used for business as opposed to residence, then it is subject to this tax if ever it was imposed.

Mrs. Watson: Mr. Chairman, is not a business tax imposed on frontage and floor space? This would be why you need the information on the building and the premises. You may not be the owner of the building or the premises, but you may be using them for your business, and the business tax would be imposed on the square feet of frontage.

Mr. Tanner: Thank you, Mr. Chairman. I'm ... yes.

Mr. Chairman: (Reads section 60, subsections (4) and (5)) Just one question here, from the Chair, before we proceed further here. It has been suggested that a new manual will be evolved in respect of assessments and will be brought into force in the Territory. Is this done just as a matter of course, or will approval be given by Council?

Mr. Legal Adviser: I couldn't say. It's quite a serious job, you see. We're using another province's manual at the moment. It's quite a serious job to prepare your own. I have no doubt, whatsoever, that before it is used, it certainly will be tabled before this House.

Mr. Chairman: Good. (Reads section 60, subsection (6))

Mr. Tanner: Mr. Chairman, I still have some confusion in this area. In my mind, if you are going to impose a business tax ... first of all, you have already imposed a property tax, whether it be to the operator or the owner because the owner has passed on that liability to the occupier. You've already hit them that way, with a property tax. Then, you are imposing a business tax, and when you impose a business tax, surely it should be imposed, not on the square footage of the area to be taxed, but on the volume of business that he is doing. Really, that's not saying this. All this is saying is that we are going back to those people again, and imposing another tax because they are in business. The approach, to my mind, is wrong; the approach should be on the volume of business he is doing. I can think of many instances where you might have a great barn of a place doing very little business and you might have a very small place doing a great volume of business.

Mr. Legal Adviser: Mr. Chairman, it's just one method whereby a business can be asked to pay extra taxation. There are other methods. In fact, this method has not been practised.

Mr. Chamberlist: Mr. Chairman, I think the Honourable Member has a point that should be given consideration. It comes to my mind that a person can operate a diamond cutting and selling operation in a room eight by eight and carrying on a million dollar business, while at the same time, there may be somebody who has an area of five thousand square feet and all they do in there is store cold storage boxes. We'll take a look at this.

Mr. Legal Adviser: This one is difficult, Mr. Chairman. If we are to impose a type of turnover tax or gross volume tax, we are in danger of offending the terms of the Financial Agreement Ordinances. There must be fifty different methods; there is a value added tax and various forms of volume tax, turnover tax, sales tax and what have you, whereby it can be done. But, we're only asking the House to consider this method, and we're not saying that it is going to be put into effect at any time at all.

BILL #13

Mr. Chamberlist: Well, the point that I make, and I think that the Honourable Member from Whitehorse North makes, is are we not limiting the areas where this business tax can be imposed? Should it be enlarged so that there are a number of areas which ...

Mr. Legal Adviser: Maybe, Mr. Chairman, but not in this Ordinance. This is a property Taxation Ordinance, real property tax, with a real property business tax. So, any other type of taxation would need a different type of approach, different type of legislation, to be considered.

Mr. Chairman: (Reads section 60, subsection (7)) This binds the judge on a decision? Is that within our competence?

Mr. Legal Adviser: Well, the judge, shall I say, squawks, but he obeys the law. It has come up in court in a couple of appeals that came before the judge and he didn't like to interrupt his complete list to make sure these cases were heard and a judgment delivered, but he did, in fact, accept that fact, this Council makes the law and he is a judge who carries it out.

Mr. Chairman: But, could this not infringe on a person's rights, depending on how binding a judge can make a decision in a given period of time?

Mr. Legal Adviser: That doesn't bind him, Mr. Chairman, to make it any special way, just to give a decision.

Mr. Chairman: (Reads section 60, subsections (8) to (19), section 61, subsection (1))

Mr. McKinnon: Mr. Chairman, I make exactly the same arguments here in the area of school taxes. The taxing authority should be the Council of the Yukon Territory, and the tax should be by resolution of this House, debated in the House and set by this House.

Mr. Tanner: Mr. Chairman, just in the next paragraph, which you haven't read yet, (2) is the same. Why haven't we changed the date there to make it the 31st of January ... the 31st of March? Is there any particular series of dates which that time means?

Mr. Legal Adviser: Yes, Mr. Chairman, this date is another programmed date. It ties in with the preparation of the budget, provisional budget of the municipal authorities, who must be notified in sufficient time of the height of the school tax so that they can prepare their notices and everything else accordingly. Of course, it has got to be notified to the Territorial Treasurer's Department or the collection department so that the notices would contain the school rate.

Mr. Tanner: Of course in that case then, Mr. Chairman, there is no way ... well there is not such an easy way for input by the Territory in the fixing of that levy. That is one which we do retain unto ourselves and one ... in fact one that costs us the most. I think that may be that should be looked at too by Committee when it goes back to it.

Mr. Chairman: (Reads subsection 61(2)). Just from the Chair, I do not think ... I think that this is ultra vires again of the Yukon Act. The Commissioner himself, without the Council cannot set the rate.

Mr. Legal Adviser: Mr. Chairman, there is no point going into this in the sense that the Council themselves did it ten years ago. It is the law, it is the acceptable law in all courts, but the constitutional issue as to who should actually do it, is it the Council itself, or should they delegate the authority to the Commissioner is a valid point. It will be dealt with at the same time as we consider the earlier points that were raised in relation to section 50.

Mr. Tanner: Just as a matter of interest, Mr. Chairman, why is it in the past, I am speaking out of sheer ignorance that I don't know, but why in the past have we done it and not delegated it but asked the city to collect our taxation in this area, the sixteen mills the current school tax. Just as a matter of interest do we pay them anything for that service which they are offering?

Mr. Legal Adviser: It is a service that they should pay us for.

Mr. Chamberlist: It is the Territorial Government that supplies all the funds for education.

Mr. Tanner: Mr. Chairman, that is not my question. My question is that, for example, if anybody in the British Columbia Government imposes a sales tax. That tax is collected by people that are standing at the cash registers. The companies which collect the tax are rebated a proportion a very minute proportion because they incur expenses to collect the tax. The city must incur expenses when it collects the school tax for us. That was one of my questions. The second was, why does the city collect that tax for us? Why don't we do it directly?

Mr. Chamberlist: By the same token that we loan money to the city, we don't charge them any interest for the administrative work involved in loaning the money.

Mr. Chairman: (Reads subsection 61(3) and (4)).

Mr. Stutter: Mr. Chairman, I wonder if I could ask the Legal Adviser if in fact this actually happens. Is it a physical transfer of the money or just a book transfer?

Mr. Legal Adviser: A physical transfer by cheque.

Mr. Chairman: Clear? (Reads section 62). This of course is what

BILL #13

Mr. Chairman continues ...

links it to the Local Improvement District Ordinance. (Reads sections 63, 64, 65, 66, 67).

Mr. Stutter: A question on 66(1). Would that be accumulative, this ten percent increase? If the second year this was unpaid would it be ten percent of the unpaid balance also?

Mr. Legal Adviser: This is only applicable to the first year. You are talking about an amount equal to ten percent that is due and payable after the 1st day of July in such year. It is talking about one year, but I think that it would carry on. These dates are very carefully set out, and in fact as my recollection goes, they are extending the time to all taxpayers from the present deadline and they are getting more time to pay. The tax is imposed at a different point. They get more time to pay. This is our understanding of it with the people responsible for dealing with the municipal collection of taxes and our own. We have tried to get ... the penalties are fractionally heavier but the time to pay is more lenient.

Mr. Chairman: (Reads subsection 67(2), 68, 69).

Mr. Tanner: Mr. Chairman, can I go back to section 64, 66 and 67. Is that agreeable, Mr. Chairman?

Mr. Chairman: Yes.

Mr. Tanner: Members might recall that last year when we were discussing taxation and we dropped a five percent inducement to pay early. At that time I suggested that perhaps there should not only be an inducement to pay early, but a progressive penalty for paying late. My question, I will address maybe to the Honourable Member for Whitehorse West is. By this Ordinance as it now sits the only way that the city could, for example, impose taxes ... they can't change the way of charging a penalty or change the way of charging interest? Am I correct? I beg your pardon, I meant the Honourable Member from Whitehorse East.

Mr. Chamberlist: That is right.

Mr. Tanner: Well, I wonder if we should tie the municipality, this particular one that we can see out the window here, anyway. Does that particular method, can we not give them just a little more leeway, so that if they wanted to in their wisdom, impose on their taxpayers the right to one, make a sliding scale of penalties so that you get more taxes in early. Two, make an inducement to pay early so that they can give discounts if they pay early. Even if we don't buy the discount bit, there is a lot of wisdom in making the penalty progressive. If you do it as we have it here, after the penalty date there is no inducement to pay it again until the following year. What I think would be the logical way to do it, is to impose a sliding scale on a percentage per month basis. So, that each month that you delay, you pay more. Even if we don't buy that decision or want to make that decision here, what I am suggesting is that we could leave that suggestion up to the city, if there was some method that we could write up the legislation that way?

Mr. Chamberlist: The danger of course, Mr. Chairman, is this. If the city wish to give five percent as an incentive, it means that there five percent short of the amount of taxes that they have set their ... that they expect to get by way of revenues coming in. It means then that we will have to raise the extra money to replace that five percent that they were giving away. Now, this where ... there seems to be that they would have to tax the people more, other people who have paid their taxes in any event. This whole area was thrashed out a long time ago. It was the municipality of Whitehorse, the one that we are looking out through the window, who asked to dispense with the particular five percent incentive.

Mr. Legal Adviser: One other point, Mr. Chairman, section 64 says, that the taxes shall bear interest at the rate of six percent per annum. That would be computed as one-half percent per month from that time on. That is what it means. Six percent per annum is calculated monthly or is calculated on the proportion of the year automatically when the taxes are late. It is progressive.

Mr. Tanner: Mr. Chairman, I am not going to question the legality ... the legal powers of the Legal Adviser, but that is not what it says to my mind. I would like someone to check that up, or maybe the Commissioner. He didn't agree with me either. I know for a fact that if you go down there on the 30th day of June, it is either down on the 1st of July, and you are going to pay six percent.

Mr. Chamberlist: With respect, this is what was done. This was done, but now the way this is, let's take a hundred dollars owing as a tax on the 30th day of June. On the 1st of July, it is subject to ten percent, which is the penalty which makes it one hundred and ten dollars. Now, if the hundred and ten dollars is to be paid with interest of six percent per annum. If the person pays within the first month, they will only have to pay a half of one percent interest on the hundred and ten dollars. If it happens to be two months, they will be paying one percent on a hundred and ten dollars. If it is a year, then they pay six percent, because it is six percent per annum. It is not six percent on the amount.

Mr. Tanner: Mr. Chairman, if that is true, I think that you would be far wiser to put it like that, because everybody has been telling us, that they have problems in the outlying areas, in the smaller municipalities. Right now, I bet you in six months or a year from now, if I lived in the great City of Dawson and forgot to pay my taxes and I went down to the city clerk and said I want to pay my taxes on July 1st. I will bet you that they are going to charge me six percent on July 1st.

Mr. Chamberlist: Don't pay it.

Mr. Tanner: That is all very well to say don't pay it. You can specify that. There is still another point. That might be fine for now mind you but I bet it won't happen to a lot of taxpayers ... There is another point. In that case if you don't want to spread the inducement to pay them early and you don't want to spread the percentage, why don't you spread the penalty over a number ... in other words make it an increasing penalty? Each month that you wait you pay more or if it comes to a maximum. It is a self defeating process that you have here now. You are not helping the city and you are not helping the taxpayers in the long run because he is not going to get the taxes in any sooner.

Mr. Legal Adviser: Everybody recognizes the Honourable Member is entitled to his point of view. What the Honourable Member may not realize is that it took hours and hours and hours and hours of work to achieve these few sections with all the advice that was disposed from every facet of government up and down. While we are willing to review it, there is no question of this. We will review it. I can't promise any enthusiasm on the part of the people who are going to review it.

Mr. Tanner: Mr. Chairman, obviously there is some subtilty there that is going over our heads and I would love to see the notes of those meetings.

Mr. Commissioner: Mr. Chairman, with respect, there is no question at all about it that the Honourable Member has a point. This point has been a subject of debate and consternation and legislative change in every municipality and province in Canada since day one. At the present time to the best of my knowledge the outline that is given here is about as close as you are going to be able to come as to what the practice is in most of the western Canadian municipalities in the western Canadian provinces. This is basically, may be the

BILL #13

Mr. Commissioner continues ...

percentages may vary, you know, a little bit from province to province, but this the basic program as laid down there is what goes on in neighboring jurisdictions, I think. Whether it is right or wrong, Mr. Chairman, I am not prepared to say. It is the result of unlimited study and debate.

Mr. Chairman: Clear on 69? (Reads sections 70, 71, 72(1) and (2)).

Mr. Stutter: Mr. Chairman, I have a question on 72(1). If a person had a building on a rather undesirable piece of property and the taxes were allowed to accumulate, let's say for a couple of years, and he moved that building onto a better location. The taxes from the building itself would go along with it. What about the taxes from the property from which it was taken? If it was undesirable property, it is quite possible that the person might be willing to let that go for taxes? Would that tax also go with the property?

Mr. Legal Adviser: What it says is, is taxes unpaid in respect of the buildings or the land from which it was removed. The building carries all the taxes on its back.

Mr. Stutter: So, then in fact, the lot from which it was removed is then a paid up lot?

Mr. Legal Adviser: It is a paid up lot if in fact the owner of the building pays the taxes. Otherwise there is a double liability. Of course the liability is up when it is paid once.

Mr. Stutter: But, you have a double taxation also. You have a taxation against the building which has been moved to a new location, and you are also carrying that tax from the lot from which it was removed.

Mr. Legal Adviser: Well, you can argue either way, Mr. Chairman. The mere removal of the building and carrying with it a liability to the new location does not remove the original liability from the first lot. As soon as the ... it is paid on either lot, of course the liability is removed. The taxes don't have to be paid twice, this is my point. Only once. There is a double burden of taxation on the new location.

Mr. Chairman: If the building were sold, this would be on the new owner?

Mr. Legal Adviser: Yes, it is up to him to find out what the tax liability is. This is normal procedure for a prudent purchaser.

Mr. Stutter: I would just like to ask one more question. What would happen if the person that had removed his house to the new lot then wanted to sell the vacant lot?

Mr. Legal Adviser: He would have to pay the taxes if he wanted to give it free and clear of taxes.

Mr. Chairman: (Reads subsection 72(3)).

Mr. Chairman: (Reads 73(1))

BILL #13

Mr. Tanner: Mr. Chairman, if I understand 72(2) correctly, where, in a trailer park, a trailer owner does not pay his taxes and he moves the trailer to another area, the trailer park owner is then liable for his taxes.

Mr. Legal Adviser: The section is clear enough, the taxation is on the building; the building of the trailer can be moved. In effect the trailer park owner might be just as well to see that people pay their taxes.

Mr. Tanner: Mr. Chairman, I would like you to make a very clear statement, on this. I had a battle, a few months ago, a few years, a year ago. I thought we had it fairly well clarified. Is the onus on the trailer court owner, in this case if the trailer that has taxes due, pulls out? This is really what I'm asking.

Mr. Legal Adviser: It is a question of distress. Is this the Honourable Member's question? What property is restrainable, or exigible, as the expression goes, in respect of taxes. Is that the question?

Mr. Tanner: If, I knew what those words meant, I could tell you if that were the question, or not. I'll put it my way, and you tell me what I'm asking, how's that?

Mr. Legal Adviser: That sounds alright.

Mr. Tanner: Mr. Chairman, if I have a trailer parked in a trailer lot, and if I chose to not pay my taxes and take off with my trailer, is the trailer park owner, then liable for the taxes payable on that trailer?

Mr. Legal Adviser: I wouldn't think so, but I would like notice of the question. I don't think so. In any event, I don't think in a commercial operation, the authority would normally attempt to enforce it in that way.

Mrs. Watson: Mr. Chairman, I simply have to look at this section. The way it is stated now, if a trailer court operator doesn't pay his taxes, then you aren't allowed to move your trailer either, without getting consent from the authorities. It isn't the trailer owner's worry if the operator doesn't pay his taxes?

Mr. Legal Adviser: It may be in the light of the Member's acuity, we may have to review the section and see that it doesn't work out to harsh.

Mr. Chairman: (Reads 73(2)(a)(b), 74(1)(2)(3), 75(1)(2)(3)(4), 76(1), 77(1)(2)(a)(b), 78(1)(2)(3)) Does that read correctly? "if other claim" or if another claim?

Mr. Legal Adviser: Either, will do, Mr. Chairman, it is just a question of how it runs; we attempt to be precise, mellifluous if we can.

Mr. Chairman: (Reads 79(1), 80(1)(a)(b)(c)(d)) Councillor Stutter.

Mr. Stutter: Why, Mr. Legal Adviser, why do you use the word may, in 80(1) after stating that the following proceedings, amongst others. You make it sound, in that instance, as though it is a permissive thing. Surely, in this case, it should be shall be taken there. These proceedings, I would take it, must be taken, along with possible other proceedings.

Mr. Legal Adviser: There are a series of other proceedings which can be taken, but this is one of the proceedings that can be taken here.

Mr. Legal Adviser continues ...

BILL #13

They set out and eventually, at the sittings of the Court, the judge may hear any of the parties. The parties may not wish to be heard.

Mr. Stutter: With respect, this isn't my point. The point is, in 80(1) it states that these proceedings may be taken; shouldn't that be shall be? There should be notice given that there is an action to be taken to them. It's not a permissive thing, surely. How can you not give them notice?

Mr. Chamberlist: Well, it does in respect say that the notice may be served upon, may be served upon the occupier or tenant in either of four different ways. It is justly saying that that there is four ways that these can be served. It is saying that it shall be done. "the collector may serve upon the occupier ...of such lands a notice ... signed by him". It explains the method in which this could be done. I see, I think the point is well taken. We will have a look at it.

Mr. Legal Adviser: To change shall there says the collector must do this. Very often with tenant and Crown land, you do not want to take this particular type of proceedings. But, if, you do if you opt on the "may", then you can go to the Court and get the order you want, but you will not get the order unless you have done the procedure ahead of time. It is a free country, you don't have to do these things. If, you do then the judge can operate the section.

Mr. Chairman: (Reads 81(1),82(1)(3)(4)(5),83(1)(2)(3))

Mr. Tanner: Mr. Chairman, are you going to run an ad over twenty-five people who happen to be in arrears? Is that the idea? *BILL #13*

Mr. Legal Adviser: It is not contemplated that there will be one page per piece of property. It will be done this way and the ad should not cost more than two dollars.

Mr. Tanner: Well, that's what I'm saying. Are we not, by doing it this way, sort of, for lack of a better word, piddling around for a few dollars? Why not just save this cost to the Government.

Mr. Commissioner: Oh, no way. Mr. Chairman, there is no reason that the rest of the taxpayers should be forced to accept a burden which has been created by one parcel of property that has arrears of taxes. All the costs, no matter what those costs are and I don't know how far it's delineated here, but all the costs with regard to the disposal of this property has got a part of the tax burden.

Mr. Tanner: That's what I'm saying really. In that case, why not say that all costs incurred for collecting taxes shall be borne by those taxpayers. Why pick out one little thing like a twenty-five dollar ad in a local newspaper.

Mr. Legal Adviser: It will be less than twenty-five dollars. If we're going to try to parcel out the time of the Public Servants who are dealing with this, it would be an impossible task. The real problem ...

Mr. Commissioner: Mr. Chairman, you leave it to me and I'll darn soon parcel out the costs. It's an impossible task for the Legal Adviser because this is half of the problem that we're faced with in the Public Service right now. People are continually having chores dumped upon them by the Legislature and by the senior members of the Administration with no thought in mind as to what the cost is going to be before they ask them to do it. I certainly think that here is a clear case in point. I say this as a taxpayer; I don't see why the total cost of the liquidation of property with taxes in arrears, or any portion of that, should not be totally borne by the parcel of property involved.

Mr. Tanner: Mr. Chairman, that's exactly what I'm saying. I agree with the Commissioner. What I'm asking is why pick out one piddly little amount like the advertising. I think you should review that ...

Mr. Commissioner: Put review on the list. Do something about it right now. You can review, review, review and six years from now you'll be reviewing it.

Mr. Tanner: Mr. Chairman, I'm trying to make it easy for those gentlemen who do the reviewing. I really can't see why you pick out one very minute item and say we're going to share that. Let's make them pay for the lot. I agree with the Commissioner entirely.

Mr. Chamberlist: The only thing this is saying is how it's to be done. We're just saying, alright the cost should be added to the final taxes. I don't see anything wrong with it. We're making a great big issue over a small thing.

Mr. Tanner: Mr. Chairman, every time we question something in one of these Ordinances, we are either dismissed by "it's not important; we've reviewed it; it's being done" or we've been told "we can put that in the regulations". Here is some silly little, piddling item stuck in here which apparently has to be in, which could've just as easily in this case, been put in regulation. Really, what the Legal Adviser is saying, and the Commissioner has suggested and I agreed, that the total cost of recovering those back taxes should be put into the legislation and they should be written there. All it needs is the total of all costs incurred will be spread amongst those people from whom you're trying to obtain taxes, without picking out some picayune little advertising, twenty-five

BILL #13

Mr. Tanner continues ...
dollar item, and using that.

Mr. Legal Adviser: It would need a legislative change to make it precise. You're dealing with blocks of property and these particular pieces of property in this particular method are going to be handled again and again and again. So, there is quite a cost when you start looking at it in this way. It's easier to take the cost by adding a percentage per annum or something for the number of handlings; something to make it simpler and not add to the burden by having to go to court at some separate time with a lawyer and arrange to collect bits and pieces of money. It's much better to get this reviewed, and somebody agree on what a fair percentage of the property should be for taxes, or something and put it in the Ordinance and make it easier to collect.

Mr. Chairman: (Reads sections 84, 85, 86, 87, 88)

Mr. Chamberlist: Mr. Chairman, I would move, at this time, that Mr. Speaker do now resume the Chair.

Mr. Tanner: I second the motion.

Mr. Chairman: It has been moved by Councillor Chamberlist, seconded by Councillor Tanner, that Mr. Speaker do now resume the Chair. Are you prepared for the question? Are you agreed? I declare the motion carried.

*MOTION
CARRIED*

MOTION CARRIED

Mr. Speaker resumes the Chair.

Mr. Speaker: The House will now come to order. May we have the Report from the Chairman of Committee?

Mr. Chairman: Mr. Speaker, Committee convened at 10:20 this morning to discuss Bills and Sessional Papers. It was moved by Councillor Chamberlist, seconded by Councillor Watson, that Bill No. 8 be reported out of Committee without amendment. This motion carried. Councillor Taylor requested permission to be excused from Committee this morning at 11:00 o'clock; this was agreed to by Committee. Committee recessed at 12:00 noon and reconvened at 2:05 this afternoon. It was moved by Councillor Chamberlist, seconded by Councillor Tanner, that Mr. Speaker do now resume the Chair and this motion carried.

Mr. Speaker: You have heard the Report from the Chairman of Committee. Are we agreed? May I have your further pleasure?

Mr. Taylor: I believe it is the intention of Committee, tomorrow, Mr. Speaker to continue with Bills and Sessional Papers.

Mr. Speaker: May I have your further pleasure?

Mr. Stutter: Mr. Speaker, I move that we call it 5:00 o'clock.

Mrs. Watson: I second the motion, Mr. Speaker.

Mr. Speaker: It has been moved by the Honourable Member for Dawson, seconded by the Honourable Member for Carmacks-Kluane, that we now call it 5:00 o'clock. Are you prepared for the question? Are you agreed? I declare the motion carried.

*MOTION
CARRIED*

MOTION CARRIED

Mr. Speaker: This House now stands adjourned until 10:00 o'clock tomorrow morning.

ADJOURNED

ADJOURNED

Mr. Speaker reads the daily prayer. All Councillors are present.

Mr. Speaker: Mr. Clerk, is there a quorum present?

Mr. Clerk: There is, Mr. Speaker.

Mr. Speaker: The House will now come to order. Are there any Documents or Correspondence to be tabled? Are there any Reports of Committees? Are there any Bills to be introduced? Are there any Notices of Motion or Resolution?

Mr. Chamberlist: Yes, Mr. Speaker. I have three Notices of Motion this morning. My first Notice of Motion will be Constitutional Reform; second Notice of Motion will be re immediate expansion in the number of elected members to the Executive Committee; third Notice of Motion will be re Electoral District distribution.

*MOTION #13
MOTION #14
MOTION #15*

Mr. Speaker: Are there any further Notices of Motion? Are there any Motions for the Production of Papers? As there are no Motions for the Production of Papers, we come to Motion No. 12. It has been moved by Councillor McKinnon, seconded by Councillor Stutter, that whereas the Members of the Yukon Legislative Council have received correspondence from Mr. John Lammers, and whereas it appears that Mr. Lammers' livelihood may be in jeopardy due to mining activities in his area, therefore, be it resolved that Mr. Lammers be invited to appear before Committee so that Members may determine whether future Council action is warranted in this instance. Is the Honourable Member prepared to proceed with this motion at this time?

MOTION #12

Mr. McKinnon: Yes, Mr. Speaker. I think all Members of Council have received two pieces correspondence from Mr. John Lammers of Yukon Wilderness Unlimited. Mr. Lammers, Mr. Speaker, has been a resident of the Yukon Territory since 1952 and has been actively involved in many activities in the Yukon Territory, such as being the President of the Crestview Citizens' Association, and also the First President of the Yukon Conservation Society. In about 1965, Mr. Speaker, Mr. Lammers and his wife and family built a wilderness retreat at the confluence of the Pelly and the Yukon Rivers. Since that time, Mr. Speaker, it appears that an extra-Territorial mining company with headquarters in the United States of America has staked claim over the property which Mr. Lammers uses as his wilderness retreat and has jeopardized his ability to make a living in the profession he has chosen and the life that he has now chosen. I think, Mr. Speaker, that this Council should listen to the representations of a long-standing member of the community of the Yukon. We could also be prepared, not only to listen, but, if the situation warrants, to take action to protect the livelihood of a citizen of the Yukon Territory. All that I am asking for in the Motion, is that we ask Mr. Lammers to appear before Committee, that we ask Mr. Lammers to state his case before Committee, and if Council feels some disposition that action of this Council is warranted, that Council take such action as is possible to protect the interests of a Yukon citizen.

Mr. Chamberlist: Mr. Speaker, I would ask that the question of whether this be done or not be discussed in Committee so that we would not be limited to debate on this particular point. I would move that the Motion be passed into Committee of the Whole for discussion.

Mr. Speaker: Is there a seconder?

Mr. Taylor: I will second that.

Mr. Speaker: It has been moved by the Honourable Member for Whitehorse East, seconded by the Honourable Member for Watson Lake, that Motion No. 12 be referred to Committee of the Whole. Are you prepared for the question? Are you agreed? I declare the motion carried.

MOTION CARRIED

*MOTION
CARRIED*

Mr. Speaker: We now come to the Question Period. Mr. Clerk, will you see if the Commissioner is available. We will now have a short recess.

RECESS

RECESS

Mr. Speaker: The House will now come to order. Are there any questions?

QUESTION RE
AIRSTRIP
CAMPBELL
HIGHWAY

Mr. Taylor: Yes, Mr. Speaker. I have a question I would direct to Mr. Commissioner this morning. It has been my understanding, from the Administration, that the airstrip, the emergency airstrip, at Mile 278 on the Campbell Highway is being maintained on a year-around basis. I learn, from reading correspondence from Faro, that, indeed, this is not the case. Indeed, at the present time, it is not being maintained. I'm wondering if the Commissioner could give me information as to whether or not it is the intention of the Administration to maintain this airstrip.

Mr. Commissioner: Mr. Speaker, I would ask for notice on that question, please. I simply don't know the answer at the moment, but I will bring it forward, Mr. Speaker.

QUESTION RE
CAPITAL
BUILDING

Mr. McKinnon: Mr. Speaker, I wonder if I could ask Mr. Commissioner who are the architects for the proposed Capital Building, to be built for the Government of the Yukon Territory.

Mr. Commissioner: Yes, the Federal Department of Public Works, Mr. Speaker.

Mr. McKinnon: Was there any competition, architecturally for the building? Or, was this strictly a precluded matter, that the Federal Department of Public Works was going to be the architect?

Mr. Commissioner: Mr. Speaker, it wasn't a precluded matter, but certainly, in the face of information which was given to the Executive Committee, it was deemed advisable to do it in this manner. We have the opportunity of using their expertise, which is available all across Canada. I know the fears of having constructed some kind of a cement bastion which would look something like the British Columbia Penitentiary on the banks of the Fraser River in New Westminster; this is a real fear. But, I think that, in view of the expertise that is available and the qualifications of the people who are in the present employ of the Department of Public Works in this architectural design field, we have allayed that fear and I'm sure that we will wind up with an architecturally very pleasing building to the eye outside, and to those who have to occupy it inside.

Mr. McKinnon: Supplementary question, Mr. Speaker; are preliminary sketches of the Capital Building available to the public at this time?

Mr. Commissioner: Mr. Speaker, not yet, but as soon as they are available, they will be made public.

Mr. Speaker: Are there any further questions?

Mr. McKinnon: I have a question of Mr. Legal Adviser, Mr. Speaker, but I see that his seat is quite vacant.

Mr. Speaker: Are there any other questions?

QUESTION RE
YUKON HEALTH
CARE INSUR-
ANCE PLAN

Mr. McKinnon: Mr. Speaker, I have a question for the Executive Committee member in charge of Health, Welfare and Rehabilitation. It has come to my attention that people who are phoning the office of the Medical Health Insurance Care Plan for help in filling out their enrolment forms, are being told that any dependent over the age of twelve years must sign the enrolment card themselves. I would ask if this is the correct advice that they are receiving by phone from that office.

Mr. Chamberlist: Yes, Mr. Speaker, this is the correct advice. This is a request that was made by the Federal Government when giving us the right to utilize social security numbers in place of a medicare number. This we have complied with.

Mr. McKinnon: Mr. Speaker, if the dependents between twelve and nineteen

Mr. McKinnon continues ...
years of age do not sign this, will they be liable for prosecution for not being enrolled in the Medical Plan?

Mr. Chamberlist: No. No, Mr. Speaker, it is a purely voluntary request that is being made and it is hoped that all people will co-operate in the manner that has been requested. If the individual young person doesn't wish to sign, then the parents should give the information.

Mr. McKinnon: Supplementary question; is this the advice that is being given from the office, that it is not a compulsory type of signing.

Mr. Chamberlist: Mr. Speaker, no other questions have been asked other than who should be signing the card. If questions are asked whether they can or cannot sign the cards or whether they must or must not sign the cards, the answer that will be given will be the answer that I have just indicated to the Honourable Member, Mr. Speaker.

Mr. McKinnon: Mr. Speaker, I wonder if I could ask Mr. Legal Adviser whether it is legal for an employer to withhold a paycheque until a Medicare enrolment form has been signed by an employee.

Mr. Legal Adviser: It all depends on what is happening. There is duty on an employer to give a paycheque when it's due. There is another duty on the employee to comply with other laws. So, if the employer withheld the paycheque and the person made a complaint about it, I think the Labour Standards Office to whom the complaint was made would exercise pressure on the employee to sign before they would act on his behalf to obtain the money.

Mr. McKinnon: You can't answer "yes" or "no", Mr. Legal Adviser.

Mr. Legal Adviser: Circumstances change with each individual case.

Mr. Speaker: Are there any further questions? We wish to thank the Commissioner for his attendance. As there are no Private Bills or Orders, we come to Public Bills or Orders.

Moved by Councillor Chamberlist, seconded by Councillor Watson, that Bill No. 8, the Rental-Purchase Housing Ordinance, be given Third Reading.

*BILL #8
THIRD
READING*

Mr. Taylor: Mr. Speaker, in speaking to the motion for Third Reading, I would just like to, once again, reiterate that I have some misgivings about agreeing to this particular Bill. However, I will agree to it. I wish to restate that it is my hope and trust that the passage of this piece of legislation will, indeed, not infringe on the rights of the Native people of the Yukon Territory.

Mr. Speaker: Are you prepared for the question? Are you agreed? I declare the motion carried.

MOTION CARRIED

*MOTION
CARRIED*

Moved by Councillor Chamberlist, seconded by Councillor Watson, that the title to Bill No. 8, the Rental-Purchase Housing Ordinance, be adopted as written.

*BILL #8
TITLE
ADOPTED*

MOTION CARRIED

*MOTION
CARRIED*

Mr. Speaker: Bill No. 8 has passed this House.

Mr. Commissioner: Mr. Speaker, may I rise to give assent these Bills that have passed Third Reading, at this time? Mr. Speaker, I am pleased to give assent to the following Ordinances at this time: An Ordinance to Amend the Chiropractic Ordinance; the Age of Majority Ordinance; An Ordinance to Amend the Game Ordinance; the Rental-Purchase Housing Ordinance. All of these Ordinances, Mr. Speaker, have effective dates for them to be proclaimed, and notice will be given in this House of the dates we contemplate for this.

*BILLS NOS.
1, 2, 6
AND 8
ASSENTED
TO*

Mr. Speaker: May I have your further pleasure?

Mr. Taylor: Mr. Speaker, I would move that Mr. Speaker do now leave the Chair, and Council resolve into Committee of the Whole for the purpose of discussing Bills and Sessional Papers and Motions.

Mr. Speaker: Is there a seconder?

Mr. Tanner: I'll second the motion.

Mr. Speaker: It has been moved by the Honourable Member for Watson Lake, seconded by the Honourable Member for Whitehorse North, that Mr. Speaker do now leave the Chair for the purpose of convening in Committee of the Whole to discuss Public Bills, Sessional Papers and Motions. Are you prepared for the question? Are you agreed? I declare the motion carried.

MOTION
CARRIED

MOTION CARRIED

Mr. Speaker: The Honourable Member for Watson Lake will please take the Chair in Committee of the Whole.

Mr. Taylor takes the Chair.

BILL #13

Mr. Chairman: I call Committee to order at this time. We are dealing with Bill No. 13. When we arose last evening, we had reached section 88. Is there anything further on section 88? (Reads section 89, subsections (1) to (6))

Mr. Legal Adviser: Mr. Chairman, this is a correct section. In the Land Titles Act, there is a requirement that whenever a caveat is filed, a notice must be sent out by the Registrar of Land Titles to the people who are affected by the caveat.

Mr. Tanner: Mr. Chairman, why do we make an exception in this case?

Mr. Legal Adviser: Because the people know. They have had plenty of notices along the line. There is no need to involve the Registrar ...

Mr. Chairman: (Reads section 89, subsections (7) to (9))

Mr. Tanner: Mr. Chairman, going back to subsection (6), I just wonder whether the Government shouldn't be obliged to follow the same procedure with its own legal dealings as any other land holder is obligated to under the Territorial Lands Act. Are we not ... have we not put that in for two reasons? First of all, to make it administratively easier, and secondly, for the convenience of the Registrar. I'm not convinced that, without some thought, we shouldn't think about taking that paragraph out. I don't think we should make it that easy to get away with. The situation could arise where, for some odd reason or other, the person didn't know there was a tax sale. I think the Legal Adviser told us about this just recently. He was illustrating a point and mentioned one that happened in British Columbia. I think the obligation should be that notice should be sent out. It's a pretty important step that is being taken here.

Mr. Legal Adviser: We'll look at the question, Mr. Chairman.

Mr. Chairman: (Reads section 90, subsections (1) to (4))

Mr. Tanner: Why have we drafted it that way, in that case? Normally, the Legal Adviser is very precise. In this case, it seems to me that he hasn't been as precise as he could be.

Mr. Legal Adviser: It's being as precise as possible. The proceedings cannot be exactly the same because the dates may be different and the appeal periods may be different. It's just a guide so the Court of Revision will apply the rules as laid down earlier as nearly as they can to the subject at hand.

Mr. Chairman: (Reads section 90, subsection (5), sections 91, 92, 93, 94)

Mr. Chairman: At this time I will call Committee to order. (Reads *BILL #13* sections 95, 96, 97, 98)

Mr. Tanner: Mr. Chairman, that paragraph (f) and two or three of the other paragraphs before it seem somewhat cumbersome to me. Obviously what they want to do is, as we discussed earlier in paragraph 83, they want to recover all their costs. Isn't there a simple way of saying it, instead of all that? It sounds like a dozen different things that you have to do. I am sure that the Legal Adviser wants all those various steps taken up, but do we have to have that much to say that we want to collect not that much money by the look of it?

Mr. Legal Adviser: No, it is only twenty-five dollars plus two dollars. That is all. It is cumbersome. It is fairly precise but it is cumbersome, I agree with the Honourable Member.

Mr. Chairman: (Reads sections 99, 100) Is there a law in force respecting lot size?

Mr. Legal Adviser: There are some, and there will be others. We are giving the municipal government powers in the Municipal Ordinance to determine lot sizes, and then trying to give teeth to the particular sections to make it effective. As far as the Territorial Government is concerned, there are area regulations in force in the various areas determining the minimum lot size in each case.

Mr. Tanner: Mr. Chairman, would that be applicable to a zoning bylaw, in that case?

Mr. Legal Adviser: Yes, it is any law. It means any regulation, bylaw or Ordinance.

Mr. Chairman: (Reads sections 101, 102)

Mr. Legal Adviser: Normally you can't commence an action in certain cases except to start within two years. In other cases, debts and so forth, six years and contracts under seal, mortgages and so forth, twenty years. This section is to permit the application to be made against a defaulting taxpayer, notwithstanding the fact that the Government has been merciful to them for a number of years. The taxpayer is being allowed to sit there with this arrears. Already he is two years ahead of the game; he can go to three or four years ahead of the game through maybe a mistake in the office or proceedings not being taken against him. This should not prevent the Crown or the Commissioner, the government getting the land or getting the money at a later point in time.

Mr. Chairman: (Reads sections 103, 104(1))

Mr. Tanner: The Legal Adviser might recall that I asked about the Statute of Limitations on how long the authority could go back; how far he could go back? Is this the answer to the question that I asked at that time, if Mr. Legal Adviser recalls? This is only how far the taxing authority can go back to get the title?

Mr. Legal Adviser: It merely says that the taxing authority can give unlimited mercy without losing their rights. That is what this section says. It doesn't say how far they can go back in reverse in collecting taxes. It is only one side of the coin.

Mr. Chairman: (Reads subsection 104(2) (13) inclusive, section 105) At this time I will declare a short recess.

RECESS

RECESS

Mr. Chairman: At this time we will call Committee back to order. Clear on section 105? (Reads 106(1)(2)) In 106(2)(a), you say, "is in respect of one or more vacant lots in a municipality or local improvement district" then you talk about assessment roll of the municipality, but not necessarily a local improvement district. Is that an oversight?

Mr. Legal Adviser: Yes, that's an oversight, thank you.

Mr. Chairman: (Reads 106(3)(4)(5)(6)(7)(8)(9)(10)) Should that not be by double register ?

Mr. Legal Adviser: No, Mr. Chairman, this involves a second return back. Some of these are double registered, some of them are registered. You are dealing with a succession of notices and I think, the Honourable Member must be aware that, at this point in time the people involved will have been in receipt of approximately fifteen or sixteen notices, and have ignored them all. But, they won't just pick up the notices.

Mr. Chairman: (Reads 107(a))

Mrs. Watson: Mr. Chairman, I have a question for the Legal Adviser. Going through this very technical, I would say, Ordinance, I am becoming just a little concerned about the steps that have to be taken and I am just a little concerned about the smaller municipalities. Who will do this, the clerk? Is this the responsibility of the clerk of the municipality?

Mr. Legal Adviser: Yes, Mr. Chairman, the burden of going for title is on the clerk of the small municipalities. I would apprehend that what would happen would be that a nontechnical list of steps to be taken, with prescribed form, would be prepared which except with the insertion of Territory on top of the form, or municipality of Whitehorse on the other form, will all be available. The steps will be machined. It is just a question of filling in the form. What they are doing is acquiring title eventually to the piece of property so they should be prepared for a certain amount of work.

Mrs. Watson: Mr. Chairman, I agree and this is the type of thing that I was hopeful that the Legal Adviser would say. I think, that Councillor Stutter from Dawson, likely agrees with me that this is quite technical for a clerk who hasn't had too much experience in this type of thing. If a list or a format is prepared with the steps that they have to go through and the forms that they have to fill out by the senior government, this I'm sure, would assist them a great deal.

Mr. Legal Adviser: This would have to be done by the Land Department or the Collection Department of the Territorial Government and their work, of course, will be available to the municipalities in turn. In fact, I wouldn't be surprised unofficially the work was done by that department, but let's say no more about that.

Mr. Chairman: (Reads 107(b)(c)(d), 108(1), 109(1)) Councillor Stutter, I wonder if you would take the Chair.

Councillor Stutter takes the Chair.

Mr. Chairman: (Reads 110(1)(2)(3), 111(1), 112(1), 113(1), 114(1)(2), 115(1), 116(1), 117(1))

Mr. Tanner: Mr. Chairman, I have a couple of questions for the Legal Adviser. It is not clear to me, having read this, what actually happens when the land is turned over to the Territory. When the authority finally takes title. If there is still outstanding tax, are they completely cleared? If they are completely cleared, how is the taxing authority recovering money, which is in excess of the value of the land which they have now recovered? Or, can't they?

BILL #13

Mr. Legal Adviser: He gets the land, but they have a right of action if they can exercise it, against the person who still owes the taxes. If it happens to be a personal debt, in some cases it is charged against the land and kills the taxes. They have exercised the revenue; there are other revenues. They can exercise any legal remedy they wish. I think, so far as the remedy concerning the land is concerned that remedy is extinct.

Mr. Tanner: Mr. Chairman, one further question. What is the basic philosophy behind this totally different way of an authority recovering its taxes, as opposed to the method that is in practice right now, of having a land tax sale? Within the Legal Advisers' own immimicable way, perhaps he could briefly explain this. Well, I have read the explanatory note three times and I still really don't see the philosophy of it.

Mr. Legal Adviser: Under the present system of tax collection when a person does tax, he is badgered by a series a notices; interests are added on in the series of notices. The time comes, in accordance with the terms, an automatic series of steps commences. Those steps are a tax sale, which takes place in the middle of the year, and the following year an application is made to the Court, usually in September or October when the Court is sitting or an order that the proceedings at the tax sale be confirmed. At the tax sale any person can bid for the property. If no person bids, the property reverts to the Crown. If somebody pays in the meantime, during that delay, then, they can redeem the land from the prospective purchaser by paying the amount of taxes and the percent goes to the person who has made the bid. If none of these things are done, the judge makes an almost automatic order. There is a thirty day last delay period from the judge's order during which a person can appeal or pay the taxes. At the end of that time, the Registrar of Land Titles makes a transfer of the land into the name either of the purchaser, or in the case of no bid, to the Crown. This means that the basic method of enforcement is that the lands in respect of which taxes are not sold, are put on the block for private sale. The system has certain areas where it is unsatisfactory. It allows private speculation in the property of people who are presumably poor because they can't pay their taxes. This is subject to some object. There is no in between agency which can mediate or try to negotiate any form of dealing or postponement of payment between the Territory and the taxpayer. Under this system, if the taxes are not paid, eventually, in a much longer delay period, instead of being put up for sale all the property reverts to the Crown. There is no intermediate private purchaser but there is the Mediation Board which would be a quasi judicial board, which will listen to people who have not paid their taxes, and attempt to negotiate an arrangement whereby they can pay it by installments or postpone the period of default that has built up and allow them to pay over three or four years instead of a one year or two year period. It is of assistance to the public in that way. Eventually if they default of those arrangements, the periods come into force here. Also, as you can see, there is a higher technical system of notifying everybody. Additional people get protection from this Ordinance. A tenant in a house where the landlord doesn't pay his taxes, still continues on in his tenancy. Although he is subject to the Landlord and Tenant Act, he cannot be put out. If a person has a yearly lease, they are protected at least for the year of the lease. In addition to that, mortgagees, or people who have lent money, have the power over a very long period to step in and save the investment of a mortgage by paying the taxes and in that event, then they have the remedies against the person to whom they lent the money and the Crown gets off the hook. For these reasons, the philosophy is a gentler philosophy and the times are longer and there is the intervention of a board, which is somewhat similar to boards in the provinces, which deals with people who fall into debt and cannot make their payments and they will have an orderly arrangement to pay their creditors. This board can do this. This is the different philosophy. The main philosophy has a bit more mercy and a longer time period. It also should save the Territory from the position where, it has occurred a few times in the last few years, where a person default in their taxes, the Crown gets back the land and then they come when

Mr. Legal Adviser continues ...
it is all over and ask to have the land given back to them. The period should be sufficiently long so that the Commissioner is not asked to exercise this piece, of discretion, which I can tell the House in fact, he has exercised in the past; he has never refused to exercise that discretion.

Mr. Commissioner: Mr. Chairman, I think that there is one thing here which may cause members of municipal councils a little concern in this. It might be a good thing to have the Legal Adviser comment on this at this time. In a municipality the collection of taxes on a regular and current basis is a very important point as far as the municipality is concerned. They have to fund their day to day operations. There are means of doing this as the authority that is given them under the Municipal Ordinance, whereby, they can go to a bank or other similar type of a chartered money institution and secure what we would term in the business world, interim financing. They are allowed to do this by terms that are listed in the Municipal Ordinance, but the illusion is, or the preclusion is that the taxes, the tax notices that have gone out are going to be met within the normal time limits that prevail and a very small margin of unpaid taxes is allowed for them. I think it might be worthy of comment from the Legal Adviser here, whether or not he feels, that although a very lenient attitude is being taken here, that it could potentially work in a disastrous financial way to the municipalities in the Territory. I recognize that as far as the Territorial Government is concerned, the amount of money that we get from property taxes in relation to our total budget isn't a very significant amount of money. In the municipalities, the property tax in relation to the municipalities budget, is a very significant sum of money. I would like to hear his comments on this, Mr. Chairman.

Mr. Legal Adviser: The privilege is given to them here to hold on to their property and pay in instalments. I think the effective time periods here, give the defaulting taxpayer a year longer to pay; he still has to pay or suffer the eventual consequence of losing his property. He gets a year longer. The effect of this of course, wouldn't be felt for two or three years until you build up a number of defaulters. I'm not sure what the proportion of defaulting taxpayers is, I don't think it is very high in any of the municipalities, but it may be. There are some good features about this, in that without too much formality, they can land ... land on suitable for building, or lots in rundown areas can be reaccumulated back by the municipality and held in stock for future development. It's one of the good features in it but as I say, I think a build-up could occur, maybe four or five years from now, as a result of the delay periods in this Ordinance.

Mr. Commissioner: Mr. Chairman, with respect, this is exactly my point. While I tend to agree very much with the philosophy that is exhibited in this Ordinance, I sincerely hope that Council will feel likewise. I am just wondering, if there should not be some saving situation involved here, whether it be to other legislation or whether it should be dealt with in this legislation. If the majority of the taxpayers in a municipality, Mr. Chairman, were to decide that it was to their financial advantage, I am talking about in the financing of their business, I am not talking about not paying taxes, if a majority of the taxpayers in a municipality decided that to exercise all the prerogatives that were given to them in this Ordinance here now, I submit that it could conceivably have a disastrous effect upon the financing of that municipality, which in turn would fall back upon the Territorial Government. We are in no position to pick up those financial consequences to any significant degree. To a small degree, possibly but not to a significant degree. I simply raise the question at this time because I feel that when you totally change the philosophy of this method, that if people did decide to take undue advantage of these things, it could have very, very serious financial implications on municipalities. I simply raise the question. It may be worthy of further discussion and may be it isn't worthy of further discussion at all. The possibility and the potential is there to a much greater degree than what exists at the present time.

Mr. Legal Adviser: The Commissioner has one point and that is ... one point that can be dealt with. I am sorry. The penalty for nonpayment of taxes is six percent per annum, so, it is quite conceivable that a person might say to himself, it is worth it to me to go a through a three year or four year delay period which is contemplated here, only paying six percent per annum. If that interest rate was changed as penalties to twelve percent per annum, which was the recommendation at one time of our Treasury, this would then turn the commercial advantage the other way.

Mr. Chamberlist: Mr. Chairman, we must not lose sight of the fact that if a ten percent penalty is imposed in the first year plus six percent interest, at the end of the first year, there is another ten percent penalty which goes on because it is owing in the second year. There is a further penalty on those taxes. So it is added.

Mr. Tanner: Mr. Chairman, I believe the Honourable Member is wrong because I had this specific circumstance happen and I only paid the penalty once.

Mr. Chairman: In speaking from the Chair, this is the exact question that I asked the Legal Adviser yesterday. I took it from his answer that this was the fact. That once this ten percent had been put on the first year and that tax was still delinquent the second year, it would again get that ten percent on.

Mr. Legal Adviser: Take a hundred dollars, I think, and if the person doesn't pay, he gets an automatic ten percent penalty on the due date, the middle of July sometime I think. He then gets ten percent. He owes a hundred and ten dollars. He then commences to pay interest at six percent on that hundred and ten dollars. The following year, he again defaults, so in the next hundred dollars he gets a penalty of ten percent plus his continuing ten percent. He now owes a hundred and sixteen dollars for the first year and he owes a hundred and ten dollars for the second year which makes two hundred and twenty-six dollars, and each thing continuing. I don't think that there is an automatic ten percent penalty plus six percent interest each year.

Mr. Chamberlist: With respect, Mr. Chairman, the way that it was intended, and if this is not the way as it is written, we will have to take a look at it. The idea is this, take a hundred dollars. When it falls due on the first of July when it falls due, it could be subject to ten percent penalty, which makes that a hundred and ten

BILL #13 Mr. Chamberlist continues ...
dollars at six percent interest. At the end of a year, by the 30th of June the following year, it is a hundred and sixteen dollars.

Mr. Legal Adviser: It is a hundred and seventeen dollars.

Mr. Chamberlist: A hundred and seventeen dollars. No, it is six dollars and ten cents, a hundred and seventeen dollars and ten cents. I must get the exact figure. It is a hundred and seventeen dollars and ten cents or a hundred and seventeen approximately as of the first of July of the second year. That is, the whole amount is a tax owing, so then there is a penalty on that amount. This was the intention.

Mr. Legal Adviser: No, then it becomes arrears when it is not current taxes. Arrears run at six percent in accord with the earlier subsection.

Mr. Chamberlist: They are still taxes owed. This is the point and this is the intention; they are still taxes owing.

Mrs. Watson: Mr. Chairman, with respect, maybe you should read section 66 carefully, and see what it says.

Mr. Chamberlist: But this was the intention and we are going to put that right.

Mr. Commissioner: Mr. Chairman, the butter and egg man is doubly suspicious of how this is going to affect the municipality. This is what I am concerned about. I would like to suggest that we ask the collector of taxes, namely the Territorial Treasurer, to bring forward a hypothetical situation relating to this Ordinance, as it concerns a piece of property that the Territorial Government has the ability to tax. Show the thing as an arithmetic exercise, so that we can relate the sections here and the penalties.

Mr. Stutter: I wonder if I might ask from the Chair. If at any time delinquent taxes are considered as accounts receivable, naturally they are, but as such can they be used as collateral for a loan, and to what extent? It certainly wouldn't be dollar for dollar.

Mr. Commissioner: Mr. Chairman, is the question as to what the municipality could use it?

Mr. Chairman: Yes.

Mr. Commissioner: If they were bringing it to the Territorial Government, and it came to my desk, I wouldn't give them a plug nickel.

Mr. Chamberlist: Just like the bank.

Mr. Chairman: It shows a lot of faith in the municipality.

Mr. Commissioner: Mr. Chairman, with respect, that is no criticism of the municipality at all, no way.

Mr. Tanner: Mr. Chairman, all that the Commissioner is saying is a realistic appraisal of the financial likelihood of recovering those taxes.

Mr. Chairman: My question, I don't know whether I put the question correctly was, that if those delinquent taxes which eventually, we are talking about a possible pile up over a period of time, where taxes may become delinquent by a number of the taxpayers in an area, which could conceivably, in fact would, affect the budgeting program of that municipality. Could those taxes be used, those delinquent taxes be used for collateral for a loan, either with the Territorial Government or with a bank or whatever?

Mr. Commissioner: Mr. Chairman, that is exactly what my answer is. As far as ... if it came to my desk, and I had to pass judgment on behalf of Y.T.C., I wouldn't give them a cent.

Mr. Chamberlist: Mr. Chairman, I would like to get some indication from Members of Council whether or not they agree that there should be a ten percent penalty imposed upon a delinquent tax each year. This is what I would like.

Mr. Legal Adviser: It is not easy to work out a ten percent penalty here. The system is that you put on a penalty the first time. Then it runs at interest from there on and accumulates on the sum owing. It is calculated at quarterly or two monthly intervals. This is the actual system, and there is no need to change it. The Treasurer should explain all this in a written arithmetic sum.

Mr. Tanner: Mr. Chairman, just going back to the Honourable Member from Dawson's question. Surely, what he is saying is, if he goes to any lending authority and says, we have a great pile of back taxes and we will use them as an asset instead of receivables, I think most lending authorities are going to say, well we don't consider them as receivables, we don't think that you are going to collect them. We don't consider them as receivables. We don't think that you are going to collect them. Consequently, we can't lend you money. I think that it is just a decision made by a financial institution that is lending money, be it the Territorial Government, the bank or what have you.

Mr. Taylor resumes the Chair.

Mr. Stutter: Mr. Chairman, perhaps it wasn't ... perhaps I shouldn't have made the remark that I did to the Commissioner. The point is that if some of those delinquent taxes cannot be used as collateral, the only instance that I can see is that everybody has or feels that that community in which taxes haven't been paid by a large majority of people is just on the way down the drain. If you look back at your tax sale, in most instances, most of the property is picked up at a tax sale which automatically includes the penalties that have been put against their property.

Mr. Chamberlist: Mr. Chairman, the borrowing power of the municipality we have already indicated, is a maximum of twenty percent of the assessment. This is the maximum. So, that it matters not whether the amount of money that has to come in as a separate item when we talk about collateral, but what is the assessment and up to what amount can the municipality borrow. Really that particular question doesn't apply, I suggest, Mr. Chairman, because you are not taking it like an accounts receivable that an ordinary business would take to the bank, and say, my accounts receivable is fifty thousand dollars, and if you are lucky the bank might give you five. This is not the position. The position is that the ... it is indicated that assessment and twenty percent maximum, based on the

Mr. Stutter: Mr. Chairman, I would definitely have to agree that we should definitely put in a penalty clause there that will really make it so that the taxpayers will definitely pay up.

Mr. McKinnon: Mr. Chairman, I wonder if I might ask Mr. Legal Adviser a question. We, under this Ordinance in 53, give the municipalities the right to tax on real property within their borders and set their rates as to the taxation that they are going to charge on those properties within their borders? Under the collection and arrears, we set the rules and regulations over all of the municipalities and the lands in the Territory. It would seem to me that if we give the municipality the right to set the mill rate they need to run the city, it should be their prerogative also to make sure that those moneys come in so that they can run the city properly, and let them have the powers to set their collection procedures themselves, rather than us trying to set their collection procedures when we don't know

BILL #13

Mr. McKinnon continues ...

what they may or may not need in the field of penalties in order to collect the taxes that they are going to need to run their business. It seems to me that if you give them the power to tax, that you should give them the power to collect it rather give them the power to tax and then we take the authority to collect it, or we put the authority down as to how they can collect the taxes that they impose.

Mr. Tanner: Mr. Chairman, I think that the Honourable Member is making the mistake. We have retained the power unto ourselves to set the assessment. We are going to give the municipality ... that is the way that I understand it, to set the mill rate.

Mr. Legal Adviser: No, it is not the Territory setting the assessment. We merely appoint the person who will be the common assessor for the Territory including all tax areas in order to have uniformity. In the old Taxation Ordinance and the Municipal Ordinance the sections, except for numbers were identical in the procedure for the collection of taxes. They were quite identical. So when we changed it for one section, we change it for the others. This Ordinance does not deprive the municipality of any other method than this method whereby they can collect taxes. They can take an action, they can distrain, they can seize property. All these former remedies are left there. It is just that the final crunch of public sale of the property in the technical manner is changed to an acquisition by the municipality of the property as the final crunch.

Mr. McKinnon: Has the municipality the power, if we set the collection or the interest on unpaid taxes at six percent within the Territory... Can the municipality if they say that is not a stiff enough penalty? Have they got the ability to set within their municipal boundaries an interest rate on unpaid taxes at twelve percent?

Mr. Legal Adviser: No, but there is no reason why they couldn't be given that power. It is written here at six percent. It could be written that the municipality shall set its own rate, or each tax authority shall set its own rate. This could be done.

Mr. McKinnon: It just seems inconsistent to me that we tell them that they can set their mill rate and we set down the procedures in which they can collect the unpaid taxes. It seems to me that if they have the ability to set the tax rate on the surface, they should also have the ability to be able to bring that money in, to make sure that they can conduct the business of the municipality. I agree with the Commissioner. I think that if we try and make a common collection procedure throughout the Territory, that we may be doing ... falling right in to the trap that the Commissioner stated when we started this discussion, that we may be not letting the municipalities collect the money that they need to run their business.

Mr. Legal Adviser: The procedure is one thing. The setting of the penalties and rates is different. There is no objection to the individuals, individual municipalities setting their rate, setting the penalty. There is great merit in the procedures being the same. There is great merit for protection of some taxpayers who are making a genuine effort, of giving them some protection or allowing them to make a deal. The procedures have been common to both areas since the original Ordinance was passed in 1958 and 1959. They have been identical.

Mr. McKinnon: To clarify my mind a little further. I do have a little difficulty with technical Taxation Ordinances. Will the Mediation Board apply both to municipalities and the Territory?

Mr. Legal Adviser: Yes.

Mr. Chairman: Is it your wish that I report progress on this Bill? In view of the time, I will stand Committee in recess until two o'clock this afternoon.

Mr. Chairman: At this time, I call Committee to order. I might advise Committee that we have new stenographic staff doing the first twenty minutes of this particular Committee meeting. Possibly, I'll try to call Members' names out before they speak, so they can be identified. I believe the next item of business is Bill No. 14, the
Mediation Board Ordinance.

BILL #14

Mr. Chamberlist: Mr. Chairman, the purpose of this Bill is to establish a Mediation Board and define its duties. This Board has a restraining power in tax enforcement and collections. A defaulter will be protected by the Board so long as he complies with its direction concerning payment of his arrears. Its functions and duties in this field will be similar to provincial agencies under orderly payment of debts legislation.

Mr. Chairman: (Reads sections 1, 2, 3, to subsection (2))

Mr. Tanner: Mr. Chairman, why have we changed the method, in this particular case, of appointing a Board. Nearly always, we've specified the number of members and how the chairman is chosen. In this case, we haven't done that.

Mr. Legal Adviser: Mr. Chairman, my information is that the Board which contains the model legislation for this Ordinance in Saskatchewan, although originally consisting of several members, eventually became one single member. That member then acts in himself, like a judge, as a Mediation Board. We wanted to make provision for this.

Mr. Chairman: Clear? (Reads section 3, subsection (3) to (9), sections 4, 5, 6, 7)

Mr. McKinnon: Mr. Chairman, I wonder if I could bust in here. The actual proceedings of the Board are not quite clear in my mind. Upon whose request would the Board of Mediation sit to hear a tax case?

Mr. Legal Adviser: At the request of the tax authority.

Mr. McKinnon: That being either the municipality or the Government of the Yukon Territory. Where would there be ... if a person other than the taxing authority felt aggrieved, he could not use the offices of the Mediation Committee to have the Board mediate if he wanted, personally, to seek redress against the taxing authority.

Mr. Legal Adviser: Mr. Chairman, this is not a court in the accepted sense which is going to decide questions of law or fact as between the taxing authority and the individual. It's an accepted precedent that before you go to this Board, the tax is in fact due and has not been paid. So, when the delay period is over and the tax authority wants to enforce its rights, prior to registration of its title in the Land Registration Office, it must make an application to the Mediation Board for permission. At that time, the Board comes into play and gets ahold of the defaulting taxpayer and says, explain to me why you did not pay your taxes; are you not in a position to; do you want time to pay ... what the installments should be and so on. In the last resort then, they have another procedure given to them here, whereby they can say to the Territory, buy the land from him. So, a transfer is made and then, the defaulting taxpayer has an opportunity to buy it back. At that point of time, the Mediation Board is out of the case and if the man doesn't make his payments, it goes to the court in the normal way under procedure to enforce an agreement for sale and get the land back.

Mr. McKinnon: I'm having a little difficulty imagining setting up a Mediation Board when the only people who can request its sitting are the taxing authorities themselves. It really has no effect at all on a person who feels himself aggrieved by the taxing authority. His recourse is still through the court in the normal procedure of using the court to redress agreement.

BILL #14

Mr. Chamberlist: Mr. Chairman, to have an grievance, you just ... the courts are always open and available. The purpose of this Mediation Board, however, is to protect the public from a taxing authority seizing the property as a result of non payment of taxes. So, prior to the Territory or the municipality being able to seize that property, the taxing authority must go to the Mediation Board and say, these people have not paid their taxes and we wish to have an order in order to proceed to seize their property. So, the Mediation Board says, we'll find out why they haven't paid their taxes, and whether in fact, it's true that they haven't paid their taxes. Then, the Mediation Board acts. I think Mr. Legal Adviser explains that specific point. It is basically to protect the public, the property owner, from the seizure by a taxing authority. Now, the Mediation Board, by the very fact that it is named mediation, may make certain conditions and I think you will find them as we come along, which will allow the ... give the opportunity to the person whose property may be seized, to get that property back again. I think, as we go on further, we will come to that area. It's not a type of Board where there is redress at a particular tax that is being imposed. This is where you have the Court of Revision and this is where you have the courts which go beyond the Court of Revision. That is for the purpose of taxes. But, this Mediation Board is strictly in favour of making sure that no taxing authority takes advantage of the fact that it is a government, either municipal or Territorial, to seize somebody's property. It's a really sound protective vehicle here.

Mr. Tanner: Mr. Chairman, the only qualification the Honourable Member must make to what he has said is the fact that it is the taxation authority which requests sittings of the Mediation Board. The taxation authority has some other motive, other than protecting the person who is being taxed, or whose property is being taxed, and that is to make a settlement out of the court, or outside of any other method, to that person. Whether it would be fair or not is not the question. Having made that request, obviously, they have another motive other than just protecting the property they want to pick up.

Mr. Chamberlist: Well, this is a point that may well be added to the explanation that has been given, yes. But, basically, the idea is to make sure the property, once it could be seized, doesn't get seized until the Mediation Board says you can go along and make a seizure. This is the thing that exists there. Really, it's a type of legislation that exists in nearly every jurisdiction ... I think this is beginning to be the trend though, to give people the opportunity not to lose their property.

Mr. McKinnon: Mr. Chairman, to argue the other side of the coin; the Commissioner made the point this morning that, under the protection that the new Taxation Ordinance and the Mediation Ordinance provide to the individual, that perhaps it could work some hardship on the municipality in collecting taxes. Now, if the liberalness of the Taxation Ordinance in paying taxation prevails on the municipality and the Mediation Board becomes a tradition and it does give easy payment plans to individuals who find their property seized for tax payment and they have the power to impose their conditions on the municipality, would the municipality have any redress to anyone to go over the Mediation Board?

Mr. Legal Adviser: This isn't the kind of thing that you appeal to a court from. If the Board is not doing its work properly, I think then, it has to be abolished. BILL #14

Mr. Tanner: Mr. Chairman, with respect, that's not what the Honourable Member was saying. He was asking, surely, what redress has the city or the municipality got if, as a continuance of their performance, the Mediation Board keeps giving very lenient decisions. The sharp members of the public see that they might as well wait until things get into such a state that they would be better off going to the Mediation Board than paying their taxes, in which case the municipality has a problem.

Mr. Legal Adviser: If that happened, then this legislation is a failure. Let's face it.

Mr. Commissioner: Well, Mr. Chairman, this is exactly the point that I want this Body to consider very, very much. The liberality of the legislation is designed specifically to take care of the genuine hardship situation. It is not designed, or at least, I'm sure the Honourable Members don't want it to be designed, to ... for it to become a vehicle for the angle worker to escape paying his taxes to keep the municipality an economically viable entity. This is why I think that Honourable Members are going to want to look very carefully at the aspects, namely, the penalties for not paying taxes; they must be severe enough at the monetary level in the first instance, that this type of thing is only going to come into effect where a really genuine hardship of non payment can be shown and can be proven. This is my whole point, and the Honourable Member who is asking this question in connection to what happens to the municipality ... this is exactly what my question is. What happens to that municipality?

Mr. McKinnon: Mr. Chairman, just to elaborate further; the angle worker has been in action in the municipality, in the City of Whitehorse, in the last two years. Of course, it is always the big corporation with its multiplicity of lawyers and accountants behind it who can afford to take advantage. With only six percent interest, they haven't been paying their taxes; they have been using that tax money to get better interest in any kind of investment all over the country, and of course, dragging out the taxes for two or three years. Now, they can even, through this Ordinance, be allowed better loop holes in order to escape the payment of taxation. Corporations being what they are, they are going to try and use their money to their best ability if they can possibly do it. I don't blame them for it, but, if they are doing it consistently, what recourse has the municipality? If they are using the Mediation Board consistently to be able to do this, what redress has the municipality?

Mr. Chamberlist: Well, Mr. Chairman, with respect, first of all, it is the Commissioner who appoints the Mediation Board, and surely, one must recognize the fact that the Commissioner is not going to appoint a person who is going to be that soft that he doesn't recognize ...

Mr. McKinnon: He's just a figurehead now.

Mr. Chamberlist: Just a moment. I'm speaking about ... the fact is what I'm speaking about ... in spite of the fact, what I'm speaking about ... the Commissioner ... in all tenses, I'm speaking about the Commissioner and those people he will be asking for advice ...

Mr. McKinnon: That's why we need protection.

Mr. Chamberlist: He will be asking advice as to obtaining this. Now, we haven't come to it yet, but section 9, subsection (2) ... I think what this ... it really lays out the conditions that the Board deems proper. Now, once that Board has laid out those conditions, and those conditions haven't been met, there is no reason to believe that the decision of the Board would not be acted upon. This is the thing. If the person was told they have to deal with it in a certain way, it must be dealt with. There isn't an opportunity to go back to the Board and

Mr. Chamberlist continues ...

BILL #14

ask for a difference. The only thing that can happen is that it would have to be dealt with, and subsection 10(1) follows it up. I think because it is a short piece of legislation, that these questions that are being asked now, should be raised in context of the whole of it after we have read it. I think the explanations would follow.

Mr. Tanner: Mr. Chairman, I might just make one further comment relating to what the Honourable Member from Whitehorse West has said, and also to what the Commissioner has said. It seems to me that the question that I asked very early on in the reading of the Taxation Ordinance, about penalties, now has come into play. In fact, you should have progressive penalties through, certainly, the first year to accomplish the very thing that the Commissioner and the Honourable Member from Whitehorse West say they want to protect against. I think we should, again, think of that particular method of progressive penalties as one way of guarding against the very thing that we are discussing now.

Mr. McKinnon: Well, I'm not sold. I'm not going to prolong the debate now, because I'm sure it's going to come up again when we're discussing it with the municipal authorities. But, I think that they have a pretty legitimate hard look at this section of the Mediation Ordinance. I can see where it could really work to their disadvantage.

Mr. Legal Adviser: I think the ... one of the Honourable Members suggests that the penalties be increased. I think this has been agreed to by the House in the Taxation Ordinance. The House may find itself with an amendment to that Ordinance, suggesting that the annual penalty be raised from six percent to twelve percent. This probably, will take care of it.

Mr. Chairman: Well, have you anything further, then, on section 7?
(Reads sections 8, 9, 10, 11, 12, 13, 14, 15)

Mr. Tanner: Mr. Chairman, going back to subsection 13(1), why don't we just merely use the formality of the registered post, as we have in other Ordinances? Why have we turned to this particular method, in this area?

Mr. Legal Adviser: This has nothing to do with registered mail. This is a necessary section to say that there is a presumption, a para factus presumption, that when the letter was sent to somebody to tell him to come to a hearing of the Board, that he got it. Then, it may be necessary, under the rules of natural justice, that an order should not be made concerning a person or his property without giving him the opportunity to be heard. So, the Board will then say to the person making the application, was this person served? They say, yes and they produce an affidavit of service. On proof that the notice was sent, then, the Board is able to continue in the absence of the person. He had a chance to come. So, this is a necessary section for that purpose.

Mr. Tanner: Mr. Chairman, the normal procedure is that a person served is either served in person and where many times the Government doesn't want to serve in person, it uses registered mail. That's the normal procedure, but that's not the procedure we're adopting here. We're making a couple of assumptions, particularly in this country, about when the mail is going to be delivered.

Mr. Legal Adviser: It can be reversed. All the person has to say is they never received it and that's it. If he can show that he didn't receive it, that's fine. Unfortunately, you're dealing with defaulters and people who are in this situation of being debted by the Mediation Board have an unfortunate habit of never picking up their mail. They do it deliberately.

Mr. Chamberlist: And if they do, they never open it.

Mr. Tanner: Yes, but Mr. Chairman, this is not a fair way of dealing with the matter though, is it, at all? I think this is a nice slip shod backdoor method of dealing with it because it gets the people who are looking for the proof off the hook of doing anything more than mailing a letter. Irrespective of how bad or how wrong we feel the recipient of the letter is, this is no way to go about it. If you really want to know,

Mr. Tanner continues ...
have it double registered.

BILL #14

Mr. Legal Adviser: This sounds good in practice, Mr. Chairman, but when we're ... certainly, people from our office ... we send registered mail and double registered mail and it comes back unopened. So, now when we really want to get a letter in the hands of somebody who is returning it, we send it in an ordinary brown envelope with no Government marks. The person gets it, rings up on the phone and comes in. The other letters, he just doesn't open them.

Mr. Tanner: Mr. Chairman, that's one of the most appalling things I have ever heard the Legal Counsel say. The sly shennanigans he does to get these poor people into court. I don't buy that section. I know the Legal Adviser will like this; I don't think that's cricket. I don't think we should play the game that way.

Mr. Chamberlist: Mr. Chairman, I think the Honourable Members raises a good point. I've raised this myself in previous Councils. I'm prepared to take another look at it. I think we should find a way. For instance, if there was supposed to be a meeting of a Mediation Board in ten days' time, and the person affected was perhaps out of the Territory, and there was an air strike which lasted twelve days, he could never get it under those circumstances. So, there must be some consideration given to these particular cases. I see that it is very, very difficult, because even a personal service, you would have to send a document outside and it might have to go by truck. The time factor is such where a person wouldn't be getting the right of natural justice, in the words used so well and so often by the Honourable Member, or rather, I mean, the Legal Adviser. He has been speaking so much of late that I thought for a moment he was one of us.

Mr. McKinnon: Make him the figurehead.

Mr. Chamberlist: I do, but I think there is a necessity to take a look at this and I think we should look at this section. It's a good point.

Mr. Chairman: Well, then, the Chair assumes that subsection 13(1) is subject to further consideration. (Reads sections 16, 17, 18, 19)
Have you anything further on this Bill?

Mr. Chamberlist: Mr. Chairman, I wonder if Honourable Members would agree if we, in that particular section because it seems to be the only section that is in question, use that the proof should be by registered mail to the last known address. Would anybody see any objection if it was put that way? Does Mr. Legal Adviser see anything wrong with that?

Mr. Legal Adviser: No, Mr. Chairman, I have no objections to that whatsoever.

Mr. McKinnon: Well, Mr. Chairman, I don't disagree with that either, but I do disagree with the Honourable Member that there are no other areas of question. The question of penalties when ... some sort of progressing fee of penalties or something, in the Mediation Ordinance that allows a municipality redress if it doesn't agree with the findings of the Mediation Board. These are things that I want to have the ability to question municipality authorities in with the Mediation Ordinance.

Mr. Chamberlist: Well, I'm sorry Mr. Chairman. I didn't intend to say there were no areas which were questionable. I understood that this was the only one while we were reading it, where there was a question of whether it should be reviewed or not. I'm just speaking of that particular area. We have already indicated that there will be certain changes to the Taxation Ordinance which might automatically cover a particular objection that the Honourable Member has just made. I would suggest that when we bring forward the changes to the Taxation Ordinance, it may well answer the question that has been raised.

Mr. Chairman: Have you anything further in respect of Bill No. 14? Do you wish I report progress on Bill No. 14?

BILL #14

Mr. Tanner: Mr. Chairman, this is a philosophical point of view, if you like. It has nothing to do particularly with Bill No. 14. Something has been seen in more and more Ordinance, and I really think I'm talking about a philosophy. The philosophy ... I guess we can't help it, but we seem to be making more and more law which can, when it gets down to the lower administrative level and some lower administrator is looking at it in detail to try to define his job, become to the majority of the citizens, eighty or ninety percent of the citizens, a harrassment. We seem to have to aim our legislation at those people who are the wrong doers. In consequence, the public at large must become more and more, the Member used the word earlier aggrieved, annoyed. The way we have to write our legislation, and I don't know what we can do about it ... I'd like to pick the point. It occurs to me that more and more, and there is a lot of it in here ... I don't know how we cure it. Perhaps, the Members will consider it. Maybe every legislature in the country has the same problem. In fact, I'm sure they do. But, it seems to me that the majority of the people are being harrassed by our legislation to protect them against a minority. In consequence, when, as it follows down from that, it gets down to a lower administrative level, the people who have to administer the very thing that we are legislating here ... it makes it difficult for them and so, they normally take the easy path out and read the letter of the law applying it to everybody, across the board, and not just the ten percent that it was initially aimed at. I make the point, Mr. Chairman, merely because it seems to be happening more and more and it's getting in easier, if you'll notice, even in the eighteen months that I've been here. I don't remember seeing anything like section 13 eighteen months ago. Thank you, Mr. Chairman.

Mr. McKinnon: Mr. Chairman, what I think we are doing is propagating the perpetuities of the legal profession and I think that this would be the responsibility of everybody with any children, to make sure that they think very seriously about going into the legal profession because as I see it, each time you turn around, with the mass of statutes and regulations and ordinances on the books you just don't blow your nose any longer without seeking legal advice before to get permission to do it.

BILL #14

Mr. Chamberlist: We all have to live by law, and not by anarchy. It appears that this is what is being contemplated. Well I don't want to see that at any time. I agree with what the Honourable Member from Whitehorse North has said but certainly, I can't accept the attitude that has been adopted now by the Honourable Member from Whitehorse West.

Mr. McKinnon: He's got a lawyer in the family.

Mr. Chamberlist: I think that the legal profession is, in most cases, a very honourable profession and I am proud to know that my son is going into that profession.

Mr. McKinnon: Tell it to the public.

Mr. Chamberlist: They will be interested to know that there will be a Chamberlist up here practising law.

Mr. Tanner: I thought we had one already.

Mr. Legal Adviser: Mr. Chairman, lawyers have always been needed. These regulations are just getting tougher and tougher every year but you must remember that Adam and Eve transgressed and I suppose a lawyer was involved, at some point in time when Cain killed Abel. So, the very first four inhabitants of this earth needed legal advice, right away.

Mr. Tanner: Mr. Chairman, I agree that Adam and Eve had a problem but I know who the lawyer was too.

Mr. Chairman: Are you clear then on Bill No. 14? The next Bill is Bill No. 15. I'm wondering if the Honourable Member will stand this Bill over till next week?

BILL #15

Mr. Chamberlist: Is there a special reason the Honourable Member could indicate?

Mr. Chairman: Yes, there is one of the Local Improvement Districts which is going into this question now. We could put it over till a later date until we read it.

Mr. Chamberlist: I would suggest that it would be improper for us to change the routine that we have already adopted and followed through on, by now putting it over for other opinions. There is no reason at all why others opinions should come in later. They will be given consideration in exactly the same manner as all these other Bills dealing with municipal type legislation. I would suggest, Mr. Chairman, that we carry on and read the legislation and if there is any further input to come into it, we will be pleased to accept what input there is. Give a hearing, if this is required.

Mr. Chairman: Councillor Stutter will you take the Chair?

Councillor Stutter takes the Chair.

Mr. Taylor: Mr. Chairman, my only reason is that once this Bill is read, it is jockeyed into the position of Third Reading. I would prefer that it wasn't in that position until we have had a chance to absolutely make representation in respect of it.

BILL #15 Mr. Chamberlist: I can assure the Honourable Member that once this is read, it will not be moved into Third Reading. I would ask that progress be reported to give the Honourable Member the opportunity that he has asked for.

Mr. Taylor: Thank you, we will have that on the record. Thank you, Mr. Chairman.

Mr. Taylor resumes the Chair.

Mr. Chairman: An Ordinance to Amend the Local Improvement District Ordinance.

Mr. Chamberlist: Mr. Chairman, the purpose of this Bill is to align the voting and eligibility of Local Improvement Districts with the provisions of the new Municipal Ordinance and impose mandatory provisions for the transfer by the Commissioner, an operation by district trustees of local improvements. Opportunity is taken to give the trustees animal control powers and make a few housekeeping changes.

Mr. Chairman: (Reads sections 1(1)(2)(3))

Mr. Tanner: Mr. Chairman, I have one query going back to section (2). I am wondering whether, in the outlying areas of the Yukon, we should entrust these very important decisions that have to be made to anything other than Canadian citizens. Do you think we should really leave British subjects in there because those people are out there and working by themselves and we don't know what they might be up to? Should we let anyone else rather than Canadians do that do you think?

Mr. Chairman: Speaking from the Chair, I have an argument on this Bill. With the assurances that the Honourable Member has given from across the aisle, I was holding that debate until we get a second review.

Mr. Chamberlist: Mr. Chairman, I think at this time, I should point out that I have spotted an error here and prior perhaps, to the Honourable Member noticing it I should point it out. I've pointed it out to Mr. Legal Adviser. Section 2(d) we say, "eligible to vote as an elector for the election in which he is nominated and is not disqualified pursuant to section 9 of the Municipal Ordinance". A person in a Local Improvement District can't be disqualified pursuant to the Municipal Ordinance. That will be corrected.

Mr. Chairman: (Reads section 4(1), 5(1), 6(1)(2)) Why is all this necessary in the legislation?

Mr. Legal Adviser: I suppose, Mr. Chairman, the sensible answer is sometime when the people have the time to do it, to take every oath out of every ordinance and have a special Oath Ordinance and list out that or else put it in schedules what the oaths for various things are. There is merit in having the oath; it brings home to the people and home to the public what their duties are and where the responsibilities lie.

Mr. Chamberlist: If Members feel that the forms should be by regulation, perhaps we could oblige to do that because in some legislation we are asked to put everything in the legislation and when we put it in the legislation then it should go in the regulations but when we put it in the regulations it should go in the legislation. We are easy on this particular thing. It is a matter of a form.

Mrs. Watson: Mr. Chairman, in this case I think that this should stay in the Ordinance. The Local Improvement is the first form of self government that small communities have; often they are not familiar with the routine. They use the Ordinance as a complete guide and I think in this case I would like to see it in there.

Mr. Chairman: I have no hard feelings either way, I just couldn't figure out why it appears in the Ordinance and in other ordinances it doesn't. (Reads section 6(3), 7) This is one of our big points.

Mr. Tanner: Mr. Chairman, may I ask the Honourable Member from

Mr. Tanner continues ...

Carmacks-Kluane, who I know has had experience one way or another with *BILL #15* the Local Improvement Board, whether or not it does involve a great deal work and whether or not three hundred and sixty dollars is a reasonable sum to offer these people? Less than a dollar a day for taking on a responsibility in that area which can be, I would think, quite onerous?

Mrs. Watson: Mr. Chairman, I don't know whether on behalf of the Local Improvement District Board, but their work isn't as involved as that of a municipality. Personally, possibly I shouldn't give a personal opinion, I think, this is quite adequate for the amount of responsibility that they have to assume.

Mr. Chairman: I think prior to recess, I believe an Honourable Member had something to say.

Mr. Chamberlist: Mr. Chairman, I rise at this time to inform the Members of Council that the Commissioner has an important announcement to make.

Mr. Chairman: Mr. Commissioner.

Mr. Commissioner: Mr. Chairman, I appreciate the opportunity of breaking into the work of the Committee at this time but I would like to give to the Council at this time a message which is being released in Ottawa by my Minister. It is to indicate that a new mace is to be presented to the Council of the Yukon Territory. The announcement that is being made is: "The Yukon Territory will soon join the ten provinces and the Northwest Territories in the possession of a mace symbol of authority of the Speaker of a Legislature," The Honourable Jean Chretien, Minister of Indian Affairs and Northern Development announced today. His Excellency, the Right Honourable Roland Michener, Governor-General of Canada will present the mace as a gift from the people of Canada to the Council of the Yukon Territory at Whitehorse on the 6th of March. Mr. Chretien will attend the presentation ceremony. Traditionally the Sergeant-at-Arms carrying the mace precedes the Speaker of a Legislature as he enters and leaves the Legislative Chamber. The mace lies on the table in front of the Speaker during the formal Sessions of the Legislature. When the House goes into Committee of the Whole, the temporary suspension of the Speaker's authority is signified by the placing of the mace below the table. The silver gilt mace to be presented to the Yukon Territory incorporates the main features of a winning sketch entered in a contest in the Territory several years ago. Her Majesty the Queen granted Royal authority for the use of the Crown on the head of the mace. The design was approved by the Executive Committee of the Yukon which includes the Commissioner of the Territory, two Assistant Commissioners and two Members of the Council of the Yukon Territory. The head of the mace incorporates a topographical cross-section of the Territory the coats of arms of Canada and the Yukon and the fireweed, floral emblem of the Territory. Below the floral emblem and the coats of arms are three alcoves with figurines representing Native people, early explorers and fur traders and miners, three groups so important in the settlement and development of the Yukon. A Legislative Body was first established in the Yukon in 1898. Since 1908 the Council has consisted of elected Members, one of whom has acted as the Speaker. In 1971, for the first time, two of the elected Members of Council were appointed to the Executive Committee of the Territory, one of the most far-reaching constitutional advances in the north in many years. Commenting on the planned presentation ceremony, Mr. Chretien said.. "This beautiful new mace will be a fitting symbol of the dignity of the Speaker of the Council and of his authority which derived originally from the Crown and has and has been traditional in the Legislative Chamber for many hundred years. I am looking forward to this presentation which is evidence of the continuing interest of the Government of Canada in the advancement of self government in the Yukon". Mr. Chairman, the mace is presently being manufactured in Montreal by Henry Burkes and I think that you will note the date that is involved here and we will be tabling a proposed program for that time in the House at the earliest possible date. It will be at the time of the Artic Winter Games, I believe just two or three hours prior to the opening ceremony and we intend to hold the presentation in the Court Room of the Federal Building. Thank you.

Mr. Chairman: Committee stands in recess at this time.

RECESS

Mr. Chairman: At this time, I will call Committee back to order.
The next section is section 8. (Reads section 8)

BILL #15

Mr. Legal Adviser: We are adopting the library system of notation in future for the interposition of sections between two existing sections. There will be a section 14, a 14.1 and then, a 15; or it might be a section 14.1, a 14.2, a 14.3 and then, a 15.

Mr. Chairman: (Reads section 9) Could you explain this section, or the reason behind it?

Mr. Legal Adviser: That should be "Board" throughout. The same reasoning applies as is behind the power to appoint administrators in a municipality. The power has always existed, Mr. Chairman, to appoint an administrator in a municipality and allow him to take over the affairs since 1958. In the course of redrafting those powers in the Municipal Ordinance, it was noted that there was no such power in the Local Improvement Districts. It was sought as a safeguard to let that power exist.

Mrs. Watson: Mr. Chairman, I think there is another point here that we should take note of. A Local Improvement District Board of Trustees is not responsible for collecting any of the taxation or levying the mill rate. They are acting as a body on a grant from the Territorial Government. There must be some means of control of this grant. There could be a possibility that it's being misused or the people don't want the responsibility of administrating it, and I think it's necessary in this instance, that the Commissioner, in order to protect the public funds of the Territory, be able to step in.

Mr. Chairman: I might point out though, at the same time, that the Local Improvement Districts do have a taxing bill in respect of real property to collect taxes for sewer and water.

Mrs. Watson: We do not set the mill rate.

Mr. Chairman: Well, on instructions of the Commissioner, they do. Well, there will be further questions on this section. (Reads sections 9, 10, 11)

Mr. Chamberlist: Mr. Chairman, I move we report progress on this Bill.

Mr. Chairman: Is Committee agreed? The next Bill is Bill No. 16, the Conflict of Laws (Traffic Accidents) Ordinance.

BILL #16

Mr. Chamberlist: Mr. Chairman, the purpose of this Bill is to give legal force in the Territory to the International Convention on Traffic Accidents negotiated after some years of international discussion in 1970. The Bill governs the particular rules to be applied by courts when accidents occur which involve non Yukon vehicles either alone or with Yukon vehicles. The Bill clarifies a small area of law which has been differently interpreted by judges in different places. It has been recommended for adoption throughout Canada as a uniform law and prepared at the request of the Conference in September, 1970. Members of this Conference together with representatives of the Government of Canada, had attended the International Conference at The Hague which prepared the International Convention.

Mr. Chairman: (Reads sections 1, 2) Tortious?

Mr. Legal Adviser: Tortious; the adjective of tort, and tort means a civil wrong.

Mr. Chairman: (Reads section 2, to subsection (2)) Explain.

Mr. Legal Adviser: Throughout the world, there are occasions when the rules of one country, the laws of one country, have to interpreted in

BILL #16

Mr. Legal Adviser continues ...
another country. An action involving a contract which took place in our High Court here might involve whether or not the people who originally made the contract were eligible to make it or the details of the contract which must be a commercial contract. Situations arise where a person in New York links with a person in Paris by letter, telegram or telephone and a person here, and this Court would then be interpreted in the internal French law related by that contract, the American law in the State of New York, the Canadian basic law, and so on. These are rules which are international and are a pride from point to point, but they change and different jurisdictions interpret the rules for international incidents or contracts differently from time to time. This attempts to modify our internal law, that is, the way a judge would interpret the rules related to a traffic accident, who is liable and who is not liable, in the Yukon, in accordance with the exact same rules which would be applicable to all the countries which have signed this Convention. We're not attempting to normally change the internal laws of the state, but we are, the rules of international conflict.

Mr. Chairman: (Reads section 3, to subsection (3), sections 3, 4, 5, 6, 7)

Mr. Chairman: (Reads sections 8, and 9).

Mr. Tanner: Mr. Chairman, would the Legal Adviser advise me as to whether... what a period of prescription is?

BILL #16

Mr. Legal Adviser: It is the statute of limitation in effect by common law. You can't take an action at common law for certain ... you must take it within certain periods in order to take it at all. Limitation is usually an artificial limitation applied by a statute.

Mr. Tanner: It is a prescribed time?

Mr. Legal Adviser: No, it is not a prescribed time. It is an unprescribed time. In some cases, it is a period of time beyond which the memory of man runneth not. That is deemed to be twenty years.

Mr. Chairman: (Reads sections 10 to 13 inclusive).

Mr. Chamberlist: Mr. Chairman, I move that Bill No. 16 be reported out of Committee without amendment.

Mrs. Watson: Mr. Chairman, I second that motion.

Mr. Chairman: It has been moved by Councillor Chamberlist, seconded by Councillor Watson, that Bill No. 16 be reported out of Committee without amendment. Are you prepared for the question? Are you agreed? Any contrary? I declare the motion carried.

MOTION CARRIED

*MOTION
CARRIED*

Mr. Chairman: The next Bill is Bill No. 17.

BILL #17

Mr. Chamberlist: Mr. Chairman, this Bill is an Ordinance to Amend the Landlord and Tenant Ordinance. The purpose of this Bill is to grant to tenants of residential property, a number of protections not at present contained in the Landlord and Tenants Ordinance. The protections are self policing. The machinery provides that the landlord must pay interest on deposits, that deposits are limited to a month's rent (plus a month's rent in advance), that rent cannot be raised in the first year, that a landlord has a duty to supply copies of agreements and has certain duties in maintaining the property. Failure by the landlord in these and related duties enable the Court to prevent evictions or make enforcing orders. The scales hitherto so heavily weighed against tenants are made more balanced by this Bill but do not deprive a just landlord of any of his legal rights.

Mr. Chairman: I wonder if the Deputy Chairman could assist me at this time?

Mr. Stutter takes the Chair.

Mr. Chairman: (Reads 60(1) and (2)).

Mr. Tanner: Maybe the Honourable Member from Whitehorse East could tell me how, in a court of law or in any other court, or any other place, you specifically give evidence of an oral tenancy agreement?

Mr. Chamberlist: Certainly, this is a matter of a person going to the witness stand, taking the oath and saying on such and such a day I entered into an agreement with such and such a person. This is the oral evidence, and it is up to the court to indicate whether it accepts it as truthful evidence or whether they have any doubt about it.

Mr. Tanner: Mr. Chairman, wouldn't the Honourable Member generally feel that, if for example there were two people in a court room, one of whom, for example, was a policeman and the other who was being charged, it came to the point of oral evidence, in the majority of

BILL #17

Mr. Tanner continues ...

cases, the court would accept the oral evidence of a policeman, for the reason that they are in the court more often and they can give their evidence more clearly and the court is more familiar with them. In the court's mind they reliable subjects. Now, if that is true, isn't it also true that in the majority of cases, a landlord because he has greater permanency in the community is given more credibility in the court as far as an oral statement is concerned as to a contract. What I am saying, in effect, does that really mean anything at all?

Mr. Chamberlist: Well, Mr. Chairman, I have much more confidence in the judicial system of our courts than the Honourable Member. I do not feel, nor will I at any time attempt to really desecrate the integrity of a member who sits on the bench to adjudicate. Certainly I don't feel that any court official would improperly use his position to give wrong judgment. If his judgments are wrong, then of course we have the process of court procedure. The person aggrieved could always go to a higher court.

Mr. Chairman: Clear? (Reads 60(3), (4), sections 61, 62(1)). Might I ask from the Chair, if that should not be duplicate of the original? How can you have a duplicate original copy?

Mr. Legal Adviser: Mr. Chairman, I am surprised. A Xerox or carbon copy is a duplicate original. It is identical. When you write the bill, they are not copies, they are originals. They are talked about in common parlance as being copies, but they are not copies.

Mr. Chairman: Would they be accepted as such in a court of law?

Mr. Legal Adviser: Oh, yes, they are originals.

Mr. Chairman: (Reads 62(2))

Mr. McKinnon: Mr. Chairman, before we go any further, one of the reasons that I was absent for the last few minutes was that members of the Consumers' Association asked me that when it appeared that Bill No. 17 would be before Committee, that I would inform them so that they could be present if at all possible, even to have one or two witnesses before Committee. Honourable Members know that they did present a brief which is in Sessional Paper No. 3 on the Landlord and Tenants Act. They do feel that they do have some suggestions to make further to the Ordinance as it is presented before us. They would like to be available, if Committee would deem it possible for them to be available as witnesses before Committee when discussing the Landlord and Tenant Ordinance.

Mr. Chamberlist: Mr. Chairman, again I would suggest that we proceed in the usual manner. If Members of the House wish to have witnesses, we will deal with them afterwards. We should continue to read the legislation.

Mr. Taylor: Mr. Chairman, with respect, I think that these people, the Consumers' Association have at least done and gone to a great deal of work and effort dealing with this subject. It would avoid duplication if they could be invited to join with us at some point during these discussions. It would save duplicity, I would think.

Mr. Chamberlist: Mr. Chairman, with respect, we come to exactly the same situation as we have on other legislation. I think that it is the duty of the legislation to deal with the legislation. Certainly, if they have anything to offer, any comments on any of the sections dealing with the legislation, I am sure that every Member in the House will only be too pleased to let them have the opportunity to present any objections. That is if they have already been given this, and no doubt they have already read it. I see no objection why they not be allowed to come along afterwards. Right now, we should follow the same procedure.

Mr. McKinnon: I realize the pattern that has been accepted by the majority of the House. I have stated my case once. I am not going to state it again, because I know when I have been defeated, and I can take my licking. I agree with the Honourable Member, I think that we are just duplicating effort by not going through the whole thing once with witnesses available. It is a point that I realize is not going to come about, so I will have to agree to having witnesses after having read the Ordinance in Committee. I just raise the point at this time because I am going to have to leave Committee early this afternoon, and if Honourable Members would permit that progress be reported on this Bill, so that at some future date the Consumers' Association can make representations to this Table.

Mr. Chairman: Is Committee agreed? (Reads 62(2), sections 63, 64(1) and (2))

Mr. Tanner: Mr. Chairman, I am sure that this is not obligatory on the part of the tenant. I would just like to clarify a point here. If the tenant chooses to make out twelve postdated cheques, for example, the landlord can accept them in that case.

Mr. Legal Adviser: Yes, Mr. Chairman, that is his privilege. If he wishes to do it, he can.

Mr. Chairman: (Reads 64(3) to (6) inclusive, section 65, 66(1))

Mr. Taylor: Explain.

Mr. Legal Adviser: Frankly, I have forgotten what the exact meaning of it is. I think that it is, that during a period before a tenant or a lessee signs the lease, he is deemed not to have any interest in the land at the time. By abolishing the doctrine, it means that as soon as the tenant goes in, or the lessee goes in, he is deemed to be a lessee at that time and has rights of proof from the moment that he goes in. Delivery or formal things are not necessary.

Mr. Taylor: Mr. Legal Adviser says, he thinks that is what it means. Can we not be sure?

Mr. Legal Adviser: There is a very precise legal definition, Mr. Chairman, it would be in Black's Dictionary.

Mr. Chamberlist: I will get it for the Honourable Member.

Mr. Taylor: The question is, I wish to know, Mr. Chairman. The Legal Adviser writes up these documents; at least he should understand what the terminology means.

Mr. Legal Adviser: I can understand what it means, Mr. Chairman. To give a precise legal definition of such a complicated thing, it is not easy to carry all the law in your head at one time. It is only a small head.

Mr. Chairman: May I proceed, and you can get your official definition. (Reads 66(2) and (3), section 67)

Mr. Tanner: What does that mean, Mr. Legal Adviser?

Mr. Legal Adviser: If a contract is frustrated, it is abolished, it ends. There are certain rules relating to what happens and why a contract is frustrated, and what happens. This brings back the normal rules of landlord and tenant, not the artificial rules that apply to frustration of a contract.

Mr. Taylor: In this case, frustration really means the termination of a contract, does it not or could it imply other?

Mr. Legal Adviser: No, it is the prevention of the carrying out by one party of the terms of a contract, and damages that ensue therefrom. In other words, we are applying the rules of this ... laid down in this

BILL #17

Mr. Legal Adviser continues ...

Ordinance to the relation of landlord and tenant and not other court rules relating to contracts in general.

Mr. Chairman: (Reads section 68 and 69)

Mr. Legal Adviser: If there is a covenant to, say repair or supply a fridge or do something that is part of the tenancy agreement, by a normal rule of common law, this covenant does not commence to run at all because there may be no fridge at the time. Under this rule, it will run with the land, notwithstanding the fact that there isn't a fridge or a carpet in the place at that particular time. Now, the effect of a covenant running with the land means that notwithstanding changes which may be permitted in the contract by a change of a tenancy, one party may be substituted for another. A covenant runs along with the particular premises, in favour of the tenant or the landlord, as the case may be.

Mr. Chamberlist: Mr. Chairman, interesse termini, an interest in a term, that species of interest or property which a lessee for years acquired in the lands demised to him, before he has actually become possessed of those lands; as distinguished from that property or interest vested in him by the demise and also reduced into possession by an actual entry upon the land and the assumption of ownership therein, which is then termed an estate fait. Mr. Chairman, that indeed was the interpretation given by Mr. Legal Adviser. He had not forgotten it.

Mr. Chairman: In speaking from the Chair; now that we have the Bible here, I wonder if we could get an interpretation of in posse and in esse. It is in the margin of subsection 69(1).

BILL #17

Mr. Legal Adviser: In posse means, the Latin translation is, in power, ability. It comes from the Latin word to be able to do. In esse means, in Latin, being. The power to be in posse at a future time, in esse at this moment. It refers to the covenant of running with the land and whether or not the things are in existence at the time or not. In other words, under the normal common law rule, such a covenant does not commence to run with the land and may never commence to run merely because the thing is not in being at the time. We are talking about the thing in being or is capable of being after a time. The landlord can supply, and under our rules, the covenant will commence to run.

Mr. Rivett: Mr. Chairman, this should be quite obvious to any tenant, the meaning of all this.

Mr. Chamberlist: The dictionary itself gives a much shorter explanation than Mr. Legal Adviser. In posse, impossibility, not in actual existence, and then, it says, see in esse. So, we see in esse, and in esse is in being, actually existing, distinguished from in posse which means that which is not but may be. A child before birth is in posse, after birth, in esse.

Mr. Tanner: Mr. Chairman, I think this will be an appropriate time that we should recommend that the Speaker do now resume the Chair.

Mr. Taylor: I second the motion.

Mr. Chairman: It has been moved by Councillor Tanner, seconded by Councillor Taylor, that Mr. Speaker do now resume the Chair. Are you prepared for the question? Are you agreed? I declare the motion carried.

MOTION CARRIED

*MOTION
CARRIED*

Mr. Speaker resumes the Chair.

Mr. Speaker: The House will now come to order. May we have the Report of the Chairman of Committee?

Mr. Taylor: Committee convened at 10:30 this morning to discuss Bills, Sessional Papers and Motions. I would like to report progress on Bill No. 13. Committee recessed at 12:00 noon and reconvened at 2:05 this afternoon. I can report progress on Bill No. 14 and Bill No. 15. It was moved by Councillor Chamberlist, seconded by Councillor Watson, that Bill No. 16 be reported out of Committee without amendment, and this motion carried. It was moved by Councillor Tanner, seconded by Councillor Taylor, that Mr. Speaker do now resume the Chair, and this motion carried.

Mr. Speaker: You have heard the Report from the Chairman of Committee. Are we agreed? May I have your further pleasure?

Mr. Tahlor: Mr. Speaker, it had been my intention in Committee to ask Members of the House what date would be set to deal with the municipalities. I was wondering if this has been determined yet. Maybe I could direct the question to the Honourable Member for Whitehorse East.

Mr. Chamberlist: Mr. Speaker, it is my hope that on Monday, we will be introducing the last of the municipal Bills and after that has been discussed, we can then set a date.

Mr. Taylor: Yes, Mr. Speaker, very shortly, we should be running out of work in Committee, is what I was thinking, and I do believe that if the municipalities are going to be permitted representations, then we should let them know tonight so that they can make plans and set the program for reviewing the Bills accordingly. I was going to suggest

Mr. Taylor continues ...
possibly, some time beyond next Wednesday.

Mr. Chamberlist: I wonder, Mr. Speaker, if we could indicate Wednesday,
and we will work till that day.

Mr. Taylor: Possibly, Mr. Clerk could notify the municipalities in that
regard. Mr. Speaker, in respect of the agenda, I believe it is the in-
tention of the Committee to discuss Bills, Sessional Papers and Motions
on Monday.

Mr. Tanner: Mr. Speaker, I move that we now call it 5:00 o'clock.

Mr. Chamberlist: I'll second that.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse
North, seconded by the Honourable Member from Whitehorse East, that we
now call it 5:00 o'clock. Are you prepared for the question? Are you
agreed? I declare the motion carried.

*MOTION
CARRIED*

MOTION CARRIED

Mr. Speaker: This House now stands adjourned until 9:30, Monday morning.

ADJOURNED

ADJOURNED

Mr. Speaker reads the daily prayer. All Councillors are present.

Mr. Speaker: Mr. Clerk, is there a quorum?

Mr. Clerk: There is, Mr. Speaker.

Mr. Speaker: The House will now come to order. Are there any Documents or Correspondence to be tabled?

Mr. Chamberlist: Yes, Mr. Speaker. We have for tabling this morning, Sessional Papers Nos. 7 and 8.

*TABLING OF
SESSIONAL
PAPERS 7 AND
8*

Mr. Speaker: Are there any Reports of Committees? Are there any Bills to be introduced? Are there any Notices of Motion or Resolution? Are there any Notices of Motion for the Production of Papers? As there are no Motions for the Production of Papers, we come to Motions.

Mr. Chamberlist: Mr. Speaker, at this time, I would like to indicate that I will not be proceeding with the Motions this morning. My understanding is that the Report of the Constitutional Committee on Reform will be tabled in the House of Commons towards the latter end of this week, and my wording of the Motions might be changed as a result of the contents of that Report.

Mr. Speaker: We now come to the Question Period. Mr. Clerk, will you see if the Commissioner is available. We will now have a short recess.

RECESS

RECESS

Mr. Speaker: The House will now come to order. Are there any questions?

Mr. Taylor: Yes, Mr. Speaker, I have a question this morning respecting taxation. I have noted a clip in the Faro Raven respecting a city council meeting where they state that the Village has been asked by the Department of Local Government to collect the Territorial school tax by adding five to six dollars to monthly trailer rentals. The Village has expressed reluctance to act as a collection agent, and has made a second request to the tax department and a visit and explain the tax assessments. I wonder if Mr. Commissioner could advise me why taxes are collected in this manner, when, indeed, I believe all trailers were to be assessed in another manner.

*QUESTION RE
TAXATION*

Mr. Commissioner: Mr. Speaker, I would want to have a lot more information on this before I could answer the question. If the Honourable Member would be kind enough to give me notice on the question, I will be very pleased to bring forward an answer, Mr. Speaker.

Mr. Taylor: Yes, maybe the Commissioner could consider that notice. Thank you.

Mr. Speaker: Are there any further questions?

Mr. Taylor: Yes, Mr. Speaker. In anticipating the release of the pertinent data related to the findings of the Joint Committee of the House of Commons on the Constitution, some time following next Wednesday, I'm wondering if the Commissioner would assure Council that at the earliest possible moment, he would get this information to us, as to what our future role will be in the Constitution, as a Territory.

*QUESTION RE
CONSTITUTION
REPORT*

Mr. Commissioner: Mr. Speaker, there may be some failings that the Federal Government has, but turning out paper is not one of them. If this Report follows the pattern of all others, it will be here practically at the moment of its release in Ottawa and quantities will be sufficient to practically cover the Territory. So, I don't think there is any cause for alarm here, Mr. Speaker. I'm sure, without any prompting on my part, that adequate copies will be available.

Mr. Speaker: Are there any further questions? We wish to thank the Commissioner for his attendance. As there are no Private Bills or Orders, we come to Public Bills.

BILL #16
THIRD
READING

Moved by Councillor Chamberlist, seconded by Councillor Watson, that Bill No. 16, the Conflict of Laws (Traffic Accidents) Ordinance, be given Third Reading.

MOTION
CARRIED

MOTION CARRIED

BILL #16
TITLE
ADOPTED

Moved by Councillor Chamberlist, seconded by Councillor Watson, that the title to Bill No. 16, the Conflict of Laws (Traffic Accidents) Ordinance, be adopted as written.

MOTION
CARRIED

MOTION CARRIED

Mr. Speaker: Bill No. 16 has passed this House. May I have your further pleasure.

Mr. Taylor: Mr. Speaker, I would move that Mr. Speaker do now leave the Chair and Council resolve into Committee of the Whole for the purpose of discussing Bills, Sessional Papers and Motions.

Mr. Stutter: I second the motion, Mr. Speaker.

Mr. Speaker: It has been moved by the Honourable Member for Watson Lake, seconded by the Honourable Member for Dawson, that Mr. Speaker do now leave the Chair for the purpose of convening in Committee of the Whole to discuss Bills, Sessional Papers and Motions. Are you prepared for the question? Are you agreed? I declare the motion carried.

MOTION
CARRIED

MOTION CARRIED

Mr. Speaker: The Honourable Member for Watson Lake will please take the Chair in Committee of the Whole.

Mr. Taylor takes the Chair.

BILL #17

Mr. Chairman: At this time, I call Committee to order. We are beginning at section 70, subsection (1), Bill No. 17. (Reads section 70, subsections (1) to (3) inclusive)

Mr. Stutter: Mr. Chairman, I wonder if the Legal Adviser would explain that last part, from "such" on. "... such consent shall not be arbitrarily or unreasonably withheld."

Mr. Legal Adviser: Mr. Chairman, this is a fairly normal section to put in leases and tenancy agreements. It's the subject of a certain amount of litigation. In an agreement, there are certain restrictive covenants, and the courts have always been attempting, with mixed degrees of success, to hold in respect of restrictive covenants, that the landlord should give his consent in the normal case and not withhold it. So, a form of litigation has developed whereby a lessee goes to the court and asks for a declaration when, in the particular case, the landlord's consent is being unreasonably withheld and the court will hold a hearing. This phrase crystallizes the normal words used in drafting a lease and in the interpretation of the lease. They are fairly common and it's a very good type of clause.

Mr. Chairman: (Reads section 70, subsections (4) to (6), sections 71, 72, 73, 74, 75, subsection (1)) Does that read correctly, subsection 75(1)?

Mr. Legal Adviser: I think so; it's the second part of the sentence.

Mr. Chairman: That part where it says that the landlord is responsible for providing, but it doesn't really say what.

Mr. Legal Adviser: It runs on, then, to the centre, you see.

Mr. Chairman: I see. (Reads section 75, subsections (2) to (4),

Mr. Chairman continues ...
sections 76, 77)

BILL #17

Mr. Stutter: Mr. Chairman, I wonder if I might ask the Legal Adviser if, under the widest terms, a hotel owner can be termed as a landlord?

Mr. Legal Adviser: Not in relation to this Ordinance; it's not intended to cover hotels. The relationship of landlord and tenant doesn't apply in this case. It's a different form of contract, the contract to provide accommodation.

Mr. Chamberlist: Well, with respect, Mr. Chairman, there was a very important case here a few years ago where a hotel rented its apartments on a monthly tenancy. The court had ruled that this does apply, where it is rented on a monthly tenancy, whether it is in a hotel or not in hotel.

Mr. Legal Adviser: Then, he's not renting accommodation, Mr. Chairman, as a hotel owner. He then becomes an apartment owner.

Mr. Stutter: Well, this was actually going to be my next question. I know of instances where, motel units in particular, are rented by the week or by the month, and that under such cases, are they bound by this piece of legislation?

Mr. Legal Adviser: Each case would have to be examined on its own merit, but if it's a question of a person moving into a hotel and getting a bill for so many days or a week, and he just continues on, then he just doesn't become a tenant. But, if in the first instance, he goes in and says, I will rent this accommodation, without any services, just the accommodation, for a month, I think, then it would apply.

Mr. Chairman: (Reads sections 78,79, 80).

Mr. Tanner: What obligation does 80(2)(a) have on the tenant, if it is not served on him personally? BILL #17

Mr. Legal Adviser: It is effective. It is effective if given to an adult person who apparently resides with the tenant, such as his wife, common-law wife, grown child, a brother and so on, a father.

Mr. Tanner: Mr. Chairman, supposing he is living with a friend, for example, his friend was in his apartment while he was away for a three month holiday. Would that be obligation on the tenant then?

Mr. Legal Adviser: It is hard to say. You would have to construe the words "apparently residing with the tenant". It is then up to the judge to decide what the facts are really.

Mr. Chairman: (Reads sections 81, 82, 83, 84, 85, 86, 87, 88, 89)

Mr. Tanner: Mr. Chairman, In Whitehorse North, particularly in Porter Creek, I have had occasion to have mail delivered even longer than three days. I am wondering if three days is long enough in this case. I think that perhaps five would be more applicable in the North.

Mr. Chamberlist: No objections, Mr. Chairman.

Mr. Chairman: (Reads sections 90, 91, 92 and 93)

Mr. Tanner: Mr. Chairman, I have one other point here. Is there no other jurisdiction you can have besides a judge or magistrate, or does it have to be ... again I was thinking of the people in the outlying areas? It is putting both parties to some inconvenience to have to come into Whitehorse. Is there no other legal entity we could appeal to?

Mr. Legal Adviser: It is very tricky, law in this field for a justice of the peace, Mr. Chairman. True they do suffer something by having to come in, but I think that if it is an application they wish to make, they can come in themselves, they don't have to have lawyers for it. I don't know any way around it, except regular service going out to these places by either the judge or the magistrate. I can't see any cure for it. There is a mistake in section 93, Mr. Chairman. This section should have read, "this Ordinance or any portion thereof shall come into force on a day to be fixed by the Commissioner". It is my understanding that for the moment, until there is some more time available in the magistrate's court, that the Territorial Court will continue the jurisdiction as it presently has under the Landlord and Tenant Act, but that can be then brought into force if we get a second magistrate, sometime in the future, or the magistrate's court has sufficient time to deal with it. I don't think at the moment that the magistrate's court has sufficient time to deal with these affairs.

Mr. Chamberlist: Mr. Chairman, in the Landlord and Tenants Ordinance as we have it now, it is only the judge that has jurisdiction, and because of the sort in relation to costs as well, that we would at least deal with this part in bringing the magistrates on a lower level. Magistrates are usually people who have legal background, and there is a requirement in much of this legislation for somebody with legal background to be able to adjudicate in various areas. If it was left to just an ordinary justice of the peace, some injustices might develop from it. The point is, of course, as Mr. Legal Adviser has made is quite right. The load that exists at the moment of the courts is such that they couldn't deal with efficiently with all the matters that might come up. The idea is to bring into force those areas that can come into force immediately, and those that cannot, to be brought in at a later date.

Mr. Tanner: Mr. Chairman, assuming for example in Haines Junction,

BILL #17

Mr. Tanner continues ...

where there was an ongoing condition on either part, either by the tenant or by the landlord which neither party could resolve. Who would they appeal to immediately? Is their only recourse through the courts of a magistrate or the judge?

Mr. Legal Adviser: Yes, Mr. Chairman.

Mr. Tanner: Would there be no other way that we could deal with it as far as solving the ... find a solution to the problem without having to come to Whitehorse?

Mr. Chamberlist: With respect, Mr. Chairman, the magistrates usually sit in these outside areas from time to time. The courts move to these areas, and it could be dealt with then. The magistrate deals not only as a magistrate of criminal court, but he also deals in this particular area, as a magistrate in a civil court and he can deal with it.

Mr. Legal Adviser: There is a slight technical and constitutional difficulty in dealing with this Mr. Chairman, in that the Federal Government has the right under the British North America Act to appoint judges. A judge is a judge, depending on the jurisdiction he exercises, regardless of what you actually call him. There have been cases where provinces have attempted to give to people certain jurisdictions which led to litigation and decisions by higher courts such as the Supreme Court of Canada, that the person to be appointed to that post, was in fact, would have to be a judge to exercise that jurisdiction. To get round this, what we have done in an early part of this Ordinance has been to say, that the relationship between a landlord and a tenant is one of contract, and is not one of containing an interest in the land itself. Then, to provide at the end of the Bill, that the trial judge can order a question of interest in land when it arises to be tried in the normal way. It would then go to the Territorial Court. This is merely a device for keeping this simple and keeping it in the magistrate's court. If magistrates are given jurisdictions in relation to land, there is a risk that they may be held to be, section 95 of the B.N.A. Act type judges, and all their decisions thrown out on appeal eventually. It's a difficult constitutional question and we have chosen a particular solution which we expect to work. The magistrate's court in Whitehorse is certainly exceptionally busy. It is completely overrun. He may be able to deal with cases outside Whitehorse during his periodic trips to the small communities. It would be more convenient administratively to have this dealt with in the Territorial Court for the moment. That Court has indicated that it will provide a simple set of rules, and reduce costs and scale the fees for applications under this Act, when and if the Act is passed.

Mr. Chairman: Councillor Stutter will you take the Chair?

Mr. Stutter takes the Chair.

Mr. Taylor: Mr. Chairman, that brings up a good point. We have been sitting here processing Bills over the years saying, that we are granting rights of appeal and this type of thing to magistrates and to indeed, the Territorial Court. It seems to me that the court is moving around the outlying districts, alright, but it is taking too long to get around to those districts to resolve problems such as we might find in this Ordinance. You are sometimes three months between visits. It was suggested, here by former Councils that the time has come when possibly we need a deputy magistrate, a deputy police magistrate probably in the North area, in the Dawson Mayo area, and another certainly in Watson Lake. I think now that we have accepted the responsibility for justice in the Territory, I think that this should be reviewed and some provision should be made, if necessary, in the Yukon Act to permit this. Stipendiary magistrates might be the answer, but we do need ... the time has come, that we have such a volume of legislation and such a burden on the courts, that the time has come when this has to be looked into and resolved. I think that it is a little much to ask people to wait three months to have justice done, you know, one way or the other. This could be done

Mr. Taylor continues ...

in Whitehorse, here I suppose on a month ... at least within a month you should be able to get something going before the courts. Even this is bad. BILL #17

Mr. Chamberlist: Mr. Chairman, we have no such thing anymore as a police magistrate. This is a nonexistent office now. We have magistrate's courts, and we also have two deputy magistrates who come in from time to time as the load of the courts warrant it. Certainly, there is a difference between the magistrate's court acting on criminal matters and those areas of civil jurisdiction. Mr. Legal Adviser has already indicated that the Territorial Court will be submitting or preparing a different schedule of fees to relate to this particular piece of legislation, so that when the Territorial Court is dealing with it, that the normal Territorial Court costs schedule will not be used in the payment of costs for hearings in these cases. One of the reasons why the magistrate was included in section 91(1) was to make it so that the costs of the lower court would certainly be beneficial to any applicant, either landlord or tenant who wish to take advantage of the new sections of this Ordinance. I think that what the Honourable Member has said may well have some merit, but the courts certainly are attempting to give justice, especially in civil matters as quickly as possible. In many matters of a criminal nature, it is not the courts usually that extend the time of the hearings, it is the fact that those lawyers who are defending, quite often to give a proper defence for their clients, ask for extensions of dates to later dates to prepare their cases. This is what happens in many instances. I do however, feel that if we would go beyond what we have now, a judge of the court or a magistrate and bring in the ordinary justices of the peace, it would be pretty heavy on the justices of the peace, and we would probably have much higher costs involved because of the results of the many appeals that would be taken. The justice of the peace, as well, may also feel that not being competent to deal with basically, matters of law, would perhaps also set their case aside for a magistrate or a judge to take his place. This can be done. I think that for the present at least, we have come up with the only solution at this time, what Mr. Legal Adviser has indicated is quite right. It is a very difficult situation, and I would ask that Members at least recognize that we have gone a long way forward in trying to seek an answer to these problems.

Mr. Taylor: Mr. Chairman, I respectfully submit that we haven't gone too far in resolving the problem of getting some of these cases to court. That is what I rose to speak of. Indeed, I think in the High Court, that some decisions take as long as fourteen months for an issue to be resolved after the case is heard, and this type of thing. More importantly is, how can you get it on the roster and get these matters done? I still say that stipendiary magistrates could be the answer, by getting a couple more in circuit around here. This would require a change in the Yukon Act, in order to so permit. British Columbia do it, they have appointed their justices of the peace, most of them are now judges, provincial court judges. I see no reason, I am sure other jurisdictions do this as well. I see no reason why we can't do this in the Yukon Territory.

Mr. Legal Adviser: Mr. Chairman, it doesn't need any change in the Yukon Act. No, this Government has the authority to appoint any form magistrate it likes. A stipendiary magistrate really means a magistrate who is getting a stipend as a professional magistrate as opposed to a nonprofessional magistrate. You can remunerate a magistrate by so much per day, or so much per week, or so much per month, or so much per case, if that is the thing. We pull in two deputy magistrates, not at the same time, when the criminal load gets too severe, and builds up to try and reduce the load. It is not a very satisfactory form of doing things. The magistrates come from outside, and they cannot ... they are not programmed to having the lawyers bring in cases which could be heard if in the event that, if coming up for a week and the case collapses, it is not too uncommon on Tuesday, he has five days potentially available to try cases, but he can get no cases because

BILL #17

Mr. Legal Adviser continues ...

he can't get at the lawyers in time to usefully utilize the five days. We would be better off with a second magistrate. I think that we can't give the justices of the peace any more jurisdiction because I think in the first place, most of them would refuse to act because they would feel that they hadn't sufficient background knowledge of the law to arbitrate on the legal issues involved, whatever about the factual issues. I think that it is just a question of the fact that we are so spread out in our population, that it is very difficult to give efficient service, except at high costs to government. We have two full time judicial officers, the Territorial Court Judge, and the magistrate. They are both working very hard, doing the best that they can but the distances to travel for half days or individual minor cases are so tremendous that we just can't cope with the real needs of the people outside Whitehorse, except by other officers at tremendous expense.

Mr. Taylor: Well, Mr. Chairman, just in closing my remarks anyway, I can only say that I have been raising this now since the very early 1960's, when I first came to Council, this question of getting magistrates, in what I termed stipendiary magistrates, out in the outlying districts more particularly in Watson Lake. I just state that I am going to continually and keep continuing to raise this question until we can get some relief. I think that the courts are just too bound up now, and it is working a hardship on the people who are seeking adjudication in one form or another.

Mr. Taylor resumes the Chair.

Mr. Chairman: Anything further at this time. I believe that we have witnesses coming, do we not?

Mr. McKinnon: I have some questions, Mr. Chairman. I was wondering if there was any thought given at all to making the tenancy agreements mandatory, when writing this Ordinance?

Mr. Legal Adviser: The question was considered, Mr. Chairman, but a very high proportion of tenancy agreements are simple oral agreements whereby a person moves into an apartment or a number of rooms at so much a week, and so much a month. Everybody knows what the rules are, and to insist that everyone has to be in writing, means that somebody would be committing a criminal offence, if they actually went in to live without getting a written agreement. We had the alternative. The alternative was, to strongly recommend that landlords and tenants do certain things. If these things are not done, give the court power to punish the landlord by refusing to enforce some particular thing that he wants to get done against the tenant. We are doing this, and the Ordinance then becomes self policing to allow this.

Mr. McKinnon: I have rented since I have come to Whitehorse, and I have never had a lease agreement with any of my landlords. I have had a terrific relationship with all of them. We have never had a bit of problem. It has been a completely oral thing. When you just have the oral agreement, this is generally where the problems do arise, where a person says, well he told me that he was going to do this, and he didn't and vice versa. The landlord said the tenant was going to do this and he didn't. There is no other body, other than the courts who can adjudicate something of this nature. I know that in B.C. they have, what they call the, landlord and tenant advisory bureau which adjudicates these type of disputes between landlord and tenant, and not wasting the time of the court which is really a minor issue to the court but a major issue as far as the landlord and tenant is concerned. I was wondering if there was any thought given to such type of board that would adjudicate these disputes between landlord and tenant under a verbal agreement, so that the time of the courts wouldn't be wasted with this type of problem?

Mr. Legal Adviser: No, no very serious consideration was given, although the subject was discussed. If we create a series of boards, we get attacks on one side of the house. If we don't create them, we get attacks

Mr. Legal Adviser continues ...

on the other side of the House. It is very difficult to try and steer an even course down the centre, creating just enough boards but not too many. I agree with the Honourable Member that it is a normal growth in government activities in very many parts of the world now, that boards of various sorts, such as Mediation Board, Landlord and Tenant Board are set up. Very often they are set up by the municipality itself, and they adjudicate within the municipality on the disputes between landlord and tenant in that particular municipality. If we set up a board, then we have to fund the board. So, one problem creates another, Mr. Chairman. There is no legal objection to creating a board. It is a question of funding it and giving it a jurisdiction after that.

BILL #17

Mr. Chamberlist: Mr. Chairman, I would like to point out to the Honourable Member from Whitehorse West that certainly the section 75 is specific in as much as in creating of a tenancy, whether it be for a week or month, or a year. Whether it is written or oral, that the "landlord is responsible for providing, and except where otherwise provided by express written agreement to the contrary, is responsible for maintaining the rented premises in a good state of repair" etc. The onus is upon the landlord, whether you have a written tenancy or not, to maintain the premises in good repair. This is a section that has never been in the legislation before. I think that the Honourable Member brought that up as a kind of example, I suppose to the effect that the landlord made certain promises at the time of the renting of the premises. Now, whether he has made those promises or whether he has not made those promises, there is a legislative statutory requirement upon him to do those particular things. The question of whether or not the agreement should be written. Most people know that people move into some premises for a week or month, and then they take off. This happens to many, many tenants. It has no value at all, as far as that goes for short term periods. Certainly, a landlord wants to lease for a year, will and a tenant that wants to rent for a year, will automatically both for their own protection, and certainly for their own convenience enter into it, a written agreement. Basically, the general increased benefits to the tenant is far greater in this piece of legislation, which is added to the existing Landlord and Tenant Ordinance, than has ever been placed in the legislation before.

Mr. McKinnon: The abolition of the security deposit really reflects the Yukon situation, but I think it's quite different from other areas. The transiency of the population; for one if you talk to people who own apartment houses, the turn-over rate in the Yukon is much, much higher than it is in other jurisdictions because of the transiency of the population. I think that the youngness of the population also scares a lot of landlords because there's an awful lot of parties that are held in the buildings which they are renting and without the security deposit, it seems to me, that it is a little difficult for the landlord to recover damages when the person moves out if he hasn't got something to be able to take the damage money or part of the damage money out of, that it's almost impossible to collect from someone who's skipped...left the Yukon because of the transiency of the situation. I wonder if there is any discussion on ... perhaps leaving some sort of security deposit in.

Mr. Legal Adviser: That wouldn't make to disclose difference of opinion in what was discussed in Committee but the puzzle...it was not abolished, it was limited. So when a person is going into a premises he can be asked for two months' rent in advance, and then the landlord will debit one of those months to be first month's tenancy and continue to hold the security deposit; so he has a month's rent in hand against barrenment until the end of the tenancy. It's a restriction not an abolition.

Mr. Chamberlist: I've a point, Mr. Chairman. I would point out to the Honourable Member section 71, which deals with mitigation of damages in that region.

Mr. McKinnon: What you're saying is that you're not calling it a security deposit any longer... it says that the landlord shall not require or receive a security deposit from the tenant.

Mr. Legal Adviser: More than.

Mr. Chamberlist: But you see in section 71 with the damages that are generally applied under the rule of law relating to breaches of contract, can be dealt with in that particular area so that consideration can be given to the saying, do you agree that the amount of damage is X dollars, and this is an arrangement that was made... is made between tenant and landlords.

Mr. Legal Adviser: Other than a month. That's in addition to the first month's rent itself.

Mr. McKinnon: There's this problem then. Some places in Whitehorse if the person has an apartment and he's going for a holiday or is being called away for a month or two and lets someone else move into that apartment, this can't be done, I understand, without the permission of the landlord. Now what if the landlord refuses, which has been done in many instances, so the person is left with an empty apartment for two or three months all the time he is away, but he could have sublet it if the apartment owner...the landlord had agreed to let him do so.

Mr. Legal Adviser: In the section which one of the other Members asked about was, the landlord should not unreasonably withhold his consent; so if an application is made in Court the landlord must justify himself.

Mr. McKinnon: Would it have to go to Court again to arbitrate this?

Mr. Legal Adviser: Well I shouldn't be disclosing the whole thing, but the correct thing for the tenant in those circumstances to do is to sublet anyway instead of reasoning with him.

BILL #17

Mr. Chamberlist: The landlord is placed in the position, in that particular area, of where a tenant goes away for three months for a holiday and he wants to get his revenue coming back from what he's been paying out, but you see, instead of saying to the landlord "Joe Blow is going to be in my apartment for three months and I'm going to rent him that apartment; is it O.K. for me to do that." the landlord says "Joe Blow! I threw him out last week, out of the other apartment; I don't want him in there because he's done so much damage. He broke our windows, he's had parties all the way through the night, the other guests are being disturbed." So this is a reasonable reason to withhold. But this is why the words are not to be unreasonably withheld. If a tenant who is not known to the landlord, and there is no reason why the landlord should be opposed to it, then of course he wouldn't unreasonably withhold from it. If he did unreasonably withhold, then it's a matter for the Court to decide.

Mr. Tanner: Mr. Chairman, is the Honourable Member saying then, the onus is on the landlord to take the tenant to Court? It sounds like a reasonable way to a solution.

Mr. Chamberlist: That's right. Mr. Chairman, I wonder if any arrangements have been made for the members of the Consumers Association to be here now. The Honourable Member from Whitehorse West, I wonder if you could indicate to the Chairman.

Mr. Chairman: I believe arrangements have been made and this party expected, should be here sometime between 10:30 and 1:00. We'll be breaking for coffee at about quarter to eleven.

Mr. Stutter: Mr. Chairman, before we go on to another matter, or before we break for coffee, I wonder if Committee could decide for sure exactly when they want representatives to come in from the municipalities. On Friday when we broke, at that time it was decided on Wednesday, but now after talking to the Mayor of Dawson over the weekend I find that although the Ordinances were sent to him on February the 4th they didn't arrive in Dawson until February 11th which hasn't given him much time or the council much time to study these pieces of legislation.

Mr. Chairman: I might state from the Chair that the Mayor of Faro has also hardly begun this piece of legislation and Wednesday is far, far too early for the Faro Municipality.

Mr. Tanner: Mr. Chairman, I think this illustrates an extremely good point that some Honourable Members wanted to bring these people in before we were finished with legislation, and they wouldn't have had any time to consider and I think the Government has illustrated an extremely good point in that we didn't want anybody in before everybody got time to consider it. Wednesday was a good enough date before and I don't feel we should change it unless other Members have some particular reason for it.

Mr. Stutter: Mr. Chairman, I don't quite follow the argument that has been put up by the Member for Whitehorse North. On one instance, he says that it was to give them time. I've just pointed out that this particular batch of legislation didn't arrive in Dawson until Friday 11th. Now they haven't had time to study it. It's taken us ten days to read through these Ordinances and this is working on them five and six hours a day. How do you expect the Mayor and Municipality of Dawson to go through them in three days, I just don't quite fathom it, and I'm asking that they do be allowed a little further time. I believe the Clerk is going to contact the Mayor this morning, that's why I've requested this issue be resolved right now.

Mr. Chairman: Councillor Stutter will you take the Chair.

Mr. Stutter takes the Chair.

Mr. Taylor: Mr. Chairman, one thing that could have some bearing on this is, apparently I'm told we are going to have a recess.

Mr. Chamberlist: And we might not. If we don't get on with the work. *BILL NO. 17*

Mr. Taylor: But I assume that this is going to be rammed down our throats so obviously nothing has been discussed on this subject. But if there is going to be a recess I'd like to know when that is so it may be we can give the municipalities until following any contemplated recess, in order to give them sufficient time to study their Bills which have now been forwarded to them.

Mr. Chamberlist: Mr. Chairman, the question of recess has no bearing upon the question that has been raised by the Honourable Member from Dawson, who seems to be concerned about seeing the people from Dawson get an opportunity to read these Ordinances. However, all of a sudden the Honourable Member from Watson Lake is being concerned about Faro. He only went there once in fourteen months after he got elected, and now he is showing concern. Mr. Chairman, the question of recess cannot arise unless we know that we are going to get through and get on with the matter of getting the legislation we've got through before the end of March. Now I'm sure that all Honourable Members recognize the fact that we've got a big load of work to do, and I'm not going to indicate about when there will be a recess until such time as we know when we can proceed with the work that we have before us. If the Honourable Member from Dawson can indicate how many more days Dawson would require to review the legislation I know that the Whitehorse area ... the Municipality has been studying the legislation continuously. I can't quite understand why Dawson hasn't been able to do this, or now that Faro is mentioned, why they haven't been able to do this. I think that the people of Faro are fairly satisfied with the general trend of the legislation. I also am in contact with Faro. I find that the Municipality of Faro turn to me and are turning to me now more and more often to look after their interests and I'm willingly doing that for them. But if the Honourable Member from Dawson is prepared to indicate how many days would be required and a reasonable time, I'm sure the Government would give consideration to it.

Mr. Taylor: I will resume the Chair at this time.

Mr. Taylor resumes the Chair.

Mr. Stutter: I think the best way I can answer that, I'm not particularly trying to pass the buck, but inasmuch as the Clerk is going to be phoning the Mayor, I think that it would only be fair to ask the Mayor what is the shortest possible time that they can study it and perhaps we can have that answer by the time we come back from the coffee break.

Mr. Chairman: Councillor Stutter will you resume the Chair please.

Mr. Stutter takes the Chair.

Mr. Taylor: Mr. Chairman, I just want to make one thing quite clear. I do not agree with the Honourable Member who has spoken who states that the municipalities have had sufficient time to study this Bill. This is another bunch of absolute unadulterated hogwash and I think that I couldn't let this one go by without pointing out that if the municipalities had of been invited to this Table as was suggested by some Members of this House, we would have been all going through this together in one little operation ...

Mr. Chamberlist: Without study?

Mr. Chairman: Order please.

Mr. Taylor: The only people who have studied this Bill at this Table are the two that had a great deal of creating it, and that's the two Executive Committee Members who spent months on this Bill. Now all of a sudden they expect everybody else in the Territory to figure it out

BILL NO. 17 Mr. Taylor continues ...
in a matter of a few days. This is very highly undemocratic. But there is indeed now ... instead of doing it altogether, there are three run-throughs of this thing. We run through it, the Municipalities run through it, and then jointly, we run through it for the third time. So this is what's costing the time and effort. I think that these people need at least a week. I talked to the City Manager of the Municipality of Whitehorse over the weekend and he indicated that they are just slowly plugging through this thing and it's just too big a chore to do in a few days and they would like more time than up to Wednesday. I would suggest that it go a week Wednesday. It would at least give the municipalities a better chance. Now secondly is, it's been stated by the Honourable Genius across the way

Mr. Chamberlist: Thank you.

Mr. Taylor: that the recess would have no bearing on these submissions and I submit to you that it would be foolish for the Mayor of Faro and the Mayor of Dawson to have to come in to here at his beck and call and then a recess be called and they have to go home again three days later, and come and go. Now I think the matter of the recess, whether there will be or won't be, should be determined because I think it has a great bearing on how we proceed with this Municipal Ordinance.

Mrs Watson: Mr. Chairman, I feel that we can't use the Honourable Member from Watson Lake's ideas ... yardstick of time . The Honourable Member from Watson Lake is still needing time to study Medicare. He's had almost eight months now to go over all the material and information that has been divided and he still wants time to study it. If we go by the Honourable Member from Watson Lake's request we could be sitting here for another six months studying Municipal Ordinances. Let's get on with the business.

Mr Taylor: I don't know how Medicare got in here because you don't have to study that one long enough to know to throw it out. That's what every man on the street is going to do.

Mr. Chairman: Let's keep this discussion relevant.

Mr. Chamberlist: Mr. Chairman, I have seen no merit whatever in what the Honourable Member from Watson Lake has been talking about this morning. Mr. Chairman, I would much prefer to be guided by the sensible suggestions which have been made by the Honourable Member from Dawson in this regard and we will wait until the Clerk has given us the information with reference to his conversation.

Mr. Chairman: I think at this time we will have a brief recess for coffee.

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Mr. Chairman: At this time, I call Committee to order. We have two witnesses with us today, Mrs. Burns and Mrs. McCowan, to assist us in discussion relative to Bill No. 17.

BILL #17

Mr. McKinnon: Mr. Chairman, I think all Members of Committee are aware that the Consumers' Association presented a brief to the Government of the Yukon Territory concerning landlord-tenant legislation. I see some of the points that were raised in the brief have been incorporated in Bill No. 17. There are other certain areas where the Consumers' Association suggested a certain type of action, which hasn't been taken. I'd like to ask either Mrs. Burns or Mrs. McCowan, or each of them, how they feel that Bill No. 17, the Ordinance to Amend the Landlord and Tenant Ordinance, is as written and if there are any other areas they would like to see incorporated in the Bill before it becomes law.

Mrs. McCowan: We're here to lend our support, more or less, to the Bill as it stands, but there are a couple more points we would like to ask about and some points we would like clarified in this Ordinance. We would like to have seen that landlord-tenant agreements were made mandatory in writing, if possible, for the protection of landlord and tenant alike. So that everything would be stated and laid out in black and white, the same as any other legal type contract. That was part of our brief. We'd like to know, was there some reason that this was not included?

Mr. Legal Adviser: This question was asked before the witnesses came, Mr. Chairman. It's a very difficult thing to enforce. It means saying that anybody who does not furnish a written agreement, is committing an offence and it puts the enforcement right back onto the Territorial Government, whereas, the general design of the Bill is to allow the parties to enforce it themselves by denying the landlord some rights he normally would have, if, in fact, he doesn't comply with a reasonable request or the rules laid down in this particular Ordinance. That's the basic reason for not requiring this.

Mrs. Burns: I can see the problem with enforcement, but our particular reason for requesting this type of written agreement is that, usually, the landlord, because he is in the business, so to speak, knows the rules. A person who is renting doesn't have the same knowledge and he will take the landlord's word for it, or will assume something that, perhaps, isn't so. He may or he may not have his rights violated; he has no idea of where he stands, legally. He doesn't know what is supposed to be included in the agreement, what he should be responsible for, what he can legally expect, and what is legally expected of him.

Mr. Chamberlist: I would first like to indicate that this legislation was prepared as a result of a request of some year or so ago, and that the brief, or anything contained within the brief, had no bearing on the present legislation, because it was already in the mill and being worked on and being prepared. I think, Mr. Chairman, the ladies here will agree that their brief was presented just a few weeks ago, and it takes a lot longer than just a few weeks to bring legislation forward. So, I wanted to make it clear first, that this legislation was prepared prior to the brief. Incorporated in this legislation, were some of the ideas of the Consumers' Association, as a result of my attending a meeting at which they had a discussion relating to the Landlord and Tenant Ordinance. I raised and pointed out some areas to them at that time, which would be very, very difficult to put into being. One of those areas was this particular area relating to tenancy agreements. The legislation itself, now, as a result of that request, takes care of certain aspects of an ordinary tenancy agreement, inasmuch as the premises must be in a condition to be rented. It can't be a premises that is not for human habitation. The landlord would be unable to rent those premises. That is incorporated right in the Ordinance, the tenant has that protection there. Certainly, if a person was only going to rent for a month or two months, it would seem

BILL #17

Mr. Chamberlist continues ...

pretty futile and foolish to have a written agreement, when it is so short a tenancy. But, most landlords and most tenants, to protect their own interest, would want a lease, which is written agreement, if they were to go and rent for a period of one year. This, of course, is something that is arranged between them. Now, if the witnesses are indicating that any lease of residential premises, or rather, any rental of residential premises, under a year, should not necessarily be on a tenancy agreement, but those of a year and over should be, I think there would be no objection to getting that amended to fit that particular point. It may have much merit, although Mr. Legal Adviser will indicate that it should not or could not be done. It seems there is an onus upon people to, not to force people to sign agreements if they don't want to. It may well be that the tenant wants to be able to rent a premises and he may want to just be there for three months, and give a normal month's notice. If he is fixed on an agreement, it might jeopardize him. So, on this particular point, I reply, Mr. Chairman, that...I wonder if the witnesses can comment in that area. It must be pointed out that it is this Legislative Chamber that makes the legislation, and then, when we ask for your guidance, not in the making of the legislation so much as in the research that you people have done and the objections that you may have had tenants or landlords bring to you, an attempt will be made to make an acceptable piece of legislation to everybody concerned. Certainly, I'm sure you must appreciate that the House here cannot be directed by the Consumers' Association in this regard.

Mrs. McCowan: Certainly, we realize that. It says in here, on the first page of this Ordinance that was brought forth, "'tenancy agreement' means an agreement between a tenant and a landlord for possession of residential premises, whether written or oral, express or implied ..." Just how much right does this give a tenant? A landlord might say one thing and proceed to do something else. What protection does a tenant have if it's just an oral agreement? It's one man's word against another's.

Mr. Legal Adviser: An agreement, Mr. Chairman, is a spiritual thing. It's arrived at by consent of the two parties. The writing is merely the evidence of what they have agreed about. They can agree orally, or they needn't agree orally at all, and certain things will be understood. It's the function of a court, in the event of a dispute, to listen to both sides, if they have written evidence, to produce it, and quite commonly, there are other people standing by at the time of the conversation, and it's the duty of the court to find out, actually, what are the terms of the contract between them. That's what it is. There is no greater sanctity about an oral agreement than a written agreement, or an express agreement or an implied agreement. They are all agreements and are equally enforced by the court, provided the judge knows what the agreement, in fact, is. Now, the main difference in oral agreements and written agreements is there is a greater area of dispute, so the judge has more trouble finding out what, in fact, was agreed. But, there are a series of things in this particular Ordinance which, even if there was a written agreement, would affect the written agreement without being written into it at all. All the list of things which the brief asks for, such as privacy, entry by canvassers, alteration of locks, responsibility for repair, responsibility for cleanliness, notice of rent increase and so on ... all those things do not now need to be in the written agreement, if a written agreement exists, because they are the law, notwithstanding the omission and notwithstanding an attempt by a landlord to try and contract out of the Ordinance. So, if the written agreement happens to be made, it would now be very much shorter than before. There are only a few things they have to agree on now, the amount of the rent, the term of the tenancy, where the rent is to be paid to, and all of those series of things, without the necessity of writing, now are the law as between a landlord and a tenant. But, it's just a difference of philosophy. It's a harsh thing for this House to interfere with the privacy of contracts at all, and it has done that, but then, to enforce a rule that everything must be in writing, it is something which is not done in any other legislation. You don't insist that agreements be made in writing. Normal commercial agreements, which are happening every day of the week, the relationship between a client and

Mr. Legal Adviser continues ...

his bank, between the Government and various people they deal with ... very, very commonly, they are just a telephone confirmation, that they will accept this and they will do this, and a series of implied conditions are then understood by the court to apply to that particular type of agreement.

BILL #17

Mrs. Burns: Our major concern with this area was that people would be renting and not realize the rights that they did have. We felt that, if they were in writing at the time that they agreed, they would know that they had the right of privacy, that the landlord couldn't come in without say, twenty-four hours notice, if they didn't wish it. Normally, a person renting doesn't go and read through a great Ordinance. Maybe they are renting for a year, maybe two ... this doesn't enter their heads until an occasion comes up and they think, no, I don't think that that was right. The problem arises there and this is why we were concerned.

Mr. Chamberlist: Well, Mr. Chairman, I should point out to the witnesses that there is provision for notices, now, to be placed in an area where there is a rented premises. This is one of those things; so, it's up on the wall in the form of a notice. It's in the legislation. Really, this is a far greater protection than what you are asking.

Mrs. Burns: We are most pleased with the basic content of the Ordinance. That was very excellent.

Mr. Tanner: I think there is one thing that hasn't been said here, and I'm sure we are all very much aware of it. Somewhere along the line, there is an obligation on the tenant, or anybody, the public in general, to inform themselves. The Government can only go so far and can't extend its protection to the point where you're going to ask each person to read the Ordinance. I think we've really tried to go as far as we possibly can, as far as the notices are concerned, without handing the Ordinance out to each person.

Mrs. McCowan: That's true; the public has to be aware on their own, and know there are such things as legislation to cover it.

Mrs. Burns: Could we ask some more questions?

Mrs. McCowan: I would like to know ... section 66 "The doctrine of interest ~~termini~~ is hereby abolished." What is that, exactly, please?

Mr. Legal Adviser: My assistant will tell the House, Mr. Chairman.

Mr. Chamberlist: Go ahead.

Mr. Legal Adviser: It's a doctrine that has applied since feudal times. If you are late going into the premises, you have no interest in the term until delivery of it, until you take possession. This is abolishing, in respect of this part, this particular doctrine. It's a highly technical thing.

Mrs. McCowan: Okay. What is the doctrine of frustration of contract?

Mr. Legal Adviser: It's the rules that apply ... when a contract is perpetrated, there are certain rules which apply dealing with it, and as a substitution for those rules, this Ordinance takes over.

Mrs. McCowan: Okay. Section 69, "... concerning things related to the rented premises ..."

Mr. Chamberlist: Covenants.

Mrs. McCowan: Well, yes. I didn't know whether I should read the whole thing or not. But, what does this mean in plain English, section 69?

Mr. Legal Adviser: Mr. Chairman, it's wrong to think that the intention

BILL #17

Mr. Legal Adviser continues ... of the draftsman of this Bill is trying to write in plain English. He's writing so the courts can understand this. A covenant is a clause in an agreement and there are certain types of clauses that run on with the land, even though people change in the middle of the tenancy. So, if a covenant ... in the normal rule of law, a covenant would be in relation to a chapel, to a thing. A covenant will only commence to run with the land if the thing is in existence at the time. So, if there happens to be a clause relating to the provision of certain services or things, they will commence to run, whether or not a particular cooker has been bought, or the stairs have been put into position at the time the agreement is made.

Mr. Tanner: Did you get that?

Mrs. McCowan: I think so, yes. I don't think that point will concern us, too much. There is something else. What about this distress business? You abolish distress except ...

Mr. Chamberlist: By order of the court.

Mrs. McCowan: Yes. Now, does that supersede anything that is in the present Ordinance, right now? That cuts out all this other portion about keeping the one horse, one cow or one shovel and cutlery and so forth?

Mr. Legal Adviser: Not quite. If distress is ordered by the court, then those protective rules for the tenants still subsist. But, it does abolish the right of enforcing the law himself, insofar as the rules are set out. In certain circumstances, he can, but in ninety-nine per cent of the cases, the landlord's right of distress has been abolished.

Mrs. McCowan: He must go to the court and have an order to do this.

Mr. Chamberlist: Prior, Mr. Chairman, it was the landlord who would go and proceed on the basis of the Ordinance. Now, he has to go to the court to get the order first, and the court can use its own discretion at that time. It's in posse.

Mrs. McCowan: I think we've asked all of our questions. As we said earlier, we're very satisfied with the Bill as it stands. It's a great improvement over the other Ordinance. It give protection to both landlord and tenant, more now for the tenant than ever existed before, and it's a very good Ordinance, we feel.

Mr. Chamberlist: Mr. Chairman, I'm very pleased with what has been said, because at least now we know that the press will report that the Yukon Territorial Council has done something worthwhile.

Mr. Chairman: I wonder if you have any additional questions of these ladies. I wonder if they, then, might be excused. We would like to thank you both and your Association for the hard work you have put into this endeavour and thank you for coming.

Mrs. McCowan: Thank you for allowing us the time to be here.

Exit Mrs. Burns and Mrs. McCowan.

Mr. Chamberlist: We have a couple of alterations.

Mr. Tanner: Mr. Chairman, page 8, five days, and also, I believe the Legal Adviser advises that "this Ordinance or any portion thereof" should be added. There is just one further point which the Honourable Member from Whitehorse East brought up; the fact, he made the suggestion to the witnesses ... perhaps, the agreement could be in writing for a contract of one year or over. I wonder if any consideration could be given this.

Mr. Chamberlist: Mr. Chairman, I gave that as a thought but I'm not going to discuss it with Legislative Programming. The witnesses didn't seem too impressed, one way or the other. I think unless Members of

Mr. Chamberlist continues ...

Committee feel that something like that should be done, we should leave *BILL #17*
that alone.

Mr. Tanner: Mr. Chairman, I would suggest that perhaps we should leave it alone this time, and perhaps review in perhaps a year or so.

BILL #17

Mr. Legal Adviser: The House should be aware of the fact that there are other rules governing landlord and tenant relationships for non-residential tenancy. In the Land Titles Office, you can register against property any lease which is for three years or more. In effect, we have a rule of basic law from the Land Titles Act that a lease which is expressed to be of three years or longer, being registerable against the property, can be the subject of a caveat to give protection. We have this basic rule of practice that any long term lease, three years and over will be in writing. Leases for one year or more are almost invariably, when the agreement is made for a year or more, in the first instance, they are in writing. The common form of tenancy agreement is of course a month to month agreement, and there is not very much necessity to have that in writing. If the tenant asks for it, all landlords will be only too happy to give it, I am quite sure. They will prepare it.

Mr. Chairman: A motion isn't required. Is it your wish that I report progress on Bill No. 17?

Mrs. Watson: Mr. Chairman, could we not move it out of Committee, we have agreed upon the amendment? Just move it out of Committee, just for two minor ones.

Mr. Chairman: There has been no amendments prepared.

Mr. Legal Adviser: There is only two points. Two minor things, and that is in section 89(2) "It will be deemed to be delivered on the fifth day after the date of mailing", and in section 93(1) to insert the words "or any portion thereof" after the word Ordinance. They are very minor changes.

Mr. Chairman: This is true, I just only point out to you, if there are amendments to the Bill, they have to be moved and seconded. However if you consider these to be errors in typing, well that is something else.

Mr. Tanner: Mr. Chairman, I would move that in section 89(2) ...

Mr. Chairman: Just before the Member states the motion maybe I should restate what I just said. If an amendment is to be made any Bill, usually this is moved and seconded and submitted to the Chair, but if you consider section 89(2) that the word third really should mean the fifth, and that the words "or any portion thereof" were left out of the typing as a typing error, I am sure that this would satisfy the whole question. If this being the case, the Chair would entertain a motion to move it out of Committee.

Mr. Chamberlist: Mr. Chairman, I would move that Bill No. 17 be reported out of Committee without amendment.

Mr. Tanner: I will second the motion, Mr. Chairman.

Mr. Chairman: You have heard the motion. Are you prepared for the question? Are you agreed? Any contrary? I declare the motion carried.

MOTION CARRIED

*MOTION
CARRIED*

Mr. Chairman: The next Bill is Bill No. 18, An Ordinance to Amend the Motor Vehicles Ordinance.

BILL #18

Mr. Stutter: Mr. Chairman, I wonder if I might ask, before proceeding with this Bill, if the Clerk did in fact contact the mayor during the recess, and what his answer was?

Mr. Clerk: Yes, Mr. Chairman, I contacted Mayor Comadina of Dawson City, and he indicated that they would be prepared to be here on Thursday of this week.

Mr. Chairman: How about Faro?

Mr. Chamberlist: Well, this is satisfactory, Mr. Chairman, we appreciate Mr. Clerk's information and perhaps we could advise the other municipalities that Thursday will be a satisfactory day to meet with them.

Mr. Stutter: Well, Mr. Chairman, it wasn't exactly my wish that the whole meeting be determined on the wishes of the Mayor of Dawson. If the Clerk would contact the other municipalities, maybe they would agree, maybe they wouldn't agree.

Mr. Chamberlist: Mr. Chairman, with respect, this House doesn't depend on the control of the operation of the House by other municipalities. We have not heard, this House has not heard, other than has been indicated by the Honourable Member from Watson Lake that the city manager wanted extra time. I have been informed by members of the city council, individually, that they will be prepared to come here any time they are asked. I am sure that the City of Whitehorse, will be here on Thursday. I am sure that Mr. Clerk will be able to contact Faro and I am sure that they will come along too. They want to co-operate with us, and I am sure that we want to co-operate with them. I think that Thursday would be a good day.

Mr. Chairman: Well, I can only state from the Chair, that it was agreed by Committee this morning that the municipalities would be told to find out as to when they would be prepared to come. I think that we should hear from Faro, and Whitehorse before a firm date is firmed.

Mr. Chamberlist: The invitation is extended for Thursday, subject to what Mr. Clerk can find out from Faro.

BILL #18

Mr. Chairman: Are you prepared to deal with Bill No. 18?

Mr. Chamberlist: The purpose of this Bill is to bring non highway vehicles under the Motor Vehicles Ordinance when operated on a highway.

Mr. Chairman: (Reads Bill No. 18)

Mr. Tanner: Mr. Chairman, I have read in the news media that all jurisdictions are having problems with snowmobiles. I would assume that this is designed specifically for snowmobiles. I wonder if the Honourable Member from Whitehorse East could assure the House ... West that this will give the authority which we are looking for to control snowmobiles on the highway or in public places?

Mr. Legal Adviser: It might, but that was not the intention of the Bill. It arises because of a specific case which occurred which was brought to the attention of the Government, where a young boy drove down the highway and he drove, I think it was either a backhoe or a caterpillar tractor. Which, because it had at some time been engaged in off highway operations was deemed not to be a motor vehicle. When the father was charged with permitting this child to drive this enormous vehicle, he answered that it wasn't subject to the Motor Vehicles, and you could drive this on a highway without a driver's licence or without any test. This is plugging that particular gap.

Mr. McKinnon: And he was right.

Mr. Tanner: Mr. Chairman, perhaps the Legal Adviser could address the House as to whether or not the Municipal Ordinance or this particular paragraph in the Motor Vehicles Ordinance will control snowmobiles in public places?

Mr. Legal Adviser: I don't think the Government, as such, has attempted

Mr. Legal Adviser continues ...

to control off highway snowmobiles in the municipality. It is giving that power, except in a general way, it is giving that power to the municipalities concerned. Snowmobiles operating on a highway, do come under control. They always have.

BILL #18

Mr. Stutter: May I ask the Legal Adviser if when this particular amendment comes into effect, would a snowmobile operator in actual fact, then be required to undergo a drivers test in a vehicle before he could operate a snowmobile on the streets?

Mr. Legal Adviser: I don't know; I need notice of that question, Mr. Chairman. At the moment, the position is that a person needs an operators licence to drive a snowmobile on a highway. To get that operators licence, he has to do a test, on a highway. Off highway is different.

Mr. Tanner: Mr. Chairman, could I ask the Legal Adviser when we talk about highway with regard to the Motor Vehicles Ordinance, whether we specifically talk about the roadway or the right-of-way on either side? The reason that I ask the question is, because many snowmobile operators go along off the side of the highway but they have quite a searching light on them, and it makes it difficult to operate a vehicle when you are approaching a snowmobile who's on the right-of-way of the highway.

Mr. Legal Adviser: I couldn't give you a quick answer to that. I think a road would include a road allowance. Don't nail me to the cross if I am wrong.

Mr. Chamberlist: Mr. Chairman, I would move that Bill No. 18, be passed out of Committee without amendment.

Mr. Chairman: It has been moved by Councillor Chamberlist, seconded by Councillor Watson, that Bill No. 18 be reported out of Committee without amendment. Are you prepared for the question? Are you agreed? I declare the motion carried.

MOTION CARRIED

*MOTION
CARRIED*

Mr. Chairman: The next Bill is Bill No. 19.

BILL #19

Mr. Chamberlist: Mr. Chairman, the purpose of this Bill is twofold. Glue sniffing is made an offence and an attempt is made to control possession of materials used for this purpose. The eligibility for membership of Health Boards is widened from ratepayers to electors.

Mr. Chairman: (Reads section 1)

Mr. McKinnon: Are the regulations available, at the present time?

Mr. Chamberlist: These regulations have not been prepared for that. The regulations will simply include any specific type of intoxicating vapour which can be regulated.

Mr. Legal Adviser: It will be a list like the present list with technical names for the particular things, including nail polish, air plane glue, solvents to make these, and such like things. There is quite a bit of a list these days.

Mr. McKinnon: What will be the control on them under the regulations? I mean, how will a person, a person say in a dry cleaning plant, who uses all these solvents and cleaners; will it be more difficult for him to get his solvents for his cleaning purposes?

Mr. Legal Adviser: No way at all. We would have a list of things which cannot be sold by a shopkeeper who knows that this is an intoxicating vapour. A child of eight comes in with a paper bag and pours it into the shop, then he knows what it is for.

BILL #19

Mr. Chamberlist: Mr. Chairman, it may well be that the Honourable Member from Whitehorse West may have in his mind that there should be a regulation prohibiting a dry cleaning establishment from selling any of those solvents. This might ... It might be that the solvents should only be used in the operation of their business. Is this the point that the Honourable Member is making?

Mr. McKinnon: No, it is alright.

Mr. Chairman: (Reads section 2)

Mr. Stutter: Mr. Chairman, I would like to ask what happens if there isn't a medical health officer in the municipality, and even if there is, if the medical health officer has no wish to be on that board?

Mr. Chamberlist: Mr. Chairman, what happens is this. We have various medical health districts in the Yukon and it may not necessarily be that the medical officer of health is a resident in a municipality. He is asked if he will accept the appointment of medical officer of health. Then a Commissioner's Order is signed making that doctor the medical officer of health for that area. We haven't had any problem at all with reference to the request, the suggestion that has been just made. It hasn't arisen at all.

Mr. Stutter: With respect, Mr. Chairman, I think that the Honourable Member perhaps is not aware that in the past, the present doctor in Dawson had been asked to be a member of the medical health board in Dawson and on one occasion, I know, he has been asked and he declined.

Mr. Chamberlist: I understand, I will check in just a few moments. I understand that the doctor in Dawson is the medical officer of health.

Mr. Stutter: This may be so at this point. I know on one occasion about a year ago, that he did decline. This was at the time that nobody wanted to take the responsibility of closing down the restaurants or opening them up.

Mr. Chamberlist: It is a hypothetical question. I can't give a hypothetical answer. There is only one point that I would like to ask here. The Chief Medical Officer of Health has suggested that it may be that the municipality of Whitehorse may wish to have more than four on their board of health so that they can take a person from each area. This has only come to me recently. Also, that where it reads now, "that the board of health established by a council shall consist of a medical health officer, or health officer of the municipality and four electors, not more than two of whom shall be members of the council". The suggestion that has been made to me is that the medical health officer should only be an advisor to the board and not part of the board itself. This is a suggestion that has been made by the Chief Medical Officer of Health and before going on that basis, I was wondering if we could have some guidance in this regard from Members of this Committee.

Mr. Tanner: Mr. Chairman, I have had some experience a little in the year and a half that I have been on the hospital advisory board, and I think that the recommendation of the Medical Health ... the Chief Medical Officer is a good one in this case. We have changed the constitution of that board to bring in some experts, if you like, but they don't have voting rights. My suggestion would be that Medical Health Officers should sit on the board but not with the power to vote. In other words he would be there strictly as an advisor.

Mr. Stutter: Mr. Chairman, I would particularly go along with this same point too. I think it would solve the problem that we have experienced whether it be hypothetical at the moment or not, but it would take care of that problem.

BILL #19

Mr. Chamberlist: In that case, Mr. Chairman, I wonder if we ... after the meeting that you would report progress and allow Mr. Legal Adviser to take a look at this particular section and bring it back again as indicated by Members.

Mr. Chairman: Agreed? Agreed. (Reads section 3, subsections 16.1 (1), (2), (3))

Mr. Tanner: Mr. Chairman, I'm always rather hesitant even in extreme matters such as trying to regulate glue sniffers or stop glue sniffing. I'm always concerned about giving peace officers that much authority. Supposing for example he suspected someone who was glue sniffing and in the process of performing a search, found the person guilty of something else. Could he then use the power of search under this Ordinance to prosecute or lay a charge on another matter.

Mr. Chamberlist: This is a normal thing. First of all the peace officer couldn't do this without a search warrant under subsection 4 on top of page 2. So there is a search warrant wanted. But where while searching for glue they happen to find a pound of hashish, certainly there are grounds for charging the person for being in possession of hashish. This is something that is usually done.

Mr. Chairman: (Reads section 3, subsection 16.1 (4),(5))

Mr. Tanner: Mr Chairman, that is exactly what I am talking about. You're giving a carte blanche to peace officers to make searches, and then they might have used that authority here, but not for the purpose we are setting out. He could use that for anything at all. I think we should look at that very carefully. That is extremely wide authority we are giving any of these people.

Mr. Chairman: (Reads section 3, subsection 16.1 (6),(7),(8),(9),(10), (11), section 4)

Mr. Tanner: One of the things I find missing in this Ordinance is any regulations for the sale of the stuff, through any regulated manner through various retail outlets. I should have thought that would have been one area we would have attacked immediately, rather than.... Well I think this is one way to go about it, and I think it is one way we should go about regulating glue sniffing. But I should also have thought we would put some regulation on the retailers.

Mr. Stutter: Mr. Chairman, I was going to bring this point up myself 16.1 (2) does not say that. Doesn't in any way restrict the sale of it. All it says there is for the purpose of inducing euphoria. Is a sales clerk supposed to say now are you going to use this for the purpose of glue sniffing or are you going to use it for it's proper purpose. It doesn't in any way limit the sale of it. In Vancouver, recently, it's been unlawful for anybody to sell any of these products to a child under the age of twelve and I think this is the sort of legislation we should be looking at, rather than at one that is attempting to provide the same sort of thing here. I don't think we are going quite far enough in this one.

Mr. Chamberlist: This is the very point that we wanted to get at. Are we going far enough, how far does the municipal council want us to go. This is what we're coming to. We want to know whether you want us to restrict the sale of regulated matter to people up to what age? In

Mr. Chamberlist continues.

BILL #19 taking note of section 16.1 (2)(b) the saying is "give, sell or otherwise distribute" that for the purpose of inducing euphoria, hallucinations or intoxication. So that certainly anybody who sells for those particular purposes are breaching the regulation. Now it may well be that somebody who has the opportunity to sell a lot of airplane glue, are not going to say to the child, what do you want it for, how many models are you going to be gluing together. But it is going to become fairly obvious that if a child goes in and buys a gross of tubes of airplane glue, that he's not going to use the glue simply for the purpose of putting models together. But if this is wanted to be tightened up, certainly we want Council's help in this to say exactly what we want put in there, and we're prepared to accept it.

Mr. Stutter: Mr. Chairman, I did notice last Christmas when I was outside, I had reason to buy some of the small kits for a couple of the younger members of the family and I realize that nowadays these kits do not... most of them do not come complete with glue. Now the idea behind that obviously is to keep these intoxicating materials out of the hands of young people, and again I'd like to say I think we should spell into this particular Ordinance, an age and make it some particular ... an offence to sell any of these materials to anybody under that age. Otherwise you are not giving enough restriction under 16.1 (2).

Mrs. Watson: Mr. Chairman, if we do this, I agree with Councillor Stutter that we should take up on it, but if we're doing this are we not putting the onus on the people in the retail outlets to ascertain the age of the person who's purchasing it, and to ascertain the use to which they are going to use it. Do we want to put this responsibility on these people?

Mr. Tanner: Mr. Chairman, if I might reply, the onus is more heavily now than it says here because this Ordinance says ... no person shall for the purpose of inducing euphoria sell regulated substance, that means that technically speaking, somebody goes into a retail outlet and buys a bottle of nail polish, the onus is then on the retailer to prove that he didn't sell it for that reason. That's the way I read it, and I think you should be a lot more specific in the way you say that. I don't think the setting an age limit is going to be the answer either because it's very easy for a twelve-year-old to get a thirteen-year-old to buy, or a twelve-year-old to get a sixteen-year-old to buy. I think the ... should be tightened up from the retail point of view and off the top of my head I haven't got the answer, but I think we should look at it very closely.

Mr. Chamberlist: Mr. Chairman, this I can't agree with the Honourable Member, because when a matter like that comes before the Court, it would certainly be a case of mens rea or guilty knowledge. The prosecution would have to prove that the persons who retailed it had a guilty knowledge that he was doing it for the purpose of selling it for glue sniffing purposes. So I don't think there's any fear in that regard really, but there is a necessity to regulate as far as an age is concerned as to who this should be sold to. Perhaps this is some area where we would have to look into it. Mr. Legal Adviser, any comments?

Mr. Legal Adviser: I'd be a little bit cautious about putting in ages because these glue sniffing materials are in fact sold perfectly lawfully to young people. There are airplane kits that are made for them and it would be harsh on a girl of twelve, if that is going to be the age, who fancies putting on lipstick and nail polish, hair spray, underarm deoderant and all these various things, if you say that nobody under the age of twelve can purchase any of these things. It's an area that I'd be a bit cautious of getting into. The primary purpose is to give some control when the police come upon people making use of these substances and then going back and warning the retailer to be cautious of the type of people who are buying these materials. So I wouldn't be prepared, and I doubt if the police would be prepared to support a twelve or eleven year age limit. Really a tough thing to deal with.

Mr. Tanner: Mr. Chairman, I would draw now, the Legal Adviser's attention to section 3 subparagraph 5. In the last three or four linesoh well I'll read the whole thing. It will illustrate my point. "A peace officer who has reasonable grounds for believing and does believe that a violation of this section or the regulations made under this section, has been committed or is about to be committed may at any time without warrant enter any building or premises other than a private dwelling without an order and make such search as he deems fit." I point, while the Legal Adviser is away, that's far too wide a power, no matter how serious the glue sniffing affairs are, it's far too wide a power to give a top notch search like there reads in paragraph 5 and I was wondering if the Legal Adviser would explain this.

Mr. Legal Adviser: Mr. Chairman, I'd ask the patience of the House in this. The particular search power which we have thought of originally was much wider than this, but we went back to the liquor Ordinance, and if the House will remember during the debate which was sometimes a bit acrimonious in giving the police powers to deal with liquor offences. The House insisted that we put in not merely a power for a police officer to go and make a search, but with two restrictions; one was that he couldn't search a private house without a warrant, and the second one was, that not only had he to have reasonable grounds for believing, but he actually had to believe. In the normal power of a search warrant you just say, any person who has reasonable grounds for believing this search. We toughened it up in the Liquor Ordinance by saying reasonable grounds for believing and does believe. This means that he's actually got to go afterwards, if it goes wrong, he's got to go into the witness box and say, or risk committing perjury, that he actually believed an offence was being committed. And that is a tough thing to get a policeman to do. This would be exercised very, very cautiously because of that particular provision which the House inserted in the previous search powers.

Mr. Tanner: Mr. Chairman, why do we need to have that in at all? You've got sufficient grounds for search under 4 and under 5 if he actually believes then he goes in and makes an arrest. If he's correct in his belief he's got a charge.

Mr. Legal Adviser: He just can't go into it at all, and he's blocked. It means that if a crowd of kids are down in some shed or some abandoned warehouse or something around the place, and they are all sniffing it up, then there is nothing the police officer can do. He can't go in. He's stripped of his power. You have got to have some little bit of flexibility for the officer of the law. But a search warrant, sure for a dwelling house, but for ordinary premises around the place. It shouldn't need it. It's not going to be abused and hasn't been abused wherever this power has been there, and there's been no complaints for many years about any abuses of the police powers in dealing with the Liquor Ordinance or anything after that for quite a long time.

Mr. Tanner: I disagree with the Legal Adviser. I'm not going to go into specific cases, but I categorically know when it was abused in the last year. Within the last year they have abused that privilege and I have great reservation about that particular paragraph. I personally would like to see it stricken. Mr. Chairman, if people are going to use it sort of frequently, why give them this prerogative at all. It's that important...look it's there for one purpose or other. Either it is important and they're going to use it, or it isn't important in which case you should strike it.

Mr. Legal Adviser: I would have to write invaluable; concoction of an argument. They hope they won't have to use it at all, but if they come on something what are they to do. Are they just to be powerless. I think you have got to trust the force of law and order to some degree. It's there clearly, it's not just reasonable grounds, it's reasonable grounds and the actual belief must be held by the officer. Now that's a very tough thing to get.

BILL #19 Mrs. Watson: Mr. Chairman, I think we all recognize that glue sniffing and this type of thing is becoming a problem with our young people. We ask for restrictions, we are always saying, what are they doing about it. What is the Government doing about it. Here we have an opportunity. I would recommend that we give consideration to accepting this Bill, on a trial basis, we can always amend it if we find that it is being abused.

Mr. McKinnon: Mr. Chairman, I certainly can't buy the arguments of the Honourable Member from Carmacks-Kluane, that this is the way to prohibitive legislation that we are going to stop the prevalence of using hallucinatory drugs in our society, because in no way, shape, or form the prohibitive legislation has ever stopped people from doing things that they want to do at any rate. The concept of an age limitation on buying such things as airplane glue, I find extremely distasteful, because with the mandatory age limit, the guy two years older goes in and buys the glue. It's just as simple as that you know. You're just making legislation completely and totally unenforceable and shouldn't even be on the statute book. The whole thing, that you have to get to the kids and tell them that certain hallucinatory drugs, and certain intoxicants are going to ruin their heads. And that's all there is to it. And they just shouldn't be up screwing around with their heads at the time when they are ten and twelve years of age. That's a matter for educational authorities to have a policy in the schools to show just what the dangers are of using such things as airplane glue, and sniffing. Most of the drug problem programs that I've ever seen in the films are almost like comedy routines for the children to be able to watch, and know a hell of a lot more about what's happening than the authorities who made the film that they are trying to show the kids and trying to get them so full of this information and blown facts, that it just becomes laughable. This program doesn't work and so it gets to be a program in the schools where there's some credibility attached to it. We can pass all the legislation of this type, and I'm not against the legislation, I think that it has to be known that the use of things such as glue sniffing is now against the law, and the use of this type of solvents for hallucinatory purposes should be against the law. But simply by putting it on the books and trying to make mandatory age limitations against the retailers is an impossibility to make anything come about through this type of legislation. We're fooling ourselves and we're socking it to the public that we're going to stop something, and we're not getting down to the walking a mile in moccasins and finding out why people are wanting to use these hallucinatory drugs to escape from a society which really isn't all that ...if you really want to look into it.

Mrs. Watson: Mr. Chairman, the Honourable Member from Whitehorse West makes it sound so very simple. Always the solution is to pass it on to the schools, let them set up a course, let them set up a program, and they will correct all the evils. It's quite obvious that the Honourable Member doesn't have a son or daughter in the age group of twelve or older. Education, parental direction, can only go so far. I agree with him to the extent that it possibly is an illness of our society. But you cannot expect through educational programs, to accomplish all of this. Our schools do take strides in this direction. We do have films. We do have guidance courses. Some cases all we do is make the children more curious. Other cases children will take the evidence that is presented to them and act with caution. But we also must have something like this type of legislation where children have gone beyond the direction. We must set prohibitive legislation as part of the package also.

Mr. Chamberlist: Mr. Chairman, I was pleased in a way in what the Honourable Member from Whitehorse West had to say because he said really what the Government was saying in relation to not restricting the age of these things, but placing it in law. And I had only indicated that if Members of Committee wanted to do this, that the Government was prepared to listen to them. So what he has really said in actual effect is that he agrees with the philosophy of the legislation, and this is what he was trying to get over. Now it well

Mr. Chamberlist continues.

BILL #19

may be, that certain areas of the legislation or the regulations of the legislation can be tightened up to make sure that what we are intending to do really will come into effect. Now the specific request, Mr. Chairman, made to us by the R.C.M.P. in relation to this amendment to the Public Health Ordinance because they were unable to participate in any enforcement until such time as this legislation is on the books in this particular way. What we are really doing is helping the law enforcement agency to fulfill their function at this time in regard to this very, very dangerous practice of young children who have got into the habit more and more of sniffing these intoxicants.

Mr. Chairman: At this time I stand Committee in recess until 2:00 o'clock.

RECESS

RECESS

Mr. Chairman: At this time, I call Committee to order. We are dealing with Bill No. 19.

BILL #19

Mr. Stutter: Mr. Chairman, I would like to go back again to the possibility of setting an age whereby it is not lawful for a vendor to sell to any person under that age. We've heard arguments against it from the Member from Whitehorse West, and even from the Legal Adviser himself, but I do know for a fact that this has been done in British Columbia. It must have been done with a certain measure of success, because about three weeks ago, a reporter did take two children under the age of, I think it was, twelve ... now, the age limit, I'm not sure of ... under the age limit, any way. He took them around to fourteen different stores, and only in one case were the children able to purchase any of the, I think in this particular instance, it was either nail varnish remover or one of these intoxicating substances. In any case, there was only one store out of the fourteen that did sell it to them. When you're talking of marijuana, the police seem to be less interested in doing anything with the person who is smoking marijuana, than they are in trying to get to the source of where the marijuana came from. In this instance, I think that we can get back, pretty well, to the source of it. One argument that was put up by Councillor Watson was how do you define or it makes it rather difficult to tell the difference between a twelve and a thirteen year old. I really can't go along with that argument, because you have basically, the same argument in a bar, between nineteen and twenty year olds. I realize that all a twelve year old has to do is get somebody a little older to get the material for them. But, I still think that we should at least look at the legislation that is in British Columbia, on that particular instance, of limiting the age of being able to buy this stuff to a certain age, whether it be twelve or fourteen or whatever. I'd like to hear further comment on it.

Mr. Legal Adviser: Mr. Chairman, I'm unable to comment on what British Columbia is doing. Frankly, I don't know. But, I'm quite prepared to find out from the Attorney General's department in British Columbia what the actual position is and to find out what the police position is by finding out from Inspector Marcoux. The Alberta model has been followed in this instance, and we, in fact, improved on the Alberta model because our information from the police in Alberta was that they were unable to operate this section because there was an omission in their legislation. They had no power to seize the particular substance, and therefore, without being able to seize it, you can't give evidence in court. So, we added that section to our Bill to improve it. What the position in British Columbia is, all I can say, if you report progress on it, I'll undertake to ascertain from the Attorney General in British Columbia some information regarding the enforcement of the section in British Columbia.

Mr. Chamberlist: I do know, Mr. Chairman, after having had a discussion with officials in British Columbia, that they haven't any similar type legislation on their books at this time at all. The restriction on the sale is purely a municipal restriction. It is not a legislative restriction. The municipality, just in exactly the same way as they have passed a bylaw with reference to sale of fireworks, has also passed a bylaw in regard to this particular area. I think this is the thing that we would look at. I would, at this time, draw attention to ... so that we can all recognize the seriousness of what does. I have with me a part of the report of the Ladane Commission of inquiry into the non medical use of drugs. There is a section that deals with what happens to the people who use this type of ... you know, sniffing and taking these drugs in. They go beyond just what we have gone. They have included model airplane glue, gasoline, paint stripping preparations, nail polish, nail polish remover, lighter fluid, pressurized liquids, varsol, amylnitrite, and chloroform. The symptoms and the signs that the damage has been done have been put down in this manner: "Mild manifestations are primarily behavioural: a hazy euphoria, slurred speech, distorted perception including hallucinations, excitement or stupor. Diagnostic clues may be found in the odour from the mouth and irritation of mucous membranes. There may be signs of damage to the brain, liver or kidneys. Anoxia,

BILL #19

Mr. Chamberlist continues ...

rapid pulse, and cardiac arrhythmia are common." In the dangers that have existed, in mostly youngsters, up to the age of twelve and thirteen; it appears that this has been the danger age, between nine and thirteen. If the Honourable Member from Dawson, and I think he has a point, and I said I'm quite prepared to go along on the basis of what this Committee wants in this regard ... I think Committee Members may well agree that, if a child under the age of twelve or thirteen requires some of the things, airplane glue and the like, they should be accompanied by an adult or their parent. Now, if we can put anything like that in the legislation, perhaps, this might satisfy Honourable Members in that area. But, I also agree with the Honourable Member from Whitehorse West when he said before, that it's not going to stop this from happening just because you put an age limit in. At least, though, it would place the onus upon a retailer not to sell, in exactly the same that tobacco, although it isn't being properly enforced, under the Federal Act, is not supposed to be sold to juveniles, those under a certain age. Nevertheless, it is being sold, you see. This is not ...

Mr. Legal Adviser: The difficulty with tobacco, Mr. Chairman, is that the slot machine has no way of telling the age of the person who puts in the sixty-five cents. I'm prepared to consider the matter and to see, without being too strict, whether we might put in a section saying, in any charge laid against a retailer for selling such a substance, it shall be a good defence if the child who purchased it was accompanied by an adult, or something like that. But, I'd like to speak to the police first, before we actually make up our minds. We don't want to put the police in the difficult position of attempting to bring charges on flimsy evidence. As I say, it bears examination.

Mr. Stutter: Mr. Chairman, I appreciate that point, and I would be pleased if the Legal Adviser would look into this. But, going back a minute, to the instance that I raised a while ago, whether it was provincial legislation or municipal legislation, it doesn't make that much difference. The point that I'm trying to get at is there is, obviously, in the Vancouver area, by some legislation or by some bylaw ... it is an offence to sell under that age. I know, in this particular instance, the one store that did sell to these two children ... the reporter actually published the name of the store. So, I think that in itself would be quite a deterrent because the public opinion then, of course, would be against that one store.

Mr. Chamberlist: But, the danger, Mr. Chairman, is whether that retailer sold for the purpose of allowing it to be used for that purpose. Of course, I would say that the store owner may well have an action of common law because a newspaper printed his name. The newspaper would have to prove that that retailer sold it with the intent, and that's where mens rea comes into it again. I think the reporter took a great risk, a grave risk as well.

Mrs. Watson: Mr. Chairman, I really have great misgivings about placing the onus on retail outlets. We have cleaning agents, gasoline, lighter fluid; do we mean to say that everytime someone comes in to buy lighter fluid or gasoline, we have to determine whether it's going to be used for sniffing or not, whether a retailer would have to. I think this would become quite a problem for our commercial enterprises. The sales clerks would be put in a very unenviable position. Hair spray, polish remover, if you have to go through this rigamarole of ascertaining the purchaser's age or make sure they are with an adult, I think we should think very seriously before we put this into effect, or something similar.

Mr. Chamberlist: Also, there is another danger I rose to support Councillor Watson and that is, if we say polish remover without saying what the actual chemical content of the polish remover is, it may be ... for instance, I understand that the company that is making polish remover is still going to sell polish remover, but they are going to now try to take out of it the type of volatile substance that was being used by some people to sniff. Now, if we say ... really, what we're saying is that you can't buy polish remover, irrelevant of what it contains. It's just like saying you can't buy sausages whether they have meat in them or just bread only.

Mr. Stutter: I'm just going to let it drop, now, anyway, Mr. Chairman, except that in the one case that was raised a minute ago by Councillor Chamberlist that the reporter in Vancouver may actually have been leaving himself open for a liable case, he was just taking it for granted that such a clause as we have in here for the purpose of inducing euphoria. This was the original point that I brought up this morning, that that clause in our legislation is the one that is misleading. I feel that to leave this in here, particularly, is just leaving a perfect out any way. I mean, how is a store keeper going to ask each kid, well, are you going to use this for sniffing purposes or are you actually going to put an airplane together.

BILL #19

Mr. Legal Adviser: When a boy comes up and asks for a paper bag full of gasoline, he knows what it's for.

Mr. Tanner: Mr. Chairman, if I might change the subject, in paragraph (5), that section 3, subsection (5), I think I can overcome my objection to that paragraph with the peace officer making a search without warrant, if after you say at the end of the paragraph "as he deems fit", you put something to the effect of "for the enforcement of this Ordinance". My criticism of it is that it is wide open right now. If you put something like that in, you would ...

Mr. Legal Adviser: Yes, I think we can buy that, Mr. Chairman.

Mr. Chairman: Do you have anything further at this time on this Bill?

Mr. McKinnon: I'm rather interested why the inventory report is going to the Commissioner rather than to the inspector. Under the seizure, subsection (9). Why is the Commissioner ...

Mr. Legal Adviser: It's just because he is representative of the Government, and this is the way it is in the Liquor Control Act, the substance is reported to the Commissioner. There is no special magic about it.

Mr. McKinnon: But shouldn't it be the inspector though?

Mr. Chamberlist: The report goes to the Government and the inspector happens to be an officer who comes under the control of the Government.

Mr. Legal Adviser: From the first of April, he will be enforcing this as an officer of the Government of the Territory, and not as an officer of the Government of Canada.

Mr. Chairman: Have you anything further on Bill No. 19?

Mr. Chamberlist: I suggest we report progress, Mr. Chairman.

Mr. Chairman: Yes. The next Bill is Bill No. 21. I might say, in relation to this Bill that there are some people reviewing this piece of legislation at the present time. One, I think, is the transportation people who may wish to make representation in respect of it.

BILL #21

Mr. Chamberlist: Mr. Chairman, it appears to me that unless Council is advised that there are people who wish to participate or review or have time ... it's not right, when the time comes up to read it, that Mr. Chairman should say to us now, this is what is happening. Because, we don't know this. Again, I have to go on the same basis as we have done right the way through. We should read the legislation and give it a few days, if any personal group wishes to ask the Chairman of Committee, so other Members of Committee can be properly informed that there is a wish on the part of a group or a person or any individual or witness to bring some input into this. I see no reason why this shouldn't be done. But, certainly, when it comes to the time of reading, we're then told, by Mr. Chairman, without any indication to the Government that this is anybody's wish.

Mr. Chairman: Councillor Stutter, will you take the Chair, please.

Mr. Stutter takes the Chair.

BILL #21

Mr. Taylor: Mr. Chairman, I, again rise to say that I do this for two reasons. One is that it must be understood when the Bill has been read, then it's ready for jockeying into third position, and then, maybe the seal act can run it through. This, I don't want to see happen. Number two is, the Bill is of such import ... we threw this particular provision out last time it came before us, and it is my intention to ask that we throw it out again this time. However, the Bill had not arrived until a number of days ago and it was not possible until a few days ago to get copies of this legislation out to the people who are concerned in order that they could make some representation in respect of it. That is now being done but those representations have not yet been received. So, this is why I raised the point and this is what Councillors are supposed to be doing, Mr. Chairman.

Mr. Chamberlist: Mr. Chairman, Mr. Chairman is, when he is sitting ... when the Honourable Member for Watson Lake is sitting as the Chairman of this Committee, his function is to ask, I'm sure, whether we are prepared to proceed. Until such time as he asks that, he should act in a very impartial attitude in the Chair. When he makes suggestions that there are people who wish to study this Bill and indicates that there is going to be a hold up on it, then I take objection to it. I certainly, have already made myself clear, right the way through this legislation, that we will be reading the legislation and if there is anybody who wishes to come forward afterwards, we will report progress in the meantime. The remarks that have been made by the Honourable Member from Watson Lake, at this time, were not very valid at all.

Mr. Taylor: Well, Mr. Chairman, I finally got it out of him. It's finally on the record, so the people of the Territory can see that if we do get this shoved down our throats, they will see what happened. That's all. It's a matter of record.

Mr. Chairman: May we proceed with this Bill? Bill No. 21, An Ordinance to Amend the Transport Public Utilities Ordinance.

Mr. Chamberlist: Mr. Chairman, the purpose of this Bill is to amend the parent legislation to enable the Board to control in appropriate cases changes in common carrier rates.

Mr. Chairman: (Reads sections 1, 2 to subsection 22(2)) Speaking from the Chair, why is that particular section so heavily underlined?

Mr. Legal Adviser: Because, Mr. Chairman, that is the change to the section. Otherwise, it is the same.

Mr. Chairman: (Reads section 2, subsection 22(2), sections 3, 4)

Mr. Tanner: Mr. Chairman, could I ask the members of the Executive Committee if this is word for word what we dropped out of the Ordinance, the last amendment.

Mr. Chamberlist: It's almost identical, Mr. Chairman.

Mr. Taylor: Mr. Chairman, it's much the same; not word for word. It's been restated but it's the same principle we tossed out last time. The main objection and the solid objection to this Bill is the posting of tariffs and the posting of changes in tariffs. It would tend to impose a hardship on the smaller operators in the Territory. The arguments are pretty well the same as they were in the last time around on this. However, as I stated, all these things have come so fast and there hasn't been time enough to get these representations in yet. I expect that there will be representations coming. But, that is what it's all about. I, personally, for my own part certainly, cannot support the Bill as long as it does work a hardship on the smaller truckers in the Territory.

Mrs. Watson: Mr. Chairman, time after time, the Councillor from Watson Lake stands up and states his view. The watch dog for the people of the Yukon Territory. This Bill would provide some protection to the people of the Yukon Territory. Our Councillor from Watson Lake is trying to provide protection for one small group of people within the Territory, the transportation people. I think we should look at it, both from

Mrs. Watson continues ...

the transportation people's side of it and also from the public's side of it. Then, we can decide whether we want this type of legislation; not just look at it from the transportation people's side of it.

BILL #21

Mr. Taylor: Mr. Chairman, that was a great bunch of hogwash as far as I am concerned and that needs no further comment.

BILL #21

Mr. Rivett: Mr. Chairman, if my memory serves me correctly the Legal Adviser said "gouge!" That was your comment I think, at one point.

Mr. Legal Adviser: I have forgotten, I say colourful things at times, Mr. Chairman.

Mr. Chamberlist: Mr. Chairman, the Honourable Member from Watson Lake was beat right down the line by what the Honourable Member from Carmacks-Kluane said. It was recognized that he was beaten because it was the first time for a long time that he has been lost for words. He had to sit down; he wanted to make no further comment. Clear that one day he will stand up in this House and say, "I am for the little man and there are lots of little men in the Yukon." Today he says, "I am for the little truck driver, the little operator and I don't worry about the little man and the rest of the Territory." It seems to be a significant thing at this time that the changes that have been brought back again have been at the request of many of the little people and especially the little transport operators who have found themselves placed in a position of being unable to compete with the larger operators. It is by their specific request that this has been brought forward. I look with some pleasure, in seeing his representative of the small truck operators and transport operators that he wants to bring into here, and see if they are not the ones who asked us to put this back.

Mr. Taylor: Mr. Chairman, again another bunch of hogwash. I can only say, as in other things, that there will be representation coming. It is not possible the way this Honourable Member opposite, in his new capacity as being somewhere close to God, or so he thinks, to feed us this information well ahead of a Council Session, like we use to do in the old days, so the people could have a look at this thing. As I stated, copies of this have been distributed and now I would ask for the concurrence of Committee that we are available to receive submissions from the people involved in respect of the Bills. That is all I want.

Mr. Chairman: There are a few comments I would like to make on this. I didn't support it the last time it came around and I have no intention of supporting it this time again either. To begin with, a couple of the points that have been brought up as far as protection of public is concerned, I am very much a member of the public and I have many instances where I have need to contact and use services provided by trucking industries. One of the first things I do is shop around and this I think, is what most other people will do. Shop around and look for a price. It has also been mentioned that the small truckers aren't able to compete unless rates are fixed. I don't go along with that thinking either. I think the minute you start feeling that you must set rates in a trucking industry you might as well go all the way down the line and set rates for how much candy bars are sold for, or cigarettes or anything else. I think that competition will take care of it. As I have stated before, I have used trucking industries before and I always shop around.

Mr. Chamberlist: Could we report progress and I would ask the Honourable Member from Watson Lake to indicate how many days he feels would be required for his representatives of those that have something to say to come in?

Mr. Taylor: Once again I suppose, rather than be charged with partiality, I would have to get the Deputy Chairman to take the Chair again.

Mr. Stutter takes the Chair.

BILL #21

Mr. Taylor: Mr. Chairman, as I have stated, just as many days as it takes representations to get to me. I really have no idea if there is anyone who wishes to come to the Table or not. I never did suggest there was; I said to receive representations in respect of it.

Mr. Chamberlist: No way, Mr. Chairman, we can't allow the Legislature to operate on that condition under the whim of the Honourable Member. If the Honourable Member is free to say what time, whether three days or four days, the House would be pleased I'm sure to give him consideration.

Mr. Taylor: Sometime between now and the end of this Council Session, Mr. Chairman.

Mr. Tanner: Mr. Chairman, I wonder if the Honourable Member can indicate whether perhaps the people he has in mind might be in the gallery now.

Mr. Taylor: Mr. Chairman, I am not prepared to say at this time where or from what. I am asking for time. Report progress on this Bill so we might be prepared to receive representations respecting it. It is not my intention to go on wasting the time of Council by asking the simple question. Unless there is something really funny afoot here, well, I don't think then there should be any problem in granting the request that I asked.

Mr. Chamberlist: Mr. Chairman, the Government is always considerate of the Members of the Legislature's requests and will be pleased to grant a suggestion that a week should enable the Honourable Member to bring forth his armour.

BILL #22

Mr. Chairman: Is it the wish of the Committee that we report progress on this Bill for one more week. Agreed? The next Bill under consideration will be Bill No. 22, I think, Alaska Highway Maintenance Ordinance.

Mr. Chamberlist: The purpose of this Bill is to authorize the making of an agreement by the Territory with Canada for the maintenance of the Alaska Highway.

Mr. Chairman: (Reads section 1,2(a)(b)(c),3)

Mr. Tanner: Mr. Chairman, there has been a difference of opinion for the last year and one half in this House as to how you interpret Commissioner. I think the House knows how I interpret Commissioner in this Ordinance. My quarrel is not with that wording or the implication of what the word means. The question I ask is whether the House should commit themselves to such an agreement without a little bit more backup information. We are saying that the Government can go ahead and make any deal it wants to. I sincerely feel that every Member in the House should have some more information before we give any Government, let alone who it is, the authority to go ahead carte blanche and do that. I would ask that we defer this Bill until that information is forthcoming. Unless there is some pressing reason that we have to give authority now.

Mr. Chamberlist: Mr. Chairman, first of all it would be interesting to note that here is a piece of legislation where it is the Commissioner-in-Council who passes the legislation to give the power to the Commissioner to sign an agreement. It is the legislation that is being passed by the Council and once the Commissioner assents to it, it is the Commissioner-in-Council giving the right to enter an agreement to the Commissioner. This is the first point. This agreement would be absolutely valueless and the legislation would be absolutely valueless if in the Council's opinion when the time came for the budget presenting the figures which are involved in the maintenance of the Alaska Highway they turned it down because the Commissioner then wouldn't have the money to proceed with any agreement that was made. This was just a formality which has been required whenever the Government needs to go into an agreement for money where the money has got to be expended with the Government of Canada. I would like to assure the Honourable Member that it is just that and nothing else. The control of the agreement

Mr. Chamberlist continues ...

rests in the hands of the Committee here at the time that the budget is placed over.

BILL #22

Mr. Legal Adviser: Mr. Chairman, this merely is to set out a legal form. The terms of the motion which were passed by this House at the end of the last Session in which all the particulars of what the agreement contained were set out in detail. It is a matter for the lawyer to draft up the technicalities of the agreement. It is throwing around back and forth, from here and Vancouver, the legal advisers down there and up here. It is a technical document but my understanding is that the whole information is applied to the House and they passed an affirmative motion directing the Government to produce this Bill.

Mr. Taylor: Mr. Chairman, I can't quite agree with that. The point that the Honourable Member was making when I returned to the Chambers was a very valid point. In some ways we are virtually handing the Commissioner a blank cheque by accepting this type of legislation. When we wished to make a police agreement we had the agreement tabled on the Table. We look at it, we discuss it we debate it and then eventually this agreed upon or not agreed upon. If it is agreed upon there is an agreement entered into. This, is giving the Commissioner the right to make any obligation that he may choose to commit the Territory and obligate the Territory to any provision whatsoever that may be decided between him and the Federal Government. I could not go for this. Sure, we passed a motion, I moved it as a matter of fact, that we accept in principal the takeover of the Alaska Highway. I think that we want to see a little something at this Table too, in respect of what type of obligations are we talking about. Again, a few days ago when we talked about the Rental-Purchase Housing scheme, and this whole new scheme of things is not too chipper as far as I am concerned. I don't buy this and I would not go for this Bill. I am for the takeover but I want to see the terms and conditions that we are going to have to live by and accept in relation to this Bill. I do believe that this will involve something in the area of five million bucks. I want to see what the terms of reference are in the terms of that too before I could ever, ever accept this Bill.

Mr. Legal Adviser: Mr. Chairman, the money is not really being provided here. This merely provides for the terms of the agreement. The appropriation in money will be coming forward in a week or two with the rest of the appropriations and details of how the money will be spent, will then be before the House. Then, the House will have the opportunity to vote the money.

Mr. Chamberlist: Mr. Chairman, I know it is enough in fact, as far as the Honourable Member from Watson Lake is concerned because one can recognize the trend there's opposition to every piece of legislation that is coming before this House, irrelevant of the quality, the need; it doesn't matter. I am now depending upon the honest and integrity of the Honourable Member from Whitehorse West who is much more understanding in what it means by money. The Honourable Member from Whitehorse West knows full well that unless that money is passed in this House, the agreement or anything relating to the Alaska Highway is not worth the piece of paper it is written on. It is the money side of it that is the matter. The money is the control. When the Honourable Member from Watson Lake asked about details, Sessional Paper No.8 1971(First Session) gave clearly what was involved in the Alaska Highway takeover and it finished up by asking a formal motion of Council approving in principal the takeover of the maintenance functions of the sections of the Alaska Highway between Miles 626.6 and 1.21.4 and one hundred and seventeen miles of the Haines Road is hereby requested. This was done and all that the Government is now doing is to put that motion into effect by providing a piece of Legislation, a separate piece of Legislation to allow for the Commissioner to enter into and execute on behalf of the Government of the Yukon Territory an agreement with the Government of Canada via the maintenance of the Alaska Highway. There is no doubt in anybody's mind, I shouldn't say

BILL #22

Mr. Chamberlist continues ...

that, because I know the Watson Lake Member has doubt about everything, but there is no reason to doubt that it can be anything but the required agreement that is necessary via to the money being voted into the budget. This budget comes before this House and that with respect, Mr. Chairman is the time when the matter of any question relating to the Alaska Highway and the financial implications of the Alaska Highway maintenance should be brought up. I would ask Honourable Members to recognize the fact of what this piece of legislation is. It goes no further and does no more or less than any other piece of legislation pertaining to the Government of the Yukon Territory and the Government of Canada. There is no difference whatsoever.

Mr. Taylor: Mr. Chairmain, I want to commend the Member; I wasn't sure that a kindergarten child could understand the operative words in what he just read. The operative words were "acceptance in principle of the takeover". I will tell you one thing, Mr. Chairman and Members of this Committee that at no time am I going to accept this Bill until I know what (a) is, "the obligations to be undertaken by the Territory respecting the maintenance of the Alaska Highway", I am entitled to know that, the people are entitled to know it and I have got to see it before I can accept this Bill notwithstanding anything the Honourable Member has said. If, as I say the Administration are honourable in their approach to this problem then they would have no qualms at all about laying down those obligations before this Table. We have got between now and April 1st, before this thing comes into effect or is slated to come into effect. I am sure that within that time they can come and answer the questions that I ask. I would also like to know what these payments are going to be.

Mr. Chamberlist: I am not going to draw anybody's attention to the fact that a quasi, a group called the Financial Advisory Committee that will raise that particular question at a later time. The passage of certain aspects of this. I will draw those Member's attention who might be able to put their hands on Sessional Paper No. 8 that indeed, the consideration of what is to be done and what is being asked for by the Government of the Yukon Territory is quite clearly written out. We look at the second paragraph alone, "It is considered desirable that the maintenance of the Yukon portion of the Alaska Highway and the full length of the Canadian portion of the Haines Road be carried out by the Government of the Yukon Territory on behalf of the Federal Government to create a fully integrated road maintenance program under the Territorial Government for all roads in Yukon, and to eliminate the duplication of roads in Yukon, and to eliminate the duplication of road maintenance forces." There you have it in short, but then I would ask the Honourable Member from Watson Lake to read some of the remarks he made in relation to it at the time of the discussion but then of course he has a bad memory, he can't help that now, he probably has forgotten most of it. I repeat again, Mr. Chairman that the simplicity of the matter really requires not too much debate, except for the fact that it is always controlled by way of budget.

Mr. Tanner: Mr. Chairman, I feel the explanation that the Member has given us is sufficient for my undertaking of this piece of Legislation and of course, I'm sure all Members and that particular one that we will be looking at the budget very closely.

Mr. McKinnon: Mr. Chairman, I see the Honourable Member from Whitehorse East is trying the old honey treatment these days but I must let him know that it isn't going to work. I think the Honourable Members who are in the Legislature on their first term of office would be wise to perhaps examine the record and see where this House has thrown out legislation because the agreement between the Government of Canada and the Government of the Yukon Territory wasn't available for tabling before Committee, wasn't available for their information at this Table. I only have to refer, Mr. Chairman, I am sure the Honourable Member remembers a justice agreement which we called for to be produced at this Table so we knew where the money that was being spent in the Territory was going. We were refused that agreement

Mr. McKinnon continues ...

before the Table and we refused to pass the enabling legislation to provide for an agreement to be signed because the information was not made available to the Members of this Committee. It would be horribly irresponsible for me to allow an ordinance which was going to in effect make an awful lot of difference financially which I don't know, I may or may not know but I have to know in my eyes before I start spending the public's money and allowing the Commissioner to do it. What the extent of the money if, there is monies going to be spent by the Yukon Territory, if, the maintenance of the Alaska Highway is going to be a further burden on the taxpayers of the Yukon Territory. Via Sessional Paper and by Member's remarks the answer appears to be in the negative. I think that I have the right to ask for that information and the ability to seek that information prior to me giving a carte blanche acceptance of a Bill like this to the Commissioner, empowering him to do all these things. I think, that it would be simple if the simultaneous presentation of the budget, the agreement and the Ordinance came about all leved at the same time. Members could then see what the obligations were, what they were accepting, what the monies involved were and the whole would flow quite easily probably with little objection from what I can understand and what I think the agreement between the Government of Canada and the Yukon is. I think, it is really presumptuous for Members to stand up and say look it, accept this, give the Commissioner the authority to enter into the agreement, give him the obligations and it provides for the obligations to be undertaken by the Territory respecting the maintenance for the payments to be made to the Government of the Territory for the costs incurred by the Territory. Certainly, we should have the ability of being able to see this budgetary information at the same time when we give the passage or give the ability to pass this Bill. I think, if both are brought simultaneous then we leave the Bill for the presentation of the budget and when we see the budgetary implications then or then not pass the Bill. It is premature. Members of Council have fought unanimously for exactly the principal that I am stating right now and refused agreement with the Government of Canada because they weren't allowed the information, the actual information that I am asking for. What is really involved if this Legislation is passed. If there is nothing to hide it doesn't matter because the Legislation and the budget should be simultaneous. They should come before the Council both wide open on the Table and if it is what we agree to, then there is your Ordinance and there is our money. Why make a scene over it, I don't think it is necessary, but, I think it behoves this Council to get that information before they give agreement to the Ordinance.

BILL #2:

Mr. Chamberlist: Mr. Chairman, sometime past, the Honourable Member who has just spoken indicated that you can look in the records at any time and you can see that there has never been any inconsistency in anything that I have said. I think he should try and appreciate the fact that this Honourable Member over here has a fairly good memory and this Honourable Member remembers quite clearly when legislation of this nature has come down indicating that the Commissioner be given the power to sign agreements on low-cost housing rolls. The Legislation has been passed and we have dealt with the low cost housing, the money in the budget, every year. This is being done in exactly the same way. Now, Mr. Chairman, I wonder if the Honourable Member would like to, out of that, say how that is not an inconsistency.

Mr. McKinnon: I am sorry, Mr. Chairman, I really don't. I don't understand the question. I seriously don't understand the question.

Mr. Chamberlist: The question is very simple. Mr. Chairman, I would ask the Honourable Member consider why, when legislation is brought forward so that the Commissioner of the Yukon Territory can enter into an agreement to borrow money for low cost housing, he with every other Member here gave the Commissioner, to allow that legislation to go through and then we dealt with the financial side in the budget afterwards in exactly the same way as the intent of this piece of legislation is now.

BILL #22

Mr. McKinnon: The Honourable Member is talking about the Rental-Purchase Housing agreement which we just finished talking about ...

Mr. Chamberlist: No, no.

Mr. McKinnon: ..we had all the details, the number of houses, how much it was going to cost, where the money was going to come from and how it was going to be paid back. There was nothing left uncertain in any way, shape or form. As to the agreement it was going to be signed with the Government of Canada. Everything was right here on the table. That is all I am asking for in this instance.

Mr. Chamberlist: Mr. Chairman, the Honourable Member can't do a snow job on me. I'm not talking about this Session. I am talking about previous Sessions in previous years when there was an amount of three hundred thousand dollars so people could borrow money to build their houses in Porter Creek and there was a requirement for an agreement to be signed by the Commissioner and there was exactly the same type of legislation brought forward. This is the Ordinance that we are talking about now, exactly the same type of ordinance where the Ordinance gave the power to the Commissioner to enter into agreement for that money. We went ahead and we did it, as a matter of fact the Honourable Member from Whitehorse West actually pushed it so that we should do it and we did it. That was the normal procedure. Now, he says this isn't the normal procedure we want it all together. I am quite prepared to give the Honourable Member time so that he can refresh his memory and look into the records. My memory doesn't need to be refreshed on that.

Mr. McKinnon: Mr. Chairman, this isn't a snow job anymore this is a full scale blizzard. We had a Low Cost Housing Ordinance the terms and conditions which were crystal clear. It set how the return of payment would be, what the amount of money involved would be, what the interest rate would be, how much money, in total the person could get for first mortgage for second mortgage. On the strength of this Ordinance and information that we had we then entered into agreement for the Government of Canada to borrow a certain amount of money to do what was clearly specified and laid out. I am probably am going to agree with you all the way on the takeover of the Alaska Highway I just asked you the same thing. Let us know the information before we go about signing the agreement. In every other aspect of Government we have always known the actual amounts of monies involved and what is going to be. We are talking about memory, if the Honourable Member will remember a debate that we did have on the takeover of justice and the principle there is exactly the principle here, that we ask for information prior to giving a carte blanche to the Commissioner to be able to enter into an agreement with the Government of Canada. That is all that I am asking here for now, the same information to come that we have asked for prior, that we have always had available to us at the Table before signing an agreement with the Government of Canada. I say it would be totally irresponsible of me to let my constituents know that I have given the Commissioner a blank cheque, without first knowing what the actual amount of money and terms of condition are. I just can't do it no way.

Mr. Chamberlist: Mr. Chairman, this idea of giving a blank cheque to the Commissioner, they are superfluous words because the Honourable Member knows full well that no blank cheques can be given until the money that has been requested for any particular program has passed through the budget. He is fully aware of this, he knows that. He stood up and he said time and time again that this is where the control lies, the control lies on the financial side, this is the basic control. It is a matter of stalling for something he knows it doesn't matter because all that this piece of legislation is asking the Commissioner to enter into an agreement. An agreement isn't any good until such time as this Council passes the money. I would ask, Mr. Chairman, that the Honourable Member from Whitehorse West answer this specific question. Is it not so that notwithstanding any agreement being signed that if this Council does not pass the money for this program the agreement would have no effect?

Mr. McKinnon: Correct; why can't we have them both simultaneously. This is the whole point. Why are you trying to push this Ordinance. Alright why don't we debate it. Is the Honourable Member prepared to wait until the budget has been presented and the costs are known to the elected representatives of the Government of the Yukon Territory, before proceeding any further with this Ordinance.

BILL #22

Mr. Chamberlist: No, we have no objection at all. The point that I raise is the inconsistencies of the Honourable Member, who said that he is not inconsistent. I say that he is, and he shows it now completely in his last answer. Yes, the budget is the control. It doesn't matter, we couldn't do anything with the legislation without the budget; and we can't do anything if we had the money unless we made the legislation. So, the simple thing is this; the Honourable Member who was getting paid for being Chairman has suggested that we go through the legislation piece by piece, number by number. So, we're dealing with it in that particular manner. It's very, very difficult to try to understand what some of the Honourable Members are thinking about, really.

Mr. Tanner: Mr. Chairman, I think, probably what started this off is that Member ... if Members will refer to the Sessional Paper, the bottom line says "The total cost of maintaining the roads will be borne by the Federal Government.". Then, when you read this Ordinance, it says the obligations will be undertaken by the Territory respecting the maintenance of the Alaska Highway. That was my initial confusion. However, the explanation that the Member from Whitehorse East has given us is fairly to the point. He said we could address ourselves to the budget when it was presented.

Mr. Chairman: Is it the wish of Committee, then, that we report progress on this Bill?

Mr. Legal Adviser: Just one point; apart from reporting progress, the House should be aware of the fact that there are a large number of people involved, employed by the Federal Government, in the maintenance of the Alaska Highway. Our Personnel Department, with the appropriate parallel sections of the Federal Department, are in the process of dealing with these people in an ongoing fashion. Although this isn't a question of urgency on a day to day basis, the Commissioner needs some legal effect and an agreement at the earliest time in order to give effect to the initial provisions, the serving of notices, the making of firm offers to these people, because employees who are on the Alaska Highway are in a difficult position. They have to be able to make up their minds in the light of a firm offer to be given by this Government. This seriously hurt negotiations in the takeover of the Department of Justice, at a point in time when we were not really in a position to make offers to some of these people. So, we had, not staff difficulties really, but real staff uncertainty with offers being made at an extremely late time. Now, the stage that the agreement is in at the moment, is it is drafted and small minor points are being ironed out, really, points of language. It's going back and forth; I'm not sure just where the documents are now between here and Vancouver. I think, within a few days, I would hope that the agreement would be in a sufficiently final stage to be able to be tabled for Members of the House. As you know, until that agreement has passed the final negotiation stage and it is ready for signature, I don't think we can present it to this House. It's a negotiated thing. But, there is no special conspiracy about it. But, it is necessary to do this as early as possible.

Mr. Taylor: Well, Mr. Chairman, I respectfully submit, if this agreement is being proceeded with, and certainly, it must be getting to the stage where it is almost completed, then I think that we should table this Bill until such a time as that agreement can be tabled in the House. It would be derelict in our duty if we gave the Commissioner this blank cheque.

Mr. Legal Adviser: Mr. Chairman, I would ask that that not be made a condition,

BILL #22

Mr. Legal Adviser continues ...

because we don't know what legal technicality or post going up and down may delay this. Put it this way; I'm sure the Honourable Member will make an effort, as early as possible, to table the particular document when it is in its final form, but I would ask that it not be made an actual condition for the passage of this Bill because we need this Bill anyway.

Mr. Taylor: Well, even, Mr. Chairman, if it's presented in draft form it will give us some idea of what these obligations are. Until we see what these obligations are, we would be very remiss in our duty if we ever let that Bill through. That's just unthinkable.

Mr. Chamberlist: Well, Mr. Chairman, that information will be given at the time of the budget, which the Honourable Member who has just spoken, is well aware of the conditions of that budget and what is in there. Now, let's not have any nonsense about that particular score.

Mr. McKinnon: I'm not.

Mr. Chamberlist: Quite true, Mr. Chairman, the Honourable Member from Whitehorse West is not, but this is why I take the stand now that the Honourable Member from Watson Lake is doing nothing but stalling, and this House has got to get on with its business, notwithstanding the Honourable Member from Watson Lake.

Mr. Taylor: Just to keep the records straight, Mr. Chairman, I've been on the Financial Advisory Committee and under oath. If I was ever to get up and mention any figure, and that's all I've seen in this thing so far, the Finance Committee is figure ... when the Honourable Member takes off and climbs walls and everything else. I've just broken my oath, but I'm not under that oath any more. I just might be able to learn something a second time, as a good friend said I might be able to do.

Mr. Tanner: Mr. Chairman, I'm sort of really confused. The Honourable Member made such a fuss about getting off the Financial Advisory Committee; what on earth was he doing there for eighteen months if he didn't ... well, what was he doing, for heaven's sake?

Mr. Chamberlist: That's what I want to know; what was he doing?

Mr. Taylor: Well, I can only say ... unless this was done at some meeting, I certainly wasn't there to discuss the takeover of the Alaska Highway and details relevant to it. If the Honourable Member says I was, well, that's not true.

Mr. Chairman: What are the wishes of Committee regarding this Bill?

Mr. Chamberlist: Mr. Chairman, I move that this Bill be reported out of Committee without amendment.

Mrs. Watson: Mr. Chairman, I second that motion.

Mr. Chairman: It has been moved that Bill No. 22 be passed out of Committee without amendment. What is your pleasure?

Mr. Taylor: Bulldozing.

Mr. McKinnon: Disagree.

Mr. Taylor: Disagree.

Mr. Chamberlist: Question.

Mr. Chairman: Question has been called. Those in favour, signify in the usual manner. I declare the Bill has passed out of Committee without amendment.

MOTION
CARRIED

MOTION CARRIED

Mr. Taylor: I will resume the Chair at this time.

Mr. Taylor resumes the Chair.

Mr. Chairman: We have now concluded the initial run-through of all Bills before Committee.

Mrs. Watson: Bill No. 4.

Mr. Chamberlist: Bill No. 23.

Mr. Chairman: No, there is no Bill No. 23 at this time. I have no copy of it. We could proceed back through the Bills and see what state they are in. The first is Bill No. 3, An Ordinance to Amend the Child Welfare Ordinance. I wonder if you could tell me what progress has been made on this Bill, Mr. Legal Adviser.

Mr. Legal Adviser: We haven't had time to work on any of these Bills, that have been processed. I understand that the only one that hasn't been read is Bill No. 4.

Mr. Chairman: So, there is still something forthcoming on Bill No. 3, then?

Mr. Legal Adviser: There will be something forthcoming on all of the Bills in respect of which progress was reported. But, not until the Legal Adviser and some of the Executive Committee can get together and study this matter.

Mr. Tanner: I would point out to Committee that I was the one who asked for the delay on Bill No. 5, and I've discussed it with the Legal Adviser. I think I've found a solution to my problem and I'm prepared to go ahead with Bill No. 5 now, an Ordinance respecting Employment Agencies.

Mr. Chairman: Well, just a minute. Could we take these things in order. Bill No. 3 is still tied up. Bill No. 4, I have temporary deferral.

Mr. Chamberlist: Well, we can read it now, Mr. Chairman.

Mr. Chairman: Has that one been read?

Mr. Tanner: Mr. Chairman, it was the Member from Whitehorse West who wanted Bill No. 4 deferred. We are all prepared to read it, if he is. *BILL #4*

Mr. Chairman: This is Bill No. 4, the Electrical Public Utilities Ordinance.

Mr. Chamberlist: Mr. Chairman, the purpose of this Bill is to control the terms upon which electrical franchises are granted, either by the Commissioner in respect of unorganized areas or in municipalities by their municipal councils. Ancillary powers to control these utilities are provided in order to enable the control system to operate effectively and meet the public need.

Mr. Chairman: (Reads sections 1, 2, 3, 4, 5, 6, 7)

Mr. Tanner: Mr. Chairman, isn't that contradictory? Section 3 says there shall be three members; section 4 says, that two shall be a quorum. If one is not available or if one is absent, it could be a quorum or a board.

Mr. Legal Adviser: That's right. But still, the fact that one person is absent through lack of an appointment would leave two and two can act.

Mr. Chairman: (Reads sections 8, 9, 10, 11, 12, 13, 14, 15, 16, 17)

Mr. Tanner: Mr. Chairman, it seems to me, in the last Session or the

BILL #4

Mr. Tanner continues ...

Session beforelast, we were discussing the Transport Public Board. It had the same paragraph in it, and I believe there was quite a bit of contention about it at that time. It still appears to me the same way that it did at that time. It's almost as if you're running a closed show which is not answerable to anybody other than the Commissioner. I mean, the Legal Adviser has some advice for me, I believe.

Mr. Legal Adviser: My recollection of this, when this section was being discussed by the House, we explained at the time in relation to the other Bill that this section was essentially to protect the interests of the person who was making full disclosure to the Board of his affairs. So, the staff of the Board would not give public information and would not be capable of being called by his rivals in business to give evidence in a case involving the affairs of a particular applicant or person who gave the evidence. I understood that the House really welcomed this section. My recollection is, and I see confirmation out a thousand miles from here, that in the Transport Public Utilities Ordinance, this was what the operators wanted as protection and they insisted on having this section, unimpaired, left in.

Mr. Chairman: I think, at this time, I will declare a brief recess.

RECESS

RECESS

Mr. Chairman: At this time I will call Committee back to order. Have you anything up to 17(1)? (Reads sections 18, 19, 20, 21, 22, 23(1) and (2)) BILL #4

Mr. Tanner: Mr. Chairman, perhaps I could ask the Legal Adviser, under 23(1)(c) "a statement setting forth the name, address and duties of every officer and director of the electrical public utility", would that in that instance ... if it was subsidiary company of another company, would they then be obliged to give the names and addresses of all the other officers of the parent company?

Mr. Legal Adviser: No, not of the parent company. The particular company that we are dealing with who is the person. We wouldn't be concerned with the parent.

Mr. Chairman: (Reads 23(3), section 24)

Mr. Tanner: Mr. Chairman, I notice they ask for, to "keep such books, records and accounts as afford an intelligent understanding", is this the normal business term? Is it fair to ask them to keep an intelligent understanding, why not a good business understanding or something like this? We can interpret intelligent any way you like. I mean the board can say intelligent is the way they look at it as intelligent, the company may say, that is not intelligent to us. I don't think that is fair terminology.

Mr. Legal Adviser: Well, it is entirely an understanding by the person who is actually looking at it. It is to accept normal commercial records that are adequately kept, so that they are intelligible. Something that is intelligible is in relation to a thing, intelligent.

Mr. Chairman: (Reads section 25) I have just a question from the Chair. Is there no where provided in this piece of legislation the right of a community, not necessarily a municipality, to decide whether or not they want to grant a franchise to a utility company?

Mr. Legal Adviser: In the case of a community which is not a municipality, then the Commissioner, this House in fact operates on its behalf. It is an unorganized area. If it ever becomes a community, then the next franchise of course would go to them. It is not contemplated that individual unorganized communities would be giving their own franchises.

Mr. Chairman: A further question. Do I not understand from this Bill, that the Commissioner enters into a franchise with anybody he wants on behalf of anywhere in the Territory other than a municipality, not the Commissioner-in-Council? In other words the House really has no say.

Mr. Legal Adviser: The House doesn't have the control. The House delegates that control to the Government. The Government is expressed as being the Commissioner.

Mr. Chairman: (Reads section 26(1) and (2))

Mr. Tanner: Mr. Chairman, I believe the first part of 26(1), there is another area missed out, which deserves the attention of the board, and that is the ... a new area opening up. It doesn't specifically say that, if the public utility wants to charge a rate, which the twenty-five residents, should there be twenty-five, don't feel is equitable or reasonable. Under those four conditions of (a), (b), (c) and (d), don't have an appeal they can generally say the manner in which the public utilities will provide service but they are not actually providing the service until they have put it in. I think that it would be ... it is an area which I think that we should cover.

Mr. Chamberlist: Well, there is no reason, Mr. Chairman for a group

Mr. Chamberlist continues ...

BILL #4

of twenty-five people in an area where they haven't had a public utility operating in that area, from organizing their own public utility if they want to, and then apply to the Commissioner for a franchise.

Mr. Tanner: Mr. Chairman, I didn't make it clear enough. Supposing within the greater Municipality of Whitehorse, there was an area opened up, and they are already under franchise, because the whole area is under franchise, and they go to the utility and they say, we want service here. The utility says okay, we will give you service and it is going to cost you two thousand dollars a head. Under those four conditions, they can't appeal to the board, specifically on that one issue, and say that we think that it is unreasonable. The board can't make a decision. It seems to me that that is an area which should be included in this.

Mr. Legal Adviser: It should be understood that there is a slight distinction here. The Bill doesn't contemplate attempting to cover the situation raised by the Honourable Member. You are either in the position of having a franchise or you are not. What a franchise does, is give to a company the exclusive right of being the only supplier of the commodity to the people named in the franchise. If in the circumstances mentioned by the Honourable Member, a company such as Yukon Electric, offers to supply electricity at a price. There is nothing once it is outside a certain area of the city, then there is nothing to stop any competing service at all. They have not got the exclusive in this instance. Now, it would be understood economically, that you only attempt to control prices in a monopoly situation. Where you have competing commercial interests, there is no need to control the price. In the instance, by the Honourable Member, if the person is applying for a franchise, there is a hearing and control by the board. Only after the hearing by the board will the Commissioner act. If there is no franchise, well then, they can charge anything they like, and there is no reason why this House should attempt to control the price.

Mr. Tanner: Mr. Chairman, the Legal Adviser has missed my point. Let us assume that the public utility has a franchise with the City of Whitehorse, the big city of Whitehorse, and let's assume that at the far southern end, a community grows up. They are within the franchise and the utility says to those people who are living there, should there be twenty-five or more, that under these conditions, yes we will supply you with electricity within the franchise, that is part of the franchise but because for one reason or another, we think that we are not that keen to run a line down there, it is going to cost you two thousand dollars a head to put the power in. Those people have no appeal under those four conditions of appeal by twenty-five people. I am saying, I think that they should have.

Mr. Legal Adviser: The company would then be bound by the terms of the franchise which control the price. They would be unable to say that we will charge two thousand dollars a head because the franchise is already in force. They are limited to the terms of the franchise, which controls the price.

Mr. Chamberlist: I've got the point that the Honourable Member has made, and I think that we should take a look at that point. I know for instance that in certain areas, the Yukon Electric have during the last few years, gone to a group of people, and where they have a franchise area, and they have said to them, yes we will put electricity in there, but it will cost you so much a mile, because this is what it is going to cost them. Now, I think that this is the point that the Honourable Member is raising. If there is a franchise granted to supply electricity in a given franchise area, the utility should not put a condition precedent on the supplying of electricity that those people that want to connect to the line, will have to pay the cost of installation of those lines. That should be incorporated

Mr. Chamberlist continues ...

for the benefit of the people who have granted them the franchise. That the Municipality of Whitehorse gives the franchise for the whole of the City of Whitehorse as it is now. There is a responsibility I agree, upon the utility that they supply electricity as and when it is required, and that the capital cost should not be charged to the consumer of electricity. This is part of the functions of the utility's costs to that area. If it happens to be outside of an area, outside of the municipality, where there is no franchise, and then there is a private deal made, let's say between perhaps a mining company and a utility that is able to supply electricity, towards the cost of the installation of the line work, I can see that. This is a private deal. There must be some protection for the individual that there is not really large charges made against certain individuals. I know that, a case that annoyed me a few years ago, where a number of people who had cottages in an area applied for electricity in that area. There was a franchise but the utility at that time asked for any amount of money up to two thousand dollars for connecting to a cottage that would be in use for a short period of time. I believe that there is merit in what the Honourable Member has just spoken. I think that in all fairness to the people who would be required to use electricity there, that some consideration should be given in the terms of the franchise. Now, I am wondering whether we would be going beyond our responsibility in specifying that in the legislation, or whether indeed this should be the responsibility of the actual granter of the franchise in the case of a municipality, should it not be that the municipality may make certain conditions relating to the granting of a franchise. In cases of areas outside of a municipality, it should be the Commissioner to make those conditions. Perhaps Mr. Legal Adviser could comment?

BILL #4

Mr. Legal Adviser: These will be part of the drafting of the franchise, and the conditions under which a consumer can call as of right for a supply of the commodity concerned. It should be in the franchise, and I am sure that the conditions are laid down in the franchise presently.

Mr. Chamberlist: No, they are not. They are not.

Mr. Tanner: Mr. Chairman, if I can just persue this point one step further. The Honourable Member has picked up the point that I was trying to make, but I think that he went a bit too far. Surely, any business enterprise, shouldn't be committed to have greatly extended costs to take out, in this case, electricity to the very extremes. If a citizen or a number of citizens go to the extreme end, they surely should pick up some obligations, say some portion of the costs. What my concern was, is where the utility doesn't want to go out that far, and to ... by still fulfilling the terms of their franchise, they offer electricity at an extremely high cost, an initial capital cost that the people who could get it, won't take advantage of it. The reason I have brought it up here, is because this seems to me to be the appropriate place that these people could appeal to the board to make a decision. In other words, at that time, the utility would go to the board and say, this is what it costs us. There is no way that we can take it out without extremely heavy burden to ourselves. The board can make a decision whether or not their presentation is reasonable.

Mr. Legal Adviser: It is an area, Mr. Chairman, which the board will have under its automatic jurisdiction to consider both at the time the franchise is sought, and at a time when a complaint has been made of an unfair rate. The basic question is, that the board will fix the return on the capital investment, and then deem what is a fair return on that capital. The nub of the question is, what is the capital which is being invested? That is one major point of dispute on which all these things take off. A second area is, that where people outside the normal area where people reside, demand a service. The question is, should the company subsidize that service and then back charge the costs to the other consumers, or should the individual consumer, who is outside the normal area, be called upon to give guarantee of so much purchase of the commodity, or a deposit

BILL #4

Mr. Legal Adviser continues ...
of a portion of the capital cost. Now, I think that the Public Utilities Board which is to be set up by the Commissioner, is intended to be a technical board. It is not intended to be a board such as the Zoning Appeal Board, or the Transport Board here which consists basically of private citizens who come in from the normal commercial world and sit down and give advice on the, whether a transport licence should be granted whether there is enough business or not. This board is intended to be a highly technical and competent board, which will meet from time to time, and may not consist wholly of people who are resident in the Territory. It is a very different type of board to the normal board which we find around the place. I think that the board will be experienced in the field in which they are assuming jurisdiction at the time of their appointment, and not be learning on the job, as some of our boards do.

Mr. Chamberlist: My reaction immediately to some of the remarks that Mr. Legal Adviser made is that, it doesn't explain and this is where I think we should have some consideration given to it that it doesn't explain that when a franchise is given there is a very special thing that is being done. An exclusive franchise is given. To receive that exclusive franchise the public utility itself must be prepared to give something to the people that they are going to supply electricity service to. It doesn't mean that they are going to be able to give just the electricity and sell the electricity. They must be prepared. This must be one of their obligations, they must be prepared to accept that for the grant of a franchise, that they are prepared to give or make electricity available in every part of that area within the franchise. If they are not prepared to accept that condition they should not accept the franchise. I don't think that Government would be serving the people that they are supposed to serve because after all this is where the Government has an important part to play in granting a franchise. Make sure that the people that are within that franchise area get what the franchise intends to give. I perhaps didn't make myself clear to the Honourable Member from Whitehorse North that I say that yes, this must be given within a franchise area but if there is an adjacent to the franchised area that a company requires electricity to be brought into that area and there is no specific franchise in that area, I think that is a private area between the utility and the private organization after whom will be paying for the cost of the line. That is not a franchised area and they have not got any insurance that they will be continuing to supply that particular organization with electricity. I would support the fact that they have a right to bargain in that area. Basically I think that we should consider the main point that the Honourable Member from Whitehorse has made. If a group of people are within the franchise area and ask for electricity to be brought to them, they must be protected from having the charges of the costs of bringing those lines into their area paid over and above the rate that set by the utility who have taken into consideration the capital costs and outlays of any installation at the time of setting the rates. If there is a condition in the franchise that the rate can be varied and adjusted because of the different area, this would also, it appears to me be an addition of the franchise agreement itself. The question must be whether or not we should incorporate this now into the legislation or have it in regulations so that it gives the municipality or in the case of areas outside the municipality, the Commissioner the right to put those certain conditions into the franchise agreement.

BILL #4

Mr. Legal Adviser: Mr. Chairman, a section which allows the board to determine the conditions and manner in which the public utility shall supply electricity. That puts it in the proper place which is into a franchise. A point of principle which I must draw to the Honourable Members' attention to and that is that if a person goes up to live on the top of Grey Mountain and demands a supply of electricity for the one or two months a year that he is occupying a cabin, the question is who is going to pay for that cottage. It is a question of a subsidy or is it a question of being passed on to that person already passed on to the other consumers. It has to be controlled by the board so that it is fair not only to the individual consumer who demands his supply but fair to the company who is supplying it and to the other consumers who will have the cost passed on to them. Only the board can say as the last resort what is fair in giving advice on the franchise.

Mr. Chamberlist: Surely, Mr. Chairman, this is the very basic point that I am getting at, that the conditions within that franchise are something that is dealt with and negotiated between the public utility and the municipality or the public utility and the Commissioner at the time of agreeing to a franchise. This is a question that I am asking

BILL # 4

Mr. Chamberlist continues ...

whether or not we should incorporate that this type of agreement must be made between these people within the legislation because otherwise if it is not within the legislation then how is the control of the legislation over the utility company in relation to the capital outlays that they are making. They may wish to extend in every part of the Greater Whitehorse Area they may wish to extend their lines without anybody even being there and say look we have expended X hundreds of thousands of dollars and we must therefore take this into consideration to get the rate if it is limited to a maximum of 8 percent gross profit but this is the question, if it is done in the legislation prior or is it done after?

Mr. Legal Adviser: This is dealt with really, Mr. Chairman, in sections 20, 21, and 22. Neither the Commissioner nor a municipality can give a franchise unless it has been first approved by the Board. The terms of the Board's approval are set out in 22, the person must satisfy the Board that his scheme is reasonable and sufficient and also that it is the general benefit of the residents of the area directly or indirectly affected thereby. In fact the Board has the final say as to what is fair in the overall picture and not just to one individual or another. The term of the franchise will last for up to ten years.

Mr. Chamberlist: This is the thing that bothers me now although I have gone through this Legislation and as a result of a point that has been promptly made by the Honourable Member from Whitehorse North. Where we talk, in section 22(b), "the granting of the franchise is to the general benefit of the residents of the area directly or indirectly affected thereby." It should be not the area of the residents directly or indirectly affected by but, people that have the whole area, we are talking about the municipality. We talk about the municipality because it is based on one overall capital cost that charges and the rates will be set on not in any particular area. For instance, I will bring this particular point to your attention as I have been through this over the last twenty years or so. Under the existing arrangement, I wouldn't say franchise, that the municipality had with the Yukon Electric because it is a nonexistent, franchise. There is a debate, we have a little bit of a legal argument on this and it is not a franchise. Under the arrangement that exists right now there is a condition that the books of the company in relation to that, and I will use the word, franchise because that is how it is written, should be open. You can never examine the books of the Yukon Electric in relation to the City of Whitehorse because in the company operation they have, they even take in the overall picture of the Yukon Electric overall the whole of the Yukon. If you ask them about the operation and cost and profit and lost in relation to the City of Whitehorse in the past, you could never get it because you were told that they also run their costs for those areas outside of the City of Whitehorse into the same set up. It is pretty difficult, indeed, for you to say which area if you enclose it to a small area is effected. If the municipality, says, in the municipality that section says to the general benefit of the residents of the franchised area directly or indirectly involved, then it seems to me that this is reasonable that the utility itself must have some protection because they must be able to indicate what their costs are, they must be able to know what they can charge as a result of the cost of the capital costs. This is their entitle to get that. I support that principal, but at the same time the people in the franchised area which is the municipality should be able to know that at no time will any particular area of the municipality have a different capital cost charged to them for getting electricity connected into their area. I think that this is a sound thing and I hope that after we have read this and I am sure the utilities have taken the opportunity of reading this and if they want to come forward and bring any rebuttle

Mr. Chamberlist continues ...

to these particular points as we are going through this I think, that Committee should take the opportunity of hearing them out on this. I think, the point that the Honourable Member from Whitehorse North had has been well taken and I see the difficulty that might arise if we don't refer to this as the franchised area not just the area directly or indirectly involved.

BILL #4

Mr. McKinnon: Mr. Chairman, I would have a lot of difficulty with this one, mainly because of the extension of the boundaries of the municipality of the City of Whitehorse. I can see if every person who is within the franchise area demands as his right the ability of electrical distributions and all kinds of problems, could come up to the detriment of the person paying the capital costs, which is my electrical bill. I think the Legal Adviser used a bad argument, the one on Grey Mountain, because there is already a line up there and I am sure that Yukon Electrical would like to get more customers on the line that feeds the transmitter as a power site up there. It could happen that a person through some shannanigans got a piece of land at Long Lake and as his right under the terms of the franchise, or under the terms of the Ordinance as the Honourable Member from Whitehorse East is getting around to, that he has the full ability to go to Yukon Electrical and say you have to build five miles out to my place because it is my right as a summer time resident with a cabin out a Long Lake to have it just like everybody else within the franchised area does at no capital costs to me. The Honourable Member full well knows where the capital cost is going to go. It is going to go right on my light bill every month and I am going to be madder than Hell at this guy sitting out in the boondocks having electricity as his right and the capital costs being put onto my electricity bill. I think that the only people, and this is the whole thing, if you are going to set up a Board and it has to be competent people. They are the people who should make the decision of whether this serves a group of people or are demanding electricity whether the distributor is going to have to go to that area and put electricity in or not. I can see this type of thing exactly as I put the example happening and it would be ludicrous to think that a person shouldn't have this as his right because he was able to get a piece of land way back in the bush somewhere within the metropolitan area.

Mr. Chamberlist: I think, I did the very thing that I wanted to do and that was to bring the Honourable Member out into a particular area of where you have expanded houses and premises, string development, and of course there has always been a cry for trying to get more land for the people. Sometimes the Honourable Member forgets that this is a point that you have supply services, of course you do. I sympathize with the point that's made. This is why I say that when the utility, the public utility comes to negotiate a franchise, they must at that time take into consideration what their capital costs are going to be in that area and then request at that time with negotiation for the municipality, to set up what the structure will be. Also, it must depend as well on the price of the structure, on the rates of the charge on the load that is being sold. This is an area that has to be taken into consideration between the two parties involved in the granting of a franchise. That is in the case of a municipality, the municipality and the utility, and in the case of the Commissioner outside of a municipality, the Commissioner and the utility. I'm not saying that because the Commissioner negotiates with a utility to supply electricity, that the utility has to string lines all the way over the Yukon right up to Old Crow in a straight line right across. I am not suggesting that at all. I am saying that if there is a defined area; if there is a municipality, or if the municipality in their negotiation says that although the metropolitan area, and then gives out the delineation of a metropolitan area is so large that this franchise will include everything within a particular area. This is part of the agreement that has been set up so that it is in that area where there is a responsibility on the utility to supply the services without charging over and above the set arrangement of

BILL #4

Mr. Chamberlist continues ...

the rate. Certainly, if there is a condition in the franchise that let's say eight miles from the centre of a given spot taking a radius well outside that area, a charge can be negotiated as long as it is in the franchise right, but it has to be written out. I'd say that the utility should not be placed or the people should be placed in the position where the utility can go to them afterwards and say, right right, we'll put electricity in there but it is going to cost you two thousand dollars to put it in. This is the only request that I make for consideration in this area; so the people are not placed in the position of having to have the utility come to them and say, "we can charge this because there is nothing in the legislation which says that we cannot charge them!"

Mr. Stutter: Well, I have just one question. It seems to me that at the time that Yukon Electrical would have been granted a franchise to provide electricity in the Whitehorse area, using this as a particular instance, it must have also been spelled out in that franchise, that they would provide electricity within a given area. Now that the Municipal boundaries of Whitehorse have been increased, it seems rather obvious to me that it could possibly have been overlooked, that another agreement hasn't been entered into with the company that has a franchise to provide electricity. You can't expect them to abide by the original agreement within a smaller area.

BILL #4

Mr. Chamberlist: With respect, Mr. Chairman, they already have an agreement for the outside area. There is an agreement already set up for the outside area because they have, for the sum of one dollar ... they were given an arrangement from the D.N.D. many years ago. They had a thirty thousand dollar maintenance contract a year, and one dollar for the lines, and things like that. They also had, just recently, a couple of years or so ago ... Crown Assets sold them the lines and the distribution. They also have an arrangement with the Territorial Government, I believe. I don't remember the exact wording of it ... about supplying electricity in outside areas. I'm not suggesting that they should, that the utilities should be forced to supply electrical lines to every area in the greater Metropolitan area. The suggestion that the Honourable Member from Whitehorse West has made, certainly I wouldn't want to see Yukon Electric go and take some lines way up to the top of a mountain where nothing ever is going to exist, even now at any time, because it would be ludicrous but, what I do say is there should be a provision in the franchise and this must be spelled out somehow, that the area that they said they're going to supply electricity to, must not become an extra burden on any individual who wishes to have any electricity in that area. This is the point that's really concerned here.

Mr. Tanner: Mr. Chairman, this has come a long way from my original point. My original point was that the general terms and conditions of a franchise as written here, when you get down to page four (26), you pick up **four** specific areas where there is cause for a certain number of people to go to the Board and say "Look, this is happening." My initial suggestion was that this is one of the areas which should be included as a specific; and whether or not the franchise utility should cover the whole area or whether or not there should be a negotiated price. All I'm saying is that there is a genuine protection for people coming within the franchised area, should they want electricity supplied to them, and should the utilities say this is such and such a price, they should have recourse for that group of people, just as we've picked out these four groups of people, there should be recourse in this area. It seems to me that at 26, there should be another paragraph sub-paragraph (e), specifying those classes of people. It's going to happen, the greater Whitehorse area is a far greater area than what it was years ago. It covers a great deal of land and there's going to be unfortunately, there's going to be several satellites cropping up and those people will want electricity in some cases. Even if they made a choice to go and live beyond the known areas now, they should get electricity at a reasonable cost and they should have an appeal if they can't get that reasonable cost.

Mrs. Watson: Mr. Chairman, 26(2)(b), if we continue reading the legislation, I think it will be clarified.

Mr. Chamberlist: With respect, Mr. Chairman, this 26 still specifically deals with rates. This(2)(d), ... it requires the public utility to establish, construct, maintain and operate any reasonable extension to its existing facilities. It doesn't say who is going to foot the bill for it. This is the point. It speaks about the rates and the requirement that will be made by the Board of the Utilities. This is the area where the question that was raised by the Honourable Member for Whitehorse North, although I don't know if he feels that I have gone away from this, the point that he's making, as I see it, and the point that I see quite clearly is that there is no provision being made here for who is to pay for those extensions.

BILL #4

Mr. Legal Adviser: Mr. Chairman, it's not necessary to make provision for who is going to pay. In the last analysis, the consumer pays. The point that was raised by the Honourable Member is that he would like to see a method of complaint given in respect of new residents in an area already covered by a franchise. Section 26 says that "any twenty-five people outside of a municipality or the council of a municipality itself, can make a complaint respecting the manner in which the utility provides service or the areas to which it provides service and the rate charge. Those rates, the manner and the area, cover any intitial fees that may be charged. That's the manner, and the rate. Suppose they say "we need a deposit of fifty thousand dollars before we take the line five miles up to Long Lake." That's part of the jurisdiction of the Board and they can lay a complaint against it but I don't think it is reasonable to detail in here what should be in a franchise itself and be part of a negotiation. That is, who is going to pay for capital costs and the manner in which it's going to be charged to the consumer, in the Bill itself, and detail no other special clause of the franchise. This should be part of the negotiations of the franchise and then dealt with by the Board as part of its authority and jurisdiction.

Mr. Chamberlist: Excuse me, Mr. Chairman, I don't see that at all. The way I see it and I think the way it would benefit the people in the area, that they know whether they are going to be charged over and above the rates that have been set. I'm not saying that the Board should not set the rates. I'm saying that once the Board has set the rates, the public should know if they can be charged over and above the rates for the installation of lines to their premises, and I think that is not clear. We must either say "No, they will not be charged" or "Yes, they may be charged". To leave it open like this placing in the hands of a utility..... this has been done. They're saying right now the rates that are set, this is what our rate is, this is what our tariff is, this is what we've billed you. There's nothing now that exists that says they cannot charge for putting a line in. I think it's incumbent upon us to make sure that the language is clear in that area. This is the point that I keep raising.

Mr. Legal Adviser: I agree, Mr. Chairman, there's something to be said for putting it in but not for taking the decision here and now. In the last resort, one of the Honourable Members mentioned the position of a summer cabin at Long Lake, five miles from Whitehorse, the first resident in there demanded that, does he get it at so many cents a kilowatt or is he asked to pay the capital cost of the line from Whitehorse to Long Lake. I don't think it should be in this Ordinance.

Mr. Chamberlist: I'm not saying that at all, Mr. Chairman. This is something that is one of the negotiable things between the utility and the municipality. The utility in taking over the franchise then say "Of course we will not be supplying the electricity at this time to Long Lake." Or they'll say that these are the places that we will be supplying electricity to and that in these areas, where we're going to supply electricity to, there will be no charges made. At the moment, the way it is, I think it happens now, in cases where the utility will go to one pole. If you have to put in another span of another hundred and fifty feet or hundred feet according to the size of the line that's in there, they will say "Because we need an extra pole, an extra line, this is a charge to you." This is the area that I want to protect.

Mr. Legal Adviser: Perhaps, Mr. Chairman, I would suggest not in the Ordinance in that detail.

Mr. Chamberlist: Well, Mr. Chairman, where then would the protection be?

Mr. Legal Adviser: It is up to the municipality's skill and the lawyers in negotiating the franchise and the skill of the Board in seeing that that franchise is fair both to the supplier and the members of the public and the potential people who would be residents in the area. The capital cost must be paid for in the last resort by the people who consume the product.

Mr. Chamberlist: Mr. Chairman, with respect, I seem to be at cross-purposes with Mr. Legal Adviser here. The Board, as far as I can see, is required to comply with the legislation. The Board is going to receive its power from the legislation and it could only act upon the terms of the legislation. It could only adduce evidence that is presented to it at a hearing, based on what the legislation said. If I was sitting on a Board and somebody would come along to me, as it's written now, and said "I've been charged a couple of thousand dollars for putting in five hundred feet of pole line".... I'm sorry this has got nothing to do with the Board because all the Ordinance requires of me is to deal with the rates and see whether there is a requirement for the public utility to drop that line. It doesn't give me the power to say whether the utility can charge you for it or not.

Mr. Legal Adviser: Mr. Chairman, it does in Section 26, subsection (2) Paragraph (c). It gives the power to the Board to determine the conditions and manner in which the public utilities can supply electricity. In this case, if the public utility says that the condition of supply, that this person pays a two thousand dollar capital cost for his pole and line, then the Board can be asked to say whether or not that is reasonable or how that would be done. You've got the right to state in clearly broad terms and not to limit the Board too much.

Mr. Chamberlist: Mr. Chairman, to interpret the words "determining the condition and manner in which the public utilities shall supply electricity" as a basis on which a charge for a service can be made, I don't support that theme at all. That is so broad that you can drive about four cats, right along side each other, through the hole. We're supposed to be making protections in this legislation and there is no protection in there. There's no protection of the ordinary guy in the streets who wants to have electricity brought into a specific spot that's within the franchise area, that the utility company is prepared to bring in there because he has a franchise that says the rate must be so and so and the electricity must be supplied there, not withstanding that, I am going to charge, the utility service, I am going to charge X thousand dollars. There's no protection there.

Mr. Legal Adviser: But, prior to that (d), Mr. Chairman, goes on to say that "the Board may make an order requiring the public utilities to establish, construct, maintain and operate any reasonable extension to existing facilities." So, in the last resort, the Board can be required by the Board to make the extension.

Mr. Chamberlist: At whose cost?

Mr. Legal Adviser: At the cost of the consumer, Mr. Chairman, in the long run.

Mr. Tanner: Mr. Chairman, that's exactly what I started off by saying. If those conditions avail, then there should be something specifically said in this legislation to ensure that the consumer can appeal to the Board and say this is not right, not correct and it should be literally pointed out here.

Mr. Commissioner: Mr. Chairman, with respect, would it not be that the rate structure is going to be in the franchise when it is signed? Wouldn't you say in this rate structure that every foot of line will be in that franchise? Do you say that in the legislation?

Mr. Tanner: No, Mr. Chairman, it does not.

Mr. Commissioner: What do you say in there, Mr. Chairman?

Mr. Legal Adviser: Mr. Chairman, the Board's power is, in relation to a complaint of wrongful charge or too high a rate, or wrong supply, they have power to fix the rate and classifications; they have power to prohibit any rate increase or to limit it; they have power to determine the condition and manner in which the supply is made; and they have power to require the utility to extend and operate any extension to its facilities. There's very little extra power in relation to a complaint in that respect. Plus, they have the power not to approve the franchise unless the scheme is reasonable and sufficient in the general circumstances and that having

Mr. Legal Adviser continues ...

BILL #4

regard to the available supply, the granting of the franchise is to the general benefit of the area affected. These are vast powers and written in as wide a manner as is possible to write them. If we attempt to crib them down in detail, there's a great danger you'll end up in court and by an extension of the ejusden generis rule or some other thing, we will find ourselves with a great big long Ordinance detailing exactly what the powers are, just like the Municipal Ordinance. We should use the broadest language possible in giving the powers of the Board and then rely on the Board to be able to carry out. To tie it down in detail to that one condition, when no other condition is supplied, I think, I'm against it because I think it would have a bad affect on the whole thing.

Mr. Chamberlist: Mr. Chairman, I'm fully conversant with the English language. The language in this section is quite clear. There is no provision made here to protect an unwary person, an unwary citizen from being charged for the cost of putting in an extension to a line outside of the rate structure. That is the protection that I want to see in there. Mr. Chairman, I'm finishing up by treating the Legal Adviser as a member of the opposition in this debate. I would ask that we go on and we leave this section for review by the Legislative Programming Committee.

Mr. Chairman: Subsection 26(3) in the last line. "Where a complaint, filed pursuant to subsection (1), is, in the opinion of the Board, frivolous, vexatious, calculated to delay, or without a hearing, summarily dismiss the complaint", this doesn't read right.

Mr. Legal Adviser: The "or" should not be there, Mr. Chairman.

Mr. Chairman: The "or".

Mr. Legal Adviser: The intention is, where it is frivolous, or vexatious complaint, it should be capable of being dismissed summarily.

Mr. Chairman: If we take the "or" out, then it would read correctly.

Mr. Legal Adviser: It should be "or calculated delay". It is possible that there might be an extra phrase that is lost in there which the typist may or may not have, I will have to check it. Prima facie, I think that the "or" should go out. It should then read, "in the opinion of the Board, frivolous, vexatious, or calculated delay, without a hearing summarily dismiss the complaint".

Mr. Chairman: Oh, yes, I see it. Clear? (Reads subsections 26(4) and (5))

Mr. Tanner: Mr. Chairman, I am sorry, just to go back. I think that when you are reviewing it, you should look at the wording again in (3), because it doesn't say exactly who can make or summarily dismiss the complaint. The wording is still wrong, I suggest. It is just a minor point, but I am sure that it is.

Mr. Legal Adviser: Yes, I will have to look at it, because there might be a half of a line or a line of typing left out in the transfer.

Mr. Chairman: (Reads sections 27, 28) That doesn't seem to read right either. Isn't there an "is" missing here? Where a complaint, should that not be "where a complaint is filed with the Board pursuant to section 26, a copy thereof shall be served".

Mr. Legal Adviser: I think there is an "is" there because it is a subphrase, "where a complaint is filed with the Board" or maybe "has been" I don't know. There is a verb missing in there.

Mr. Chairman: It doesn't read right otherwise. Alright, "where a complaint is filed with the Board pursuant to section 26, a copy thereof shall be served upon the public utility to which it applies within seven days of the time of the filing, or within such period as the Board or a member thereof on application being made in that behalf may fix." (Reads sections 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40)

Mr. Chamberlist: I have a question here. This is from the past, Mr. Legal Adviser would you indicate that by the removal of these prerogative writs, the opportunity of using these prerogative writs, the courts ... an applicant is refused completely the rule of ordinary law, common law?

Mr. Legal Adviser: No draftman has in the last two hundred years, Mr. Chairman, ever succeeded in saving a board from attack by way of certiorari or prohibition. It does in the descretionary field mean, that where the board within its jurisdiction makes an administrative decision, the court although they will open up the question will not decide it, provided that they are satisfied that the board has acted in the terms of the Ordinance.

Mr. Chamberlist: Personally, I don't think that we need that in there. It becomes too restrictive. I would ask that we take a look at this particular section. When you take away, or even attempt

BILL #4

Mr. Chamberlist continues ...

to take away what is an ordinary common right of everybody to go before a court to obtain a prerogative writ, then there is something a matter with our making of legislation in that particular area. I couldn't support that. I have taken the same stand in legislation over a period of a number of years. I am sorry that is the way it stands.

Mr. Chairman: Yes, it has just been pointed out to me, too, that in 39(1)(a) that should be an "on" in there instead of an "or", is that not correct?

Mr. Legal Adviser: Yes, Mr. Chairman.

Mr. Chamberlist: Mr. Chairman, I want to point this out to Honourable Members so that they see the reference to what I made in this area. It refers to section 35, section 41 refers to section 35. In section 35, it gives the Board the right to review, but there is no appeal outside the Board, notwithstanding what Mr. Legal Adviser has indicated, and this may or may not be correct. I would not say that it is not correct, because I am sure there are cases where the court has opened up decisions of the Board. I don't think that we should stop anybody any public utility or any municipality into not being able to go back to a court of law, and if necessary seek the proper redress. It is a principle that must be maintained.

Mr. Legal Adviser: Mr. Chairman, there is no point in thrashing it out in detail in this House at the moment. We have provided that an appeal lies from the Board to the court on a question of law. That is laid down, and they get thirty days.

Mr. Chamberlist: Where?

Mr. Legal Adviser: The next section. This is what courts are for, to decide questions of law. The Board is especially set up as a discretionary board to make rulings on costs, rates, rates of profit, and conditions of that nature. That type of decision should not go before the court. If, we give it to a court, then we should have given it to the court in the first place. If the Board attempts to go outside the jurisdiction which it is given here, then an appeal on point of law will arise, not only under section 41, but by the normal court rules as a writ of certiorari lies to attack the decision of a Board if it transgresses its ordinary jurisdiction. This has been constantly laid down in Canada, very, very much so in recent years in relation to boards which are subject to similar sections such as this, such as Labour Boards and so on. The question of the jurisdiction is a question for the courts. The question as to how much the employee is to get or the terms of the agreement is unimpeached and will act within the power of the Board itself. This distinction is very clear on the drafting of this section as it is at the moment.

Mr. Chamberlist: I disagree with the Honourable, the Legal Adviser, and we will review that.

Mr. Chairman: (Reads sections 41, 42, 43, 44, 45, 46, 47)

Mr. Tanner: Mr. Chairman, 46(1)(b). I have never understood why a corporation, which has got the wealth to afford a fine shouldn't be liable to the same thing as an individual or the offices of that corporation or the directors of that corporation. Insofar as an individual here has to come up with a thousand dollars and or could have a term of imprisonment. Why couldn't the offices of the corporation be subject to the same terms and imprisonment? I think that they are as responsible as an individual.

Mr. Legal Adviser: The Member has a good point. It is done in the next section, "any person who advises, solicits or persuades or knowingly instructs" any person.

Mr. Chamberlist: We will take a look at that.

Mr. Chairman: (Reads sections 48, 49, 50)

Mr. McKinnon: Mr. Chairman, this is where the last Public Utilities Ordinance fell out of favour with me, and the real reason why this one is going to do to. I am one of those rare birds, it seems that is not ashamed to stand up and say that he makes his living from private industry, and he doesn't think that, profit yet, is really that dirty a word. I don't think that anybody has to defend me on my record of legislation directed for the protection of the public since I have been a Member of this House. Something like this, "the Ordinance shall bind the Crown insofar as the Crown submits to the operation of this Ordinance". Every Crown corporation and every industry can do what the hell they want, willy-nilly, never coming under any control of anybody at all, and yet the private individual and the private company is ceaseingly coming under more and more and more authority of boards and government control. The industry that I am in, there is no more regulated industry in the Dominion of Canada. We get volumes and volumes every week of what we can do and what we can't do. Yet, the public corporation who is in direct competition with us, can use any amount of news on a television screen, can use any amount of four letter words that they want. Can do anything with the taxpayers money, but woe betied the private operator if he wants to do anything just a little bit daring, because you just can't do it, and that is all there is too it. So here we have the distributing authority who comes under complete control of the Board and franchise, and yet the generating authority can if they want to, if they submit themselves to come before the Board, then they may come under a decision of the Board. Well, I think that that is just a little too galling to take for anybody who makes their money out of private industry. Just more and more and more of this, each, and each and everyday. I think that all Honourable Members here are well aware of the difference between the efficiency and the economy scale of a Crown corporation and a private corporation. I think that everybody here admits to the skill and the expertise and the efficiency of the electrical distributor in the area. I wonder if they can say the same thing about the generating authority. I see the Honourable Member from Dawson with a glint in his eye. I wonder what he can tell us about the workings of the corporation up in the City of Dawson and the efficiency of the billing that comes from Edmonton about two months later. From Ottawa now, isn't it that the billing comes from, from the Northern Canada Power Corporation? We have got a duty here, not only to protect the individual but to protect those people in private industry who are trying to do as an efficient and as economical a job as they possibly can. I think that the distributing authority, I am not ashamed to say it in the House, provides good management, they provide a good distribution system which is run effectively and economically. I can't say the same and I won't say the same for the generating authority, and why in goodness gracious name shouldn't they be forced to come under the Boards jurisdiction also, if the distributing authority is. This whole Ordinance to me just falls flat on its face, when we come to 50(1), because until you have the Crown willing to subject their divine rights to some kind of authority for the good of the public, then why in heavens name should the private industry continuously be getting it from Crown corporations, and from Boards ... quasi judicial people running around all over the country. We have a duty both to the public, and we also have a duty to those people in private industry who are doing a good job.

Mr. Chamberlist: Mr. Chairman, I'm sure we've all echoed exactly the same sentiments in relation to Crown Corporations, so I have no argument with the Honourable Member. Most of you know that there was a question arising some time ago in the Northwest Territories, specifically Hay River, in relation to the granting of franchises and the Northern Canada Power Commission accepted the position of the Public Utilities' Commission of the Northwest Territories. Although the Public Commission of the Northwest Territories was made up of Northwest Territories' Territorial Government people, the Chairman was the Deputy-Commissioner of the Northwest Territories. Over and above the position that was given there in relation to the private operator who put in a bid in that he received a contract for supplying the franchise. Now, the question as to whether or not the Crown Corporation should come under the jurisdiction of the Public Utilities' Commission, it would be very very dangerous for them to publicly acclaim that they would not come under the regulations of the Public Utility Commission. I would, under ordinary circumstances, agree with the Honourable Member who has just spoken, and not provide provision for an Electrical Public Utilities' Ordinance unless the Corporation known as the Northern Canada Power Commission, was in fact part in parcel and subject to the rules of the game; which they should be. However, because we are not in a position to force them to come into line, does this mean that we have to not give protection to the public in those areas that we can give protection to. We are fortunate indeed, and I agree with the Honourable Member, that the utility company that we have operating in the area now, has shown itself as a good corporate citizen. It has conducted itself properly and certainly has done everything possible to be fair and considerate and operate an efficient service. I don't think anybody would argue on that particular point. What must be the concern of the House however, is whether or not we must deprive the public of the requirements of control over rate structures. This is important. I know that it was indicated by the representatives of the Yukon Electric Company, when they appeared as witnesses the last time that this matter was discussed, that there was no objection to the fact that there should be a Public Utilities' Commission. They did have an objection that they shouldn't be subjected to a Public Utilities' Board, Electric Utilities' Board, if the Northern Canada Power Commission were not also subjected to the same. I, as most Members know here, I concur with that attitude. However, the results of the Hay River situation in the Northwest Territories; it was made quite clear that the Northern Canada Power Commission, although they cannot because they are a Crown Corporation, say that they will comply; they are not withstanding complying. It would be very interesting to know if a copy of this could be made available to any Member who would like it; it's an opinion of the authority of the Board in the Northwest Territories over the Northern Canada Power Commission, which was printed in August, 1971. I know that the Yukon Electric people have received a copy of that and they studied that. The general concensus of opinion was that, I think I should read this into the record, Mr. Chairman, because it's important and I think Members will understand; I'll just read the opinion at the end and not the material prior to the opinion. It says that "In considering the position of Northern Canada Power Commission with regard to its supplying power to persons in a municipality, the Board must look at the context in which it operates. The Public Utilities Board is a creature of the Commissioner in Council for the Northwest Territories. The said Territorial Council at the time of passing the Public Utilities Ordinance granted to municipalities power to enter into franchise agreements subject to the approval of the Public Utilities Board. The Territorial Council considered it to be in the public interest that the supply of public utilities be subject to review of the Public Utilities Board or by the Commissioner in Council. As the Board's mandate is to act in the public interest it must consider the position of the Northern Canada Power Commission in the light of whether or not its operations are subject to the aforesaid review. If not then it cannot be said to be operating strictly in the public interest as laid down by the Commissioner in Council. The question as to whether the Northern Canada Power Commission could enter into a franchise agreement as contemplated by the Municipal District RONWT 1956 Ch. 73 as amended and the Public Utilities Ordinance ONWT 1963 Ch. 23 was, on the advice of his legal advisors, answered by Mr. Lowe, General Manager of the Northern Canada Power Commission in the negative.

BILL #21 Mr. Chamberlist continues ...

Mr. Lowe claimed that the Northern Canada Power Commission could enter into an agreement pursuant to Sections 11 and 10 of the Northern Canada Power Commission Act (supera) and that there is no real difference between such an agreement and a franchise agreement contemplated by the Public Utilities Ordinance (supera).

The Northern Canada Power Commission Act does not contemplate franchise agreements. Although Section 6 of the said Act makes the powers of the said Commission subject to the laws of the province in which the powers are exercised and although province is defined in the Interpretation Act of Canada as including the Northwest Territories unless a contrary intention is shown, it seems that Section 6 shows a contrary intention by including the phrase "elsewhere in Canada", in such a way as to distinguish the Northern Canada Power Commission's operations in the Territories from its operations elsewhere in Canada.

Accordingly we must agree with Mr. Lowe that the Northern Canada Power Commission cannot enter into franchise agreements as contemplated by the Municipal District Ordinance (supera) and the Public Utilities Board. With respect however, we must disagree with Mr. Lowe that an agreement contemplated by Sections 11 and 10 of the Northern Canada Power Commission Act (supera) is the same thing as a franchise agreement contemplated by the aforesaid Ordinances.

As the Board has no authority over the Northern Canada Power Commission, it would be pointless for the Board to review such an agreement with the Commission. Such an agreement would be an anomaly under the laws of the Northwest Territories as they now exist.

This is not to say" and this Mr. Chairman is very very important " This is not to say that the Board cannot or should not accept representations from the Northern Canada Power Commission pursuant to Section 19 of the Public Utilities Ordinance when considering a franchise application of a Public Utility that is subject to rulings of the Board. Indeed such representations should be welcomed as informed and informative opinions but taken of course with the reservation that they are not subject to full examination as contemplated by Section 31 of the Public Utilities Ordinance.

With regard to any agreement entered into by the Northern Canada Power Commission pursuant to Sections 11 and 10 of its Act, although the Board has no authority over same, it must view such agreements in light of the legislation passed by the Territorial Council as contrary to the public interests unless approved by the Commissioner in Council. Although the points dealt with in this supplementary opinion are not strictly relevant to the matter under consideration the questions were raised at the hearing at Hay River and are of great importance to the operations of the Public Utilities Board and the control of public utilities in the Territories and accordingly are dealt with in this supplementary opinion." Mr. Chairman, it's fairly obvious from that opinion that although there is no power because of the fact that the Northern Canada Power Commission is a government Crown Corporation, it would be looked on very unfavourably if they did not comply with the rules of the game as it applies to the Public Utilities' Ordinance. I'm sure Mr. Chairman, that the Northern Canada Power Commission, if they put a bid in for a franchise here in the Yukon, whether it would be in a municipality or with the Commissioner, for those areas outside the municipality, they would have to be treated and would be treated in exactly the same manner as the Yukon Electric and the decision of the Board would be binding and Northern Canada Power Commission wouldn't be able to put any pressure to remove the granting of the franchise to the utility itself. I just read this into the record because I agree with the Honourable Member from Whitehorse West; I've taken the same stand as he has taken. The circumstances are that we have no power because it's a Federal matter, to alter what exists and that the Crown cannot be governed by any Ordinance that is made within this House.

Mr. Chairman: Would you take the Chair a moment?

Mr. Stutter takes the Chair.

Mr. Taylor: Mr. Chairman, I don't know, I was informed here when last we discussed this matter that if we wished to provide legislation, this was when it was a general thing and involved everyone, if we wished to provide ourselves with legislation which states that you must first of all in order to operate in the Territory you must operate in a franchise position then we indeed could bring C.N. and their telecommunications under the purview of the Board. That was what I was told last time. They would have to be forced into a franchise position to do this. I would like to ask Mr. Legal Adviser, am I wrong here? That we are not competent to insist that anybody who operates a utility in the Yukon must be in a franchise position, and then saying now that your're in a franchise position, come under the dictation and edicts of the Board. Isn't that right?

Mr. Legal Adviser: Mr. Chairman, a person operates commercially or they don't. If they ask for a privilege to keep other people from operating the facility in their area then they come and ask for a franchise. We don't insist; no government ever insists that merely to supply a utility you must have a franchise.

Mr. Taylor: Well, Mr. Chairman, my attitude is the same as the Honourable Member from Whitehorse West states. I think that if we're going to take one of utility companies under the purview of the Board, they've got to both come under the purview of the Board. There's no question about it. Otherwise one operates any way he wants really and the other has to come under the edicts of the Board. That's not really fair. I certainly can't agree with section 50 again, it's unthinkable to accept a piece of legislation that is not binding upon the Administration or the Crown. I certainly am not going to vote in favour of this Bill as long as that remains. There's no question about that. I think that some consideration should be given to what I have stated and that the Northern Canada Power Commission should come under the purview of the Board. If that were done and section 50 completely disappears, I could give consideration to acceptance of the Bill. I'll not see one company tied to this Board and the other company permitted to operate without being tied to it.

Mr. Chamberlist: Mr. Chairman, I don't want to go any further in what I said because I agree with the general concept, but I must ask Honourable Members to recognize that it has already been stated that the Northern Canada Power Commission cannot receive a franchise because they haven't the power to accept franchises. There is reason to believe that they can enter into agreements, but not a franchise. The powers that we have in this Legislature, all Members realize this, is something that is completely outside of Federal Legislation so that there is no way the Honourable Member from Watson Lake can say unless we have the Crown.... this is the only way, because there's no way that we can force them to do it. We can ask the Federal Government to do it, which they wouldn't do. Really, the request becomes superfluous. I find it necessary in my mind, as I'm sure Members even who are opposed to this will agree, that the public requires protection notwithstanding where the franchise lies. If this concept is agreeable, I think we should recognize the fact that we cannot do anything about the Crown Corporation. Certainly, the Commissioner, if the Commissioner happens to be the negotiator of a franchise with a utility, or a municipality who happens to be the negotiator of a franchise for a utility, can refuse to even consider the Northern Canada Power Commission if they don't come within the review of the legislation. I'm not suggesting that this will be done; but I'm saying they can't do this. All I can indicate is because we want to give public protection we should place ourselves in a position of refusing that protection notwithstanding that it is, I agree, unfair to one public utility that it has to comply with legislation and the other public utility, who may well comply with the legislation, but is not forced to comply with it.

Mr. McKinnon: Mr. Chairman, it's just so damnably unfair, the concept of it, Remember when we brought the Public Utilities Ordinance in and there was only one thing that we had the ability in our House of going after it, you may as well call it an Ordinance to regulate the Yukon Electrical Company Limited rates. Where we should be asking, in the

BILL #21

Mr. McKinnon continues

field of telecommunications, in the field of telephones up here, where we're the only place in Canada that can't get a dollar call to anywhere else in the country after midnight. We're the only place in Canada where they consider that Porter Creek and Crestview are long distance rates from Whitehorse and charge another fifty cents a month for the privilege of having a phone out there on top of having the highest cost per phone in the country anyway, and then try and get a phone, if you want to get one. It's just like pulling teeth anytime of the year. These are the things that we should be... for the public to be taking control of and saying "Now look it, here are the areas where we should be working in." We can't touch them; they're a Crown Corporation. We can't touch the N.C.P.C.; they're a Crown Corporation. You can't touch us; we come under more regulations from C.R.T.C. than you ever see in your life anywhere. The only people you can get is the Yukon Electrical Company Limited. At least it's fairly defined now, instead of being a Public Utilities' Ordinance it's an Electric Public Utilities' Ordinance. It's just not fair. We've got to petition the House of Parliament to be able, if we're going to conduct our own affairs, of being able to regulate these damn Crown Corporations that can do whatever they want, whenever they want, and don't have to give a buy your leave to the public of the Yukon Territory that they have franchises to serve.

Mr. Chamberlist: Mr. Chairman, I think this position is carried with everybody. The Honourable Member has no argument from anybody in this particular area. But, do we have to penalize John Q. Public by not giving him some protection when we're able to give that protection with at least one utility. This is the question. I know that the public utility, Yukon Electric, they want a set of guidelines to work by. They're not objecting to rules of the game. They're used to it. They operate in other areas. They're operating in Alberta. They know they have to have rules which to work by. It's going to be made much more clear to them that they're now going to know what they're going to work by. I would suggest Mr. Chairman, that we report progress and if Members of Committee would like to hear a representative of Yukon Electric, I would like to have him here to see if they're opposed to the principle of having a Board set up. I would like to hear them say "No, we don't want a Board set up." I would really really like to hear the Yukon Electric come in front of this Council and say "No, we don't want a Board." I would really appreciate that. I would suggest Mr. Chairman, that we report progress and I would indicate that I would like to have a witness from Yukon Electric to come here to answer one or two specific questions.

Mr. Taylor: Mr. Chairman, I just want to point out that I haven't been right through the Northern Canada Power Commission Act but it states "for the purposes of this Act, the Commission may in its own name enter into contract, buy or hold real or personal property or any interest therein," further on through it does not preclude the possibility that a franchise is an agreement and as far as I am concerned the Northern Canada Power Commission can get involved in a franchise. I see nothing that would stop this anyway, so far.

Mr. Chairman: Can we report progress on this Bill? I would particularly, like to see it reported this way.
Reads section 51(1), 52(1)

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

Mr. Chairman: Is there a seconder to the motion?

Mr. Tanner: I'll second that motion.

Mr. Chairman: It has been moved by Councillor Taylor, seconded by Councillor Tanner that Mr. Speaker do now resume the Chair. What is your pleasure? Agree? I declare the Motion Carried.

MOTION
CARRIED

MOTION CARRIED

Mr. Speaker: This House will now come to order. May we have a Report from the Chairman of Committees.

Mr. Taylor: Mr. Speaker, Committee convened at 9:55 a.m. to discuss Bills, Sessional Papers and Motions. Mrs. Susan Burns and Mrs. Jean McCowan from the Consumers' Association attended Committee to discuss Bill No. 17. It was moved by Councillor Chamberlist, seconded by Councillor Tanner that Bill No. 17 be reported out of Committee without amendment and this motion carried. It was moved by Councillor Chamberlist, seconded by Councillor Watson that Bill No. 18 be reported out of Committee without amendment and this motion carried. I can report progress on Bill No. 19. Committee recessed at 12:00 noon and reconvened at 1:35 p.m. I can report progress on Bill No. 21. It was moved by Councillor Chamberlist, seconded by Councillor Watson that Bill No. 22 be reported out of Committee without amendment and this motion carried. I can report progress on Bill No. 4. It was moved by Councillor Taylor, seconded by Councillor Tanner that Mr. Speaker do now resume the Chair and this motion carried.

Mr. Speaker: You've heard the Report of the Chairman of Committees. Are we agreed? May I have your further pleasure?

Mr. Taylor: Mr. Speaker, I believe it was the intention of Committee to discuss Bills, Sessional Papers and Motions tomorrow. I'm just wondering if I might be permitted a question from the Honourable Member from Whitehorse East at this time, in respect of the agenda. I believe that it has been requested to the Speaker and Members of Council for additional time for which the municipalities would have to study the municipal package. I'd like to ask the Honourable Member if it is possible to extend this into next week.

Mr. Chamberlist: Mr. Speaker, the indication is that the municipalities will be here on Thursday and no doubt they will be extending it into next week.

Mr. Speaker: May I have your further pleasure?

Mr. Stutter: Mr. Speaker, in view of the time I would move that we call it 5:00 o'clock.

Mr. Tanner: I'll second that.

Mr. Speaker: It has been moved by the Honourable Member for Dawson, seconded by the Honourable Member for Whitehorse North that we now call it 5:00 o'clock. Are you prepared for the question? Agreed? I declare the motion carried.

MOTION CARRIED

*MOTION
CARRIED*

Mr. Speaker: This House now stands adjourned until 9:30 a.m. tomorrow.

ADJOURNED

ADJOURNED

Mr. Speaker reads the daily prayer. All Councillors are present.

Mr. Speaker: Mr. Clerk, is there a quorum present?

Mr. Clerk: There is, Mr. Speaker.

Mr. Speaker: The House will now come to order.

Mr. McKinnon: Mr. Speaker, I would like to rise this morning on a question of personal privilege which I think is extremely important and I think, touches the rights of every Member of this House. Members of the House have been promised, off and on, that they would have available for their use, offices so that they could conduct the business of their constituents. Up to this moment, Mr. Speaker, this has not come about. I think that, if Members who are in Government, could only realize the absolute disadvantage and the difficulty that Members who are not in Government find themselves in ... they cannot make a private, personal phone call to any of their constituents at any time, except through the offices of Mr. Legal Adviser or the Clerk of Council, if they allow them to use their phone in private in the office. There is no way that we can interview constituents who are coming to see us, or a constituent who is assisting the Council and wants to talk to his Councillor. This is an impossible situation. It has to be done in the hallways, and of course, this just doesn't lend itself to proper Government. Mr. Speaker, I would ask you if you would take it upon yourself, in the offices of this House, to somewhere, somehow, find us a cubicle or a broom closet where somebody can stick a phone in, and where we can have a bit of privacy in order to be able to try to conduct the business of our constituents and the Opposition of the Government of the Yukon Territory. I find it a very, very difficult goal.

Mr. Speaker: I can concur with my latter confrere's remarks. I have the same difficulty myself. Are there any Documents or Correspondence to be tabled? I have, for tabling, a letter from the City of Whitehorse, dated, February 14th, 1972 and signed by the Mayor, A.J. Wybrew. Are there any Reports of Committees? Are there any Bills to be introduced? Are there any Notices of Motion or Resolution? Are there any Notices of Motion for the Production ...

Mr. McKinnon: You're getting pretty fast, Mr. Speaker. Mr. Speaker, I have a Notice of Motion, seconded by Councillor Taylor, concerning the relocation of the Unemployment Insurance Commission Office, to back to the Yukon. *MOTION #16*

Mr. Speaker: You don't rise very fast from the lotus position. Are there any further Notices of Motion? Are there any Notices of Motion for the Production of Papers? As there are no Notices of Motion for the Production of Papers, and no Motions, we come to the Question Period. Mr. Clerk, will you please see if the Commissioner is available at this time. We will now have a short recess.

RECESS

RECESS

Mr. Speaker: The House will now come to order. Are there any questions?

Mr. McKinnon: Mr. Speaker, the Speaker of the House and the Members of Council have received correspondence from the City of Whitehorse, in which the City states that they have been in communication with both, the Mayor of Faro and the Mayor of Dawson, and all three municipalities are requesting, from the Government of the Yukon Territory, more time to study these Bills concerning municipalities before appearing at Committee's Table. I wonder whether the Government of the Territory has acceded to the request of the Mayors of the Municipalities within the Territory. *QUESTION RE MUNICIPAL REPRESENTATIONS*

Mr. Chamberlist: Mr. Speaker, it has been indicated by the majority

Mr. Chamberlist continues ... of this Council that, commencing Thursday, the municipalities will be able to make their representations upon various matters dealing with Municipal Ordinances. The position is that the Council will be prepared to have them visit with us commencing on the Thursday.

Mr. Taylor: Mr. Speaker, supplementary question on the same subject; resulting out of a visit I paid to the City Council meeting, last night, and in light of the fact that they have only got through two Bills, the Municipal Ordinance and the Housing Ordinance, would the Administration care to change their minds and provide these people with a little more time to study this most important legislation.

Mr. Chamberlist: Mr. Speaker, it has been set already by Council that the ... I'm aware that there are certain pressures being imposed upon this Legislature. The Government must stand firm, and we will be only too pleased to have them commence meeting with us on Thursday.

Mr. Speaker: Are there any further questions?

QUESTION RE
AIRSTRIP,
CAMPBELL
HIGHWAY

Mr. Taylor: Yes, Mr. Speaker. On Friday, last, I asked, or directed a question to Mr. Commissioner, respecting the maintenance and upkeep of the airstrip twenty-five miles out of Faro, at Mile 217 of the Campbell Highway. I wonder if we yet have a reply, or when we may expect a reply to this question.

Mr. Commissioner: Mr. Speaker, I don't have a reply at the moment, but I would like to assure the Honourable Member that there will be a reply, either later today or available for the Question Period tomorrow morning.

Mr. Speaker: Are there any further questions?

QUESTION RE
MEDICAL EVA-
CUATION
TRAVEL
SUBSIDIES

Mr. McKinnon: Mr. Speaker, at the beginning of this Session of Council, I asked the Member in charge of Health, Welfare and Rehabilitation about whether, for medical evacuation purposes outside the Territory, as discussed in the last Council ... whether the grounds for being able to use some Government funds for travel had been broadened. He said he would be supplying an answer at the earliest possible opportunity. I wonder if he is prepared to answer that now.

Mr. Chamberlist: Yes, Mr. Speaker, there are new regulations being prepared and will be brought forward for Council's attention. They will be tabled as soon as they are completed and have the Commissioner's signature on them.

Mr. Speaker: Are there any further questions? We wish to thank the Commissioner for his attendance. As there are no Private Bills or Orders, we come to Public Bills.

BILL #17
THIRD
READING

Moved by Councillor Chamberlist, seconded by Councillor Watson, that Bill No. 17, An Ordinance to Amend the Landlord and Tenant Ordinance, be given Third Reading.

MOTION
CARRIED

MOTION CARRIED

BILL #17
TITLE
ADOPTED

Moved by Councillor Chamberlist, seconded by Councillor Watson, that the title to Bill No. 17, An Ordinance to Amend the Landlord and Tenant Ordinance, be adopted as written.

MOTION
CARRIED

MOTION CARRIED

Mr. Speaker: Bill No. 17 has passed this House.

BILL #18
THIRD
READING

Moved by Councillor Watson, seconded by Councillor Chamberlist, that Bill No. 18, An Ordinance to Amend the Motor Vehicles Ordinance, be given Third Reading.

MOTION
CARRIED

MOTION CARRIED

Moved by Councillor Watson, seconded by Councillor Chamberlist, that the title to Bill No. 18, An Ordinance to Amend the Motor Vehicles Ordinance, be adopted as written.

*BILL #18
TITLE
ADOPTED*

MOTION CARRIED

*MOTION
CARRIED*

Mr. Speaker: Bill No. 18 has passed this House.

Moved by Councillor Chamberlist, seconded by Councillor Watson, that Bill No. 22, the Alaska Highway Maintenance Ordinance, 1972, be given Third Reading.

*BILL # 22
THIRD
READING*

Mr. Taylor: Mr. Speaker, in speaking to the motion on Third Reading, I would like to make it abundantly clear to Members, all Honourable Members, that while I support, and will continue to support, the takeover of the Alaska Highway, and have worked very hard in that direction, I cannot vote for this particular Third Reading of this Bill. Again, as in many things, Mr. Speaker and Honourable Members, it is a matter of principle. The Bill is presented to us without the accompanying agreement; the Bill authorizes the Commissioner to enter into an agreement and for the Commissioner to determine what the obligations are and will be undertaken on behalf of the people of the Yukon, what payments will be made. This is a duty and a responsibility of this Legislature. This information has not been forthcoming to this House. This amounts to nothing more than a complete erosion of whatever responsibilities the people of the Yukon have left, by virtue of our participation in this Legislature on their behalf. It is for that reason, Mr. Speaker, that I am bound to vote against this Bill, even though I would certainly like to see this matter cleared up and the takeover of the Highway concluded in the manner that has been undertaken by the Administration. For those reasons, I will vote against this Bill.

Mr. McKinnon: Mr. Speaker, I would like to voice my objection against giving approval to Third Reading of this Bill at this time. I feel that we're setting a dangerous precedent in allowing an open-ended agreement for the Commissioner to do anything and spend any moneys in connection with the takeover of the Alaska Highway before Council has had a chance to study the proposal or knows anything about it. Mr. Speaker, I would move, at this time, that the question be not put until the agreement between the Government of Canada for the maintenance of the Alaska Highway be tabled before Council. Then, I think, at that time, the question on Third Reading should be put, once the agreement is before Council and we can see where and how the moneys are going, and what actually, the Commissioner has agreed to in the maintenance for the Alaska Highway. I would ask that the motion be seconded, Mr. Speaker, and voted on ...

Mr. Chamberlist: Point of order.

Mr. Taylor: I would be pleased to second the motion, Mr. Speaker.

Mr. Chamberlist: I rise on a point of order, Mr. Speaker. How long-time Members of this Legislature try to attempt to put a motion when another motion is on the floor, and it is not even a procedural motion ... I would suggest, Mr. Speaker, that this is not a procedural motion, and that the motion itself, continue to be dealt with. While I'm on my feet, if I may continue speaking on the motion itself, we have heard the Honourable Member from Whitehorse West indicate a dangerous precedent in relation to the Commissioner being able to spend funds. Certainly, as I have indicated while this matter was being discussed in Committee, it is this Legislature that has the control, as far as voting funds, and the appropriate time for the objections, if any, is at the time of the budget, for the voting of funds. Mr. Speaker, I would ask that Members of the House pass this motion accordingly.

Mr. Taylor: Mr. Speaker, point of privilege, indeed, the motion is quite in order. It is a procedural motion and if Mr. Speaker so wishes, I will find the appropriate section in Beauschesne.

Mr. Chamberlist: It is not.

Mr. Speaker: Order. Let us proceed with the motion that is on the floor. Are you prepared for the question. Agreed? I declare the motion carried.

*MOTION
CARRIED*

MOTION CARRIED

Mr. Taylor: Mr. Speaker, with deep respect, sir, the motion that is on the floor is the amendment to the main motion. Are we then to assume that the amendment is passed?

Mr. Chamberlist: What? What? Point of order. Here we have, Mr. Speaker, a typical type of confusion. First the Honourable Member indicates that the motion that was put was a procedural motion. Now, he says that it is an amendment. This speaks for itself, the irrelevancy of what is taking place.

Mr. Speaker: Well, we've just voted on the original motion.

Mr. Chamberlist: Thank you, Mr. Speaker.

Mr. Speaker: And I declared the motion carried.

Mr. McKinnon: Mr. Speaker, I find it very hard to accept Mr. Speaker's ruling because the motion that I put that the question be not put was definitely in order; it was seconded and it should have been voted on. If Mr. Speaker will look at his Parliamentary Rules and Orders, he will find that the motion that I made was properly seconded and that it should have been put, prior to the main question being asked. It was a motion of this House, duly seconded and should have been voted upon.

Mr. Speaker: I declare that it was not a procedural motion, and I declare the motion carried. Are you prepared to adopt the title to Bill No. 22?

*BILL #22
TITLE
ADOPTED*

Moved by Councillor Chamberlist, seconded by Councillor Watson, that the title to Bill No. 22, the Alaska Highway Maintenance Ordinance, 1972, be adopted as written.

*MOTION
CARRIED*

MOTION CARRIED

Mr. Speaker: Bill No. 22 has passed this House. May I have your further pleasure?

Mr. Chamberlist: Well, the Honourable Member from Watson Lake, who usually carries out this function, hasn't carried it out. So, I will move, Mr. Speaker, that Mr. Speaker do now leave the Chair and Committee resolve itself into Committee of the Whole for the purpose of discussing Bills and Sessional Papers and Motions.

Mr. Tanner: I second the motion.

Mr. Speaker: It has been moved by the Honourable Member for Whitehorse East, seconded by the Honourable Member for Whitehorse North, that Mr. Speaker do now leave the Chair for the purpose of convening in Committee of the Whole to discuss Public Bills, Sessional Papers and Motions. Are you prepared for the question? Are you agreed? I declare the motion carried.

*MOTION
CARRIED*

MOTION CARRIED

Mr. Speaker: The Honourable Member for Watson Lake will please take the Chair in Committee of the Whole.

Mr. Taylor takes the Chair.

BILL #4

Mr. Chairman: Well, at this time, I call Committee to order. The first item of business today is Bill No. 4.

Mr. Chamberlist: Mr. Chairman, I would point out that we are waiting for some amendments to be here in a moment.

Mr. Chairman: Well, I believe that there is still question and discussion on this Bill. We will continue. *BILL #4*

Mr. Chamberlist: Of course, fine; go ahead.

Mr. Chairman: I will declare a recess, until this amendment is ready.

RECESS

RECESS

Mr. Chairman: At this time I will call Committee to order. We are at this time on Bill No. 4. We have before us an amendment, which will have to be presented in the proper form.

BILL #4

Mr. Chamberlist: Mr. Chairman, I would move that section 26 be amended as follows, adding the following new paragraph at the end of subsection (1). "(e) The conditions including any payment to be made in respect thereof, imposed by public utilities for establishing, constructing, maintaining or operating an extension to its facilities."

Mr. Chairman: Any discussion on the motion? It has been moved by Councillor Chamberlist, seconded by Councillor Tanner, that section 26 be amended as follows, by adding the following new paragraph at the end of subsection (1) "(e) The conditions including any payment to be made in respect thereof, imposed by public utilities for establishing constructing, maintaining or operating an extension to its facilities." Are you prepared for the question? Are you agreed? I will declare the motion carried.

MOTION CARRIED

Mr. Chairman: Any further discussion on the Bill?

Mr. Chamberlist: Mr. Chairman, Mr. Legal Adviser has still got to do some work on one or two other sections. I would suggest, Mr. Chairman, that we report progress.

Mr. Chairman: Councillor Stutter will you take the Chair please?

Mr. Stutter takes the Chair.

Mr. Taylor: Mr. Chairman, during the course of the morning, I have been pouring over the N.C.P.C. Act, the Federal Act. I can find no where within this Act whereby this agent of the Crown, this Crown corporation can not enter into a franchise agreement. It is entirely possible, that somewhere else there is another Act which may provide that they can't. This particular N.C.P.C. Act, does not prohibit the N.C.P.C. company from entering into a franchise. It states in section 4 that, "the Commissioner is for all its purposes an agent of Her Majesty and its powers may be exercised only as an agent of Her Majesty. (2) For the purposes of this Act the Commission may in its own name enter into contracts and acquire or hold real and personal property or any interest therein." I submit that a franchise is indeed a contract. It even goes so far as to say in "(3) Actions, suits or other legal proceedings in respect of any right or obligation acquired or incurred by the Commission on behalf of Her Majesty, whether in its name or in the name of Her Majesty, may be brought or taken by or against the Commission in the name of the Commission in any court that would have jurisdiction if the Commission were not an agent". In other words the function, with virtually all the authority of a private enterprise group, with the exception that they are indeed a Crown corporation and an agent of Her Majesty. I submit that it is entirely possible under that Act, until I am shown anything different, for the company to be bound into a franchise position. As I stated yesterday, I don't think that it is all that fair to ask one, the private enterprise utility to come under the purview of this Board without having both under the purview of this Board. I understand from personal communication with the company that they are quite pleased to go along with the authority of the Board. I think that my question could be cleared up, if I could have the assurance, again in black and white, and all Members of Committee indeed have the assurance that the Northern Canada Power Commission would indeed subscribe to the authority of the Board. That they would abide by the authority of the Board. I am wondering, Mr. Chairman, I would direct this possibly to Mr. Legal Adviser. If this assurance could be obtained, and if indeed the Bill could be left in

BILL #4

abeyance pending a reply from N.C.P.C. in this regard?

Mr. Legal Adviser: Mr. Chairman, this House is not competent to make any legislation which firmly binds the Crown in right of Canada. It is just not competent to do it. The most that we can do is, to lay down in an Ordinance a series of conditions in an Ordinance. The very firm custom is, that where a Crown agency undertakes a contract, and accepts some of the conditions of an Ordinance, that the other conditions are accepted. Courts will not hear, in the course of a law action any agency of a Crown to say, that it will take advantage of some of the favourable parts of the Ordinance concerned or the rule of law concerned under which they operate, and not take the others. We cannot give, this Government cannot give on behalf of N.C.P.C. the type of undertaking which the Honourable Member is seeking. What we can do is say, that the Crown is bound insofar as it submits to the operation of the Ordinance. This is a tactful way of saying, that it is the expressed wish of this House that the Crown should be bound. We cannot make a firm law, that it will in fact be bound. If in the event that N.C.P.C. was, whatever the legalities of it may be, undertaking contracts with the Government, or submitting to the jurisdiction of the Board, then once it makes its first submission, it will continue at least in respect of that area, to be bound. This is as far as this House can constitutionally go.

Mr. Taylor: Yes, well, Mr. Chairman, with respect, I thank the Legal Adviser for his reply. I see a great deal of merit in what he says. However, I think that in a matter so important as this, by establishing an Electric Public Utilities Ordinance, we should attempt, at least at this legislative level, to ensure that everyone comes under the purview of that Board. I think ... I would suggest that Mr. Legal Adviser must agree with me that it is quite competent for this Legislature to ask or to ask the Administration of the Territory to ask N.C.P.C. if indeed, it would be their intention to submit to the authority of the Board? This is what I am asking.

Mr. Legal Adviser: Mr. Chairman, the basic position as I understand it is, that until the legislation is passed in its final form, so that there is a crystal clear case so that the question can then be put, will you or will you not submit to the operation of this Ordinance. Then, we will not be able, and the people who are operating or controlling the particular Crown corporation are unable themselves to give carte blanche to the binding of the corporation, a Crown corporation to an Ordinance which is not still passed. I have no doubt whatsoever, that when the Ordinance is in fact passed, that the answer would be a favourable one. First of all, you must pass the Ordinance, and then make the request. This is the way constitutionally that it must be done. I think that the House will understand that the general manager, the director, the board cannot in advance bind the Crown to something which is still a nebulous Bill before this House.

Mr. Taylor: Yes, just before resuming the Chair, I would like to say that the only thing that is presenting the problem now, is the possibility that when the Bill is amended, I understand that there are more amendments coming, that when the Bill is amended, it will be rushed off, and out of this House. In former Councils and former Sessions Bills were allowed to lie in abeyance until the termination of the Session, when we wanted further information on them. I still feel strongly that it behooves us to make this inquiry when this Bill is complete of N.C.P.C., so that we would know in our own minds as to whether it is N.C.P.C.'s intention to, as I say, submit to the authority of the Board.

Mr. Taylor resumes the Chair.

Mr. Legal Adviser: Just one point to clarify what the Honourable Member said. As I understand it, the particular section that is remaining under discussion in this Bill is the section which deals with the effect of prerogative writs on the particular Board. The

Mr. Legal Adviser continues ...

other point which was raised by one of the Whitehorse Members was, whether or not the Board would have jurisdiction over any costs and charges or other conditions imposed by the utility in that priority condition to extending a service to a particular place, location or group of citizens. That has been met in this amendment. The other one is, whether or not mandamus certiorari and so forth will apply is something that because it is of such a universal character in boards of this kind, such as Labour Tribunals, conciliation boards, arbitration boards, and all kinds of boards that operate in the provinces as well as here. I couldn't give a hasty decision as to whether it would be a good thing or a bad thing to take out that particular section.

Mr. Tanner: Mr. Chairman, there is one further section which I suggest should be amended, section 46(b).

Mr. Legal Adviser: I am sorry, Mr. Chairman, this one is actually being typed up, I think, at the moment.

Mr. Stutter: Mr. Chairman, I wonder if I might ask the Legal Adviser, after some of the remarks that he has just made. It is indeed unfortunate that, of course, a Crown corporation can't be brought under the terms of this piece of legislation. I know for a fact that if they were, there would be, probably one of the first things that the Board would have to do would be to review some of the rates now being charged in the Dawson area. After the remarks that you have just made, is it conceivable that even though N.C.P.C. isn't bound by this legislation, that if a complaint were to be put in by residents of the Dawson area to the rates now being charged by N.C.P.C. that the Board would consider it? If they did, if any action at all might be taken?

Mr. Legal Adviser: I cannot forecast what Government policy in the Federal or even the Territorial field would be. I cannot conceive it possible that once this legislation is passed, and N.C.P.C. take advantage, commence to take advantage of it, that they will not immediately submit to the full jurisdiction of the Board, in the field of supplying a public utility to retail customers. Specifically my prediction would be, that if a complaint is made at the time of a franchise or during the franchise, to the Board, and the Board requests N.C.P.C. to come before it and justify their rates and charges and submits to its jurisdiction. My prediction is that they will submit, just like any other company in a similar position would submit.

Mr. Stutter: Mr. Chairman, I certainly hope the Board has much better luck in getting breakdowns of the expenses in the Dawson area from N.C.P.C. than I have been able to get. All that I can get is some very, very general figures. It would indicate that the cost of producing power in Dawson at the moment is somewhat in excess of twice the estimates put in by a certain other private company.

Mr. Chamberlist: Mr. Chairman, this is quite so. I can assure the Honourable Member that the Government has been watching this very, very closely, and is very concerned about certain factors that N.C.P.C. are putting into their cost structure. Being a little bit familiar with the costs of electrical consumption, electrical supply, I do find that some of the areas of N.C.P.C. representations that they have made in their costing, is really questionable. I can assure the Honourable Member that the Board will certainly be asked by the Government to take an examination of the cost structures that are involved. The Commissioner, the Government of the Yukon Territory will be placed in exactly the same position when it goes to the Board to put a complaint forward. The Government can complain, the individual can complain. It is up to the Board to deal with those complaints from whatever source they come.

Mr. McKinnon: Mr. Chairman, I would be interested to know if anybody in the Government has actually performed the physical act of phoning the

BILL #4

Mr. McKinnon continues ...
president or the general manager of N.C.P.C. or whatever you call him, and informing him that we do have an Electric Public Utilities Ordinance on the books. Whether he has examined it, and whether the Crown is willing to submit to the operation of the Ordinance? Has this attempt been made to the Northern Canada Power Commission?

Mr. Chamberlist: Well, Mr. Chairman, I can say to the Honourable Member that nobody directly from the Government has consulted with the president or the chairman of the board at N.C.P.C., but certainly, the Government has shown its desire for the N.C.P.C. to participate in what is required here in relation to a Public Utilities Board, by advising the Federal Government that this is taking place. I am sure, Mr. Chairman, that the Honourable Member knows that legislation of this type is submitted to Ottawa in this particular area. N.C.P.C. knows full well that this legislation is before the House at this time.

Mr. McKinnon: Mr. Chairman, they may know about it, but have they been asked whether they will submit to it? To me, it would ease my mind a lot if someone called up and said, would you be willing to submit to the operation of this Ordinance, and N.C.P.C. said yes. I don't think that they will, but if they did say yes, it would certainly ease a lot of people's minds and make a very real difference on how they voted on this Ordinance. If they say, which I expect them to do, go to hell, then we know where we stand exactly.

Mr. Chamberlist: Mr. Chairman, this is the same question that the Honourable Member from Watson Lake put, and the answer can only be the same as what Mr. Legal Adviser gave to him. When the legislation is there, then we can say to them, this legislation has been passed by this House. Are you going to comply with the legislation? If they say no, it would be politically foolish of them to say no, for the simple reason that they know full well that they are in exactly the same position as any other utility here. Notwithstanding a comment was made, that they can enter into franchises. It has already been indicated by legal opinion that a franchise agreement and an ordinary agreement is certainly different. Nevertheless they would be requested and required to comply with the requirements of this legislation. All that I can add to that further, is that with the legislation passed by this House, we are in a much stronger position to say to the Government of Canada, we have local legislation, provincial type legislation and we can ask that this be complied with. Mr. Chairman, I doubt whether in any other jurisdiction in Canada, in any province or in the Northwest Territories, is the province able to bind the Crown of Canada in any matter. What we are suggesting now, is that we should ask to do something that the provinces are not capable of doing because of the terms of the British North America Act. We want to go beyond that. I know that Honourable Members who have been concerned with the constitutional side of Government in Canada, and Government in the Yukon, know full well that under no condition can we bind the Government of Canada. This is the position, and we have to face up to the practicality of that position. It might not be palatable but we still have to face up to it.

Mr. Tanner: Mr. Chairman, I would suggest that we report progress on this Bill.

Mr. Chairman: Is it Committee's wish that we recess at this time?

Mr. Chamberlist: No, that we report progress.

Mr. Chairman: Oh, progress, I thought you said recess. I have already reported progress.

Mr. Chamberlist: Could we go onto Bill No. 3, Mr. Chairman?

Mr. Chairman: Bill No. 3. You have before you a proposed amendment to Bill No. 3.

BILL #3

Mr. Chamberlist: Mr. Chairman, I would move that Bill No. 3 be amended ... that section 10 of Bill No. 3 be amended by adding immediately after section 89(2) the following words: "but the Director may extend the time within which the person or couple shall notify him for a further period not exceeding sixty days."

Mr. Tanner: I will second the amendment, Mr. Chairman.

Mr. Chamberlist: Mr. Chairman, speaking to the motion. The reason why this is brought in, if Honourable Members will recall that during the discussion of this Bill, the question was raised as to whether or not sixty days is sufficient time. Now, this way, with this addition, it would at the discretion of the Director to extend the time for a further sixty days, if the couple or the person who have the child on adoption probation weren't quite sure of their position.

Mr. Tanner: Mr. Chairman, it has one further advantage that I would point out to the House. It could be that after sixty days, the department might find that the adoption or the prospective adoption is not working out. It also gives them the chance to review the situation a little further. It is at the discretion of the Director, so consequently I think everybody, the child the prospective parents and the department would be better off with this further amendment.

Mr. McKinnon: The objection that I was raising in section 10 was that any person receiving a child into his home for the purposes of adoption, other than through the Director. I made the point that the Indian people of the Yukon do formally adopt other children. I mean, when they ... you take a child into your home and treat him as your own, and feed him and clothe him, and love him, you have adopted that child, other than through the Director with no qualms whatsoever. You say, no, that it is not an adoption in the legal sense. I think that that should be clarified, because I can see it, that if a couple takes in a child and don't within thirty or sixty days or whatever the time limits come to being, that it could come to the point where something because of a welfare or social worker working in the area because they haven't in writing notified the Director that there could be some legal implication to the couple who have done nothing but out of the goodness of their heart adopt a child into their home. Mr. Legal Adviser says that this is not the case. As it is understood by my reading, and understood by the reading of the people in the Yukon Native Brotherhood, this is the case. I wonder if you could clarify it?

Mr. Legal Adviser: Mr. Chairman, I really don't think there is any need to clarify it. Adoption has become in this Ordinance a very, very solemn thing, and the adoption order must be made by the court. It is for the purpose of obtaining a change of standard order, so to speak, so that adoption is a legal adoption. A legal adoption in a sense, is understood here. Any other form of receiving a child into your home is not an adoption, and it is not for the purpose of adoption. It may be a simple transfer of the child from one house to another, to live with an uncle or aunt, grandmother, grandfather and so forth. Unless an intention is formed, and proved that the person intended to go through the legal process which can only be done through the Territorial Court in this Territory, then there is no offence and there is no point whatsoever in any welfare worker worrying about it at all. Informal transfers of children are an everyday occurrence. The status, the solemn status doesn't change.

Mr. McKinnon: I mean the people are doing it, are considering it adopted. When you read it, you consider it as being adopted. Wouldn't the word just "legal" in front of adoption clarify it. They know that then, that it is through that process that you are going through the Territorial Court to get an adoption order. That this section applies

BILL #3

Mr. McKinnon continues ...

only, and when an adoption other than through the court is being talked about, this section of the Ordinance does not have to be agreed upon or followed.

Mr. Chamberlist: Mr. Chairman, certainly there is a difference between a formal adoption and an informal adoption. The very fact that we use the word adoption, this is the formal adoption, the legal adoption. Certainly, when a mother, an uncle, a brother looks after a child, this is in the informal manner. Really, if you put the word "legal" in front of it, which quite frankly I see nothing to object to. All that it means is that we are saying a legal, legal adoption. This is what adoption means. Adoption is not a word just to use as a word. It means a real something that really takes place formally. The interpretation even in simple dictionaries shows quite clearly that it is a formal manner of adopting. This is the point that must be considered. We would raise no objection if it is insisted on, because it doesn't mean anything.

Mrs. Watson: Mr. Chairman, that question was brought up both by the Councillor from Whitehorse West and the Councillor from Whitehorse North. They would feel much more satisfied if the word "legal" was inserted before adoption. I think that they feel that the lay person who is reading the Ordinance, referring to the Ordinance would clarify it for them. I really feel that we should put the word in, if it is not going to distract from the intent of the section. If it helps clarify it for the lay people, by all means use it.

Mr. Chamberlist: I wonder if Mr. Legal Adviser has any objection to this?

Mr. Legal Adviser: I have no objection to defining adoption as an adoption pursuant to this Ordinance. To add in words like "legal" and so forth, cloud it. The attempt to clarify makes it appalling. Just to say adoption means adoption pursuant to this Ordinance might be sufficient, because then we are not clouding the issue or narrowing it down.

Mrs. Watson: It might not mean a thing, but if you have the word "legal" in, it clarifies it for them.

Mr. Tanner: Mr. Chairman, adoption, looking under the Ordinance itself there is no definition of adoption *per se* in the Ordinance. I really think that there is further explanation of adoption, not for us up here with the facilities of the Legal Adviser at our finger tips, or somebody who is in a position to have a lawyer to look at it for him. I am talking about somebody who is going to pick it up, and I am also really talking about people within the department. Certainly, they are familiar with their Ordinance that they have to work under. I think that it would make everybody happier if you could qualify the word adoption insofar as to give clarification to what it means to the public as a whole.

BILL #3

Mr. Legal Adviser: Mr. Chairman, the purpose of the Ordinance is to be precise, so the judge knows exactly what it is. It's not so the layman will know, he may know, and it will be helpful if we can make it clear for him. But to change it for one section means it must be clarified throughout the whole of the Ordinance. So we've got to go right back to base and define in adoption, what we mean by the word adoption throughout the Ordinance. There is only one kind of adoption we're talking about, and that is what is commonly referred to as a legal adoption. So we have got to say what is a legal adoption, that is an adoption pursuant to this Ordinance. There isn't any other way.

Mr. Chamberlist: You know what really bothers me about the danger if we put the word legal in front of it is, if we refer to a legal adoption and you take the word legal away, it means adoption by itself becomes illegal. It's pretty difficult to put anything like that in when the common usage of the word adoption deals with legal adoption. This is all it means. Really.

Mr. Rivett: Mr. Chairman, what's wrong with the word formal, because these other adoptions are sort of informal aren't they.

Mr. Legal Adviser: Mr. Chairman, the other adoptions, are not adoptions at all.

Mr. Tanner: Mr. Chairman, they are not adoptions at all.

Mr. Rivett: Mr. Chairman, but they are adoptions in the eyes of the people.

Mr. Legal Adviser: It's a foster parent relationship.

Mr. McKinnon: No. No. You're just talking about it as far as ...

Mr. Legal Adviser: As far as the law is concerned, all the people are doing, is assuming a certain duty towards the child, but they assume no legal duty except in the earlier part of the Ordinance you refer to different types of parents and different types of persons being in charge of a child. When they are in charge of a child, they must treat the child properly, or the child is liable to be taken away. But it is not an adoption. There is no real word for it in law for what the relationship is.

Mr. Tanner: Mr. Chairman, that's true according to our life; and these laws are written according to our life. Now we're talking about a different culture who works a different way, who happens in one way or another, to fall under our jurisdiction. Certainly we should write the laws for us as we see them, but we should take into consideration there are other people who think differently than we do.

Mr. Legal Adviser: Mr. Chairman, I can't accept that there's any difference in the treatment of children, really, in the different culture. In every civilization of which I am aware, there is a duty accepted in the family, to take care of children within an enlarged family group, in circumstances when the parents cannot take care of them themselves. All western civilization have accepted this as part of their duty. The word adoption has been a term of art, and people have known it's meaning for thousands of years. It may be that in native culture, there is a legality to it under native custom, but once the obligation is assumed it may have to continue in a way the western civilization doesn't recognize. But certainly the duty or the feeling of duty and love and affection for one's brother's children, or

BILL #3

Mr. Legal Adviser continues ...

one's grandchildren, is not unique to any particular culture that I know of. But, as I say, the suggestion I have is to make it clear at the start of this part of the Ordinance, that all adoptions referred to in this section are a certain kind of adoption, and that is an adoption under that section and not any informal arrangement generated by love and affection without the benefit of a Court Order.

Mr. Stutter: I wonder, Mr. Chairman, if I could ask the Legal Adviser if he's ever read "HERE ARE THE NEWS" by Edith Josie, because I know for a fact, that a few years ago, and I'm just citing this one particular case. The reporter herself had a baby and it was taken over by another family immediately at birth, and I know also, that this child now goes under the name of the adopting parents. Adopting from their point of view, there was no legal change. There were no legal papers made out at all, but this child now is completely accepted as a natural child of the, if you want to term it, foster-parents, but as far as they are concerned it's their own and this is not an odd case. This happens all the time in Old Crow and in other areas of the Territory. As far as they are concerned, it is very definitely an adoption.

Mr. Legal Adviser: Mr. Chairman, this has been the case in western civilization right back for at least four hundred years before the time of Christ that this relationship has commenced and that people have even changed their name. It's quite common in all European countries. It's just that the law has at some point begun to catch up and bring back the type or Roman law adoption which was common during the time of the Caesars or before that in Rome. This Ordinance, in fact maybe reproduces that kind of form of order.

Mr. Chamberlist: Mr. Chairman, the existing Child Welfare Ordinance which we have, has a section which deals specifically with adoptions and right the way through that section, we're talking about adoption, adoption orders, because these are something which are legal entities. We're not saying that what a person does in the way of looking after a child, is adopting them within their home, but this is not the legal meaning and interpretation. But surely, all Honourable Members understand that in legislation, it must be legal interpretation, and legal writing that is required to make the language clear. It is interesting to note, that in Black's Law Dictionary there's a definition dealing with adoption, and it says "relation thereby created is a statutory status, not a contractual relationship". And a statutory status is what we have in the Ordinance. So this is the point which must be considered, that we're not talking about those people that take into their families the children of others, and adopt them as if they were their own. And when they're using those words, "adopt them as if they were their own" they say really that they're taking them into their family. But when legislation talks about adoption, we're talking about the legal aspects of adoption where people have to go through the Court of Law and get an adoption order issued. Then it becomes a legal status of statutory requirements. We shouldn't get our goals tied up in that particular areas. Now one point which has been raised is that a perhaps over officious, and over exuberant social worker may attempt to interpret the aspects of adoption to an extent where they can remove a child away from a family simply because they haven't taken the legal proceedings and precautions in the area of adoption. What we've really said in this Bill No. 3 generally, is that if a person for the purpose of adoption, and again legal adoption, takes a child and they want that child legally adopted they must report to the director. This is what we're dealing with, the legal aspects of it. The point that has been raised doesn't come into much effect. Now, there is a comment that has been made here that I think should be read because it really deals with this matter that we are discussing. That, though the legal adoption may confer on persons adopted rights of actual relationship of child, simple adoption, and this is put in inverted commas, "extends only to his treatment as a member of the household". That's a simple adoption. But when it

Mr. Chamberlist continues ...

BILL #3

comes to the legal adoption, it has to be by an adoption order, and this is what we are talking about.

Mr. Tanner: Mr. Chairman, I think the Honourable Member is confusing the issue. I think what we're talking about, the Councillor from Whitehorse West, and I, and I think a couple of others are talking about, is an honest written law amongst the Indian culture in this Territory which says that as far as they are concerned, their brother dies, they take their brother's children and the law in their mind is their law, they have now adopted that child. And we're saying, the way we write it, that we immediately They're not concerned with us. And that child is one of their family and it's just the same as if you or I had legally gone to the Court and legally adopted another child. As far as they are concerned, maybe each of us, but don't forget we're just imposing this on them.

Mrs. Watson: Mr. Chairman, maybe we should leave it with the Legal Adviser to come up with a definition for adoption.

Mr. Chairman: Are we agreed. Agreed. I think at this time I will declare a recess.

RECESS

RECESS

Mr. Chairman: At this time, I call Committee back to order. We are dealing with Bill No. 3. BILL #3

Mr. Chamberlist: Mr. Chairman, I would like to add to the resolution that I have already moved, a further part; that subsection 89(1) be amended by adding the words "pursuant to this Ordinance" immediately after the word "adoption" in the end line. The second line, yes.

Mr. Chairman: It has been moved by Councillor Chamberlist, seconded by Councillor Tanner, that section 10 of Bill No. 3 be amended by adding immediately after section 89, subsection (2), the following words, "but the Director may extend the time within which the person or couple shall notify him for a further period not exceeding sixty days", and that section 89, subsection (1), be amended by adding the words "pursuant to this Ordinance" immediately after the word "adoption" in the second line. Are you prepared for the question? Are you agreed? I declare that the motion is carried.

MOTION CARRIED

MOTION
CARRIED

Mr. Chamberlist: Mr. Chairman, I would move that Bill No. 3 be reported out of Committee as amended.

Mr. Tanner: I second the motion, Mr. Chairman.

Mr. Chairman: Is there any further discussion? It has been moved by Councillor Chamberlist, seconded by Councillor Tanner, that Bill No. 3 be reported out of Committee as amended. Are you prepared for the question? Are you agreed? I declare the motion carried.

MOTION CARRIED

MOTION
CARRIED

Mr. Chairman: The next Bill is Bill No. 5. BILL #5

Mr. Tanner: Mr. Chairman, as the Members will recall, I had some reservations about this Ordinance. I have finally come up with an amendment which I think will satisfy all Members and I think it covers my particular problem. I would move that section 3 of Bill No. 5, to there be added paragraph 3(1)(d) stating, "any non profit society or organization ..."
I have a copy of this, Mr. Chairman.

Mr. Chairman: Would you care to read it then?

Mr. Tanner: "any non profit society or organization excluded by order of the Commissioner, pursuant to subsection (2)." And subsection (2), "Where the Commissioner is satisfied in respect of any non profit society or organization, that that society or organization provides or finds or assists in providing or finding, or provides the facility for finding work or employment for its members or the members of their family, he may, by order, exclude the society or organization from the provisions of this Ordinance."

Mr. Chairman: I just have to work out the preamble. I missed your preamble; I got the balance of the text of it.

Mr. Tanner: That section 3 of Bill No. 5 be amended by adding ...

Mr. Chairman: Yes, it has been moved by Councillor Tanner, seconded by who?

Mrs. Watson: I'll second that, Mr. Chairman.

Mr. Chairman: ... seconded by Councillor Watson, that Bill No. 5 be amended by adding to section 3 the following: "(d) any non profit society or organization excluded by order of the Commissioner, pursuant to subsection (2). (2) Where the Commissioner is satisfied in respect of any non profit society or organization that the society or organization

BILL #5

Mr. Chairman continues ... provides or finds or assists in providing or finding, or provides facilities for finding work or employment for its members or members of their family, he may, by order, exclude the society or organization from the provisions of this Ordinance." Have you any discussion? Are you agreed? I declare the motion carried.

MOTION
CARRIED

MOTION CARRIED

Mr. McKinnon: Mr. Chairman, I still have a lot of problems in this Ordinance. The point was raised by the Member from Watson Lake ... I can see the necessity for the Ordinance, where an agency comes in and sets up office and what they want to do is be an employment agency, period. That's their reason for being in existence. That's their reason for living, to make money by finding people jobs. I think it should be controlled. There should be some regulations on it. But, I do have problems in the field of people who, as part of their normal work, find temporary help for other people; people in the expediting business who find a cook for a mining company, or something of this nature. I don't really think that where there is this type of finding employment, which is just incidental to their main work as an expediting firm or an office overload firm, that they should come under the purview of this Employment Agencies Ordinance. It really is incidental to their main reason for being in business. They do this more as a favour to somebody dealing with them, than as a normal course of activity. I think that we should find some way of excluding this type of operation from coming under the terms and conditions of this Ordinance and having to put up a thousand dollar surety bond, and also, having to put an extra licence fee upon them, where this work is really incidental and more a favour than as reason for being in business.

Mr. Chamberlist: Mr. Chairman, this certainly excludes any operation like an office overload. In an office overload, the people are not finding employees for the particular business. They are being sold on a time basis by the office load operation. I've discussed this whole thing with the office overload people who are operating here. It's not intended, in any way, to ...

Mr. McKinnon: How about expediters?

Mr. Chamberlist: It does ... you see, you might have a firm that is primarily expediting and this is what it is, primarily, expediter. There is nothing to prevent them from including, as one of the branches of their business, an employment agency. This is where we have to treat them in exactly the same manner as all employment agencies. After all, we might have a fly-by-night operation that comes in and calls themselves "International Expediters", suppliers of expediting goods, equipment and employment agency. It's all part and parcel. So, we have to be able to control, at least, that part of their function of their operation. Surely, if they are not going to do anything which is detrimental to their normal operation, they would not fear putting up bonds and we're not asking them to put up the cash. Most businesses can, if they are running a legitimate business, get a bond. The bonding companies themselves do a pretty thorough examination of the people who ask for a bond. Really, I think we have to set ourselves firm, inasmuch as we must protect the public from all employment agencies, whether they are an employment agency only, or whether part of their operation is an employment agency carrying out the same type of work as a full agency. I don't think that any harm, really, is being done to them by us making sure that they comply with the rules.

Mr. Chairman: Councillor Stutter, would you take the Chair.

Mr. Stutter takes the Chair.

Mr. Taylor: Mr. Chairman, I do feel that it imposes a hardship on some of these people because, as I stated, it may be that they might only hire a cook or a couple of labourers, or line cutters or claim stakers. Nevertheless, you are imposing a law upon people that you shouldn't be imposing a law on. They don't present any problem to employment agencies, as such. It may be, indeed, that they merely

Mr. Taylor continues ...

phone Manpower in Whitehorse and say, have you got somebody that you can send down here to cook for our crew; our cook just quit. But, you insist, in this Ordinance, that he must be bonded. These are people who, from time to time ... quite often, they will take a prospector out of the bush and he might come into town and look after two or three different company accounts for so much a month, and maybe he picks up four, five or six hundred dollars a month. There is no way that you can have this man rush into the great big City of Whitehorse, quite a few miles away. What you are really doing is you are providing a law that he must break. I don't think it is our intention to provide such laws. I, personally, would like to see some exemptions for the little guy in this respect. They are not really in the employment business; they are in the expediting business, but from time to time, they must go and find an employee for the company that they expedite for. As I say, there is no possible way I could force this thing, by a vote or anything. All I can do is ask if the voting block here will give some consideration to what I say.

BILL #5

Mr. Chamberlist: Well, Mr. Chairman, this particular point has been given a lot of consideration. Although it may appear to be a little bit harsh when you're dealing with this particular type of individual who, perhaps, will only be using his powers to employ in a couple of areas, if we don't have the control there, there is no reason why he can't go beyond that. This is where there is the necessity for control. Surely, we would be defeating the very purpose of what this legislation is. It's to make sure that all people that are operating an employment agency, of any description, except for those which have been ... this morning's amendment ... granted an exclusion, where the Commissioner can exclude ... Now, I don't know whether it can be interpreted ... I would ask Mr. Legal Adviser's advice on this ... whether what we have passed now, in fact, also includes any ... non profit society or organization excluded by order of the Commissioner. Now, surely, the Commissioner, if he wanted ... if a particular case came forward, the Commissioner could exclude. I'm wondering whether Mr. Legal Adviser ... Mr. Legal Adviser indicates, no. Well, all the more reason then, why it shows that we have come up with something that is tight as it relates to anybody who is employing people. Now, I'm sure the Honourable Member who has just spoken knows full well that an individual, perhaps, is only employing one or two or three people and hoping to get this employment. During the course of the year, he finds that this could be a lucrative business. He's expediting ... his general business is expediting, and then he starts setting up, within his expediting business, an employment agency. This is, in fact, what they are doing. All we're trying to do is protect. I was only thinking that, perhaps, the Legal Adviser could interpret this section in a different manner which would make it easier for the Honourable Member ...

Mr. Legal Adviser: Mr. Chairman, one point; I would ask the Honourable Members to read the first line of the whole Bill fairly carefully. There is a double effect here. It's not merely finding a job for somebody. It is carrying on the business of finding jobs. In the normal prohibition that we have in our Ordinance, we prevent a person, prohibit him, from doing certain things. We don't normally use this phrase at all. The person must be in the business of doing this thing, not merely a one shot deal; he gets on the telephone and rings up Canada Manpower and says, can you get me a cook and two helpers. That is not his business. He is just doing that as a favour for a friend. But, if he is in the business, holding himself out as recruiting for other people, then, clearly, he is an employment agency, even if he only does it in a small way. But, he must be in that business.

Mr. Taylor: Well, I was hoping that the Votes and Proceedings, in the interpretation given as to the construction of this particular Bill will be accepted in accord. If a small expediter is, indeed, brought to court on a charge of not having a bond or something else. Really, there are two ways that this is going to be broken. It's a law that is meant to be broken by the little guy because he can't comply with it. One is through the ignorance of law, not knowing that there is such a thing; and the other would be just that he didn't have the where withall

Mr. Taylor continues ...
to come to this great big City of Whitehorse and get a surety bond.
I will resume the Chair.

BILL #5

Mr. Taylor resumes the Chair.

Mr. Tanner: Mr. Chairman, I would move that Bill No. 5 be reported
out of Committee as amended.

Mrs. Watson: I second the motion.

Mr. Chairman: It has been moved by Councillor Tanner, seconded by
Councillor Watson, that Bill No. 5 be reported out of Committee as
amended. Are you prepared for the question? Are you agreed? I de-
clare the motion carried.

*MOTION
CARRIED*

MOTION CARRIED

Mr. Chairman: The next Bill is Bill No. 7.

BILL #7

Mr. Chamberlist: Mr. Chairman, there was a question raised, and I believe I raised it myself. Section 10 (1) (b) and (c) gave the Commissioner the power to exempt in (b), any person or class of persons from this Ordinance or the regulations or any of the provisions thereof. And (c) gave the Commissioner power to exempt any equipment or any class of equipment from this Ordinance or the regulations or any of the provisions thereof, but it didn't limit the time or define a time as to how long the Commissioner would be able to make these exemptions last, and it appeared from them that the Commissioner could exempt forever more. And so I would move that Bill No. 7, subsection 10 (1) (b) and 10 (1)(c) be amended by adding after each subsection the following words, "for a prescribed period of time."

Mr. Chairman: That would be a period of time, not a length of time.

Mr. Chamberlist: That's right, yes.

Mr. Chairman: Any discussion?

Mr. Tanner: I'll second the amendment.

Mr. Chairman: It has been moved by Councillor Chamberlist and seconded by Councillor Tanner that Bill No. 7 subsection 10 (1)(b) and 10 (1)(c) be amended by adding after each subsection the following words, "for a prescribed period of time." Are you prepared for the question? Are you agreed? I declare that the motion is carried.

MOTION CARRIED

*MOTION
CARRIED*

Mr. Chairman: Anything further on this?

Mr. Chamberlist: Mr. Chairman, I would move that Bill No. 7 be reported out of Committee as amended.

Mr. Chairman: It has been moved by Councillor Chamberlist, seconded by Councillor Tanner that Bill No. 7 be reported out of Committee as amended. Are you prepared for the question? Are you agreed? I declare the motion as carried.

MOTION CARRIED

*MOTION
CARRIED*

Mr. Chamberlist: Mr. Chairman, I wonder if we can go to Bill No. 15, An Ordinance to Amend the Local Improvement District Ordinance. I have some remarks to make regarding that Ordinance

Mr. Chairman: Is Committee agreed? We are now on Bill No. 15.

BILL #15

Mr. Chamberlist: Mr. Chairman, it has been brought to my attention that the Local Improvement District of Watson Lake are faced with a problem in relation to their election that is to take place on April 4th. There is a requirement that the various documents and voting rights and this be sent out next week. They are concerned in relation to the reduction of the age section to nineteen. I would ask if Committee would not be prepared to consider the Bill at this time.

Mr. Chairman: Councillor Stutter will you take the Chair, please?

Mr. Stutter takes the Chair.

BILL #15

Mr. Taylor: Mr. Chairman, it is my understanding that Bill No. 15 is a part and parcel of the municipal package of which there are seven Bills. I have been in communication with the L.I.D. in Watson Lake, and I have been directed by them to make certain representations. I am still awaiting representations in respect of this Bill. I might say that the L.I.D. are very concerned about it. I would ask that notwithstanding an election is being held. The election can be held in the same manner as it has been held with up to date. That this matter be deferred until the municipal package is completed, by which time I hope to be able to have all the submissions that I wish to make at this table on this behalf.

Mr. Chamberlist: Mr. Chairman, the people in Watson Lake keep me informed of what is happening in Watson Lake, inform me that they have already advised the Honourable Member what changes they would like to see in the Local Improvement District Ordinance. I understand that he has already a notification from the L.I.D. of those particular items. I wonder if he is prepared to bring before Committee now that information for discussion?

Mr. Taylor: Mr. Chairman, obviously the Honourable Member has been very attentive this morning. I just explained that I have some instructions from them. I would ask though, that until we get ... in order to get all my submissions together. I have further information coming in respect of this Ordinance, that it be deferred until such a time, later in the Session when we do deal with the total municipal package. I don't think that this is too much to ask.

Mrs. Watson: Mr. Chairman, when we were doing the amendments to the Local Improvement District Ordinance, we had a specific request from the Watson Lake L.I.D. to broaden the eligibility for trustees who could serve on the board as trustees. It was their specific request. If they are going to be faced with an election in April, shouldn't we not consider dealing with this Ordinance now, so that they can broaden the number of people who are eligible for trustees on the board?

Mr. Taylor: Yes, Mr. Chairman, I would certainly hope so. I again would ask for a little more time, possibly later into next week. I may have these representations back, and I don't think that this would hold up the process that much.

Mr. Chamberlist: Mr. Chairman, I wonder if Mr. Legal Adviser has an intimation of the date by which the documentation must be sent out?

Mr. Legal Adviser: It is my understanding that the notice must go out on Monday, determining who is going to be entitled to vote or stand. This is my information.

Mr. Chamberlist: Mr. Chairman, in view of that, I wonder if the Honourable Member would not force the Government to take the stand that it must to supply and comply with the requirements of the Local Improvement District. Would he be prepared at this time to give the information relating to the requests that have been made by the L.I.D. to Committee for our discussion and consideration?

Mr. Taylor: Mr. Chairman, if the Committee in answer to the Honourable Member, if the Committee would indulge, be it permitting me to wait until after the noon hour, I will phone the L.I.D. in Watson Lake and determine if they wish to take any particular position that I am not aware of.

Mrs. Watson: Mr. Chairman, I would also like to point out another thing here. There are two other L.I.D.'s which will be having an election in April. I think that the Honourable Member should give serious consideration that he cannot stall or delay on these issues.

Mr. Chairman: I think that the Honourable Member stated that he will contact the Watson Lake area at noon. Is it the wish of Committee that we wait until after the noon recess?

BILL #15

Mr. Taylor: Thank you, Mr. Chairman. I will resume the Chair.

Mr. Taylor resumes the Chair.

Mr. Chairman: We have one other matter, that being the motion No. 12 which has been deferred to Committee. Would you be prepared to deal with this motion at this time?

MOTION #12

Mr. Tanner: I am sorry, Mr. Chairman, I wasn't paying attention. Where are we?

Mr. Chairman: If I can have the attention of Members just for one minute. We have the Motion No. 12 also in Committee. Is it your wish to deal with it now, or do you wish it be deferred again?

Mr. Chamberlist: Mr. Chairman, it was moved into Committee so that the Honourable Member from Whitehorse West can really open up the discussion and bring forward his case on behalf of this wilderness company. I wonder if he has any comment to make at this time?

Mr. McKinnon: Mr. Chairman, I introduced the motion in the House. I made a few comments in the House in respect of the two pieces of correspondence that we had received from Yukon Wilderness Unlimited, from Mr. John Lammers.

Mr. Chamberlist: I only received one piece.

Mr. McKinnon: Oh, I have two pieces of correspondence. Evidently I am in the privileged position of having received two pieces of correspondence, where other Members have only received one. In it, Mr. Chairman, he states his case. I realize full well that there are always two sides to a story. If there were any Members wishing to make amendments to the motion as I have it, so that both sides of this story are heard before Council, then I would be more than willing to go along with the suggestions. I think that here, in this area that we have the classic confrontation. It is going to have to come sooner or later, and Council is going to have to deal with it sooner or later. I think that when a person has been a citizen of the Yukon since 1952, which is almost twenty years of time, when because of his love for the beauty of the Yukon, he decides to drop out and remove himself to a place where he can enjoy the beauty of the wilderness and he is willing to work as hard as Mr. Lammers has, then I think that this Council should act as an ombudsman, it should act as an arbitrator, if it possibly can. It should act as a sympathizer, if that is the case that Mr. Lammers can present to Council for his type of Wilderness Unlimited, and for the type of life that he has chosen to live. I think that there are two hundred and seven thousand square miles of Territory, from the correspondence that I have, Mr. Lammers went to an area where there seemed to be little geological hope that anything was ever going to be found in the field of minerals. Where he thought that probably the exploration companies would leave him alone. It was a small corner of the Yukon that was going to be left in perpetuity in a virgin and natural state. Now, apparently through the ... through a mining activity in the area, the way that he makes his living through unspoiled wilderness trips without any mechanical methods at all being used in the area, that his livelihood is in jeopardy because he doesn't feel that he can either advertise or bring people to his wilderness retreat as long as mineral exploration is going on in that area where he has chosen to put his wilderness retreat. I think that there are methods that Territorial Council can use if they want to, to preserve that area as a wilderness retreat and not allow mineral exploration on that small piece of Yukon wilderness. I think that the company involved, as far as I can understand it, is an extra territorial company, of course with head offices in Denver,

Mr. McKinnon continues ...

MOTION #12

Colorado. It seems to me that both parties should be before Committee and Committee should have the knowledge of actually what is taking place between the mining company and Mr. Lammers and then make a decision as to whether Council should take further action. That is the only point that I am making. I think that in this case, we should be acting as an interested people, listening to both sides of the story, because I think that we are going to see these confrontations coming more and more in the future. I think that we should either be prepared to act in this instance where we think that we have to act for the protection of a Yukon citizen, or if the other side of the story is the one that holds sway on Council, we should also make the decision that Council should not take any further action in this instance. I think that Council should act in there. I think that the Government of the Yukon Territory should act in the area of being an arbitrator. Some people don't agree that this is a Council role. Some people don't agree with the Council acting as an ombudsman role, to listen to both sides of the story and come up with action that should or should not be taken. I think that this is probably the most effective role that this Council can serve, that of being a supreme decision making authority, that either says that the right of the Yukon citizen is or is not being subjected to the interest of another interest and that we should be prepared to stand up and be counted as to whether we feel that we should take further action in the case of the correspondence which, as I say, that we have all received from Mr. Lammers, Yukon Wilderness Unlimited. I would request that Mr. Lammers appear before Committee and so we are able to ask him questions. I know that I have many questions, that I would like to ask him concerning the correspondence that I have received from him. As I say, I have no objections at all to listening to the other side of the coin. If Members of Committee wanted to invite either the mining industry or the occidental mining, which is the principle in the confrontation between Mr. Lammers, that they also be invited to Committee also. Council could inform itself completely of the facts of the matter, and then make a decision, whether Council should take further action in this instance or not.

Mr. Stutter: Mr. Chairman, in seconding this motion, I did so for two reasons. One is because in the first instance, I am very sympathetic towards this case by itself. Secondly, because it does bring out into the open what I feel is a real need to prevent this sort of thing from happening from here on in. It is alright to deal with this one particular case right now. It doesn't in any way stop the same sort of thing happening again. I think that perhaps this was part of the reasoning behind the thinking of bringing in the Land Use Regulations, which in fact become law in the Territory on November 15th. Unfortunately, in the central part of the Yukon, the only portions of the Land Use Regulations that pertain to this area, are the general regulations. If one looks through the general regulations, even though it is spelled out in fair detail as to what is to be done in a land use permit, there is absolutely no penalty whatsoever in the general area, there are penalties in the zoned areas, but there is no penalty at all in the general areas. So, it is just really, almost a futile exercise to take out a land use permit that is required now by law for the type of operation that will damage Mr. Lammers' retreat and as I say, in the future, will damage other people that are seeking the same sort of retreat. I think that a lot of people are coming now to the Yukon, bearing this in mind, that it is at least one area left in Canada where a person can get away from complete pollution. They can get away and do their own thing, whether it be to retreat into a wilderness area or what. In any case, to enjoy nature and to enjoy the Yukon for its pure beauty. I think that we should definitely look into this thing, and come up with some way of stopping it from happening again any way.

Mr. Chamberlist: Mr. Chairman, I intend to be very brief on this. I agree that the rights of the Yukon citizen should be inviolate in any area. I would like to put a question to the Honourable Member from Whitehorse West, if I may, Mr. Chairman. The question is this.

Mr. Chamberlist continues ...

When the operator of this wilderness area has got his lease or his purchase of the land, was he or was he not aware of the Yukon Quartz Mining Act, and all other Acts relating to land and mineral rights at that time? It is very important.

MOTION #12

Mr. McKinnon: I have absolutely no knowledge, Mr. Chairman. That is exactly the kind of question that I would like to have directed to Mr. Lammers. I don't know.

Mr. Chamberlist: I have no objection, Mr. Chairman to having him attend Committee so that these questions can be put to him.

Mr. Tanner: Mr. Chairman, I have a few comments on it. I have talked to a couple of members of the Chamber of Mines, and I think that it is an excellent recommendation that Committee should consider having somebody from the Chamber of Mines, because obviously Mr. Lammers has a particular point of view. I think that it might be not only impracticable but also unfair to ask the company to come here. We could maybe extend the invitation, but by having them here, I think that first of all, they are going to come to a foreign country, to the Yukon in particular, and they are going to think, well what fat chance have I got, because the other guy that is a party to this thing, is on his home ground. If I was the company sitting in Colorado or Denver, that is probably the way that I would think, and I think that I would probably do that. The second thing is, that I think that we should keep in mind, is that we should check out through the Legal Adviser whether or not this is before the courts. I think that it might be; if it isn't, it might be very soon. In which case we shouldn't, I don't think be debating it in the House until there has been a court decision.

Mr. Chamberlist: That is true. If it is before the court, the words that are used ... under that, we cannot and should not discuss it at all. I would suggest that we leave it until after lunch and then ascertain from the Legal Adviser whether or not it is before the court. If it is before the court, we should not proceed. If it is not before the court, I have no objection at all to having Mr. Lammers and the representative of the Chamber of Mines. I do concur with the remarks that have been made by the Honourable Member from Whitehorse North. A company shouldn't be brought in for the simple reason that they have complied with the law that allows them to do these things; why should they be subject to criticism or examination for complying with the law. Really, what we should be looking at is whether we can make any recommendations for changes. The company shouldn't be involved.

MOTION #1:

Mr. Chairman: Well, is Committee agreed to stand this matter over until this afternoon?

Mr. Tanner: Mr. Chairman, is there any point in standing it over until this afternoon? I would make my point again. If we do ask Mr. Lammers, we should ask somebody from the Chamber of Mines.

Mr. McKinnon: I think the point is ... I don't understand the legal prohibition. Mr. Legal Adviser should be here to explain the areas of involvement that it is in court and explain to us whether we can proceed or not, depending upon where it stands, if it is in the courts right now. I'm not aware of these facts either. There was talk that there was going to be an attempt to have some court action over this instance. Now, whether there is actual court involvement which has proceeded or started yet, I don't know.

Mr. Chairman: Does Committee agree?

Mrs. Watson: Mr. Chairman, I'm very, very concerned about the Honourable Member's remarks that this Council should sit as an arbitrator. Surely to goodness, we wouldn't be assuming this type of role. This question is pending going to the court. You would expect the judge to make a decision. I think we must recognize our capabilities. We ... Councillors' requests to be involved in planning buildings, as almost quasi architects. Now, we're supposed to be quasi judges. I think we should be honest with ourselves and recognize our capabilities.

Mr. McKinnon: Of course, this is where I disagree wholeheartedly with the concept of the Government, with the Honourable Member for Carmacks-Kluane. If you want to believe in a democratically elected responsible government, that government is the supreme governing authority in the land, and everything else is subservient and everything else is secondary to these people ruling. That's what I believe and that's what, until a major change in my thinking comes about ... the people rule the country. The people are Parliament; this is Parliament, and we are the supreme governing authority, not the courts, not the Administration. Nobody else, but the people of the Yukon Territory.

Mr. Chamberlist: Well, Mr. Chairman, the Honourable Member did not argue with that. That sounds fair, Mr. Chairman with respect. She did not suggest that, but she suggested that we shouldn't place ourselves up in the position of arbitrating. This is the point that she made. I think that should be respected.

Mr. Chairman: Well, at this time, I stand Committee in recess until 1:30 this afternoon.

RECESS

RECESS

Mr. Chairman: At this time, I call Committee back to order. We are discussing Motion No. 12.

MOTION #12

Mr. McKinnon: Mr. Chairman, before we broke for lunch, we were discussing Motion No. 12, and there were some indications by some Honourable Members that the subject matter of Motion No. 12 may be the action of some legal proceedings going on in the court at this time. As mover of the Motion, I would be extremely interested in knowing whether there has been legal action commenced, and whether the subject matter of the Motion can come up for debate in the House when the matter is before the court.

Mr. Legal Adviser: Mr. Chairman, the question of when a motion is proceeded with is the privilege of this House to decide. But, I inquired on Friday, when the Motion was first discussed, into the records of the court and no court action has been commenced in relation to particulars by the parties, that I was aware of in question.

Mr. Stutter: Mr. Chairman, might I ask if this is just court action in the Yukon? It was my understanding that the court action was taken in British Columbia.

Mr. Legal Adviser: It's difficult to take a court action in British Columbia in relation to something which has happened in the Yukon, Mr. Chairman. I wouldn't care to search all the records of all the provinces or countries throughout the world. The cause of action occurred in the Yukon, and it would be proper form to commence action here.

Mr. Chairman: Just from the Chair, could this be against the British Columbia company?

Mr. Legal Adviser: It doesn't matter who the company is. You go through them anyway. All I can say is our court records show no court of actions as of the close of business on Friday when I inquired.

Mr. McKinnon: Well, Mr. Chairman, Mr. Lammers has returned to his Wilderness Unlimited retreat. I only wish that I could be with him. But, next time that he does come to town, which should be in the near future, will Members of Committee leave it with me to arrange for a time for him to appear before Committee?

Mr. Chamberlist: No objection, Mr. Chairman.

Mr. Chairman: I think, just for the edification of Committee, you first must either agree or disagree with the Motion. I will put the Motion.

Mr. Tanner: Mr. Chairman, before you put the Motion, could I move an amendment to it, or do you want to put the Motion first?

Mr. Chairman: Well, I'd have to state the Motion first. This is Motion No. 12; moved by Councillor McKinnon, seconded by Councillor Stutter, that whereas the Members of the Yukon Legislative Council have received correspondence from Mr. John Lammers, and whereas it appears that Mr. Lammers' livelihood may be in jeopardy due to mining activities in his area, therefore, be it resolved that Mr. Lammers be invited to appear before Committee, so that Members may determine whether future Council action is warranted in this instance.

Mr. Tanner: Mr. Chairman, I would move an amendment to that. After the name of Mr. Lammers, add "and a member of the Yukon Chamber of Mines". I've yet to find a seconder.

Mr. Chamberlist: I'll second the motion, Mr. Chairman.

Mr. Chairman: I'll have to just write this out in the form of an amendment. It's rather difficult from the Chair when these things come up. I'll declare a short recess.

MOTION #12

Mr. Chairman: At this time, I call Committee to order. We have an amendment to Motion No. 12. It has been moved by Councillor Tanner, seconded by Councillor Chamberlist, that Motion No. 12 be amended to add the words "and a representative of the Yukon Chamber of Mines" between the words "Mr. Lammers" and "be" in line five. Is that good enough? Are you prepared for the question on the amendment? Are you agreed? I declare the motion carried.

MOTION
CARRIED

MOTION CARRIED

Mr. Chairman: Are you prepared for the question on the Motion, as amended? Are you agreed? I declare the Motion carried.

MOTION
CARRIED

MOTION CARRIED

Mr. Tanner: Mr. Chairman, could the House let it be understood that if Councillor McKinnon gets to Mr. Lammers and arranges an amicable time for the House, at the same time he could inform me and I will get a representative from the Chamber of Mines.

Mr. Chairman: I'm sorry. I just missed that; I was making out my Committee Report. This is alright?

Mr. Stutter: Mr. Chairman, I don't know whether Members are aware of the letter that was sent by the Chamber of Mines to Mr. Lammers ... whether it actually has much bearing or not. After Mr. Lammers had written to them, they said that after due consideration, the Executive and general members of the Yukon Chamber of Mines had agreed that this matter lies between two commercial interests, and therefore, the Chamber should not express any opinions regarding it.

Mr. Tanner: Mr. Chairman, I wasn't aware of the letter. Some Members have two and I have one. I have spoken to Mr. Phillips who is the Vice President of the Chamber of Mines, and he seemed satisfied to come and discuss this with us. He said also that he was pretty sure that the President, Dutch Van Tassel will come also.

Mr. Chamberlist: I wonder, Mr. Chairman ... the Honourable Members who have received the second piece of correspondence ... are prepared to make copies of that correspondence available to those Members who have not received it.

Mr. McKinnon: I received it at my desk, and I just took it for granted that every Member had received their copy of this.

Mr. Stutter: Mr. Chairman, I think that is probably my fault. I just had a couple of copies made. It was my fault that all people didn't get it. It's written in the corner, seven copies, but I don't know what's happened to the others. It wasn't by design that all Members didn't get a copy.

Mr. McKinnon: The Members of the Opposition, Mr. Chairman, are willing to keep the Government fully informed. They only wish that they would present the same privilege to us.

Mr. Chamberlist: Well, we'll try to do that as much as possible.

Mr. Chairman: What is your further pleasure?

Mr. Tanner: Mr. Chairman, before we go on to Bill No. 15, the secretary, this morning ... the other secretary, this morning, said there were a couple of small points that could be clarified in Bill No. 4 and he thought he might have them after lunch. If we have them, we might get that wrapped up too. That's the Electrical Public Utilities Ordinance. We had two small corrections we needed before we moved on it. That was all, I understood, that had to be done with it.

Mr. Chairman: Well, we can go to that, if you like. I am at the direction of Committee.

Mr. Tanner: Perhaps the Chairman could check with the other Members, but that was my understanding. There were only two small things to come in on the Public Utilities Ordinance, the Electrical Public Utilities Ordinance.

Mr. Chamberlist: With respect, Mr. Chairman, I indicated this morning that Mr. Legal Advise wanted sufficient time to take a look at section 40 to see ... it was really a legal aspect ... what could be done in that case.

Mr. Tanner: I am in error, Mr. Chairman.

Mr. Chairman: Is it your wish that we go back to Bill No. 15? Councillor Stutter, would you take the Chair, please.

BILL #15

Mr. Stutter takes the Chair.

Mr. Taylor: Mr. Chairman, as I promised Committee, over the noon hour, I did communicate with the Trustees of the Watson Lake Local Improvement District in respect of the urgency of this Bill. They informed me that Councillor Chamberlist had not contacted them, but had contacted an employee of the Association, namely the secretary, and they informed me that the information that the secretary had given Mr. Chamberlist was erroneous and was not authorized by the Local Improvement District. They stated that they have no hard feelings about the election provisions of the Ordinance, as are described in the Ordinance. They had no hard feelings on it whatsoever. They feel that the forthcoming election on Monday is not impaired by the not passing of the Bill. Quite frankly, they are quite agreed, as far as my position is to prolong discussion on this debate to get additional information.

Mr. Tanner: Mr. Chairman, I'd like to make one comment here. In the past, on a number of occasions, there have been discussion in this House concerning the City of Whitehorse. At that time, the outside Members made a point of saying, that's your problem; you look after it. I think, in this case, it should behoove the outside Members to discuss this Bill with the input of the Government Members. I, personally, don't feel committed one way or another. I will make my decision on basis of the Yukon as a whole.

Mr. Chamberlist: Mr. Chairman, I would first draw Members' attention to the erroneous statement that has been made, using that same word, that I didn't discuss the situation at all with the secretary of the Local Improvement District, and I haven't received any information from him. I would point out that it appears in the correspondence, however, that has been sent to the Honourable Member for Watson Lake, is signed by Mrs. Chaddock who is the secretary of the Local Improvement District. I might be incorrect in that. The subject matter that this Local Improvement District Ordinance is involved in ... we have to consider that this is a piece of legislation for all the Local Improvement Districts on a parity. It is not specifically pointed to any one Local Improvement District, and the information that has been received by the Honourable Member from Watson Lake, by way of a letter, it was the intention that that information should be given to Members of this Council. The Honourable Member has not given that information to this Council; he is not prepared to indicate what are the objections that the Local Improvement District has written him upon. Not having that information, we have no alternative but to conduct the business of the House by proceeding with the Ordinance itself. I would at this time, move, Mr. Chairman, that the Ordinance be amended by removing the following words from section 2, paragraph (d), commencing after the word "nominated" until the word "Ordinance". It would read "eligible to vote as an elector for the election in which he is nominated."

Mr. Taylor: Well, Mr. Chairman ...

Mr. Chamberlist: Could we wait for a seconder?

Mr. Taylor: Mr. Chairman, in reply to the Honourable Member ...

BILL #15

Mr. Chairman: I wonder if we could, first, get a seconder for it ...

Mrs. Watson: Mr. Chairman, I'll second that motion.

Mr. Taylor: Mr. Chairman, while the Member writes out his motion, and provides the Chair with a copy of this motion, I'm wondering if I could get something straight here. The Honourable Member has just risen and stated he hasn't talked to anybody in Watson Lake. He only had ...

Mr. Chamberlist: I didn't say that.

Mr. Taylor: Well, I mistook what he said. Only, the record will show that he had not talked to the secretary. Yet, he ... I have information that he has, in Watson Lake. I also wonder how the Honourable Member knows that I have a letter in relation to any representation from Watson Lake, if he didn't talk to the secretary? Now, possibly, he had discussed this with another employee of the Local Improvement District. However, I would say, I think it is rather important. I'm not going to engage in a personal debate with the Honourable Member on this question. I think it is too important. There are representations to be made. I am awaiting further information in this regard and I would ask Committee to give, at least a little, consideration to this matter. Watson Lake has been the pilot program of Local Improvement Districts. It has been ... we've had our problems and troubles but we're slowly getting them ironed out and, indeed, the amendments asked for by the Watson Lake Local Improvement District, are good sound amendments, but they are not pressing, at this moment, prior to Monday. I would like permission of Committee, or the acquiescence of Committee, to permit this matter to be held over until early next week, in which case, I should be able to come with the representations that I need in order to enlighten Committee as to the position of Local Improvement Districts.

Mrs. Watson: Mr. Chairman, further to the amendment that the Member from Whitehorse East gave, I feel that section 9 from the Municipal Ordinance could be included within our Local Improvement District Ordinance. This stipulates under what conditions a person is disqualified to hold office as a councillor of a municipality, and in a Local Improvement District, as a trustee. It would be possible to insert this section within the Local Improvement District Ordinance. Also, Mr. Chairman, I feel that we have had opportunity to consult with the areas that we represent. I represent an area which has a Local Improvement District. I've been in constant communication with them, not just at this time, but constantly. I telephoned them again at noon. These people are quite prepared for us to discuss this Bill, to listen to the amendments that we are suggesting and to get ahead with the business of the House. They are desirous of letting this Bill ... to knowing whether they are going to go on the qualifications for electors for the Board of Trustees under this amendment or under the old Ordinance. They would very much like to have this clarified.

Mr. Tanner: Mr. Chairman, just as a point of interest, I don't think section 9 is applicable in that, from the Municipal Ordinance.

Mr. Legal Adviser: It was the Municipal Elections Ordinance.

Mr. Chairman: I wonder if we might, at the moment, deal with the amendment ahead of us and then come back to the possibility of putting the Ordinance over for a while. It has been moved by Councillor Chamberlist, seconded by Councillor Watson, that the words following "nominated" in section 2, paragraph (d), be deleted and that's all I have here. Is that all the amendment is? That the words following "nominated" in section 2, paragraph (d), be deleted.

Mr. Legal Adviser: Section 2, subsection (5), paragraph (d).

Mr. Chairman: Again, I would like to state, it has been moved by Councillor Chamberlist, seconded by Councillor Watson, that the words

Mr. Chairman continues ... following "nominated" in section 2, subsection (5), paragraph (d), be deleted, so it will now read "eligible to vote as an elector for the election in which he is nominated.". What is your pleasure? Question has been called. Are you agreed? I declare that the amendment is carried.

BILL #15

MOTION CARRIED

*MOTION
CARRIED*

Mr. Taylor: Mr. Chairman, I would, once again, ask at this point, the indulgence of the House until early next week for further discussion of this Bill.

Mr. Chamberlist: Well, I would like to hear, Mr. Chairman, from the two other Members of this Council who are closely involved with Local Improvement Districts, because of their ... there are Local Improvement Districts existing in their Districts.

Mr. Rivett: Mr. Chairman, let us proceed with this Bill.

Mrs. Watson: Mr. Chairman, I have expressed my opinion already. I think we should proceed with the Bill. And, I would also move that an amendment to section 2 ... it would have to be a new section, would it not? ... to add section 9 of the Municipal Elections Ordinance. This question has come up before in elections for Boards of Trustees. We need a new section.

Mr. Chairman: I will declare a brief recess so you can hash this one out.

RECESS

RECESS

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

BILL #15

Mr. Chamberlist: Is there anything else, Mr. Chairman, that we require any amendments to. I am appealing again, Mr. Chairman for the Honourable Member from Watson Lake to state now, what information he has that Council can look at, at this time. We aren't helpless in this. Why frustrate every Member of Council. The opportunity is here for the Honourable Member to indicate what he would like changed in there from the information that he has already received at this time. It is a simple thing that I am asking.

Mr. Taylor: Mr. Chairman, I will repeat again what I have said possibly twice already, that I have representations to make in respect of this Bill on behalf of the Local Improvement District. I have not completed my presentation in respect to this Bill because I have not had the time permitted. I am like this Municipality of Whitehorse, and the Municipality of Faro and Dawson. We just have not had the time to study the legislation that has been brought to this Table. All I am asking for is time. As I stated here today, I know in Watson Lake it presents no problem. I have talked to Watson Lake on the subject and this election provision has no problem for them. They are quite prepared to go ahead and have their elections in the same manner as they have been having them for years as is written in this Ordinance. I have queries out, I wish to get answers back and then I can come and make this presentation. It is as simple as that. I think, it behoves every Member of this House to give every consideration to any Member, Government side or otherwise, all the possible time that he requires in preparing a submission so that they are logical and sensible and properly presented. When you come to me and you tell me that, I am sorry fellow, we just whistled off this Ordinance for you and I am sorry but boy, we have got to do something before Monday and we have got to do something here by the weekend and that is all there is to it; I don't buy that. That is ramming stuff down the people's throat. In my opinion, Mr. Chairman, there is too much of that going on in this House. I have asked very patiently, I have asked respectfully. I have done everything but get in the middle of this room on bended knee and beg. I once again ask the indulgence of the Committee, for time to study this most important matter. This just could write off another 20 percent of the people of the Yukon.

Mr. Chamberlist: Mr. Chairman, when the Honourable Member speaks about receiving consideration from other Members of this House, he must be prepared to be considerate of those other Members as well. I know that the Honourable Member has received correspondence from the L.I.D. of Watson Lake, specifically and just recently, dealing with this particular Bill. Specifically indicating, certain changes they would like to have. I am offering that other Members of this House be considerate of him, if he will tell us what these things are. If he is not prepared to do that, he is showing that he does not wish to be considerate of us. We have heard from two Members of this Council, who are involved with Local Improvement Districts; they have indicated their stand. They want to proceed. One Member has indicated where there is a requirement for change. All I ask at this time is that the Honourable Member not be so stubborn and just bring forward those particular areas so that at least, we can discuss these, this afternoon, and see if they have merit that we can comply with the wished with the L.I.D. of Watson Lake. That language is clear, now surely the Honourable Member can't now say that he hasn't been asked clearly and in precise language what this Committee would like to have. If he is unbending in this, how does expect the rest of the Members of this Committee to be in their stand towards him.

Mr. Taylor: Mr. Chairman, there is no point in my rising and restating my position. I have asked for time, I have a presentation to make and I am waiting for additional data. I would prefer if, we could have till next week. If that is not permitted by a majority of this Committee, it

BILL #15

Mr. Taylor continues ...

is a tragedy, but otherwise, I would like to buy all the possible time I could get to prepare my submission.

Mr. McKinnon: Mr. Chairman, this is really getting too much for this House. I am afraid that in all sincerity we are just becoming a laughing stock to the people of the Yukon Territory. We are allowing this House and this Committee to degenerate into a shouting match because of a personality conflict going on between the Honourable Member from Whitehorse East and the Honourable Member from Watson Lake. You may not want to slice it this way but that is the way it is coming across, and that is the way it sure appears to me because as soon as one wants to do one thing, the other wants to do the other. I think, we are really creating phony issues just for the ability of the Honourable Members to be yelling back and forth at one another. We were told that the latest that this Ordinance could be passed to provide for all the provisions of the election would be Monday. The Member from Watson Lake has asked until Monday...

Mr. Chamberlist: He asked for a week.

Mr. McKinnon: I understood that he wanted to the beginning of next week. I think that if you check the Votes and Proceedings, he wanted early in the week which I took to be Monday, maybe I was mistaken. If he can have his representations made, if he can receive all his input from Watson Lake that he seems to want and receives the additional information that he says he needs from Watson Lake, I am not going to interfere with his involvement in his Local Improvement District. If he said that information is coming, I have got to trust and respect his initiative, in Territorial Council and his integrity, that this is in essence the truth and that information is coming, it will be available to the House on Monday. We can discuss what Mr. Taylor wants to discuss from the Local Improvement District, get it off the books one way or another on Monday. I suggest that this is where I say there we are creating issues and wasting the time of the House in this type of real acrimonious debate and I am telling you just that. So, you want to leave the Council, Committee Chambers, you don't want to be a part of sitting here and watching this going on. Satirically, if Monday is the time that he wants for his information, then I think that Committee should indulge because he says he has information coming, we should respect the integrity of Honourable Members around the House. If we don't it is going to get worse instead of better, you know it as well as I do.

Mr. Chamberlist: Mr. Chairman, I don't accept that act that has been put on. I know Councillor McKinnon too well. I would have been more proud of him, Mr. Chairman, if he would have stood up and said, why doesn't the Councillor from Watson Lake at least give the information, that he has already got now. I can see this, but then I can see him going beyond. You must note that because I have a loud voice, that this is called a shouting match. What do you want to do? The Honourable Member should have said for C.K.R.W. and W.H.T.V., so they could get his words over. It has become quite ridiculous to the extreme, when the Honourable Member from Watson Lake has in the past, just the past few weeks, asked for a specific date for certain ordinances to be read to give time. When that time has come along, he has then asked for extra time. This is the type of thing that I would like to see stopped. I recall the Honourable Member saying that he wanted a week. Now if he says he wants until Friday, so that we can at least, or Thursday, so that we can get the Legislation through, so that the L.I.D.'s are not fouled up with the process in relation to the election of their officers. Fine, we can very well go along and recognize this, but when I see a clear indication of the Member from Watson is trying to go beyond that date ... as he has already said that the purposes of election can be done as what was done in the past. This is where I myself stand firm and say, no, because he is trying to stall for time so that we cannot get this legislation through. Mr. Chairman, the Honourable, who has just spoken from Whitehorse West, knows full well of stalling tactics that can take place in a Legislative Assembly. This is fair ball, if the Honourable Member can get away with it. I think, he shouldn't be allowed to get

Mr. Chamberlist continues ...

away with it because we are asking for some help from him. We are saying, tell us what it is now, that they have asked for. Let us deal with it then and on the merits of it we can then decide whether there is further requirement to extend the time. I would like the Honourable Member from Whitehorse West to say to his colleague from Watson Lake that this is a fair request that is being made, why, don't you comply with it? Then, I would think more of him, but to say that we are trying not to take away from him the right to extend his time; this is not so. All Members of this House are prepared to give any Members reasonable time. I would ask, Mr. Chairman, if the Honourable Member from Whitehorse West could use his influence, if it is possible at all, for the Honourable Member from Watson Lake to say, well what do they want at this time and let us deal with it. It is as simple as that.

Mr. Taylor: Mr. Chairman, I would like to make comment on what the Honourable Member from Whitehorse has said on this matter. I must admit when he mentioned, personality conflict, he was quite right. I am sorry that I somehow get so frustrated in this House and in this Committee that often I rise to debate which is thrown at me from across the table. It is certainly unintentional, and maybe it's just my nature to do this best battling I can here. He is absolutely correct when he says we do get drifted off and I will certainly make every effort to try and avoid that in the future. If, we can defer this thing as I did say to early in the week, Monday is perfectly fine. I would like to direct a question to Mr. Legal Adviser, would Monday morning be too late for discussion of this subject?

Mr. Legal Adviser: I just don't, Mr. Chairman, I don't know about the exact process of election is. All I know is that the election is programmed for April 4th. Certain notices have been sent out, delineating who is entitled to vote, where the election will be held and so on. I just don't know. My understanding is that these notices have to be out on Monday. Beyond that I can't say.

Mr. Tanner: Mr. Chairman, perhaps we could satisfy all sides of this issue in this particular case, we have got to wait for an amendment tomorrow, how would it be if we would extend the time that is available to the Member to Friday, in which case the people who have to put up the notices then can do that and get them out by Monday. That part of the argument would be settled, and it will give the Member another two or three days to get as much information as he can.

Mr. Taylor: I don't know why a person has to stand here and give the reasons for why and how he goes about getting his information, but much of my information is in the mail and so consequently, this is where I am strapped, right at the moment. I am at a disadvantage because I had no idea that this would come up this quick and be rammed this quick. I was hopeful that we could stand it over until Monday, which gives me the additional time to get the mail and if it is that important that it goes through on Monday, certainly and decided the Bill could be assented by the Commissioner on Monday night at Third Reading. Third Reading and everything else when we get out of Council.

Mr. McKinnon: I wonder, Mr. Chairman, if we first can determine the latest kinds of notices that go out for a start.

Mrs. Watson: Mr. Chairman, I am also very concerned about our public image, for a little different reason than the Member from Whitehorse East has mentioned, that is for the time that we consume for the stalling. We could sit another day, another day, another day. Every day that we sit we are using taxpayer's money, which is fine, this is what it is for. When it is a deliberate stall, surely to goodness, we must feel a little guilty, sitting day after day because we are not able to get the information, we are not able to get this we are not able to get that. We are consuming and using up taxpayers money. Another thing that concerns me, is that we know that Territorial Council Session in going to be called, we have had months in our own constituency,

BILL #15

Mrs. Watson continues ...

or we should have had, we should know what is going on in our constituency; we should know what their desires are. When we come in here to look at the legislation which is being presented, you have had ample time, Session was called January 31st, to go over the legislation on your own. You should have some idea, a very good idea of how this legislation is going to affect your constituents. All we get, we have to get so and so in, we have to get somebody else in. Surely to goodness, somewhere along the line we are going to have to make decisions on our own. This business of advisors and representatives, you have months in the year where you can go to your people and get all the information that you need.

Mr. Taylor: With respect, unfortunately, Mr. Chairman, it was not possible to get this legislation until we came to this Table, but I would ask one thing. Possibly we could have a recess and inasmuch as I believe this is the only matter of import before us now, and have Mr. Legal Adviser determine the date. I have a copy of the L.I.D. Ordinance here but it is hard to remain in debate and at the same time try and determine it. I see where the procedures are that the L.I.D is established by bylaw, how this is done. Possibly, Mr. Legal Adviser can determine this and let us know how critical Monday is or whether we have got a month, thirty days which would put it up to March 4th. Could we do this and then we will know where we are.

Mr. Chairman: Is it the feeling of this Committee that we recess for awhile? Agreed. I will declare a brief recess.

RECESS

RECESS

Mr. Chairman: I call Committee to order.

BILL #15

Mr. Legal Adviser: Mr. Chairman, at the time the House went into recess, I was asked to ascertain as much as I could about the procedures and the time factors involved in the election. There is an election due in Watson Lake the first week of March...the first week of April, and procedures have to take place earlier than that for nomination day, posting of list of electors, holding the division and so on. The particular file I was looking at had a proposed amendment to the bylaw controlling elections. I couldn't get the file in the space available to me dealing with the existing procedures. But in any event, in view of the fact that this House passed a Bill some time ago reducing the age limit of voting down to nineteen, that bylaw would have to be amended before the election is held. But we can get it by tomorrow and give an exact program as to when is the time within which any change must be made by this House and assented to and put into force by the Commissioner to effect this election with this particular Order. If the House is to let it go this evening, we'll have it by tomorrow.

Mrs. Watson: Mr. Chairman, I think if you check I think you will see there is an election forthcoming in the L.I.D. of Haines Junction also in early April.

Mr. Taylor: Yes, Mr. Chairman, this would be most appreciated if this could be stood over until tomorrow.

Mr. Chairman: Agreed? Inasmuch as I don't believe we have anything further in Committee at the moment to discuss, unless other Members have something or other to bring up. What are the wishes of Committee at this time then?

Mr. Tanner: Mr. Chairman, I would move that Mr. Speaker do now resume the Chair.

Mr. Taylor: I second the motion.

Mr. Chairman: It has been moved by Councillor Tanner, and seconded by Councillor Taylor that the Speaker do now resume the Chair. Are you now prepared for the question? Are you agreed? I declare the motion carried.

MOTION CARRIED

*MOTION
CARRIED*

Mr. Speaker resumes the Chair.

Mr. Speaker: The House will now come to order. May we have a Report from the Chairman of Committee?

Mr. Chamberlist: Mr. Speaker, before the Chairman of Committee gives his Report, I would like to rise on a point of privilege. Mr. Speaker, it always has been my intention, and always is my intention that where at any time I am in error, I like to come forward to the House and say that I am in error. This morning, on a motion for the passing of the third reading and an Honourable Member did give another motion which it appeared to me at that time was not a Procedural Motion, I raised objections to it. During the lunch period, I did take note of the motion through the recorders, and I'm satisfied that I was in error. In view of this, Mr. Speaker, it is my intention to ask the Clerk that Bill No. 22 be placed on the Orders of the Day for tomorrow morning, to be given Third Reading at that time when the Honourable Member will have the opportunity once again to put his defeated motion forward.

Mr. Speaker: To err is human. May we have a Report from the Chairman of Committee?

Mr. Taylor: Yes, Mr. Speaker. Committee convened at 9:55 a.m. this morning to discuss Bills, Sessional Papers, and Motions. It was moved by Councillor Chamberlist, seconded by Councillor Tanner that section 26 Bill No. 4 be amended as follows, by adding the following new paragraph at the end of subsection (1)(e) "The conditions including any payments to be made in respect thereof imposing public utilities for establishing, constructing, maintaining, and operating an extension to its facilities." This motion carried. I can also report progress on Bill No. 4. It was then moved by Councillor Chamberlist, seconded by Councillor Tanner that section 10 of Bill No. 3 be amended by adding immediately after section 89, subsection (2) the following words, "That the Director may extend the time within which the person or couple shall notify him for a further period not exceeding sixty days." It was further moved that section 89 (1) be amended by adding the words "pursuant to this Ordinance " immediately after the word adoption in the second line. This motion carried. It was then moved by Councillor Chamberlist, seconded by Councillor Tanner that Bill No. 3 be reported out of Committee as amended. This motion carried. It was then moved by Councillor Tanner, seconded by Councillor Watson that Bill No. 5 be amended by adding to section 3 the following, "3 (1)(d) Any non profit society or organization excluded by order of the Commissioner pursuant to subsection(2). (2) Where the Commissioner is satisfied in respect of any non profit society or any organization, provides, or finds, or assists, in providing or finding or provides facilities for finding work or employment for its members or members of their family, he may by order exclude the society or organization from the provisions of this Ordinance." This motion carried. It was then moved by Councillor Tanner, seconded by Councillor Watson that Bill No. 5 be reported out of Committee as amended. This motion carried. It was moved by Councillor Chamberlist, seconded by Councillor Tanner that Bill No. 7 subsection 10 (1)(b) and 10 (1)(c) be amended by adding after each subsection the following words, "for a prescribed period of time". This motion carried. It was then moved by Councillor Chamberlist, seconded by Councillor Tanner that Bill No. 7 be reported out of Committee as amended. This motion carried. Committee recessed at 11:45 a.m. and reconvened at 1:40 p.m. Motion No. 12 was amended in Committee as follows: Motion No. 12 be amended to add the words, "and a representative of the Yukon Chamber of Mines" between the words " Mr. Lammers" and the word "the" in line five. The amendment was carried and Motion No. 12 was then carried as amended in Committee. It was moved by Councillor Chamberlist, seconded by Councillor Watson that the words following nominated in section 2 subsection (5)(d), I believe in relation to Bill No. 15, be deleted. This motion carried. I can report progress on Bill No. 15. It was moved by Councillor Tanner, seconded by Councillor Taylor that Mr. Speaker do now resume the Chair. And this motion carried.

Mr. Speaker: You have heard the report of the Chairman of Committee. Are we agreed? May I have your further pleasure?

Mr. Taylor: Mr. Speaker, in respect of tomorrow, I believe it's the intention of Committee to discuss Public Bills, Sessional Papers and Motions.

Mrs Watson: Mr. Speaker, I wonder if it would be possible for us to deal with Bill No. 21 tomorrow. An Ordinance to Amend the Transport Public Utilities Ordinance. Mr. Chairman has indicated that he wants representation. Would it be possible to have that representation here tomorrow?

Mr. Taylor: At the risk of being accused of stalling or something of this nature, no it would not be possible. I believe this matter was deferred til next Monday.

Mr. Speaker: May I have your further pleasure?

Mr. Stutter: Mr. Speaker, now I move that we call 5:00 o'clock.

Mr. Tanner: I'll second that.

Mr. Speaker: It has been moved by the Honourable Member for Dawson, seconded by the Honourable Member for Whitehorse North that we now call it 5:00 o'clock. Are you prepared for the question? Agreed? I declare the motion carried.

MOTION CARRIED

*MOTION
CARRIED*

Mr. Speaker: This House now stands adjourned until 9:30 a.m. tomorrow morning.

ADJOURNED

ADJOURNED

Mr. Speaker reads the daily prayer. All Councillors are present.

Mr. Speaker: Mr. Clerk, is there a quorum present?

Mr. Clerk: There is, Mr. Speaker.

Mr. Speaker: The House will now come to order. Are there any Documents or Correspondence to be tabled?

Mrs. Watson: Yes, Mr. Speaker. I have for tabling this morning, Legislative Return No. 5.

*TABLING OF
LEGISLATIVE
RETURN 5*

Mr. Speaker: Are there any Reports of Committees? Are there any Bills to be introduced? Are there any Notices of Motion or Resolution?

Mr. McKinnon: Mr. Speaker, I have Notice of Motion concerning the removal of billboards along the Highway, the Alaska Highway, with the Metropolitan Area of Whitehorse.

MOTION #14

Mr. Speaker: Are there any further Notices of Motion or Resolution? Are there any Notices of Motion for the Production of Papers? As there are no Motions for the Production of Papers, we come to Motion No. 13. It has been moved by Councillor McKinnon, seconded by Councillor Taylor, that it is the opinion of this Council that the administrative offices of the Unemployment Insurance Commission for the Yukon be relocated in the Yukon. Is there any discussion?

MOTION #13

Mr. McKinnon: Mr. Speaker, I had occasion to use the offices of the Unemployment Insurance Commission within the last few months, and I found the situation that exists in the Yukon just not acceptable in any way, shape or form. As Honourable Members of Council are aware, the offices of the Unemployment Insurance Commission were moved from Whitehorse to Prince George, not very long ago. I think that there have been real hardships worked upon the people of the Yukon by the transfer of these offices. I know of people who were unemployed, who were waiting up to three weeks for unemployment insurance cheques at the time of Christmas. What could be worse than being unemployed and without your unemployment cheque at Christmas time, when you are depending upon it to provide food on the table and a few presents for the family? I don't know what could be worse. The situation that I was involved in, Mr. Speaker ... it's one of the things that I enjoy doing for constituents and for people ... was to help them with forms and with registration documents that you almost need a Philadelphia lawyer and accountant to understand and which are being foisted upon the public, for them to be able to be eligible to get the benefits under this Government program. The offices, Mr. Speaker, are located on the Main Floor here. I walked in, and I can assure you that the rooms where one is interviewed ... in any of the penitentiaries across Canada or in the Corrections Institute up the hill, the rooms are more infinitely hospitable than the interview rooms where you go to be interviewed by the Unemployment Insurance Commission. There were approximately seven people sitting around the outer office as I went in with, of course, nothing to do but stare at each other and look at the floor because they were all there to have something to do with unemployment. The inner office is not private at all. At the time I was there, there was a man who evidently was having a lot of medical problems, wasn't receiving his cheques regularly and was almost to the point of breaking down in front of the lady who was there to just act as a liaison between the Prince George office and the Whitehorse people. I think it was an extremely degrading experience. I don't think anybody should have to go through the public display of venting what is happening to them because they are unfortunate enough to be unemployed. The lady who is here acts as nothing except a liaison between the people unemployed and seeking help in Whitehorse, and the Prince George office. She handles up to fifty inquiries a day, thirty personal and twenty by phone, generally. Now, how, in the name of goodness, can one woman, who has no power at all, except to give complaints to the Prince George office, hope to handle fifty complaints, or fifty inquiries, in the course

MOTION #12

Mr. McKinnon continues ...

of an eight hour working day. She is over worked; she does as good a job as she can. It's absolutely impossible for her to, even start, to bring all the information and handle all the inquiries that are needed in the Unemployment Insurance offices here in Whitehorse. There are other things, Mr. Speaker, as they apply to the Yukon. The Unemployment Insurance Act is completely unworkable. There is nobody with any authority in the Whitehorse office to be able to make a decision. I'll give you one example. One of the persons I was helping fill out some unemployment insurance forms, lives not at a regular mailing address. He has his benefits; he acts as a guide during the fall months. He would, rather than come into Whitehorse and live under the aegis of the Honourable Member from Whitehorse East's Department ... he would rather live in the bush and be able to maintain himself through a bit of trapping and some hunting. However, he is eligible for unemployment insurance benefits. Because he is not at a regular postal mailing address and because he cannot sign his name every two weeks on the form saying that he was available for work, he is, therefore, precluded from receiving unemployment insurance benefits. In other words, the law is an absolute ass because they are trying to put people on welfare by not making a law that is not flexible enough to adjust to the Yukon situation. This isn't original; there are many cases like this in the Yukon Territory. Because of where people live, they are precluded from collecting unemployment insurance. Of course, one of the other things in the law is that you must understand, and have read, and sign your name that you understand the claimant information booklet that comes along. As I say, once again, it would take a person pretty well schooled to understand it. Forcing people who can barely sign their names to sign that they have read the booklet, when they are next to illiterate ... signing their name is a real difficulty for them. I think that, failing to get the administrative offices in the Yukon Territory, the next step that this Council should take is to invite the Minister of Labour to investigate Unemployment Insurance and the way it is being handled and the inconsistencies in the law, as it applies to the Yukon Territory. I think the first thing, though, would be at least, to provide the ability to go in to somebody who has some authority, who has some power, to be able to get an answer instead of going to Prince George. Another reason ... I say this, Mr. Speaker, because some of the people I would like to act for who live outside of the Metropolitan Area of Whitehorse ... I could act as their representative, for them, fill out their forms for them and collect and save their unemployment insurance cheques. We went to the Prince George office and it was found that unless the person was mentally incompetent, I could not act as their representative. So, it means that these people, too, because they do not live in an area where they receive mail regularly, and can fill out their forms, are precluded from receiving any benefits from the Unemployment Insurance Commission, even though they have made out their benefits and are perfectly entitled to them. I just can only say, Mr. Speaker, that I've never seen such a degrading spectacle as the Unemployment Insurance Commission is running here in Whitehorse. I think it behooves all of us ... I think we all protested when the office was moved from Whitehorse. We said that this is exactly what would happen. It is exactly what has happened. The Great White Father said no, we'll move them to another area; you will be served even better by having the administrative offices in the central location. I think that all Members of Council should support the motion to have the offices relocated in the Yukon, and then, if this is not done, go even further and be prepared to petition the Minister of Labour to conduct an investigation into the handling of Unemployment Insurance practices in the Yukon Territory.

Mr. Speaker: Is there any further discussion on this Motion?

Mr. Taylor: Yes, Mr. Speaker. As seconder of this Motion, I naturally, wholeheartedly endorse this. I recall back to the time when they did move this office out of the Yukon, and the Council of that day, I believe, by motion, deplored the removal of the office and asked for its replacement immediately. The Council at that time, forecast serious difficulty and problems as a result of this move, and indeed, over this past year, we found that there are serious problems. I think the Honourable Member who has spoken before, has pretty well laid the problem on the table. I

Mr. Taylor continues ...

might say that I am constantly plagued ... more so this winter, oddly enough ... with complaints in respect of the processing of applications and the people receiving their benefits. I'm really at a loss to help them, short of telling them to go and try to get hold of their Member of Parliament. In the outlying areas, the problem is doubly worse than it is here in town. Indeed, here, it is possible to get some advice with respect to unemployment insurance, but when you live in the hinterland, you are pretty well wiped out. You have nobody to talk to, short of getting on a telephone and phoning Prince George. When you get hold of Prince George, quite often, these people are faced with some very rigid, stone-cold policy and they are, more or less, left standing in the hall with egg all over their face. It is a compulsory scheme, Mr. Speaker; everyone in Canada must pay into it, and I think that we are certainly entitled to the administrative services which surround this Unemployment Insurance scheme. I agree with the Honourable Member that we should encourage, before we leave this Session, a visit by the Minister or a Commission to be set up by the Federal Government to come up here and investigate the hardships and problems relevant to unemployment insurance in the Yukon.

MOTION #12

Mr. Chamberlist: Mr. Speaker, there could be no doubt that all Members of Council have a responsibility to support this type of motion. Over the years, the people of the Yukon have suffered considerably as a result of Federal Departments being removed from the Yukon Territory. We have lost the Tax Department, which had been of great help and really had been needed. It was moved, administratively, to Edmonton, and now I understand that it is going to the Vancouver Region. The Immigration Department had a permanent officer here and is now non-existent here. Another Department stands in its place on occasions. In all areas, where Federal Government services are required, they are removed. It is unfortunate that Federal Government senior Civil Servants do not recognize that the needs of the people in the Yukon are exactly the same as the needs of people in other parts of Canada. Mr. Speaker, in indicating my support, and certainly, my wholehearted support, to this Motion, I feel that, should we not receive a sufficient and clear, precise answer from the Unemployment Insurance Commission, as to what their intentions might be in the very near future, we should, without hesitancy, make arrangements to meet with the Minister of Labour, if necessary, and beyond that, to fulfil a function that must be given to the people of the Yukon. That is the properly organized Unemployment Insurance Commission office, administrative office, here to deal with all matters relating to the needs of unemployment insurance for the people of the Yukon.

Mr. Speaker: Are you prepared for the question? Are you agreed? I declare the Motion carried.

MOTION CARRIED

*MOTION
CARRIED*

Mr. Speaker: We now come to the Question Period. Mr. Clerk, will you see if the Commissioner is available. We will now have a short recess.

RECESS

RECESS

Mr. Speaker: The House will now come to order. Are there any questions?

Mr. Taylor: Mr. Speaker, I was wondering if the Administration could advise me this morning, as to whether or not the answer is being prepared to my question respecting the Territorial school tax of five to six dollars being collected, or being asked to be collected from the Village of Faro. I'm wondering if there has been a reply to this.

*QUESTION RE
TERRITORIAL
SCHOOL TAX*

Mr. Administrator: Mr. Speaker, I understand that the answer to the question is being prepared now. It should be tabled in the very near future.

Mr. Chamberlist: Mr. Speaker, I wish to put a question to the Honourable Member for Whitehorse West. Mr. Speaker, the Honourable Member for Whitehorse West indicated to the Commissioner that he was upset about the situation regarding billboards on the Alaska Highway. In reply to

Mr. Chamberlist continues ...
him, the Commissioner said that if a motion was forthcoming from Council, he would act upon it immediately. ... it came this morning? I beg your pardon, Mr. Speaker, I was out ...

Mr. McKinnon: Mr. Speaker, my Government acts a lot faster than the Honourable Member's.

Mr. Speaker: Are there any further questions?

*QUESTION RE
PHYSICAL
FITNESS
GRANT*

Mr. Stutter: Mr. Speaker, I have a question for either the Minister of Education, or the Administration. I wonder if there is anything further to be told us in respect of the Physical Fitness Grant that has been expected for some time.

Mr. Administrator: Mr. Speaker, I just had a call from Ottawa and I was speaking to the Territorial Affairs Branch. They still hadn't the answer from the Treasury Board, but they expect it today. They do know that the grant has been placed in front of Treasury Board, but they didn't quite know where, in the mill, it was. We do expect it momentarily.

*QUESTION RE
FRONT FOOTAGE
RATES, PORTER
CREEK*

Mr. Tanner: Mr. Speaker, I have a question for the Administration, this morning. Who sets the front footage rates in Porter Creek for the cost of water; who determines how much it is going to be and why has it fluctuated in the last three years?

Mr. Administrator: Mr. Speaker, I believe that Local Government Department sets the rates. However, I would like to take that as notice and get more details on the other parts of the question.

*QUESTION RE
COMMISSIONER*

Mr. McKinnon: Mr. Speaker, I'd like to ask Mr. Administrator where the Commissioner is.

Mr. Administrator: Mr. Speaker, the Commissioner has gone to Old Crow for the day and part of tomorrow. He should be back tomorrow afternoon.

*QUESTION RE
SPRING
FLOODING*

Mr. Taylor: Mr. Speaker, in view of the fact that Mr. Administrator is here today, I would like to ask if the Government of the Yukon Territory has undertaken to lay plans for the possibility of very serious flooding in the Yukon in the spring, as a result of the exceptionally heavy snow that is now in the Yukon, this winter.

Mr. Administrator: Mr. Speaker, this has, certainly, been brought to my attention, as Chairman of the Emergency Measures Organization. I will be getting in contact again with the various communities, as we did last year, just prior to break-up, so that all the communities are alerted in the event anything does happen, from the flooding point of view.

*QUESTION RE
STRAY HORSES*

Mr. McKinnon: Mr. Speaker, I would like to ask Mr. Administrator a question. Every winter, we have difficulty in the Yukon Territory with horses who are not looked after properly by their owners and starve to death, depending upon the severity of the winter. Most legislative authorities, provincial authorities, have what they call Pound Keepers Ordinances, which allow people to pick these horses up and feed them so they won't starve, and then charge that money back to the owner of the horses. I wonder if the Government of the Yukon Territory has looked into such legislation and would look favourably upon a motion of Council for the introduction of such legislation.

Mr. Administrator: Mr. Speaker, there is an Ordinance on the books, a Pound Keepers Ordinance, now. In fact, we do have one pound keeper appointed, who lives on the Mayo Road. But, the Ordinance does not allow the pound keeper to go out and pick up any stray horses and bring them in. But, if any horses are noticed, either by members of the public or the R.C.M.P. or game guardians, the horses, if they are in a bad condition, can be brought in to the pound keeper to look after. The owner is, then, charged back.

Mr. McKinnon: Supplementary question, I wonder if the Administration would look favourably on amending the legislation to allow a pound keeper to pick up horses where he deems fit, that these horses are

Mr. McKinnon continues ...
suffering because of a lack of attention by the owner.

Mr. Administrator: Mr. Speaker, that is a reasonable request and I think we would be quite willing to look into it.

Mr. Speaker: Are there any further questions?

Mr. McKinnon: Mr. Speaker, I would like to direct a question to the Executive Committee member in charge of Health, Welfare and Corrections. I would like to know how many juveniles are presently in the Wolf Creek Institute. I would like to know how many of them are Native, and I would like to know if there are any Native guards on staff at the Wolf Creek Institute.

*QUESTION RE
WOLF CREEK
INSTITUTE*

Mr. Chamberlist: I wonder if the Honourable Member would be satisfied if I take all these questions and prepare a paper on it?

Mr. Tanner: Mr. Speaker, supplementary to that last question; would the Honourable Member looking after that Department, at the same time, find out how many inmates of the Wolf Creek Institution have been released recently, and how many charges have been laid against the same releasees in the last week.

Mr. Chamberlist: Could I have a clarification of that last question; the last portion of the question?

Mr. Tanner: I wonder whether the Member could find out how many inmates have been released in the last two weeks, and how many charges have been laid in the last week.

Mr. Chamberlist: Yes. We'll get that information for the Honourable Member.

Mr. Taylor: Yes, I have a question directed to Mr. Administrator, this morning. I'm wondering if, as yet, the Government of the Yukon Territory has received from the Federal Government in Ottawa, copies of the Senate and House of Commons Joint Committee on the Constitution recommendations, as they respect the Yukon Territory.

*QUESTION RE
CONSTITUTIO
REPORT*

Mr. Administrator: Mr. Speaker, no, we have not received our copy of this.

Mr. Speaker: Are there any further questions?

Mr. McKinnon: I was just wondering, Mr. Speaker, whether we could expect from the Government the Municipal Aid Bill prior to the municipalities coming before Council to discuss Municipal Legislation.

*QUESTION RE
MUNICIPAL
AID BILL*

Mr. Chamberlist: Mr. Speaker, it appears that we have every hope of being able to complete the Bill to give it to Council, in the very, very near future. There have been some hold-ups in the particular area. I can assure Members that it will be brought forward as soon as it is humanly possible.

Mr. McKinnon: Mr. Speaker, supplementary question. I wonder if the Government is willing to delay the municipalities coming before Council until the Municipal Aid Bill is ready for tabling for Council.

Mr. Chamberlist: Mr. Speaker, I must reply to that in the negative. The other Municipal Legislation, in most areas, has no reflection at all on the Municipal Aid package, which just deals with the amount of funds which will be available by way of grant.

Mr. Speaker: Are there any further questions? We wish to thank the Assistant Commissioner for his attendance. As there are no Private Bills or Orders, we come to Public Bills and Orders.

Moved by Councillor Chamberlist, seconded by Councillor Watson, that Bill No. 22, the Alaska Highway Maintenance Ordinance, 1972, be given Third Reading.

*BILL #22
THIRD
READING*

Mr. Taylor: Mr. Speaker, I just want to say that the remarks I made yesterday morning still apply. I, once again, am forced to state that I'm with the intent of the Ordinance, but I cannot buy the principle of handing the Commissioner a virtual blank cheque. I will vote against the Bill.

Mr. Speaker: Are you prepared for the question? Are you agreed? Division has been called. Mr. Clerk, would you poll the House.

Mr. Clerk: The Member from Carmacks-Kluane?

Mrs. Watson: Yea.

Mr. Clerk: The Member from Whitehorse West?

Mr. McKinnon: Disagree.

Mr. Clerk: The Member from Watson Lake?

Mr. Taylor: Disagree.

Mr. Clerk: The Member from Dawson?

Mr. Stutter: Disagree.

Mr. Clerk: The Member from Whitehorse East?

Mr. Chamberlist: Yea.

Mr. Clerk: The Member from Whitehorse North?

Mr. Tanner: Agreed.

Mr. Clerk: The vote, Mr. Speaker, is three to three.

Mr. Speaker: I declare the motion carried.

MOTION
CARRIED

MOTION CARRIED

BILL #22
TITLE
ADOPTED

Moved by Councillor Chamberlist, seconded by Councillor Watson, that the title to Bill No. 22, the Alaska Highway Maintenance Ordinance, 1972, be adopted as written.

MOTION
CARRIED

MOTION CARRIED

Mr. Speaker: I declare that Bill No. 22 has passed this House.

BILL #3
AMENDMENTS
FIRST
READING
MOTION
CARRIED

Moved by Councillor Chamberlist, seconded by Councillor Watson, that the amendments to Bill No. 3, An Ordinance to Amend the Child Welfare Ordinance, be given First Reading.

MOTION CARRIED

BILL #3
AMENDMENTS
SECOND
READING
MOTION
CARRIED

Moved by Councillor Chamberlist, seconded by Councillor Watson, that the amendments to Bill No. 3, An Ordinance to Amend the Child Welfare Ordinance, be given Second Reading.

MOTION CARRIED

BILL #3
THIRD
READING

Moved by Councillor Chamberlist, seconded by Councillor Watson, that Bill No. 3, An Ordinance to Amend the Child Welfare Ordinance, be given Third Reading.

MOTION CARRIED

MOTION
CARRIED

BILL #3
TITLE
ADOPTED

Moved by Councillor Chamberlist, seconded by Councillor Watson, that the title to Bill No.3, An Ordinance to Amend the Child Welfare Ordinance, be adopted as written.

MOTION CARRIED

MOTION
CARRIED

Mr. Speaker: I declare that Bill No. 3 has passed this House.

Moved by Councillor Watson, seconded by Councillor Chamberlist, that the amendments to Bill No. 5, the Employment Agencies Ordinance, be given First Reading.

MOTION CARRIED

Moved by Councillor Watson, seconded by Councillor Chamberlist, that the amendments to Bill No. 5, the Employment Agencies Ordinance, be given Second Reading.

MOTION CARRIED

Moved by Councillor Watson, seconded by Councillor Chamberlist, that Bill No. 5, the Employment Agencies Ordinance, be given Third Reading.

MOTION CARRIED

Moved by Councillor Watson, seconded by Councillor Chamberlist, that the title to Bill No. 5, the Employment Agencies Ordinance, be adopted as written.

MOTION CARRIED

Mr. Speaker: I declare that Bill No. 5 has passed this House.

Moved by Councillor Watson, seconded by Councillor Chamberlist, that the amendments to Bill No. 7, the Gasoline Handling Ordinance, be given First Reading.

MOTION CARRIED

Moved by Councillor Watson, seconded by Councillor Chamberlist, that the amendments to Bill No. 7, the Gasoline Handling Ordinance, be given Second Reading.

MOTION CARRIED

Moved by Councillor Watson, seconded by Councillor Chamberlist, that Bill No. 7, the Gasoline Handling Ordinance, be given Third Reading.

Mr. McKinnon: Mr. Speaker, before the question is called, I have a few points to make on the Third Reading of Bill No. 7. I don't disagree with the ability of the Government to control the sale of such dangerous liquids as gasoline. However, I think the big mistake is being made in a lot of the legislation that is being passed by this House, in that it is so inflexible as applied to the big bulk plant operator, as well as the guy running a one pump and a highway cafe. If you will notice, in the regulations, the operator means just that, whether it is a bulk plant operator or a one pump service station operator. Now, really, to be practicable, Mr. Speaker, who, operating that kind of a system, is going to find time to read the regulations, or is going to be able to understand them, and will be able to abide by them. As I say, one needs, for this type of operator, a simple, consistent, safety type of rule, written out on one sheet, that is going to provide the public and himself with rules and regulations that he can follow for his protection and the protection of the public. We're just putting legislation, legislation, on the books that is completely unenforceable and eventually, somebody is going to get hurt because we are too inflexible and not able to separate the big time operator from the guy operating a one pump and a cafe. We have to do this in the Yukon and we are going to be consistently in trouble if we don't. I think that this Bill No. 7 is a good Bill; the regulations are good, as long as it applies to the bulk plant operators and those who do a majority of their business in volume, in gasoline handling. As far as it applies to the one pump type station, it is completely unworkable. It is completely unenforceable and as such, I just can't support it.

Mr. Chamberlist: Mr. Speaker, I think all Members will recall that the

BILL #5
AMENDMENTS
FIRST
READING
MOTION
CARRIED
BILL #5
AMENDMENTS
SECOND
READING
MOTION
CARRIED
BILL #5
THIRD
READING
MOTION
CARRIED
BILL #5
TITLE
ADOPTED
MOTION
CARRIED

BILL #7
AMENDMENTS
FIRST
READING
MOTION
CARRIED
BILL #7
AMENDMENTS
SECOND
READING
MOTION
CARRIED
BILL #7
THIRD
READING

Mr. Chamberlist continues ... regulations were asked for and the regulations have been given to the Members to study and do what they want with them. Quite true, what the Honourable Member says, there is a difference between the small operators and the operators of a bulk plant. Consideration must be given that you can't make two sets of rules. Rules must apply when there is a danger to the public, to everybody. If the Honourable Member would care to make a suggestion that some small handbook be provided for the operators of gas stations, safety regulations, I'm sure that the Administration would be only too pleased to consider what may be a sound thought. But, the fact that he has said that the legislation is needed, proves in itself that where the need is there, the Government has brought forward that type of legislation. As I say, other suggestions with reference to making available for small operators something small and compact that they will be able to understand, as far as safety regulations are concerned, this is a consideration that could be given.

Mr. Speaker: Are you prepared for the question? Are you agreed? I declare the motion carried.

*MOTION
CARRIED*

MOTION CARRIED

*BILL #7
TITLE
ADOPTED*

Moved by Councillor Watson, seconded by Councillor Chamberlist, that the title to Bill No. 7, the Gasoline Handling Ordinance, be adopted as written.

*MOTION
CARRIED*

MOTION CARRIED

Mr. Speaker: I declare that Bill No. 7 has passed this House. May I have your further pleasure?

Mr. Chamberlist: Mr. Speaker, I would move that Mr. Speaker do now leave the Chair and Council resolve itself into Committee of the Whole for the purpose of discussing Bills, Sessional Papers and Motions.

Mr. Speaker: Is there a seconder?

Mr. Tanner: I second the motion, Mr. Speaker.

Mr. Speaker: It has been moved by the Honourable Member for Whitehorse East, seconded by the Honourable Member for Whitehorse North, that Mr. Speaker do now leave the Chair for the purpose of convening in Committee of the Whole to discuss Public Bills, Sessional Papers and Motions. Are you prepared for the question? Are you agreed? I declare the motion carried.

*MOTION
CARRIED*

MOTION CARRIED

Mr. Speaker: The Honourable Member for Watson Lake will please take the Chair in Committee of the Whole.

Mr. Taylor takes the Chair.

Mr. Chairman: At this time, I will call Committee to order. I think when last we rose Mr. Legal Adviser was going to determine dates in respect of Bill No. 15.

BILL #15

Mr. Legal Adviser: Yes, Mr. Chairman, I have the dates in my office. Now, Mr. Chairman, the position in regards to Watson Lake Local Improvement District ...

Mrs. Watson: And Haines Junction.

Mr. Legal Adviser: And I'm advised by the Honourable Member for Carmacks-Kluane that the dates are the same for they use the same bylaw. The list of electors is already prepared, and was prepared by February 1st. The nominations take place on March the 6th. The revised list of electors is on the Friday following, which is March the 10th. The Board of Revision sits on the same day as the nomination day which is March the 6th. Then three weeks prior to the general meeting, which is in the first week of April, the list of candidates is posted and the general meeting and election take place in the first week of April, in accordance with the Statute. The only controlling date in the Statute is the general meeting date which is April. It would be required, in the various districts, that they amend this because the bylaw itself is unsuitable in its present form, for carrying out an election, since the election occurs before the final revision day. This would mean that people who are accidentally omitted from the list of electors have no means of putting themselves on the list of electors, in order to make themselves eligible for office. So I spoke on the telephone yesterday evening, after the House rose, to the Chairman of the Watson Lake Board of Trustees, and he indicated that his Board would be willing, in the event that this House passes this legislation, that he will be willing to arrange with the Board for the organization of the dates since it means a simple bylaw to reflect the wishes of the House in the matter of the qualifications of the electors and the qualifications of Trustees.

Mr. Chairman: Councillor Stutter, will you take the Chair.

Mr. Stutter takes the Chair.

Mr. Taylor: Yes, Mr. Chairman, I've also been in touch with the Chairman of the Trustees, but I have it a little different. I asked him how they were going to do it, and they said that on the 21st of February, which is Monday, they were publishing the notices of nomination and setting the nomination day under the existing bylaw. This is what they are intending on doing at the moment. Then on the 6th of March, which is the crucial date; it is on the 6th of March that they publish the date of the election, which is the date of the annual general meeting, indeed, and the list of candidates having been selected. Then on the 10th of March there is a Board of Revision of the voters list, and on the 14th of March the posting of the revised list, and in the first week of April the election is held. They did mention that either yourself or Mr. Bilawich in communication with them yesterday, asked them if they would be interested in passing a bylaw to change the date of the annual general meeting, which they believed was in order to get this Bill through or something of this nature. In any event, what I do suggest, Mr. Chairman, is that the essential date now is the 6th of March in any event irrespective of how you shuffle this thing around. The 6th of March is the date when the election is actually set. And if they, on the 21st of February, which is next Monday, all they are merely doing is publishing a notice of nomination, I can see that the passage of the Bill would have no bearing on that.

Mr. Legal Adviser: Mr. Chairman, they have no authority to change the date of the meeting except by statute. But all the other dates are subject to arrangement in the Court with a bylaw. So it is essential to hold

BILL #15

Mr. Legal Adviser continues

off their notices on Monday in order to give themselves a day or two leeway to type up the amendments to the Bylaw. I asked them to postpone doing this particular act, so that they could get their dates straight. And I strongly suggested to them that it would be wrong in any event whether or not the bill was going to be passed to have the final revision day of the electors list four days after the nomination day. This doesn't appear to make sense. Of course the chairman didn't have his dates before him, date by date, we had here. We had a copy of the actual bylaw which they had passed, which is in any event, out of date.

Mr. Taylor: Yes. I believe the practice in the past, Mr. Chairman, at least in the case of Watson Lake L.I.D., was the people would go down and line up for nominations sort of a thing, and the nominations would be filed and then you just took out the tax role, and that determined who got booted out, and his nomination was defeated. If his name didn't appear on the tax role as a property owner he was out. But in light of the information which has been forthcoming, would it now be possible for Committee to allow me through 'til Monday on this question?

Mrs. Watson: Mr Chairman, I would really like to appeal to the Members of this House. The legislation is before us. The Member from Watson Lake, the Member from Mayo and myself, we have had an opportunity to contact these people. They're well aware of the amendments that are being proposed. They would like to know whether the amendments will be enforced for their forthcoming election. Surely to goodness we can sit down and come to some decision on this amendment to this Bill without delaying them any further. I think we owe something to the residents of the Territory and to the people within these L.I.D.'s to discuss it now. If you have objections to it, let's hear them. But let's come to some decision without keep putting it off and off rather indefinitely. Monday you could well stand up and say you want another day, and another day. I think it is up to us to consider this legislation at this time and allow the Member from Watson Lake to present any objections that he has to the legislation now.

Mr. Taylor: Mr. Chairman, I do believe there is some urgency in respect of one L.I.D. This is only information I got yesterday which came from the administration down to Watson Lake and back to me on the phone, and that is that there is some need to dissolve the Haines Junction L.I.D. Now, if this be true, I don't know. I make that clear. But I was told that this was one of the reasons for the urgency. I don't know what's going on with the Haines Junction L.I.D. I don't know if it is the wish of the administration to dissolve it or what it's all about, but I received this information. If this be the case and this Bill is important, this amendment, maybe you could make this amendment apply to Haines Junction only, until ... but look. Lets put it down in black and white here on the records. Yesterday, I was granted at least 'til Friday pending whatever information we got this morning. I ask again if I can get until Monday. I provides me with that much more time to get the information I'm seeking. I can see no problem, if it must be by Monday then I can get it Friday, but I would like to get through to Monday.

Mrs. Watson: Mr. Chairman, I take quite a great deal of exception to the remarks that the Honourable Member from Watson Lake has made. This is a deliberate ploy to cause unrest. Misinformation was given to the people of Haines Junction last night. Telephone conversations from Whitehorse from Watson Lake to Haines Junction implying this type of thing, that the L.I.D. at Haines Junction was to be dissolved. There is absolutely no foundation for this, but this is the type of tactics that are presently being used to mislead people in various areas of the Yukon Territory. Surely to goodness we can be honest and put our cards on the table now, and if you have some objection to these amendments stand up and give them. But for goodness sakes keep your nose out of my constituency.

Mr. Taylor: Mr. Chairman, just to keep the record straight, I made no phone calls to Haines Junction last night.

BILL #15

Mrs. Watson: Your henchmen did.

Mr. Taylor: And I have no idea... if something came from Watson Lake I have no knowledge of it. I received this information last night from Watson Lake and that's all I know. But in any event, I could care less. What I'm asking for is time 'til Monday if possible, at the earliest, Friday.

Mr. Chamberlist: Mr. Chairman, we have indicated yesterday that we would give consideration to Friday, and I'm sure we are prepared to give that consideration to the Honourable Member until Friday because if we can deal promptly with it in that manner, we would be able to get the necessary authority to get the Commissioner to assent to the Bill that is required in the L.I.D.'s so that they can conduct themselves in the manner they want to by Monday.

Mrs. Watson: Mr. Chairman, I would like to say that this has almost become a dictatorship where the dictator is the Member from Watson Lake. It's degrading. The legislation will apply to all L.I.D.'s in the Yukon Territory.

Mr. Chamberlist: But history does show, Mr. Chairman, that all little dictators do fall eventually.

Mr. Taylor: I won't rise to debate on that one. I'll resume the Chair at this point. Unless there are further amendments, we seem to have run out of work. What is your further pleasure?

Mr. Chamberlist: Mr. Chairman, could we just break off for about a half hour as there will be ... suggestion has been made specifically so that the Honourable Member from Watson Lake will have time to consider this when he brings forward his arguments for or against the L.I.D. legislation. It is an amendment which Mr. Legal Adviser wishes to look into right now, that he can be able to give to Honourable Members so they can discuss it later.

Mr. Chairman: I wonder if it would be possible, if it's just to wait for half an hour to pick up the amendment, could it be possible if they could be distributed and Mr. Speaker could resume the Chair and Members would be free to their other duties, rather than sit for half an hour. We could pick them up out of Committee. The Chair would welcome a motion that Mr. Speaker resume the Chair.

Mr. Stutter: Mr. Chairman, I'll move that Mr. Speaker now resume the Chair.

Mr. Tanner: I'll second that.

Mr. Chairman: It has been moved by Councillor Stutter, seconded by Councillor Tanner that Mr. Speaker do now resume the Chair. Are you prepared for the question? Are you agreed? I declare the motion carried.

MOTION CARRIED

*MOTION
CARRIED*

Mr. Speaker resumes the Chair.

Mr. Speaker: The House will now come to order. May we have a Report from the Chairman of Committee?

Mr. Chairman: Mr. Speaker, Committee convened at 10:20 a.m. to discuss the Bills, Sessional Papers and Motions. It was moved by Councillor Stutter, seconded ... Oh, I can report progress on Bill No. 15. It was moved by Councillor Stutter, seconded by Councillor Tanner, that Mr. Speaker do now resume the Chair and this motion carried.

BILL #15 Mr. Speaker: You have heard the Report of the Chairman of Committee. Are we agreed? May I have your further pleasure?

Mr. Taylor: Mr. Speaker, I believe tomorrow being Thursday, we are expecting to begin work on the Municipal package. I believe that is the intent of Committee, so we would be dealing with Public Bills and Sessional Papers and Motions.

Mr. Speaker: May I have your further pleasure?

Mr. Tanner: Mr. Speaker, I now move that we call 5:00 o'clock.

Mr. Stutter: I second the motion, Mr. Speaker.

Mr. Speaker: It has been moved by the Honourable Member for Whitehorse North, seconded by the Honourable Member for Dawson, that we now call it 5:00 o'clock. Are you prepared for the question? Agreed? I declare the motion carried.

*MOTION
CARRIED*

MOTION CARRIED

Mr. Speaker: This House now stands adjourned until 9:30 a.m. tomorrow.

ADJOURNED

ADJOURNED

Mr. Speaker reads the daily prayer. All Councillors are present.

Mr. Speaker: Mr. Clerk, is there a quorum present?

Mr. Clerk: There is, Mr. Speaker.

Mr. Speaker: The House will now come to order. Are there any Documents or Correspondence to be tabled?

Mr. Chamberlist: Yes, Mr. Speaker. We have for tabling, this morning, Legislative Returns Nos. 6, 7 and 8.

*TABLING OF
LEGISLATIVE
RETURNS 6,
7 AND 8*

Mr. Speaker: Are there any Reports of Committees? Are there any Bills to be introduced? Are there any Notices of Motion or Resolution? Are there any Notices of Motion for the Production of Papers? As there are no Motions for the Production of Papers, we come to Motion No. 14. It has been moved by Councillor McKinnon, seconded by Councillor Tanner, that it is the opinion of this Council that all billboards along the Alaska Highway within the Metropolitan Area of Whitehorse be removed as soon as practicable, and be it further resolved that the Government of the Yukon make areas available both north and south of the City of Whitehorse adjacent to the Alaska Highway where goods and services may be advertised. Is there any discussion on this Motion?

MOTION #14

Mr. McKinnon: Mr. Speaker, this has been a pet project of mine for quite some time as a Member of the Yukon Legislative Council. One of the real problems of getting a motion like this accepted by the House was that no one really knew where the jurisdiction of the right-of-way and signs along the Highway came under. It was either a shared jurisdiction between the Government of the Yukon Territory and the Federal Department of Public Works. There were all kinds of shenanigans that went on in trying to get permission to put a sign and what rules and regulations actually did exist between the Government of the Yukon Territory and the Department of Public Works concerning signs along the Alaska Highway. I think, probably, all Members drove along the area between the Carcross cut-off and the Mayo cut-off last year when the road was being widened and paved, and the contractors at that time just went down and those business establishments that didn't take their signs down, bulldozed down the remainder of the signs. With the widening and the paving of the Highway, everybody realized just how lovely it was going over that stretch of Highway and actually being allowed to see the trees and the mountains of the area adjacent to the Whitehorse area. Then, Mr. Speaker, unfortunately, someone didn't step in to breach immediately and the signs started proliferating along the Highway within that stretch again, and every day there are more and more signs going up along that stretch of the Alaska Highway. I think that we are very fortunate in this area that it is one of the very few areas where we really have the ability to control the area around us, and I think it is one of the few areas where we have the people who are determined that, as far as they can, they are going to leave the beauty of the Yukon Territory in as virgin a state as possible. I think that, with the turnover of the Alaska Highway, as of April 1st, this House, with no qualms whatsoever, are going to have control of that area, of the right-of-way and of the Alaska Highway, and we are going to be able to set rules and regulations as to what can be done beside the Alaska Highway. I don't think ... I would be remiss if I thought that we were harming any business establishment or commercial establishment who had goods and services in the Whitehorse area to offer, if we didn't provide facility for them to be able to advertise these goods and services. Companies that I have been involved in, since I've been in the Yukon, have used advertising billboards along the Highway and still do. I think that they should be allowed to. The thing that I think is, is that they should be controlled and they should be in designated places. From the Motion, what I would like to see and what is seen in many other cities is that, when you come into the metropolitan area, there is a place where you pull off on the side, where there is a big map of the city saying, you are here, how you get here, here and here, outlining

Mr. McKinnon continues ...

MOTION #14

the attractions of the city and the various things to see in the city, and all the goods and services advertisers who want to advertise their goods and services have the ability of having signs in that area. There are also, generally, a few picnic tables for lunch stop and bathroom facilities. I think, if you had these facilities under control, at both the North and South ends of Whitehorse, adjacent to the highway, off the highway, and remove the signs from immediately adjacent to the highway, it would just be a tremendous improvement to all concerned and nobody would suffer on account of it. The Commissioner has stated that he would be willing to act on such a motion, if the motion were presented before Council, and Mr. Speaker, the motion is here. The reason I limited it to the Whitehorse Metropolitan Area is because I fully realize that most of the other areas that have any kind of population, have Local Improvement Districts within them. If the Members from those areas wanted to extend this, so that the whole of the Alaska Highway is involved in the removal of signs, and ask that places be designated near their communities, so that the same typer of advertising could take place, I would be only more than happy to go along with any such amendment.

Mr. Speaker: Is there any further discussion on this Motion?

Mr. Chamberlist: Well, Mr. Speaker, generally, the concept of the Motion is a sound Motion, and I would ... I am prepared to accept the Motion itself. But, however, there are certain areas in the Motion which appear to me, to just take care of the needs of the Municipality of Whitehorse. I have always expressed myself that this Legislative Council has responsibility to all parts of the Territory, and it seems to me that we can't even ... it is not proper for us to limit the situation even as it relates to Local Improvement Districts only. Because, between the Local Improvement Districts of Haines Junction, for instance, and the Metropolitan boundaries of Whitehorse, there is a large area of Alaska Highway. Any signboards there are just as unhappy to be just in that particular area. And the same thing, south from the Metropolitan borders of Whitehorse to the Local Improvement District of Watson Lake, this also applies on the Mayo Road and where have you. Also, in the second part of the Motion, which I think the Honourable Member, in error, has not spotted this, it says "and be it further resolved that the Government of the Yukon make areas available both north and south of the City of Whitehorse adjacent to the Alaska Highway, where goods and services may be advertised." What it is saying, really, is take the signs out of the Metropolitan Area of Whitehorse any put them outside the borders of the Metropolitan Area. Now, I have no objection at all to the signs being placed in one location, but why not have them in a location inside the Metropolitan Area where the advertising is for. Why specifically say, let's get it out of Metropolitan Whitehorse and never mind else where it goes. Mr. Speaker, I am not going to oppose the Motion, but I would very much suggest that once we see how it works, further consideration be given at a later date to making sure that all other areas of the Yukon where the highway system exists, are protected in exactly the same way from signs strung out all along the particular highway itself. I hope that the Honourable Member realizes, in making these remarks, I'm not in any way opposed to the principle that is behind the suggestion of the Motion. I will vote for it.

Mr. Speaker: Would it be a good idea to have this Motion referred to Committee of the Whole?

Mr. Tanner: Mr. Speaker, I was going to move that this Motion should be referred to Committee of the Whole for further discussion.

Mr. Speaker: Is there a seconder?

Mr. Stutter: I'll second that motion, Mr. Speaker.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse North, seconded by the Honourable Member from Dawson, that Motion No. 14 be referred to Committee of the Whole. Are you prepared for the question? Are you agreed? I declare the motion carried.

MOTION
CARRIED

MOTION CARRIED

Mr. Speaker: We now come to the Question Period. Mr. Clerk, will you see if the Commissioner is available. We will now have a short recess.

RECESS

RECESS

Mr. Speaker: The House will now come to order. Are there any questions?

Mr. Taylor: Yes, Mr. Speaker, I have a question for Mr. Administrator this morning. I wonder if he can advise me when the paper that the Commissioner promised some time ago respecting the Watson Lake Check Point will be tabled.

QUESTION RE
WATSON LAKE
CHECK POINT

Mr. Administrator: Mr. Speaker, I was not aware that a paper on the Watson Lake Check Point was being prepared.

Mr. Taylor: Yes, Mr. Speaker. This paper was promised by the Commissioner some time ago.

Mr. Chamberlist: Mr. Speaker, I am sure the Honourable Member realizes that this is budget matter and will be forthcoming at that time.

Mr. McKinnon: Mr. Speaker, I wonder if Mr. Administrator is aware of the hardship that is being forced upon the operators of service stations and gasoline outlets along the highway, as a result of being asked to cut the price of their products six or seven cents a gallon to be sold to the Territorial Government, when they have been receiving the full price over the years while selling to the Federal Department of Public Works. I wonder if the Administration could look into it.

QUESTION RE
SALE OF
GASOLINE TO
TERRITORIAL
GOVERNMENT

Mr. Administrator: Yes, Mr. Speaker, we will look into this matter.

Mr. Tanner: Mr. Speaker, I have a question for the Minister of Health, Welfare and Rehabilitation. Who pays the medicare premiums for a common law wife.

QUESTION RE
HEALTH CARE
INSURANCE

Mr. Chamberlist: Well, I am not prepared to answer this question right now. However, I will answer it in a day or two, by way of a paper.

Mr. Speaker: The head of household, seems to be a rather nebulous thing.

Mr. Chamberlist: I don't think that I should debate the Speaker at this time.

Mr. Stutter: I have a question this morning, Mr. Speaker. I wonder if the Administrator can tell me whether the Administration is thinking of removing the gold panner from the Yukon licence plates.

QUESTION RE
LICENCE
PLATES

Mr. Administrator: Well, Mr. Speaker, there is a new promotional campaign being developed in which the new logo is being used, and there has been some consideration to possibly, at some future date, incorporating the logo on the licence plate.

Mr. Stutter: Mr. Speaker, a supplementary question; will the Council have any say when this is done?

Mr. Administrator: Well, Mr. Speaker, the Council will have a say in that the budget for the promotion campaign has to be approved by the Council. I would add that the new logo will be displayed during the Sourdough Rendezvous in Whitehorse.

Mr. Speaker: Are there any further questions? I would like to thank the Administrator for his attendance this morning. What is your further pleasure?

Mr. Taylor: Mr. Speaker, I would move that Mr. Speaker do now leave the Chair and Council convene in Committee of the Whole to discuss Bills, Sessional Papers and Motions.

Mr. Tanner: I second the motion, Mr. Speaker.

Mr. Speaker: It has been moved by the Honourable Member for Watson Lake, seconded by the Honourable Member for Whitehorse North, that Mr. Speaker do now leave the Chair for the purpose of convening in Committee of the Whole to discuss Public Bills, Sessional Papers and Motions. Are you prepared for the question? Are you agreed? I declare the motion carried.

*MOTION
CARRIED*

MOTION CARRIED

Mr. Speaker: The Honourable Member for Watson Lake will please take the Chair in Committee of the Whole.

Mr. Taylor takes the Chair.

Mr. Chairman: At this time, I will call Committee to order. We have with us today, to assist us in discussions of the Municipal package, Mayor Ed Lehbauer from the Village of Faro and Mayor Bert Wybrew of the City of Whitehorse. I believe it is the intention of Members to first deal with Bill No. 10, the Municipal Ordinance. I think that what I will do ... I won't be reading the sections, but I will call the section numbers as we go, and if there is any comment to be made in respect of those sections, that would be the time to discuss them. Otherwise, we will just proceed along that line, if this is agreeable to Committee. This is possibly the best way to organize it. Alright, then we will proceed to section 1, section 2.

Mayor Wybrew: Mr. Chairman, in regards to the section, interpretation.

Mr. Chairman: Mayor Wybrew.

Mayor Wybrew: "Assessor" means the assessor of a municipality;". I would like to make a note at this time, if I recall correctly, we have a conflict with the Taxation Ordinance on this interpretation.

Mr. Legal Adviser: This is correct, Mr. Chairman. The correct definition, is the definition of the Taxation Ordinance, and this should reflect what that definition is. This is going to be picked up.

Mr. Chairman: Anything further on section 2?

Mayor Wybrew: "Council" means the council of a municipality;". I don't think that we have "clerk" listed do we, Mr. Chairman? and his statutory powers defined. This is a note that I have.

Mr. Chairman: For the clerk?

Mr. Legal Adviser: It is defined in the Ordinance. I think possibly, that it might be just as well to put it in the definition section.

Mr. Chairman: Is Committee clear on this? Anything further on section 2?

Mayor Wybrew: Yes, Mr. Chairman, Right at the bottom, on page 2 now, "trailer park" means land, used or maintained as a place where persons other than the owner of the land,". Does this exclude the owner?

Mr. Legal Adviser: Mr. Chairman, the purpose is not primarily to exclude the owner, but to define what we mean by an auto camp. That is a camp or trailer park where the spaces are let out for hire. You are not attempting to deal with the owner, in that section. It is the place that you are dealing with not the people.

Mayor Wybrew: In addition to that Mr. Chairman, on that particular section, the words right at the end, "includes an auto camp". Would it be wise to define an "auto camp" to avoid confusion and as well to define what a "mobile home park is"? There is a difference between a trailer park, auto camp and a mobile home park.

Mr. Chamberlist: Mr. Chairman, I wonder whether His Worship would indicate what is the difference between a trailer camp and a mobile camp?

Mayor Wybrew: A trailer camp, Robert Service is an example of that. The trailer camp, an overnight pick-up camper deal, and that sort of thing. A mobile home park is like Takhini area or the Kopper King where they will have 12 x 60 foot mobile homes, that are not in effect trailers. They are not a trailer. A trailer is something that you travel with. A mobile home is not.

BILL #10 Mr. Chamberlist: Mr. Chairman, if you look at the interpretation, it says quite clearly in the last part of "trailer park", especially it says, "whether or not a fee is paid or made for the rental or use thereof". It doesn't matter whether the fee is paid for being there temporarily or permanently. It is the ground area for what it is being used for. Mr. Chairman, if the ... if His Worship could just indicate where the municipality might be damaged in any way by that interpretation, perhaps he could explain it?

Mayor Wybrew: Thank you Mr. Chairman, permit me to answer Councillor Chamberlist. You see, you do charge for a land area in Robert Service. Now, you have the commencement of another trailer park for tourism and what have you on the north highway, here, within the municipal boundaries, that will be charging overnight stands. These people that we are talking about in a mobile home are there for a month or the year. You see, it could cause some confusion. I just suggest, that perhaps to avoid this future confusion, define a "mobile home park" and an "auto camp".

Mr. Chamberlist: It matters not what it is, because it is the land, the area that is being taxed. You can call it a fair ground if you want to. It is no difference, there would still be taxation on it. We are just saying that a trailer park includes that. It means land. You see this is where you are common, it means land. This specific point, the trailer park means land. It means that it is something to be taxed. It doesn't matter for what purpose that land is being used. This has been put in there to expand in such an area where everything that is included in the use of that land, is included. If somebody is going to park a hundred cars on it, it doesn't alter the position of the land. It is still land, and this is the main point.

Mayor Wybrew: Thank you Councillor Chamberlist.

Mr. Legal Adviser: Mr. Chairman, I think the Mayor has a good point. In the body of the definition we say, it's land on which a trailer exists. Higher up we have said a trailer or mobile home means something. I think that if we amend the definition expressly by saying "on which a trailer or mobile home used," then it makes it quite clear that we are actually setting out in this definition to include the whole spectrum. Thank you.

Mr. Chamberlist: I am sorry I don't follow you.

Mr. Legal Adviser: Mr. Chairman, the definition is used for the purpose of allowing the city to impose rules for the table of taxation or otherwise. We want the city to have power over all types of parks on which either trailers or mobile homes are. So, if that is the intention, there is no harm in making it quite clear that that is what we are trying to do, by saying its land on which there are mobile homes or trailers.

Mr. Chamberlist: I am sorry. So what we are really doing now is, we are tying in the definition of trailer or mobile home into the definition of "trailer park" for the purpose of this point.

Mr. Legal Adviser: Yes, Mr. Chairman.

Mr. Chairman: Have we anything further on 2? Alright, section 3.

Mayor Wybrew: No, nothing.

Mr. Chairman: Section 4?

Mayor Wybrew: No, Mr. Chairman, I am sorry section 7(1). Where am I. I've lost my way. I am sorry.

Mr. Chairman: Section 5, section 6?

Mayor Wybrew: No, nothing, Mr. Chairman.

BILL #10

Mr. Chamberlist: Mr. Chairman, I want to raise a question. In section 6(3), we are dealing with "an appeal pursuant to this section need not be considered unless the notice of appeal is signed by not less than twenty-five percent of the residents". I wonder if Mr. Legal Adviser could indicate that there is a typographical error, and that we mean not less than twenty-five residents of the proposed area?

Mr. Legal Adviser: Mr. Chairman, I can't indicate that. This is one of the sections which was to be reviewed, so we will have to review it.

Mr. Chairman: Just, from the Chair, it was my understanding that this ... unestablished municipalities, that is to say a municipality in the future is involved here and there has got to be a change here. This is right, I understand this. Section 7?

Mayor Wybrew: Yes, Mr. Chairman, 7(1). "The order of the Commissioner establishing the municipality shall specify". I am also speaking for Dawson City on this, if you will accept that. On (b) "the qualifications required for membership on the first council to be elected". Dawson City would also like to know why the Election Ordinance doesn't apply here, and that the Commissioner shall establish the qualifications?

Mr. Chamberlist: With respect, Mr. Chairman, I would like to point out that this particular section in no way effects the existing municipalities in any event. This section deals with the establishing of new municipalities. I think with respect, Mr. Chairman, that this is an area where this Legislative Body makes decisions on that, and not existing municipalities, that are already in existence. We want to go into areas, I would suggest, of those areas that effect the existing municipalities. This deals specifically with new municipalities. However, I am just saying this, the point is relative. However, it does not, and I repeat again, it has no bearing whatever on the existing municipalities.

Mr. Stutter: Mr. Chairman, I wonder if from time to time, I might be permitted to bring forth the points that have been raised by Dawson. Last night unfortunately they haven't been able to send a member ... because to begin with they feel that they haven't had enough time. They were burning the midnight oil last night. I was talking to them on the phone at one o'clock this morning for a half hour or better on the points that they have already come to. They have only managed to get half way through the Municipal Ordinance, so they felt that it was pointless to send a representative just for that amount. However I have all the points that they want to raise. If from time to time I may bring these points up on their behalf. This happens to be one of them, 7(1)(b), they want to know why the Commissioner should have that power, when it is actually already spelled out in the Ordinance in (d), "the qualifications of a person to be elected," I realize that this is for a new municipality, but surely those qualifications even in a new municipality, should be governed by the Municipal Ordinance, or the Elections Ordinance, sorry.

Mr. Chamberlist: Mr. Chairman, with respect this is quite true and I am not arguing the fact that the ... any Honourable Member of this House has the right to bring these particular things forward. My understanding was, that when we were having the witnesses representing the municipalities, we were going to deal with matters that affect their municipalities. I would ask, Mr. Chairman, that those areas which are within the prerogative of this House should deal with those areas, and those areas which are in the prerogative of the question of the municipalities to ask, that we should deal with them. Otherwise, we will be lengthening the particular area. This is why I offer

Mr. Chairman: Well, it is not the intention of the Chair in this most important discussion to limit any comment or any discussion in relation to this most important package of Ordinances. I think that if any

BILL #10

Mr. Chairman continues ...

Member has anything to contribute to the general discussion, or if any witness has anything to contribute to the general discussion, that the Chair would, I am sure that Committee would welcome any comments or anything that would benefit the chores and duties that we are attempting to do these days.

Mr. Legal Adviser: Mr. Chairman, the question has been asked a few times, as to why 7(1)(b) gives the power to the Commissioner to set the qualifications for the first council in a new area. The answer is very simple. We are programming in this Ordinance that all Local Governments would have their elections at the same time. We can't predict with any accuracy when a new town or village will be started. The Commissioner has to set the term of office which will be the next council, and has to set the qualifications for the voters. In the case of an instant town, he may have to abrogate the qualifications set in the Elections Ordinance which require twelve months residence. It is an awkward situation to handle. The only thing that you can do is make an ad hoc decision in accordance with the facts as you see them in the particular place that it is established. After the first election then the Election Ordinance takes over.

Mr. Chairman: Is there anything further on 7? Section 8?

Mayor Wybrew: Section 8, Mr. Chairman, estimated population 2,500 to 5,000 will be a city. It is just an observation and why not just put 2,500 or over? Why limit to 5,000?

Mr. Legal Adviser: This is common sense. I think that this is a typing error, carried over from previous drafts.

Mr. Chairman: Section 9?

Mayor Wybrew: I have no comment, Mr. Chairman.

Mr. Chairman: Section 10?

Mayor Wybrew: No comment.

Mr. Chairman: Section 11?

Mayor Wybrew: No comment.

Mr. Chairman: Section 12?

Mayor Wybrew: No comment from Whitehorse.

Mr. Chairman: Section 13?

Mayor Wybrew: No comment.

Mr. Chairman: Section 14?

Mayor Wybrew: No comment.

Mr. Chairman: Section 15?

Mayor Wybrew: No comment.

Mr. Chairman: This is where we, from the Chair, this is where we have talked about the Yukon Gazette. I believe there is some consideration to be given to publishing by gazetting in this section, is there not?

Mr. Legal Adviser: Yes ...

Mr. Chairman: Yes, as well as 15. Subsection 15(1)

Mr. Tanner: Mr. Chairman, just as a point of routine as we are going

Mr. Tanner continues ...

here. I don't really see much point in bringing up the discussions which we have had in this Council all the way through unless it specifically applies to one of the municipalities. I feel that our function here this morning is to hear what they have to say, and include it in the total review that is going to be made of the whole Ordinance when we are finished.

BILL #10

Mr. Chairman: We're going to do it all over again for the third time.

Mr. McKinnon: Mr. Chairman, that is patently unfair, because there are sections in the Ordinance where I wanted to question the municipalities as to what their concept was.

Mr. Tanner: Mr. Chairman, that is what I said. In fact this Yukon Gazette bit is something which we discussed here, we made a decision on, and we said that it will be reviewed by the Administration. Where it applies specifically to the three gentlemen who are representing the municipalities. Certainly we should discuss it. We are going to be here day after day if we go back through the discussions that we have already, that we have decided amongst ourselves.

Mr. Chairman: Section 17, pardon me 16?

Mayor Wybrew: No comment.

Mr. McKinnon: Mr. Chairman, I wonder if I could have comments from the Mayors here. I stated during discussions of section 17, that I really didn't care how many mayors or how many aldermen a city gets or how many mayors they had. Even if they wanted to, they could set their own procedure as far as the number of people that they wanted to have on a municipal council. Why should we dictate to them how many people they should have on a municipal council? It just didn't seem any of our business. I wonder if there are any comments, or if they are happy with section 17?

Mayor Wybrew: No, it is 16. You are asking a question on 17.

Mr. Chairman: Well, we will call 17 then.

Mayor Wybrew: The City of Whitehorse finds section 17 okay.

Mr. Chairman: Section 18, 19?

Mayor Wybrew: No comment.

Mr. Chairman: Section 20, 21?

Mayor Wybrew: No comment.

Mr. Chairman: Section 22?

Mayor Wybrew: No comment.

Mr. Chairman: Section 23?

Mayor Wybrew: No comment.

Mr. Chairman: Section 24?

Mayor Wybrew: No comment.

Mr. Chamberlist: Mr. Chairman, I would like to ask the Mayors of both the communities ... the municipalities if they clearly understand what is meant by "committee meeting" as separated from a council resolving itself into the Committee of the Whole for discussion of a particular subject during a regular meeting. It was brought to the attention of Members, that in certain instances where a municipality

BILL #10

Mr. Chamberlist continues ...

has been meeting on a regular basis, and during that meeting a matter was referred to Committee of the Whole for discussion. The press and the public were excluded during the discussions of the matter. I would like to get either one of the Mayors to indicate whether they understand that this only deals with specific committee meeting, which are called to discuss matters in committee and not where a meeting is already being assembled.

Mayor Wybrew: Yes, as far as the City of Whitehorse is concerned, when the City Council resolves itself into Committee of the Whole, it is to discuss a certain subject. The press is present, the public is present. When we are doing housekeeping and things of that nature, it may be say employment with the City or some such thing. We do not wash that laundry in public to protect the person. We will go into a caucus meeting of our own then.

Mr. Chamberlist: Mr. Chairman, my understanding is, that during a regular meeting held there was, then a matter was discussed in Committee and the press were excluded. What I am trying to ascertain is, if His Worship, Mr. Chairman, could recognize the fact that committee meetings that are held, let's say on alternate weeks or any special meeting, they are the only times when the press and the public should be excluded.

Mayor Wybrew: We understand that and agree with it, yes.

Mr. Chairman: Have you anything further on section 24? Section 25?

Mayor Wybrew: A comment, Mr. Chairman, "the first meeting of the council following the first election held in a municipality shall be held within thirty days following the date of the election, at such time and place as may be fixed by the council."

Mr. Legal Adviser: I have a note on my copy to change it. It should be as fixed by the mayor, Mr. Chairman. I think that it should be as fixed by the mayor, Mr. Chairman, because the council hasn't formally come into existence.

Mr. Chairman: Sections 26, 27, 28, 29?

Mr. Stutter: Mr. Chairman, I have a comment here from Dawson. In 29(2). It is felt there that the mayor or the presiding officer in the absence of the mayor, should only vote in the case of a tie. The same as we do here in any of our meetings of Committee of the Whole. The Chairman votes only in the case of a tie. That's the one point that they want to bring up here. Also, they feel that when that mayor or presiding officer, he should vote according to his conscience and not necessarily in the affirmative, or in the negative, I mean.

Mr. Chamberlist: I think, Mr. Chairman, that is a reasonable proposition. I see no objection.

Mr. Legal Adviser: Mr. Chairman, it needs a certain amount of analyses to analyse exactly what this section is trying to say. Subsection (2) says, that when the votes are equal, the proposition is defeated. There isn't provision for casting a vote by the mayor. You are in a situation where you are requiring the presiding officer to vote with the others. Hopefully, having the situation where there might be an odd number present so that when he votes, there would be a definite decision unless one of the members happens to be absent. The section would need to be rewritten if it is going to be written as it was before, that the presiding officer votes in the case of a tie and not otherwise. We have to do the whole section.

Mr. Chamberlist: I think, Mr. Chairman, there should be no objection to this, unless Honourable Members wish to object to this. I find nothing wrong with the suggestion that has been brought forward.

Mr. Chamberlist continues ...

Perhaps this would be reviewed and we can discuss it.

BILL #10

Mr. Legal Adviser: I would prefer that is not reviewed immediately, it could be reviewed when this debate is over.

Mr. Stutter: Also in 29(3), Mr. Chairman, they would like that section deleted completely, "any member of council when present who abstains from voting shall be deemed to have voted in the affirmative". They feel that there are instances where a person has a right to abstain, and to take it for granted that by that abstaining that the vote must definitely be taken in the affirmative, they take exception to it and they would like that section deleted, if at all possible.

Mr. Legal Adviser: Mr. Chairman, this is one of the sections that will be reviewed, because the whole section is going to be reviewed. The section as is, reproduced the policy as it was decided, to bring the Bill to this House which is that it would be a definite requirement that all members of a city or an urban council that are present, must vote. If they wish to abstain, then they must leave the chambers. We are attempting to make it clear here, that when a person has an interest in the discussion in hand, you might be a member of a company, or something which is getting some concession or up for discussion then if he doesn't want to influence the vote, he must physically leave the room. If he doesn't, he is deemed to have voted in the affirmative. If it is a wrong vote in the sense that he is disqualified, he will automatically disqualify himself by attempting to influence the council by his presence. This section reproduces the bones of this policy. If the policy isn't in agreement with the House, then of course, the section as a whole will have to be reviewed. It is hard to pick out one subsection from another because the three are melded together. The whole section will in fact be reviewed.

Mr. Stutter: Mr. Chairman, the Legal Adviser has brought up a point now, that is going to become very evident in all of the areas that have been brought to our attention by Dawson. That is, that in many areas of the Ordinance, things might be perfectly clear to the Legal Adviser; they might be perfectly clear to the people in this Council; but in rural areas where there aren't lawyers readily available, there are many areas such as this one, that aren't spelled out quite clear enough. There are several sections that I will be bringing up later where this is very evident. I think that some consideration in the areas at least that have been mentioned, require clarification if at all possible.

Mr. Chairman: I believe that this is up for review in any event, then section 29.

Mr. Tanner: Mr. Chairman, just as a point of interest. Something that we did discuss earlier in the same area that the Member from Dawson has remarked on. I wonder whether the Administration has given any consideration to bringing out a handbook that accompanies this legislation, to help the outside areas understand these nitty gritty points. I think that it might be something that the Administration should give some consideration to. We have been told time and time again, that we are writing this Municipal Ordinance this as a handbook or as an assistance to the outside areas. It is obvious from what the Honourable Member from Dawson has said, that they are still going to have hangups. They are still going to have problems. Now, they can't run backwards and forwards as we can here or even the City of Whitehorse can to the Legal Adviser. I think that perhaps this might be something that the Administration should give consideration to.

Mr. Chairman: The next section is section 30?

BILL #10 Mayor Lehbauer: Mr. Chairman, I have a question on this. Population of Municipality as estimated by Statistics Canada. Is this a five year census that this would be based on?

Mr. Legal Adviser: Yes and no, in that the census will fix it with a certain date, and then after that, Statistics Canada makes annual revisions of its estimate, which are available.

Mayor Lehbauer: So the annual revision would be used.

Mr. Legal Adviser: Yes, it says estimated by Statistics Canada. It doesn't say a census figure.

Mr. Chairman: Anything further on 30? Section 31?

Mayor Wybrew: Section 31(3), "notwithstanding subsections (1) and (2), the council may, with the approval of the Inspector of Municipalities, grant a member of the council an extension of the leave of absence for a further three months in the case of illness." Why cannot the council extend absence for a period not in excess of six months? Why assign this authority over the elected council? The existing Ordinance as a matter of fact covers this situation very adequately.

Mr. Chamberlist: Mr. Chairman, we have already in discussion you know, withdrawn the words "with the approval of the Inspector of Municipalities", that has been withdrawn. The reasoning behind the three month period, it means that if a person is given six months, extended another six months, it means the public are without a representation. This is where it has been felt that the public should not be placed in that position of being short of a representative. This is why it was put to three months.

Mayor Wybrew: Mr. Chairman, I agree with Mr. Chamberlist, but where a person is derelict in their duties, they should be removed. I have to agree. If it is a serious illness, no making of that person...there are these extenuating circumstances.

Mr. Chamberlist: So this is the extenuating circumstances given, the further three months in the case of illness, because what is being said is the council may grant a Member of the Council an extension of these leaves of absence. In other words they can give him leave of absence first and leave of absence is up to a period of what...this gives you the total of six months. Three months and three months is six months, and if you make it six months you're saying practically half of the elected period of time of the person to serve...

BILL #10

Mr. Wybrew: Yes. You have a point.

Mr. Chamberlist: We've really extended it to six months in all, which is reasonable I think. If a person is going to be sick longer than six months well I myself would say, I couldn't fulfill the function, I've got a responsibility to the people, I would resign in that particular area.

Mr. Wybrew: Through the Chair, Mr. Chairman, I'd like to thank Councillor Chamberlist. We accept that.

Mr. Legal Adviser: There is one point that I would draw to the attention of His Worship the Mayor. The original section said with the approval of the second extension, is with the approval of the Commissioner. We, in drafting this, moved it down one step from making it so formal as to get the Commissioner's approval, to make it up to the individual officer of the Government who is dealing on an every day basis. But it is an extremely hurtful thing to have to take a decision on this point when an extension is requested by what is inevitably going to be one of your personal friends. You may feel that six months is too long. You may feel that four months is enough. It's very, very awkward for the Councillors themselves to take the decision, not to give the further extension. It's very helpful to them to have that burden taken off their shoulders. That's the main reason the burden was transferred from them.

Mr. Chamberlist: Mr. Chairman, the Members of this Council have already indicated that Inspector of Municipalities will be taken out. This we've already decided on, that is the House has decided on.

Mr. Legal Adviser: I'm sorry, I didn't understand that it had been decided on. I thought it was still fluent. I understood at the last time it was discussed, that this was one of the sections which was under review, and I asked the Clerk what the position was in relation to the section and I think he told me, so I apologize for offending the feelings of the Honourable Members.

Mr. Chairman: Will the Committee concur that the words, "with the approval of the Inspector of Municipalities" be withdrawn. Anything further in 31? 32?

Mr. Wybrew: No comment.

Mr. Chairman: 33?

Mr. Stutter: Mr. Chairman, I think Dawson has brought up a very good point here in 33. Thirty-three reads "A person is not qualified to remain a member of the council if he" and then we go down to (j)"is indebted to the municipality for taxes or any other debt in default, exceeding fifty dollars except any indebtedness for current taxes;" but if you refer to the Election Ordinance you will see that a person can be qualified to be an alderman without even being a taxpayer so there you've got complete discrimination. They would like to see that part remain, mind you, (j), but they would like to see the change in the Election Ordinance to show that to be qualified to be elected you must be a taxpayer or rate payer as it was before.

Mr. Wybrew: The City of Whitehorse feeling on (j)"indebted to the

BILL #10 Mr. Wybrew continues...
municipality for taxes", is that this is a discrimination against the taxpayer when almost anyone can be elected to Council. That's the feeling of the City of Whitehorse.

Mr. Tanner: Mr. Chairman, did the Mayor from the City of Whitehorse say that ... from what I understood he said that only taxpayers should run for Office?

Mr. Wybrew: I didn't say that. What I said is, why discriminate against the taxpayer when almost anyone can run for Council.

Mr. Chamberlist: I understand His Worship's very fine point, because what's happening is that if an elector can be elected, he doesn't have to pay any taxes and therefore he can never be indebted for taxes to the Municipality, and it's all right for him to run for election and get elected. But a taxpayer who is paying property tax and paying towards the upkeep of the municipality, because he's behind in his taxes once a year, he's penalized by not being allowed to run. It is wrong, and I think we should have a look at that first. But certainly I don't go along with what the Honourable Member from Dawson City has suggested, that Dawson City's view that only taxpayers should be elected because we have already cleared this through this House, and because there might be a half a dozen taxpayers in Dawson City, does this mean they want to keep within their own circle only that group that should be elected in that area? I know, although the Honourable Member from Dawson has said very carefully, "Sir, I think this is what the Mayor from Dawson City said." He didn't say "this is what I say." I think we shouldn't really push him onto this because we know his feelings on this because he's already expressed them.

Mr. Stutter: Well this is exactly the point I was about to make, Mr. Chairman. Actually they are fairly flexible on this one. They say that if you're not going to change the requirements of a person to be elected, then they would like to see a change in (j) because it definitely is not ... you know there is not consistency between the two. So as long as that part is reviewed, so they do cross check then...

Mr. Legal Adviser: Mr. Chairman, some of the Honourable Members have got the situation topsy-turvy. What the section says, is, that anybody who owes the municipality fifty dollars or more in a debt is ineligible to stand, except current taxes. For the taxpayer gets a break to the extent of fifty dollars, but they include for the purpose of a debt, they say a tax is a debt. So don't forget that there are very few people who don't pay taxes in some form through a service or something, to the city. You may only owe your current payment for anything including taxes to the City.

Mr. Chamberlist: Oh come now. No, no, no. Mr. Chairman, it says for taxes or any other debt.

Mr. Legal Adviser: Yes, any other debt.

Mr. Chamberlist: Well alright. What other debt can you owe the city?

Mr. Legal Adviser: Oh, Mr. Chairman, there are plenty of things you can owe the city for.

Mr. Chamberlist: Such as?

Mr. Legal Adviser: Parking tickets.

Mr. Chamberlist: That isn't a debt to the city until you have a conviction or until you accept payment. Mr. Legal Adviser knows full well that this isn't so. I would like him to think of something else that you might be able to mix the pudding up with, but parking tickets

Mr. Chamberlist continues...

just don't go. But certainly I think this is a point well taken by everybody, and Mr. Legal Adviser we should take a look at it. When I say a point well taken by everybody, I excluded Mr. Legal Adviser.

Mr. Chairman: Just one point from the Chair, you say in 33 (1) that a person is not qualified to remain a Member of the Council.

Mr. Chamberlist: That's right.

Mr. Chairman: You're saying that he can't remain a member of the council. Between, he gets his tax notice and the time he pays the taxes, he is indebted to the municipality and consequently is ineligible.

Mr. Legal Adviser: Mr. Chairman, I wouldn't be qualified to say what bills the city sends out, but the Mayor, I'm sure, has a list of people who owe the city money in various ways other than taxes. Quite a long list too I am sure.

Mr. Chairman: In 33 (a) is there anything further in 33?

Mayor Wybrew: No comment, Mr. Chairman.

Mr. Chairman: 34?

Mayor Wybrew: No comment.

Mr. Chairman: 35?

Mayor Wybrew: No comment.

Mr. Chairman: 36?

Mayor Wybrew: No comment.

Mr. Chairman: 37?

Mayor Wybrew: No comment.

Mr. Tanner: Mr. Chairman, excuse me, I'm still on (j). 33 (j) I was considering the problem there if we said "is indebted to the municipality in excess of fifty dollars" and leave it at that.

Mr. Legal Adviser: You've got to say indebted except for current taxes.

Mr. Chairman: 38?

Mayor Wybrew: No comment.

Mr. Chairman: 39?

Mayor Wybrew: No comment.

Mr. Chairman: 40?

Mayor Wybrew: No comment.

Mr. Chairman: 41?

Mr. Stutter: Mr. Chairman, I have another one on 41 from Dawson. Again this is the point that I brought up. They would like it put right into the Ordinance that the mayor and aldermen should not be termed as officers as far as this Ordinance is concerned, because if you leave them as officers you're running into a whole area where in instances the mayor can fire the aldermen if you are going to term them as officers. It must be spelled out.

Mr. Chamberlist: 41 (2), Mr. Chairman, does spell it out. It says, "the manager, clerk, treasurer and auditor and the solicitor or engineer when employed on a full-time basis, and such other persons as the

BILL #10 Mr. Chamberlist continues...
council may by bylaw designate shall be officers of the council".
Now the council can't designate themselves officers.

Mr. Stutter: Mr. Chairman, I would like to point out 39 (1), "At all meetings of the council, the presiding officer shall maintain order...

Mr. Chamberlist: Because, Mr. Chairman, if you have a look at the interpretation section, the Mayor is the Chief Executive Officer, and if a deputy mayor is in the Chair, he then becomes the Deputy Chief Executive Officer who is the presiding officer. And it's only in that context that that section is there.

Mr. Stutter: This is the point that I was raising earlier, Mr. Chairman, is that from the point of view of the mayor and council in Dawson they feel that there are areas here, where they themselves can be termed as officers and they want this spelled out, that for certain sections or however you get around the problem, and I know it's one we've discussed in Committee, it's just that they need it clarified.

Mr. Legal Adviser: It's a very difficult subject and we'll make an attempt to clarify it. I can't guarantee success because officer is such a common word in English, and it's used in so many different senses. You've also got a further point which is difficult to clarify here. Are officers, that is paid officers as employees, are they interchangeable in any way. When we say officers we mean employees, and when we say employee do we mean sometimes officer and sometimes only an employee. I think we'll have to do a little bit more homework on this to try and make it more clear, precisely what I mean.

Mr. Chamberlist: By the same token, Mr. Chairman, Mr. Legal Adviser is an Officer of the Council, you see, but we're not. But he is one of the Officers of the Government, but we're not, we're decision makers. The Chief Executive Officer of the Territorial Government, of course, is the Commissioner of the Yukon Territory. But the important Executive Officers, are the ones who are sitting right across here.

Mr. Stutter: Mr. Chairman, may I take it then that this definitely will be reviewed and we will try to clarify this because it's a ...

Mr. Legal Adviser: Definitely, Mr. Chairman.

Mr. Chairman: Anything further on 41?

Mayor Wybrew: No comment.

Mr. Chairman: 42?

Mayor Wybrew: No comment.

Mr. Chairman: 43?

Mayor Wybrew: 43 Mr. Chairman. 3 (a) "supervise and direct the affairs of the municipality and the employees thereof;" and in (4) it says "The manager may suspend any employee...". For administrative control should not interpretation include officers.

Mr. Tanner: Mr. Chairman, since this particular paragraph came up when we felt there was no recourse for the employee should the manager suspend him. There was no recourse for the employee to get back to the Council to say that I have been unfairly suspended. We were going to review that...

Mayor Wybrew: Well, we do have recourse right in our bylaws. Any employee can appeal to the Council whether he be an officer or what.

Mr. Chamberlist: Mr. Chairman, I think it should be made quite clear

Mr. Chamberlist continues...

to Mayors of Municipalities that you can't make bylaws to do things the legislation doesn't give you the right to do. You can't depart from it. All the points that have been raised here are a protection for employees of municipalities. So we want to make sure that within the legislation there is a requirement that an employee can go and appeal to the Council if he feels that he's been improperly dismissed.

Mayor Wybrew: We have this also in our Union Contract. But for administrative control, interpretation should include officers. Right? Well, employee. Is an officer an employee?

Mr. Chamberlist: No. No, an ordinary employee who drives a truck... An officer, Mr. Chairman, ... the officers are always listed. I read it out a few moments ago who the officers were. They are the officers and any other person who is appointed an officer by bylaw.

Mayor Wybrew: Agreed. But should not for administrative control the interpretation include officers. Suspend any employee or officer that is found doing something incorrect.

Mrs. Watson: Mr. Chairman, we've made no provision for that in this Ordinance, and I would like to hear the comments of these people who are here regarding this matter. Whether the manager of the municipality should be in a position to direct and supervise the officers of the municipality as defined in the Ordinance.

Mayor Wybrew: Well, Mr. Chairman, I would say yes he should have. Now if a manager does something that is incorrect, the mayor of any municipality can move in and suspend anyone. But they have the right to appeal to council. But now if you take the right of the manager to suspend an officer, you put him, whoever the manager might be, in a very peculiar position. He might go in to a certain officer, say city clerk, and say you will do this today. Oh, no. You have no say over me. You are eroding his administrative authority. He should have the right to suspend if he doesn't follow his instructions.

Mr. Chamberlist: Mr. Chairman, there is a difference between an administrative officer and an executive officer. The manager is the administrative officer of the municipality. The mayor is the chief executive officer of the municipality, and no executive officer can be dismissed by an administrative officer because that executive officer can go to his chief executive officer. So what the administrative officer should do, he says to the executive officer, the mayor, this particular officer is giving me problems. Here are the problems. The chief executive officer then suspends him. And then he has the right to go to the council and appeal his suspension. This is the way it is done. But to give the power...what you really would be doing, with respect, Mr. Chairman, what the mayor would be doing, he would be giving away his authority as the chief executive officer to the administrative officer of the municipality. If the chief executive officer considers that he wants to give away his authority, this is something he must speak up and say, but personally I think that function of the chief executive officer should be to guard his responsibility and his powers very, very jealously.

Mrs. Watson: Mr. Chairman, I don't think my question was interpreted quite correctly. Section 43 (3)(a) says the manager has the power to "supervise and direct the affairs of the municipality and the employees ..." This is in the day to day activity. Should he be in a position to supervise and direct the officer of the municipality on his day to day duties?

Mayor Wybrew: Well lets take....I'm not sure how it will effect the Mayor of Faro, but let's take our own situation, now we have a city clerk at the moment who is handling a certain amount of ... development work too, and both responsibilities are done under the authority and direction of the city manager who assigns the duties ...

BILL #10 Mrs. Watson: But we don't make provision for that in this Ordinance do we.

Mayor Wybrew: I can't be there all day, twenty-four hours a day assigning duties, do you see. And when duties are assigned to you, you must be responsible to the person who assigns them to you. This is the point.

Mrs. Watson: Mr. Chairman, for clarification should we put employees and officers thereof? Or is that a little dangerous?

Mayor Wybrew: Well, Mr. Chairman, in respect to Councillor Chamberlist perhaps it states here that the mayor can give the chief administrative officer the right to, what would you say, reprimand or does this deny that right for that authority.

Mr. Tanner: Mr. Chairman, the way I understand this, and maybe the Legal Adviser or the Honourable Member from Whitehorse East could direct me is that the mayor is the Chief Executive Officer, there are other appointed executive officers some of whom are the clerk, treasurer and so on, and then there is an administrator. The administrator works strictly with the day to day workings in conjunction, quite often the executive officer. But the ultimate power, the ultimate decision making rests still with the Mayor, and if from the day to day operation he delegates that responsibility to his administrator, that's fine, but he can't be administrator if he doesn't have the power within himself to fire or hire.

Mr. Legal Adviser: I think, Mr. Chairman, the Honourable Member from Dawson put his finger on it, the definition of officer is two sided here. We call the mayor the chief officer for one purpose and his deputy is also an officer, so we can't just simply say, the manager can supervise and direct the affairs of the municipality and the employees and officers. I think we've got to come up with a definition of officers somewhere, so that the elected representatives are not officers of the class we're talking about. But the clerk, the treasurer, and so forth in their every day duties must come under either one or more bosses who can supervise them, but that particular boss, because they are officers, they can't fire and hire them. That's the Council's duty. I think he has to have the right to say come in at half past nine in the morning, you see, but if we write just simple sets of things, and one of the members suggested to put in officers, then we're making a nuisance of it, and we would have to re-examine it with that in view, if that is what the wish of the House is.

Mr. Chamberlist: In this surely, Mr. Chairman, it's a function of the municipality itself to recognize what is administrative and what is executive. Certainly, the manager in a municipality like Whitehorse, we have to keep in mind that this legislation is not for Whitehorse it's for all municipalities, but there is a separation where you have a requirement for somebody to administer the every day work and certainly to provide the administration for the officers who are executive officers. And the administrator, he can do that, he can tell the executive officers what work they should be performing in relation to the administration of the municipality, but he cannot fire an officer because they are executive officers and therefore the firing should be the prerogative of the chief executive officer, and I am suggesting that the Mayor of Whitehorse would be getting rid of some of the very important powers that he has by allowing the administrative officer to hire and fire the people like the auditors, the treasurer, the solicitor, the engineer, because this is what might be said if you want the power to give to him the right to fire.

Mr. Wybrew: Oh no. I think Mr. Chairman, in respect to what Councillor Chamberlist and the Legal Adviser have said, if those two are put together I think there is the solution and we go along with that.

Mr. Tanner: Mr. Chairman, this is what's there now.

Mayor Wybrew: No. In respect Mr. Chairman, I think the Legal Adviser *BILL #10* pointed out that the chief administrative officer was over these officers on their working conditions and their time for reporting to work and their duties and so on, that there must be some kind of control.

Mrs. Watson: Mr. Chairman, in the set up in the Council here, you have your council, and your manager taking directions from your council, and your employees and administrative officers taking directions from your manager. Is this the structure of the chain of command?

Mayor Wybrew: The Council instructs the manager. This is correct.

Mrs. Watson: And then the manager instructs the employees and administrative officer on a day to day duty: the head of the Engineering department and this type of thing. But we haven't stated that in this Ordinance. We have said that the manager directs the employees but we haven't clarified this day to day which could cause a great deal of friction.

Mr. Chairman: Well I think at this time maybe everyone would like to consider this over coffee so we'll stand Committee in recess.

RECESS

RECESS

Mr. Chairman: At this time, I call Committee to order. Have you any further discussion on section 43? It is understood that this is under review then? Alright, section 44. BILL #10

Mayor Wybrew: Mr. Chairman, subsection 44(2), "in the absence of the clerk, the treasurer shall act in his place", we think it would be wise to delete reference to the treasurer and allow the council to make the decision, because it may not be feasible for the treasurer to act.

Mr. Stutter: Mr. Chairman, this is the comment that Dawson had also.

Mayor Lehbauer: Faro would also like that same thing, Mr. Chairman.

Mr. Legal Adviser: I think it would be sufficient, would it not, Mr. Chairman, to just say, that in the absence of any official, by whatever name you choose to call him, such officer of the council as may be designated shall have the power to do, and so forth. Have a general section for everybody who is there.

Mr. Tanner: Mr. Chairman, if you just crossed out, after the comma "clerk" to the next comma, and then left it "the council may by resolution, appoint an acting clerk", or something like this.

Mr. Chairman: Well, is Committee agreed on this point? Section 45. Section 46, 47.

Mayor Wybrew: Section 47, Mr. Chairman, we feel that council should have the authority to appoint an acting treasurer, pro temps, if and when required.

Mr. Chamberlist: Same position as the clerk.

Mr. Legal Adviser: I think that the position ... we review the position of who steps into whose shoes and give the power to the municipality to decide in each case who it is going to be. Hopefully, they do this in advance. It's a matter of routine, not needing a special appointment, but we designed this section to fit all the cases we could think of. One section for them all.

Mayor Wybrew: With respect, Mr. Chairman, we could lose the treasurer through illness, anything could happen, or vacation, accrued time. It could be anything.

Mr. Chairman: Alright, then, I believe your point is clear. Is there anything further on section 47? Section 48.

Mayor Wybrew: Mr. Chairman, we have this situation here. "Subject to subsection (2), the mayor or acting mayor of the municipality shall sign, jointly with the treasurer, all cheques issued by the municipality." Do you agree provision should be made for signature by machine reproduction?

Mr. Chamberlist: Well, I don't think that matters, Mr. Chairman. The important point is that only for paycheques can a single signature be on because we recognize the point that there might be three or four hundred paycheques. Now, I don't know what the legal aspect is of a special machine. We have something like that here.

Mr. Legal Adviser: Mr. Chairman, the present position of the Territorial Government is that a tremendous number of cheques are handled by machine and they bear the printed signature from the machine of the Treasurer and the Commissioner. Whatever legal authority has been given to do this, that I don't know. I presume it is something in the Financial Administration Ordinance. I think there is no objection to a similar power being given to the cities, with whatever necessary safeguards are built into the procedure.

BILL #10 Mayor Wybrew: Well, it would require an addition, would it not? Or a qualification here? Allowing this?

Mr. Legal Adviser: Yes, it might require the addition of a subsection or a section.

Mr. McKinnon: Mr. Chairman, speaking from a practical occasion, it's just ridiculous with a city the size of Whitehorse, the number of cheques that they have to sign, or the mayor has to go over and sign. I'm speaking from a purely selfish motive. Everytime we start doing something, he says I have to go over to City Hall and sign some cheques. I want to know whether he's just trying to get out of doing something or he actually has to go sign the cheques.

Mr. Chairman: Alright then, we'll leave this under review. Section 49, 50, 51, 52, 53, 54.

Mayor Wybrew: Section 54, Mr. Chairman, "The Council may by resolution or bylaw designate an officer to hold more than one office. When an officer is appointed, the municipality shall forthwith advise the Inspector of Municipalities of the appointment.". Council feels it's an unnecessary restriction. They feel it is unnecessary. Why? Who wouldn't know?

Mr. Legal Adviser: Mr. Chairman, it's not intended to be in any way, restrictive of the municipality. They have the power to make the appointment. The intention is that we have a record of who the city treasurer is, because it may change from time to time, and it has happened in the past that there were officers appointed and we found out afterwards. Normally, the Government will know, but they would like to have a record of what officers are, in fact, holding appointments in Faro or Watson Lake, or wherever it happens to be.

Mayor Wybrew: We have always followed, Mr. Chairman, the courtesy procedure of any bylaw that is passed which would involve an appointment, etc. or legislative activities, we have always forwarded a copy to the Commissioner as a courtesy so that he knows what is going on. We have always done that.

Mrs. Watson: Mr. Chairman, we have to provide for new municipalities too. It would be necessary to specify it in the Ordinance.

Mr. Tanner: Mr. Chairman, perhaps the Mayor finds the word "forthwith" a little too harsh. If you took forthwith out, and leave it so that the Territorial Government wants to know who your officers are. Consequently, with the word "forthwith" in there, you might have the feeling that you are obligated to do it immediately and we are compelling you to.

Mayor Wybrew: Well, Mr. Chairman, perhaps you could remove "shall forthwith" and put in "may".

Mr. Chamberlist: No. We need to know. I think the Honourable Member from Whitehorse North has a very wonderful point because this word "forthwith" in any event, is a very favorite expression of Councillor Taylor's. You know, he likes chairs to be moved forthwith. We know what he's like. But, I think that is a good idea, we take the word "forthwith" out, and then it reads, "When an officer is appointed, the municipality shall advise the Inspector of Municipalities of the appointment." I think, this is a very soft, reasonable thing that all it takes is for someone to write a letter and say, Joe Blow has been appointed and that is the end of it.

Mr. McKinnon: Mr. Chairman, isn't it required that every resolution and bylaw go to the Inspector of Municipalities or the Commissioner, at any rate and isn't it always the appointment of an officer through a bylaw or a resolution. We are talking about a completely superfluous section.

Mr. Chamberlist: The requirement for the bylaw is that it's to be sent to the Commissioner for his signature and approval. All we are saying is that we are asking the person who is keeping an eye on the conduct of the municipalities knows who he has to deal with. It is not a big thing. *BILL #10*

Mr. McKinnon: I just think of a bylaw or resolution that comes to the Commissioner's hands appointing an officer ... this Government of the Yukon Territory needs another method of informing their Inspector of Municipalities who the officer is. I think, the Government of the Yukon Territory isn't paying very close attention to things.

Mr. Chamberlist: On the contrary, if you look at it this way you might as well say, why bother about it, this is being done in any event, why raise a bogey about something you say is being done? It's not doing anybody any harm, so why object to it?

Mr. Lehbauer: Mr. Chairman, the Village of Faro would concur with the word "forthwith" being removed. I am sure everyone would like to know this information.

Mr. Chairman: Does Committee agree then? Right 55, 56.

Mayor Wybrew: No comment.

Mr. Chairman: 57, 58, 59, 60, 61.

Mayor Wybrew: No comment.

Mr. Chairman: 62.

Mayor Wybrew: 62, Mr. Chairman, the last line; "which the bylaw is passed" and "by the clerk". It says is passed by the clerk.

Mr. Chamberlist: Yes, there is the word "and" missing. and by the clerk.

Mr. Legal Adviser: Yes, I had noticed, Mr. Chairman.

Mr. Chairman: 63, 64, 65, 66, 67.

Mayor Wybrew: No comment.

Mr. Chairman: 68

Mayor Wybrew: 68, Mr. Chairman, "The council shall not, directly or indirectly," A clarification is required here. What effect would this have on the work of a development officer?

Mr. Legal Adviser: The intention of this section, I think, Mr. Chairman is to prevent the Council from giving an advantage to a commercial enterprise. That is the intention. If, the Mayor was suggesting in any way that restrictive or doubtful of whether or not the information officer or the development officer, for instance, can give information or bring people to Whitehorse to look the place over and so forth, on that type of thing. We can put in a subsection, to cover the position. The section itself, has a definite intention, that is no business should get an advantage over competitors.

Mayor Wybrew: We have, Mr. Chairman, many people and firms, liking the City of Whitehorse, visiting the City of Whitehorse, going to the city clerk who does some development officer work at the moment. We do not have a full time officer, at present, asking about the availability of lands, tax structures, things about the Territory, itself, brochures and all sorts of things. Some of this goes in the mail, and so on and so forth. We are worried about this "directly or indirectly assist any industry".

Mr. Legal Adviser: If it will be the wish of the House I will attempt to draft a subsection to make it clear that development

BILL #10

Mr. Legal Adviser continues ...
work and soliciting businesses to come and give them information assistance is not to be construed as a breach of subsection 1.

Mr. Tanner: Mr. Chairman, I think, that there is another point here which is of interest and I think maybe the Mayor has opened up an area which deserves more looking at. Supposing for example, that the City set aside an area, for the sake of argument the far end of Porter Creek, and said now we are going to get industries and as an inducement we are going to for example, give them tax release for two years to induce industry. This prohibits them from doing that, and it is a fairly common practise throughout B.C. for example, to get areas like this built up this way. I'd like to see something in here saying that they can do this and since it is such a substantial decision they should do with perhaps, permission or the recommendation or the accomendation of the Commissioner, or somebody else, but I think they should have the power to make that decision. The way I read that clause right there, you are protecting them against something that is going to be to their detriment, perhaps in their total over all project.

Mayor Wybrew: I agree, Mr. Chairman, this is a very common practise in Ireland, as a matter of fact.

Mr. Chamberlist: Mr. Chairman, I am just trying to recall it, but, I think we have an exclusion section within the Taxation Ordinance, where we have left it to the municipalities to give relief if they want to and I think, we should take a look at that, at that particular time, I have forgotten the exact wording. There are exclusions in there and if His Worship, would wish to raise that point at that time dealing with the exclusions then if the municipalities want to get out of,...want to give a privilege to a particular business industry to come in here they might find themselves in a position where the taxpayers have already been paying taxes for many, many years might raise some objection.

Mr. Legal Adviser: Mr. Chairman, I couldn't honestly hold out any hope of amending this section in such a way as to permit the city to give tax rebates to new businesses coming in here. I don't think I would be telling any tales out of school at all, the belief of the Government is that when people come they should pay their way.

Mayor Wybrew: Mr. Chairman, I believe there is a point there, it could be a very special business, that wouldn't effect the other businesses.

Mr. Legal Adviser: I am not stating what I believe to be a very firm policy of the Territorial Government for the Mayor's information, I'm not declaring the policy, I'm just saying I believe the policy to be; that any person that comes in and establishes, no matter what business it is, has got to pay his taxes and pay his full way in the normal way without any subsities. Now, if the Mayor wished to take it up at another time and another place to attempt to change that policy, he shall have to try, but as far as me preparing an amendment is concerned, I wouldn't undertake to the House, to prepare an amendment to make this possible without specific direction from the Government of the Council.

Mr. Tanner: I don't think, we should belabour the point now, but I can't think,...for example supposing you wanted a industry, a major industry, not just one small business but a major industry to be induced to come to this country, to come to the City of Whitehorse. I think, there is very definite reasons the City should have some authority to be able to recommend that, at least to the Commissioner, whether or not that would be the answer, whether or not they want to put it to their taxpayers voters as part of a tax bylaw, saying, if, we can induce brewers for example, which particularly attracts me to come to Whitehorse, why shouldn't we offer them some inducement to come? They might be making a choice between this area and the Northwest Territories or northern B.C. or somewhere else.

Mr. Chamberlist: Mr. Chairman, I doubt whether a ten thousand dollar tax bill a year, is going to interfere with any decision that the brewery might make in the Yukon, as to whether they they will come in here or not. I don't think there is enough involved in that, I would want to go into generally the philosophy of that because I know of one particular are outside of Calgary where a huge acreage was set aside for an industrial area and they gave a three or four year tax exemption period and the municipality found themselves in a position of having to supply millions of dollars, without anything coming in, for the purpose of suppling all the services there with nothing coming back. The rest of the taxpayers in Calgary, they just raised many things...

Mr. Chairman: Is there anything further, at this time on 68?

Mr. Legal Adviser: The smell which is in the House, I am instructed is from the recording machines. They aren't burnt yet, they are just heated.

Mr. Chairman: 69,70,71,72,73.

Mayor Wybrew: No comment.

Mr. Chairman: 74.

Mayor Wybrew: "The Council may pass bylaws authorizing the mayor and the clerk to borrow on behalf of the municipality ..." "but not exceeding in the aggregate twenty-five percent of the estimated revenue of the municipality for the current fiscal year." If the City is being required to finance tax arrears, payables, and cart expenditures for six months. The existing Ordinance permits the City seventy-five percent, we are confused why this should be reduced to twenty-five percent, which will not allow the City to operate for six months. Say we are talking about a two and one half million dollar budget, on account what does that come to? Six hundred thousand dollars. We can't operate for six months on six hundred thousand dollars, on a two and one half million budget, impossible.

Mr. Tanner: Mr. Chairman, as I understand this section, isn't this money in excess? In excess of their estimated revenue?

Mr. Legal Adviser: I don't know if it is a mistake or not, I honestly don't know, but if we look at it and it meets the wishes of the House and reviewed the section and tried to find what the section should be.

Mayor Wybrew: The City can't operate on twenty-five percent you see, Mr. Chairman.

Mr. Chamberlist: I think that word should be changed in the first line, Mr. Chairman, "The council may pass bylaws authorizing the mayor and the clerk to borrow.." The council to borrow.

Mr. Legal Adviser: The mayor and clerk are delegated on behalf of the municipality, on the next line. You have to have physical people to sign the note. As far as mayor and treasurer, I don't know, it doesn't matter.

Mr. Chairman: The Chair understands that this is going to be reviewed. *BILL #10*

Mr. Legal Adviser: Yes, Mr. Chairman.

Mr. McKinnon: Mr. Chairman, I understand that the position of the city, that twenty-five percent must be a mistake. I don't see how they could operate with only twenty-five percent borrowing power on the revenue.

Mr. Chamberlist: That is right, we will take a look at it.

Mr. Chairman: Section 75?

Mayor Wybrew: No comment.

Mr. Chairman: Section 76?

Mayor Wybrew: Yes, Mr. Chairman, 76. "No bylaw for borrowing money shall be valid unless, prior to the third reading thereof, it has been submitted to and approved by the Commissioner and has received the assent of a majority of the taxpayers ...", and it goes on "approve the loan and direct that the bylaw may be given ..." down in (3)(a), and a "... special vote of the taxpayers." in (c). What is the effect of section 76 on the provisions in the Housing Ordinance, land development, housing projects, local improvements, sewage treatment? Can the Commissioner approve in certain cases without consent of taxpayers and upon request of council that ... this whole section is rather confusing to us.

Mrs. Watson: We were going to review this. We found it quite confusing.

Mayor Wybrew: Of course the sewage treatment, you have these points in, Mr. Chairman, have you?

Mr. Tanner: Mr. Chairman, I was going to suggest that perhaps on this particular question the Mayor had a number of points, it might be an idea if we got a written question so that when they are reconsidering it they can see how it identifies with those particular points.

Mr. Legal Adviser: Now that we are reconsidering it, has the Mayor any indication of what he would like to have in that place? What would he suggest is the correct method of dealing with it, or the House so that we might have some direction when we go back to redraft it.

Mayor Wybrew: Alright and proposal (a), alright. Fine, Mr. Chairman.

Mr. Chairman: Alright, section 77?

Mayor Wybrew: No comment.

Mr. Chairman: Section 78?

Mayor Wybrew: No comment.

Mr. Chairman: Section 79?

Mayor Wybrew: Section 79, Mr. Chairman, subsection (2)(b), "generally be in such form and contain such further provisions as are required by the Inspector of Municipalities." The City of Whitehorse would like to see the words "required by the Inspector of Municipalities" removed.

Mr. Chamberlist: Mr. Chairman, I doubt whether we can take that out. They have got to be required by somebody. Again, this legislation is not primarily for the City of Whitehorse. It must be considered that this is something required from all municipalities. Somebody has got to be the officer who has required them. Inspector of Municipalities

BILL #10

Mr. Chamberlist continues ...
is going to be the person, who will be requiring that. He will be the delegated officer of the Government of the Yukon Territory.

Mr. Legal Adviser: The old word was "Commissioner", Mr. Chairman.

Mayor Wybrew: I beg your pardon.

Mr. Tanner: Mr. Chairman, would the Mayor prefer to see the word "Commissioner" in there?

Mayor Wybrew: You know, Mr. Chairman, with respect there are feelings this way.

Mr. Chamberlist: There is a little bit of an upsetting position, because when we had the Commissioner in, in this House we were asked to take it out as much as possible. When we alter it so that the purpose of making it purely an administrative function of an officer of the Government, one municipality has suggested that this be taken out. It is just like everytime something is going to be done with reference to a company, a business operation. What are you going to say, the president must do this and the president must do that. Can't one of his officers be delegated to do that? Can't his secretary, or the treasurer do it? This is all we are saying, the Inspector of Municipalities will just be doing the function. It is no different than operating an ordinary business, Mr. Chairman.

Mr. Tanner: Mr. Chairman, I suggested to the Mayor of Whitehorse, that in this particular case, if it read Commissioner in fact it would be the Inspector of Municipalities. At least this way you know where it is at.

Mr. Chairman: Is there a compulsion, from the Chair, is there a compulsion on the Inspector of Municipalities to report to the executive, that being in this case the Commissioner?

Mr. Legal Adviser: No, Mr. Chairman, there is no compulsion for him to report, but he would be making a report on such a serious thing as a money bylaw. He would make a report on it. This generally has been the form and contains provisions required. It is just a matter of the format, in which you cast it, that's all. It is the form of the writing, the resitations, whereas, whereas, whereas, and then the body of it, and then how it should be done, that is what is done, so that all money bylaws will be the same.

Mr. Chairman: Unless I misread this, I would assume that the problem is that the municipalities, or the representation made is that there should be some compulsion that this matter be brought to the executive level from a civil servant, otherwise you have the civil servant making decisions that the executive level may not be aware of. In terms of requirement.

Mr. Legal Adviser: Mr. Chairman, if you revert back momentarily to section 79, you will see that the consent and approval of the Commissioner must be given to the amount to be borrowed, to the purpose, the terms and the interest and method of repayment. Before the bylaw has got off the ground, the Commissioner has got to give his formal approval. In the details what it would be going through, it is reduced to a lower level, as to what details it should contain. That is the purpose of it, there is no particular objection to "as required by the Commissioner", in the format, because it is a general thing. No objection.

Mr. Chamberlist: Do you want that, Councillor Taylor?

Mr. Chairman: It is up to Committee.

Mr. Chamberlist: How would you like it, we would like to satisfy you specifically.

Mr. Chairman: If, it must be from my own point of view, if it says required by the Inspector of Municipalities, then there should be

Mr. Chairman continues ...

compulsion in respect to money bylaws for the Inspector of Municipalities to furtherI don't know how to put it, to take it up to the executive level.

Mr. Chamberlist: It is there in 79(1).

Mr. Legal Adviser: We are trying to bring things down from the executive level, we make an attempt not to clog up the Executive Committee with matters of detail. The policy is approved by the Executive Committee, the actual borrowing and the terms of the loan, once that has been done, then the Executive Committee minute is available to the Inspector and he just follows it through. Even if you put Commissioner in there, in actual fact, the Commissioner would do the format on a once only shot, probably and that is it. He would then say, everything else must conform to that format.

Mr. Tanner: Mr. Chairman, perhaps the Mayor could indicate whether he would be satisfied with that explanation in actual fact it is really semantics we are talking about.

Mayor Wybrew: You may be correct, but the feeling is that the Municipal Council are elected people the same as yourselves with respect, Mr. Chairman, and there is a certain amount of resentment in being answerable to a civil servant.

Mr. Chamberlist: Mr. Chairman, no one is answerable to a civil servant. He is performing the function of administration under the Ordinance and this is all he is doing, it is an administrative function, nobody is saying that he has the power to veto anything, he hasn't the power to veto a bylaw. Under 79(1) "and every such bylaw shall recite that the consent and approval of the Commissioner has been obtained". All it is asking for, is that the bylaw must say before the final reading that the Commissioner has been consulted he has given approval and once this is done that is the end of it. I wonder what comments the Mayor of Faro would happen to have on this particular point, in relation to the administrative function that this section is really, just dealing with.

Mayor Lahbaeur: Mr. Chairman, in regard to this section it might be a minor point, I believe there are other sections in the Ordinance as we get along where, perhaps there could be stronger feelings of a council regarding the inspector and the powers that he does have, which no doubt we will come.

Mr. Chamberlist: But, in this particular section?

Mayor Lahbaeur: I have no strong feelings on this one.

Mayor Wybrew: It is just a point, Mr. Chairman, "it is generally been in such form and contained such further provisions, as are required by the Inspector of Municipalities." There is the feeling of course, that council and its administration is quite capable of making up such forms.

Mrs. Watson: Mr. Chairman, just one point, we could change it to say, generally be of such form and to contain such further provision, which may be prescribed by the Inspector of Municipalities, it could be done in regulation form. It would be standard for all municipalities. Just an administrative detail.

Mayor Wybrew: Mr. Chairman, I think we are hung up on this thing ...

Mr. McKinnon: Yea, and I don't think it makes any difference and if the municipalities feel the Commissioner reads nicer, and it is the old ancient face saving device well, let's put Commissioner in, what difference is it.

Mr. Chairman: Would this be agreeable then?

BILL #10

Mr. Chamberlist: Is it my understanding then, that the municipalities want "the Commissioner" placed in lieu of the "Inspector of Municipalities"?

Mayor Wybrew: I think, Mr. Chairman, it should be clarified that the feeling is it would be more acceptable, but not necessarily acceptable. What we are saying is that, as the municipalities elected representatives, clerks, etc., are quite capable of making up such necessary forms, this is a normal procedure. Why do we have to have somebody come in and say, you don't know how to do it and this is how you are going to do it, when they do know how.

Mr. Chairman: Commissioner-in-Council would be the most acceptable.

Mr. McKinnon: Mr. Chairman, first you would like (b) eliminated, that would be your first preference, your second choice would be "Commissioner" and your third one would be almost impallitable, or how unimpallitable it would be the Inspector of Municipalities. I have no objection to your first remark, that why not remove it completely because I agree with you, it is a matter of form. If, we can compromise in the middle road I am acceptable to that.

Mrs. Watson: Mr. Chairman, I keep harping on this, maybe the municipality of Whitehorse is capable of doing all of these things because you are rather a sophisticated municipality as far as municipalities in the Yukon. What about this legislation helping other municipalities, we hope to have many municipalities in the Yukon before too long. They will have inexperienced people, inexperienced officers, inexperienced councillors and any direction or forms that we can prescribe would certainly assist them.

Mayor Wybrew: We thank you very much, Mr. Chairman, with respect, Councillor Watson for your interest and confidence in us. If, this be the case then you would agree of course to exempt Whitehorse.

Mrs. Watson: You said that you were sophisticated.

Mr. Chamberlist: There is no way that this legislation is going to be dominated by Whitehorse by saying except Whitehorse.

Mr. Tanner: Can I suggest that we move on to the next section. I think we are all agreed on what we are going to do here.

Mr. Chairman: Is it agreed that the word "Commissioner" will replace Inspector of Municipalities? Agreed? The word "Commissioner" will replace Inspector of Municipalities.

Mr. Chamberlist: I want to point this out to all Members of this House that they have asked for the word "Commissioner" to be placed in.

Mr. Chairman: 80

Mayor Wybrew: No Comment.

Mr. Chairman: 81

Mayor Wybrew: I have a comment Mr. Chairman, unfortunately, could I get the authority to refer back to it afterwards. I didn't bring my notes. After lunch, if we are going to meet again after lunch, are we, I don't know.

Mr. Chairman: Anytime you have anything relevant to any section, don't hesitate to bring it to the attention of the Chair. Alright 82.

Mayor Wybrew: Yes, Mr. Chairman, we require clarification here. I think you'll see the point. 82(1) "Any by-law or part thereof for the expenditure of money on any capital project or aggregation of projects in one scheme, estimated to cost in excess of a sum that may be raised by a levy of two mills on the assessable property within the municipality shall be deemed to be a money by-law, and the provisions of the sections 75-81 relating to by-laws to borrow money shall be mutatis mutandis, is that the way you say it? apply thereto." Two mills to us equals about eighty thousand dollars. What you are saying in effect, is that that is the limitation put on current capital expenditures. Now we've been talking the possibility of increasing the tax rate by four mills, six mills, but we're told two mills and it is restrictive. I'll give you an example; we're getting this thirty-five thousand dollars from the Territorial Government for Porter Creek. But let's look at the Porter Creek situation at thirty-five thousand. The meter program that you say should be paid by the taxpayers. Miscellaneous equipment and so on so forth, and paving. This limits us to eighty thousand dollars.

Mr. Tanner: Mr. Chairman, I think previously all Members will recall that I was talking about the budget previously. This is money expended in excess of your budget. That's the way I read it.

Mr. Legal Adviser: No, Mr. Chairman, that's not so. This is ordinary revenue expenditures which are being made on a capital project. It's made clear and I think the Mayor has made the point, it's quite clear to him, it's a block on the expenditure of a sixth of the money which can be measured off by the assessable value. If that's eighty thousand dollars well that's the way it is.

Mr. Chamberlist: Mr. Chairman, if there is to be more than two mills spent in the aggregate of a number of capital projects and therefore because more of that money is to be spent, the city would have to deal with it in the same manner of the provisions of 75 - 81 which are provisions dealing with it as a money by-law. They would then have to say before that council may borrow that money, they have to do it by by-law and follow the proceedings as laid down in 75, 76, 77, 78, 79 and 80. This is what ... oh and 81 ... this is what is clearly defined. But only when that expenditure is over two mills, capital, then it's dealt with as a money by-law and you have to go to the people for whatever provision is made in this. This is all that this means and this is all that it is saying. For that purpose you revert back to the various sections and you handle it in that way. Is this correct, Mr. Legal Adviser?

Mr. Legal Adviser: Yes, Mr. Chairman. Any expenditure, any block expenditure on a capital project has to go to the money by-law procedure. That means you've got to go to the taxpayer. There's no question that it's restrictive. There's no question except that it is intended to be restrictive. The question is how restrictive does the House or the city want it to be.

BILL #10

Mr. Tanner: Mr. Chairman, perhaps if the Mayor could tell us how much, approximately, one mill will raise.

Mayor Wybrew: About thirty-eight thousand, Mr. Chairman.

Mr. Tanner: Well you're talking about eighty thousand....

Mayor Wybrew: That's right, Mr. Chairman. This is it. Are you telling us also, Mr. Chairman, that if in Porter Creek for instance, we wished to do some paving, that it will be in excess of eighty thousand dollars which is new construction, would we have every person in the municipality vote on that or say a storm sewer or whatever it might be out there, everybody in the City vote on that or would it be local improvement and the elimination of eighty thousand dollars and nothing else would be done in the City for a year. I would like to get this clear.

Mr. Chamberlist: Mr. Chairman, if the capital amounts of money go over that amount before that money is spent on that capital project not to do the work but only to borrow the money to do the work. You only have to have a by-law when you've borrowed the money to do the work. This....just a minute now, the way this section is here, we have referred to it, it says "any expenditure shall be deemed to be a money by-law and the provisions of 75 - 81 apply." Now, with respect, if Mr. Legal Adviser will look at 75 "subject to this Ordinance, the council may by by-law authorize the borrowing of money." Now, this is part of the right that's in there, so that you can borrow the money to do that. If this section 82 is correct, and now Mr. Legal Adviser when he says "no", then he's telling me that the wording in there isn't correct but it says "in the case of borrowing of money."

Mr. Legal Adviser: Mr. Chairman, I'm not saying that the wording is not correct. The wording is correct. It reproduces a definite legislative intention. The intention is that wherever a capital sum or aggregation of small schemes into one go to eighty thousand dollars or above then, that means a whole set of by-laws come into operation.... regulations, you've got to pass a resolution, put it to the people, get the Commissioner's approval and so on..

Mr. Chamberlist: Mr. Chairman, that's not the way I read it.

Mr. Legal Adviser: Mr. Chairman, it says any by-law for the expenditure of money and to me expenditure has a crystal clear meaning. They may have to in advance of course, pass an earlier money by-law if they're going to borrow it. This would need two money by-laws; one to borrow and one to spend. Presumably they would aggregate the two of them together into one by-law and put it to the people.

Mr. McKinnon: Well, Mr. Chairman, say the city has a surplus in their budget of a couple of hundred thousand dollars and wants to spend that money providing paving in the Porter Creek area. May they spend that money without going to by-law or do they have to go to by-law and get fifty percent of the taxpayers approval before spending that surplus that they have in the budget.

Mr. Legal Adviser: Mr. Chairman, that's what the section says.

Mr. McKinnon; Mr. Chairman, that's ridiculous.

Mr. Tanner: Mr. Chairman, I've got to insist that the Legal Adviser is wrong because section 75 says that "subject to this Ordinance the council may by by-law authorize the borrowing of money for capital projects."

Mr. Legal Adviser: Mr. Chairman, read on. I don't want to reiterate the point but section 82 is a section that stands on its own two feet. Once the operation commences, then you're going to expend that sum of money, you then must follow the procedure laid down in 75 and that is, you must first of all pass your by-law; you must have a second reading; you must go to the people; you must get the approval of the Commissioner and then you must pass a third reading.

Mrs. Watson: Not necessarily, Mr. Chairman. The way 76 reads, I think this whole money by-law situation has to be reviewed again. It says, 76(3)(a) gives the Commissioner the right to approve the loan and the rest of the by-law may be given third reading and passed. It doesn't say you have to go to the people.

Mr. Chamberlist: Mr. Chairman, we'll review the whole section in that from that section right up until 80 ...

Mr. McKinnon: I wonder Mr. Chairman, if the Mayors have any idea as to what the mill rate should be, what they would like to see on the assessable property that they are allowed to spend without going to the people.

Mayor Wybrew: Mr. Chairman, I think the people of any municipality, I'm now speaking for the City of Whitehorse, the people of the City of Whitehorse through their council can have the right to set their own mill structure if they need to raise two mills for a certain thing or three mills or four mills, they should have this right. I think there's something here Mr. Chairman, that should be considered. There are certain things lacking in Porter Creek in the water system and as you well know there isn't any sewage system out there. If the people out there want a local improvement on those two items and it's going to cost them four mills and they agree to it, do the people of the City of Whitehorse vote on that or only the people of Porter Creek and does it have to be a money-by-law and so on and so on and so forth. There are a lot of things here.

Mr. Tanner: Mr. Chairman, I think that the matter that the Mayor has brought up here is not necessarily tied into this. I think that he's got an extremely good point that's got to be discussed but I think basically, you've got to decide right now is whether section 82 applies to funds in excess of what is in their budget. The way I read it, it does only apply to funds that are in excess of their budget. If I'm reading it wrong then it should be changed because I can't see any reason at all why the city shouldn't spend what money they like that's within their budget. It's already been approved by the Commissioner initially; it ties in with the grants system.

Mr. Chamberlist: With respect, Mr. Chairman, I can't agree that they should spend what money is in their budget because the budget might not indicate how much money in dollars is going to be spent in a certain area. This is why there must be some limitation on the municipalities. Somebody has to be able to say whoa, you're going too far, you're spending all your money in one particular area, you're not going to have enough left for anything else. Something like that has got to be there you see. I know someone that would say "it's the city's problem, let them spend the money they've got in whatever way they like." What happens when you've got no money to do what you have to do? Who hears the crying, you know who, it's the senior government, so we have to find more money and things like that. I do agree with the points that have been raised at this stage, it needs a clear review because certainly, I interpret these sections entirely different to what Mr. Legal Adviser interprets them. In most cases I turn out right. We're going to take this back and review it again.

Mr. Chairman: Councillor Stutter.

Mr. Stutter: Mr. Chairman, I would just like to point out that when this is reviewed they should take into consideration that one mill in Dawson is only eleven hundred dollars.

Mr. Chairman: Well gentlemen, I think at this point we should consider pondering this question further over the lunch hour. At this time I'll stand Committee in recess until 1:30 p.m.

Mr. Chairman: At this time I will call Committee back to order.
We were dealing with section 2, page 18.

BILL #10

Mayor Wybrew: I have Mr. Chairman, if Council Members would like, capital expenditures 1971 for the City of Whitehorse. It comes to two hundred and fifty two thousand dollars. That is the list of the things. Can you imagine putting that up for a plebiscite? The Board of Survey would go crazy. A typewriter \$560, a calculator \$1,000; things like that. There is two hundred and fifty two thousand right there.

Mr. Chamberlist: With respect, Mr. Chairman, where they are talking about capital projects, this does not include the purchasing of a typewriter. We are not dealing with that in the capital project.

Mr. Legal Adviser: Mr. Chairman, we can't twist the meaning of the words beyond a certain limit. Capital project has a known meaning and in the Territorial Government, as I understand it, the purchase of a typewriter is a capital project.

Mr. Chamberlist: It's a capital purchase.

Mrs. Watson: We will be reviewing this section, we have to review this section in the light of Councillor Stutter's, that one mill is eleven hundred dollars. I think we need to review this.

Mayor Wybrew: You can see from that, Mr. Chairman, why we are concerned about this two mill clause.

Mr. Chairman: What does Committee feel in this matter of section 82?

Mr. Chamberlist: It will be left to review, Mr. Chairman.

Mr. Chairman: 83? 84?

Mayor Wybrew: Take any section you wish there . . . 83: "all allowances made for roads in any municipality, all roads laid out pursuant to any ordinance or bylaw, and all roads dedicated to the public use shall be deemed, for the purpose of this Ordinance, to be highways." Then we go on with jurisdiction over highways, and the diverting of a road must have the Commissioner's approval etc. etc. I think this can all be solved, if the title to those roads comes to the city. Give the city the title to those highways.

Mr. Legal Adviser: I was under the impression, Mr. Chairman, that they had the title to the highways.

Mayor Wybrew: We have the right to use them as we see fit, but the moment we close one for any reason, whether it be an industrial development, regardless of what it might be, it reverts back to the Commissioner. We can't do anything with it, except for what it is.

Mr. Legal Adviser: As I understood it, this was going to be set out a year and one half ago. To transfer the highways to the city so that they had complete ownership of the highway; use of them. But when a highway is no longer a highway, then something else happens. In this case it reverts to the Crown.

Mr. Chamberlist: Mr. Chairman, I am not going to get into a constitutional argument at this time because my position has been made clear. The question is that now they have management and administration, which has been transferred to the city, but not ownership and not title. I have made my position clear on this. We have no power within this legislation to grant you what we haven't got, and no matter what the municipalities say, we can't do anything beyond it. This is completely outside our competence. It's a matter of the Yukon Act being changed.

BILL #10 Mr. Legal Adviser: I don't think, Mr. Chairman, that was Mayor Wybrew's point. His point was, if the title went to them, there would be no necessity for all the various sections in this Ordinance.

Mr. Chamberlist: The point is we can't give him the title. Don't get involved in a case that might be going before court pretty soon. I am just cautioning you, you can't do it whether you want to or not. I stand firm on that. What was supposed to have been done, has not been done.

Mr. Legal Adviser: Can I make a point, Mr. Chairman? If there is anything lacking that we can do to avoid a court case in the future, it should be done.

Mr. Chamberlist: Change the Yukon Act completely.

Mr. Legal Adviser: We shouldn't be canvassing law cases in advance.

Mr. Chamberlist: I had hoped that the Mayor would not have raised this question because he knows quite clearly himself, that we cannot do things that this legislative body hasn't got power to do. When the Yukon Act, a Federal Act, defines quite clearly that the land invested in the Crown.... we can't give to you what we haven't got to give. This is my opinion and I stay in that particular position. It really doesn't matter now, at this stage. Certainly, the municipality has management, control, and administration of the streets, but if the city is going to ask for title, you are asking the wrong people. You should go to the Federal Government and ask them for title, then they will tell you to go to blazes, because they are not going to do it. This is the same thing that we are being told, that they are not going to do it.

Mr. Chairman: In speaking from the Chair, is this not our responsibility as a legislature to have this matter determined and to ensure such issues.

Mr. Legal Adviser: Mr. Chairman, insofar as I am concerned, it is a net point; it is not a legal point. If Mayor Wybrew cares to wander twenty yards down the corridor and pay five dollars, he will get a certificate of title to all the streets in Whitehorse from the Registrar of Land Titles.

Mr. Chairman: Have you anything further on 83? 84, 85, 86, 87, 88, 89, 90, 91?

Mayor Wybrew: 91, "Notwithstanding any other section of this Ordinance, the Commissioner may by order, provide that any section of this Ordinance shall not apply to any highway described in the order."

Mr. Legal Adviser: To clarify that, the intention of that section is, to permit the Commissioner to retain the control of a named number of streets. If the order is typed up and signed, in respect of the previous Ordinance, or if not, is awaiting the signature.... I gave this out earlier, in respect of Whitehorse, the Alaska Highway, the Two Mile Hill, the South Access Road and all the various recreational roads, the Ordinance doesn't apply to those, and of course, it means the Commissioner bears the cost of the upkeep and maintenance.

Mr. Tanner: Mr. Chairman, I would point out to the Mayor, something that came up in the committee during amalgamation. It was the City's request that most of these roads be taken out and that is the reason it is in here. The one question I would ask the Legal Adviser though is, it is unlikely that any of these roads will be changed for some time, so why wouldn't we put it into a schedule first?

Mr. Legal Adviser: We did it this way, because at the time we were preparing the Whitehorse extension of boundaries legislation, we weren't sure exactly what roads were going to be covered and not covered, they need engineering descriptions and so forth so they can be specified. There is no legal reason why they can't be specified in the schedule to this Ordinance but the convenient thing to do, is to have the power to

Mr. Legal Adviser continues ...

schedule them because they may change and there may be new ones. We don't want to be coming back to the House every time that a road is abandoned or when a new road is built and so forth. This is a convenient method then.

Mr. Chamberlist: There is another point, Mr. Chairman. It may be in the near future that the city may request that South Access Road be the responsibility of the municipality because they might be doing some expansion on either side of the road there. If it is put in the legislation, then we would have to wait for the Territorial Council to get together and do it. Whereas, if it was by order, which is a regulation, then it can be taken out simply by the regulation itself, without it having to come before Territorial Council.

Mr. McKinnon: Mr. Chairman, I can't leave this section, I am just intrigued by the ownership of the highways and the streets. Mr. Legal Adviser's informed version that he can go down to the Land Titles Office and for five dollars pick up a title to the streets and highways in the municipality; to me that says, the municipality is then the owner; he gets title to it. From what I understand from the Honourable Member from Whitehorse East, this is not the case even though he can go and pick up the title to the streets and highways to the municipality that, the municipality will not be the owner of the highways and streets in the municipality.

Mr. Legal Adviser: This is underhanded, I just thought that maybe the city was too mean to go down and pay the five dollars.

Mr. Chamberlist: I am quite prepared to make a statement in regard to my point of view, that up until the time of the last election, I was led to believe that there had been a Governor General's Order transferring the streets of Whitehorse to the municipality. There was a judgement given by a court, which indicated quite clearly that until such time as there was certain changes made in the Yukon Act or there was a Governor General's Order transferring certain lands, which the Minister has the right to do where the land is vested in the Crown, that then and only then does title to the land rest in the municipality. The Government has used the procedure which is in the Territorial Lands Act re notification, and on this basis what has been done is that notification is made and forwarded to the Land Titles Office, who then proceed to issue a title, under the Territorial Lands Act, but notwithstanding that the Territorial Lands Act, is a latter piece of legislation to the Yukon Act which takes precedence over it, as I am advised. This is termed now for convenience as "title to certain land." My stand is that, the city..the Commissioner has the power to pass on certain administrative functions, management and control, but he hasn't the power to give what he hasn't got. He hasn't got the title. He is an agent of the Crown and as an agent of the Crown, the Crown is the only one that can give the title. The Commissioner cannot act, until the Crown has said to him, by Governor-General's Order-in-Council, the title of this land is transferred. My advice through other legal sources that we have available in the Territorial Administration, is that what has been done is incorrect and contrary to the ruling of a court of law. Until such time as that ruling of a court of law, is overruled by a higher court, as far as I am concerned, with all respect to Mr. Legal Adviser,

I'd follow the judicial conscience that exist in Canada, until such time. The stand that I take is that, they haven't got the right. The Commissioner hasn't got the right to transfer title, notwithstanding that he has the right to transfer administration and control and there is a difference between them. While the title remains owned and invested in the Crown, that the beneficial rights offer the people of the Yukon Territory...It is about time that the Government of Canada transfers completely, the title of two hundred and seven thousand square miles to the people of the Yukon. This is how it should be done; by title not by phony methods. I'm not ready for participation in allowing at any time any methods that I think are contrary to what is needed for the people of the Territory in that particular area. So the Honourable Member from Whitehorse West, rest quite assured that I have not changed my views at any time when I have been in Council in regards to what is good for the Yukon, whether I am an executive member or

BILL #10

Mr. Chamberlist continues ...

not. I don't follow the crowd; I am not a trained seal and I say exactly what I think is correct in my own mind. I think the people of the Yukon are being deluded into believing, and the people of Whitehorse are being deluded that the streets have been turned over to them. I do not believe that, not one bit. Not until such time as the court **decides to over-**rule a judgement that a court has already given. In that respect, that is the feeling I have. This is the stand I take and I am not going to prostitute myself or my feelings just because somebody wants to go through a certain procedure. This is why I have asked to keep away from that particular area, because it is just going to open up a great big pandora box. Certainly, the municipalities have control and administration, but not beyond that.

Mr. Chairman: I thought this was a gift to the city in the last ...

Mr. Chamberlist: This smart fellow, Mr. Chairman, ... can't the Chairman respect a person's feelings and honesty in telling you about certain things? When I said I was led to believe that there was title, that the streets had been transferred and that I was misled by the last Administration and I make no bones about it, this is why I am prepared to come here and say, I was misled. I wonder if the Honourable Member wants to make any issues of it, he can go ahead. There he is getting smart again, don't you understand a person's honesty at all, perhaps it is not with you to understand that.

Mr. Chairman: I didn't think the Honourable Member would take offence, to that remark. I only saw it in the newspaper, the Whitehorse Star as an advertisement, however

Mr. Chairman: Where do we sit in relation to 91? What do you wish to do with 91?

BILL #10

Mayor Wybrew: 91 is very confusing Mr. Chairman, we'd best move on I suppose.

Mr. Chairman: Is this to be taken under review?

Mr. Chamberlist: No, Mr. Chairman, I don't want to hold this up for review. It's just a legal standpoint, that's all.

Mr. Tanner : Mr. Chairman, as far as the city is concerned, it was put in there for their benefit. Whether or not you like the system of which it goes in, I can't see any quarrel. I really think that should be clear.

Mr. Chamberlist: Mr. Chairman, I've got to say another few words on this because this really annoys me. There's no doubt about it, it's a result of everything that's gone on over a number of years. City officials and the Mayor in particular knows this. To me it's been brought out this afternoon just to create again another sort of confrontation and a dissention in here. All I'm trying to do is let you know that, where I have firm basic beliefs; this is why I get up and say these things, I'm not going to be pushed into a position at any time because of the fact that I believe in certain things. I do really believe that what has happened is contrary to the interests of the people of the Yukon. I would suggest that we recognize that fact. This is put in there for the benefit of the municipalities and if they want to take the argument up at any time, they should take the argument up.

Mayor Wybrew: The reason Mr. Chairman, with respect, that I raised the question of title to the city, is you'll see all of these sections telling the city that they have the right to control nuisances, highways to be kept in repair and so on and so forth. These should be the responsibility of the municipality and they should have title to the roads. There are clauses in here where, if we have to change a road for some construction reason, we must get the Commissioner's approval. I should use the term highway here. This is wasted time. I didn't realize that there was so much legal entanglement here in just raising that point.

Mr. Legal Adviser: The ownership of a highway Mr. Chairman, has nothing to do with the duty of a municipality to repair and maintain and in most countries outside North America, the highways are not owned by a municipality or by the government. They're owned by private individuals. The private individual has no right to do anything except park his car there occasionally.

Mr. Chairman: Clear? Then we'll move on to section 92.

Mayor Wybrew: Yes, Mr. Chairman, traffic and parking by-laws. If the provisions here, like "subject to Motor Vehicles Ordinance, the council may pass by-laws for"; if the provisions here are not in the Motor Vehicles Ordinance, which applies? Will the Motor Vehicle Ordinance restrict these powers? We don't know; we would like to know.

Mr. Legal Adviser: May I just make one point on that, Mr. Chairman. Basically, the complete power of dealing with speeds, regulation traffic, towing away of trucks and so forth is given to the municipality. There's a clause section in the highways rather the Motor Vehicles Ordinance, which says that where you depart.... I can see one of the Honourable Members has used this point many a time in office, when the by-laws depart from the rules laid down in the main Ordinance, there must be some form of notification to the public that that departure has been made. For instance, the basic speed limit on highways may be fifty miles an hour or thirty miles an hour. If they're going to have the twenty-five miles an hour speed limit they must notify

BILL #10

Mr. Legal Adviser con't...
the change to the public. Otherwise, the change becomes invalid.
Wherever you change the basic rules.... you can do it, but you must
have a notice of some sort. If you want to change the parking rules
you must put "no parking here on odd days of the month" or something
like that.

Mayor Wybrew: Mr. Chairman, there must be street signs up at both
ends of the city. That would cover it, I think.

Mr. Chairman: Alright, is there anything further on 92?

Mayor Wybrew: Alright.

Mr. Chairman: Okay, 93? 94? 95? 96?

Mayor Wybrew: 96, Mr. Chairman, "every by-law for the construction
altering, diverting or closing of a highway shall before the coming
into force thereof, be approved by the Commissioner." Could we just
ask why?

Mr. Legal Adviser: Well, Mr. Chairman, the first reason is because it
was in the old Ordinance. That's not a very sound reason.

Mr. Chamberlist: Mr. Chairman, what if the city decides to close off
all access to Territorial Government buildings? Don't you think we
should have the right to clear it first?

Mayor Wybrew: Well, let's say this is not what the city intends,
Mr. Chairman, why?

Mr. Chamberlist: Would you like to inspect municipalities instead
of the Commissioner?

Mayor Wybrew: No, no, Mr. Chairman, why that clause I meant.

Mr. Chamberlist: Because I've already given you a simple explanation,
Mr. Chairman. If we didn't have that in there what would prevent the
city....we could not say to the city now just a minute before you close
off that road you might be interfering with public access as well, which
might be a requirement under another Ordinance, under another piece of
legislation. Something might crop up where there's a requirement.
There's nothing sinister about putting in there "be approved by the
Commissioner." It's just a simple administrative matter that involves
an ordinary, everyday housekeeping and operating piece of law.

Mr. Legal Adviser: Exactly the same as it was since 1958, Mr. Chairman.
I suppose we accepted it in 1958 and carried it forward.

Mayor Wybrew: I can understand the concern, Mr. Chairman, for the city
lessening the highway availabilities in the community but I don't
understand the requirement where the city wants to produce more high-
ways for the convenience of the people. This is what it does and it's
a question for constructing. We must have the Commissioner's approval
to open roads that will assist residents of the community.

Mr. Chamberlist: Mr. Chairman, there might be a hundred reasons that
crop up that I can't answer immediately off the top of my head but
certainly it's not an unreasonable section. Because it's not an
unreasonable section, why hit it?

Mayor Wybrew: That's right, Mr. Chairman, why have it in?

Mr. Chamberlist: That's for the simple reason, Mr. Chairman, that the
government seeks to protect the public at large, not only the people of
a municipality but the public at large. This is very very important.

Mayor Wybrew: Mr. Chairman, for the use and convenience of the people *BILL #10* of the Yukon you mean?

Mr. Chamberlist: That's right, Mr. Chairman.

Mr. Chairman: Alright, 97?

Mayor Wybrew: No comment.

Mr. Chairman: 98?

Mayor Wybrew: No comment.

Mr. Chairman: 99?

Mayor Wybrew: No comment.

Mr. Chairman: 100?

Mayor Wybrew: No comment Mr. Chairman, except down to (1) Planning Appeals Board. It's not a big thing but we thought it would be better described if the Planning Appeals Board was changed to read Zoning Appeals Board, just to describe the function.

Mr. Legal Adviser: I think this would be reasonable, Mr. Chairman, because the existing Board is called the Zoning Appeals Board and it's not intended to change it, it's just the name got changed.

Mr. Chamberlist: Mr. Chairman, I wonder if Mr. Legal Adviser could then indicate the difference between a land planning board and a zoning board.

Mr. Legal Adviser: A rose by any other name, Mr. Chairman, smells as sweet.

Mr. Chamberlist: Well, Mr. Chairman, this doesn't tell me. I'm not interested in what type of perfume that the optic Mr. Legal Adviser is prepared to use. I'd really like to know whether he is indicating that there is no difference between a zoning board and a planning board. I differ with him but I'd like him to explain where he can indicate there is no difference.

Mr. Legal Adviser: There's no difference, Mr. Chairman, it's just a board. It's a board for the purpose of hearing appeals. It's the jurisdiction of the board that we're talking about. If it can hear appeals against the zone he's put into, it's the same thing as hearing appeals against the plan which creates the zone. It's just what power do you give the board.

Mr. Chamberlist: Well, Mr. Chairman, surely in the terms of straight, normal municipal definition, the function of a planner is to plan municipalities, to plan areas, to plan buildings and projects. This is planning. Zoning is specifically to allocate what areas shall be an industrial area, commercial area or any other area. My supposition is that there is a difference between a zoning board and a planning board. If you want to use it as one and the same, go ahead, but later on there will be an amendment being asked for by the municipalities because they want a planning board. I can see this coming miles away.

Mr. Legal Adviser: Mr. Chairman, we've got it slightly wrong. This is not a zoning board or a planning board. This is an appeal board. It's hearing appeals against zoning by-laws, which are set out in section 100. The correct designation should be in my view, a zoning appeal board to appeal against a zone into which people find themselves put by the planning board.

BILL #10

Mr. Tanner: Mr. Chairman, can I suggest that we change the word "planning" in (1) to "zoning." At the same time, I'd also like to make a point that it was my understanding that the committee set up to amalgamate the Citythat a planning board would be set up and have we provided for that in here and if we haven't, I think we should.

Mr. Legal Adviser: Not in this subsection, Mr. Chairman. Somewhere else the committee could be set up but this gives the city power to create zones, zones for hotels, zones for manufacturing and so forth. Anybody who is hurt by the place he's put, has the right to appeal. I think it's essential and very very necessary for property owners.

Mr. Tanner: Mr. Chairman, can I repeat that where we read "planning" we're now going to read "zoning".

Mr. Chairman" Are we agreed?

Mr. Chamberlist: I take it, Mr. Chairman, that Mr. Legal Adviser has indicated...I haven't come across it, perhaps I overlooked it. There is a provision for a planning board?

Mr. Tanner: Mr. Chairman, as the Legal Adviser seems very vague, would he make note of the fact that I for one, would like to see a planning board provided for by the city to run themselves.

Mr. Legal Adviser: I think it's in, Mr. Chairman, but I'm not sure. We'll put one in it if it's not there.

Mr. Chamberlist: I know it's not there, Mr. Chairman.

Mayor Wybrew: Mr. Chairman, we may be incorrect and the Legal Adviser correct, we may have overlooked something here. We note that no provision for formalizing the planning function.

Mr. Tanner: Mr. Chairman, perhaps the Legal Adviser could do one of his famous midnight amendments. Slide it in here somewhere. Can I make it clear that the city has requested and I personally would request and I hope that other Members will endorse that request, that we make provisions for the city to set up a planning board.

Mr. Chairman: Alright, anything further on 100? 101? 102? 103?

Mayor Wybrew: Yes, Mr. Chairman, subdivision of land. We feel it's much more restrictive than in the existing Ordinance. It's done away with the five percent dedication of land and we're wondering why.

Mr. Legal Adviser: Mr. Chairman, would His Worship indicate which part he thinks is too restrictive.

Mayor Wybrew: 103.

Mr. Legal Adviser: Which subsection?

Mayor Wybrew: Excluding the construction of sidewalks and boulevards. You see, Mr. Chairman, we look at it that in certain areas of the City of Whitehorse the council should be able to determine whether the sidewalk development in that area should have a boulevard or should not have a boulevard etc. etc.

Mr. Legal Adviser: I'm not quite sure what the Mayor's point is. The Mayor's point; is it that the city should have the power to make boulevards and sidewalks or should be able to make other people do it?

Mayor Wybrew: Mr. Chairman, the city should have the control of this. The way we look at it this is more restrictive. Mr. Legal Adviser, we feel it's much more restrictive than the existing Ordinance and that it has done away with the five percent dedication of land, and excludes sidewalks and boulevards.

Mr. Chamberlist: That is not unreasonable, Mr. Chairman. I think that really the words, "but excluding the construction of sidewalks and boulevards", that should come out. Then it would read starting from the preamble, "the council may regulate the subdivision of land and for that purpose may by bylaw require that the highways within the subdivision be cleared, drained and serviced to a prescribed standard. I think that the Mayor is perfectly right, we shouldn't exclude them. You know, from including this to be done on boulevards as well, that shouldn't be our responsibility, it's the city's responsibility.

Mr. Tanner: Mr. Chairman, my initial reaction is to take that out. I am just wondering why it was put in there in the first place? What was the thinking behind this, does the Honourable Member recall?

Mr. Legal Adviser: Mr. Chairman, the design of the whole section is to enable the city to make bylaws to have other people subdivide the land. Other people who are developing and get a development permit, must put in roads and streets within the subdivision before the city is required to take it over. Running at the same time in that, is a restriction on the city in putting the standard on the private developer too high in an individual case. Supposing a private developer gets a piece of land in Riverdale, and says, I will develop it and put fifty houses in there. The city can require him, at his own expense to put in a road up to a high standard. It can require him to put in sewer pipes, the water pipes and everything else. It cannot require him to put in a boulevard which is a bit above average. If they want it, they can say, okay put in a road and we'll make it a boulevard with trees, rose bushes, shrubs and what have you. They cannot require him to put in a sidewalk. It is for the protection of the individual who is required to do these things, that the restriction is in there. If we don't want the restriction, then take it out. That is the purpose of it. That is the design of the whole section. To give the city as much power as possible, but not oppressive power in the individual case.

Mr. Tanner: Mr. Chairman, the way that I read that, from what the Legal Adviser has just said, the council may regulate. The operative word there is may "regulate the subdivision of land." With the explanation that he has given, if you leave it as it is presently written, you are tying the hands a little bit for the city to negotiate and wheel and deal and make the best deal that they can with the subdivider. Where, if you take it out, we can leave it up to them and in which case they are talking to a subdivider, they can say, well we want roads and boulevards, and then use that as a negotiating point to get something else. I would suggest that we do take it out of there in that case.

Mr. Legal Adviser: Wait a minute. There is no hard and fast policy on this point. It certainly can be reviewed. If the city wants to have the power to have a park in the middle of a road, this is fine. They must know what they are doing.

Mr. Chamberlist: We have to take it for granted that some municipalities, from time to time, do know what they are doing, and we should allow them to have the choice of doing that.

Mr. Tanner: Mr. Chairman, then I would move that we strike in (d) everything after the word "standard".

Mr. Chairman: I don't think that there is a motion required here. Is it generally the agreement of Committee that these words be removed from the Ordinance, those words "but excluding the construction of sidewalks and boulevards?" Agreed? Anything further on 103?

Mayor Wybrew: I just... I think so Mr. Chairman. 103(2), "the owner of land being subdivided shall provide, without compensation, land for highways in accordance with a bylaw under subsection (1), provided that he shall not be required on subdivision to provide without compensation (a) for the purpose of highway allowance within the subdivision, land exceeding in depth sixty-six feet; or (b) for the purpose of widening

BILL #10 Mayor Wybrew continues ...

a highway that is less than sixty-six feet in width and that borders or is within the subdivision, land of a depth exceeding thirty-three feet or the difference between sixty-six feet and the width of the highway, whichever is the lesser." I am wondering why actually this should really be in there? Would it not be a matter of negotiation between the owner and council?

Mr. Chamberlist: Mr. Chairman, when a subdivision plan is submitted, there has to be an indication on the plan as to what will be the width of the highway. What is being said here, is that everybody that subdivides will without receiving any payment provide the municipality with sufficient space to put in a highway of sixty-six feet in width. It also goes on to say that the municipality cannot demand from the people who are ... intend to subdivide, any land over and above that sixty-six feet without negotiation for compensation. Now, it may well be that the municipalities who are good traders, will negotiate on the basis of, okay, we are prepared to give a little this way if you will give us at no further compensation another ten feet. This is where the negotiation comes in. We certainly want it to be a fixed area, a fixed minimum that must be provided to the municipalities at no compensation to be paid to the subdivider, so that the municipality becomes assured of sixty-six feet at no charge, and if they want more than that, that is when they have to negotiate with the subdivider.

Mayor Wybrew: Yes, I appreciate that Mr. Chairman, but there is this point. We have just finished talking about a planning board,

Mr. Chamberlist: No, a zoning board.

Mayor Wybrew: A planning board will eventually with expertise, develop a plan for the future of the city. Five or ten years from now they may know that this particular area will require a hundred foot road because of the traffic that will exist at that time. An industrial firm comes in and wants to set up: the council through their planning board will have to require the hundred foot allowance, because of future development, you see. We don't want to get away from that.

Mr. Chamberlist: Yes, this is quite true, Mr. Chairman, but then it comes back to the question of, you know, free enterprise system of whether you should have the right to take what is not yours without trying to work it out a negotiated price for that amount between sixty-six feet and one hundred feet. I mean, right now the legislation is saying to the subdivider, you must give sixty-six feet, but anything else, this is left to negotiation, you can't demand it. Certainly it is as I have said before, it is up to the smartness of the municipality who is negotiating to try and get that extra land for nothing. We must not deprive the owner of land the right to be able to sell for a price what perhaps they can get paid for.

Mr. Legal Adviser: Perhaps the Mayor might indicate how much he would want in that, if sixty-six isn't reasonable.

Mr. Chamberlist: He has asked for one hundred and that is unreasonable.

Mayor Wybrew: No, but this is the thing. It may be only one particular instance where one hundred feet will be required for future planning; that is what I am getting at. This group may wish to locate there knowing full well what the future plan is, and that is why they want to locate there.

Mr. Chamberlist: I wonder, Mr. Chairman, if anybody can indicate what is the largest width of a highway? I haven't go it. Within the city, let's take the Alaska Highway, does anybody know what that is?

Mayor Wybrew: Three hundred feet.

Mr. Legal Adviser: The Alaska Highway is three hundred feet. The highways in Dawson are on a centre of..they are less than eighty feet. I don't know what the Whitehorse ones are.

Mr. Chamberlist: I think, Mr. Chairman, I measured it up some time ago, I think that sixty-six is an average. I think that they follow the same measurements of what is in the municipality here as well.

Mayor Wybrew: Yes, we have them up to eighty feet.

Mr. Chamberlist: Well, if you want to put eighty feet, fine, but we can't ...and this is another question that might arise. Why don't we leave this in abeyance and perhaps talk to the land titles people and people like that. I think that we have to be very, very careful not to take away from people who own land, the right to barter for their land.

Mr. Chairman: Anything further on 103?

Mayor Wybrew: Yes, Mr. Chairman, 103(3) "a bylaw passed under this section shall require the approval of the Commissioner before the passage thereof.", it wasn't required before.

Mr. Tanner: Mr. Chairman, I would point out to the Mayor, that we have in previous discussions said that we are going to redraft those two sections (3) and (4). Perhaps we could leave them in abeyance until we have looked at them again or the legislative programing.

Mr. Chairman: Well, maybe we should have some opinions that they may wish to express.

Mayor Wybrew: Could I go a little further perhaps, Mr. Chairman, it may assist you on our feelings. 103(3); it was not required before. 103(4);now we are coming to approval upon approval. What if this council does not approve (5); "the Inspector of Municipalities shall give due regard to and take cognizance of any official community plan", why can't council? Those three sections.

Mr. Chamberlist: First of all, I will say this. Even in legislation in a provincial jurisdiction, there are certain sections dealing with... the final approval is with the Lieutenant Governor. It is just a paper signature, just in exactly the same way that most of the legislation here is assented to by the Commissioner. In most cases we have had most bylaws in event go through the Commissioner. Nine times out of ten he doesn't see every piece of paper and every piece of bylaw that comes in from the municipality. There again it is like I said earlier on, it is just part of the formality of getting things done. The Commissioner isn't going to interfere with a bylaw that has complied with the provision of the Ordinance. I would say that, he can't interfere with it if the municipality has conducted themselves in a manner which is laid down by the legislation. The reason for this in there, is so that the Commissioner may examine the bylaw to see that it has been passed and has been set up in accordance with the legislation. In other words, it is much better to catch it first, than have somebody go before the court, and then argue it on the basis of it being ultra vires of the legislation of the Municipal Ordinance. Really, it is a face card, and it is nothing. This is what it is in most of those areas.

Mrs. Watson: Mr. Chairman, I would like to point out one thing here. When, if the city were subdivided or a municipality, the Territory is responsible for providing some services. I am thinking in particular of schools. I think that in this area, the Government of the Territory would be very interested if a municipality were creating a new residential subdivision. It could possibly involve an extensive program of bussing or the erection of a new school. I think for this reason alone, it might be well to have it approved.

BILL #10 Mayor Wybrew: I am very pleased to hear that from Councillor Watson, Mr. Chairman, because this has been a bone of contention in the past in regards as to where schools are going to be built; where offices will be changed for the Territorial Government without building permits, and so on and so forth. This type of co-operation is indeed very important, and the city council is very interested in it.

Mrs. Watson: Mr. Chairman, you mean that it is a two-way street.

Mayor Wybrew: It has never been in the past.

Mr. McKinnon: Section 103(3) says, "a bylaw passed under this section shall require the approval of the Commissioner before the passage thereof." I think that (4), (5) and (6) are just extraneous subsections to the subdivision section. The Commissioner is going to have to give the okay as to whether the subdivision can go ahead or not. Certainly, he is going to rely on the strength and ability and expertise of his Municipal Affairs Department prior to his giving permission for it to happen. Section (4) "all subdivision plans prepared pursuant to a bylaw passed under this section shall be approved by the Inspector of Municipalities before they are approved by the council." I think that subdivision (3) takes care of that quite well. "The Inspector of Municipalities shall give due regard to and take cognizance of any official community plan...", well certainly the Commissioner is not going to approve the bylaw if upon the advice of the Municipal Inspector, it is in conflict with a C.M.H.C. Plan or another planning contract. "The Inspector of Municipalities may refuse to approve a subdivision plan if he is of the opinion that the cost to the municipality of providing public utilities or other municipal works or services would be excessive." Certainly the Commissioner isn't going to approve the passage of the bylaw if he realizes that it is completely beyond the cost of the city to be able to subdivide land and bring about a new development. Why the Inspector of Municipalities should get involved in it at all, I just don't understand.

Mr. Legal Adviser: I apologize to the Honourable Member, Mr. Chairman, but we are talking about two different things altogether. One is a bylaw which has been passed by the city council, and they say that when a person wants to subdivide, they do (a), (b) (c) and (d), and they pass in plans. It must be a certain size in dimensions and all the rest of it, these are all set out as what they can do above. Afterwards, the private person makes his own subdivision. He gets the surveyor out and he carves up his ten acres into city size lots, and then he has to get approval for that subdivision. That is the plan that we are talking about, that goes to the respective municipalities.

Mayor Wybrew: Mr. Chairman, all subdivision plans prepared pursuant to our bylaw passed under this section, shall be approved by the Inspector of Municipalities before they are approved by the council. Approval upon approval upon approval. What if the council doesn't approve?

BILL #10

Mr. Chamberlist: This is in reverse. I agree they have got a very important point there. It should read "shall be approved by the council before they are approved by the inspector".

Mr. Legal Adviser: I have a note in my book, Mr. Chairman. I think that we agreed in the last acceptance that we would reverse this. I have written reverse on this. It is comparing apples and oranges but the House should also be aware of the fact that one of the things we want to do in this or another Ordinance, is to prevent the Registrar of Land Titles, next door, who's going to see the Mayor soon, we want to prevent him from giving approval to a sale of land which involves a subdivision, and put a block on it. We can either do it by having the Inspector of Municipalities approve or not approve, or some other way. Because that's the leakage. People can carve up a lot into two half lots, walk into the Land Titles Office, sell it and then the whole thing is done before the city finds out. That's the leakage we've got to plug.

Mayor Wybrew: Mr. Chairman, the Inspector of Municipalities shall give due regard to and take cognizance of any official community plan when dealing with application with the approval of any plan of subdivision. We feel, why can't council? You know we could go on, and on and on, approval upon approval upon approval upon approval.

Mr. Chamberlist: There is nobody stopping the council from doing what they want to do, but this is Territorial legislation, and this is our stop-gap, and our protection, and our safeguard, that we want to put in legislation to make sure the municipalities are conducting themselves in the proper manner because we will have to bail out the municipality if anything goes wrong. And that is where it comes in dollars and cents. And when we're talking about we will have to bail it out, after all it's that those tax payers in the municipality through the municipal council are protecting have at times got to have protection from the municipal council and this is just what we're doing, is placing in legislation something that may occur. Things like this are not going to be unreasonably withheld or we're not just going to put ourselves in the position of having to use a whip on the municipality. All that is being done is, legislation is being provided so that if the time comes that we have to use it, because the municipality didn't conduct itself properly, it's in there. But no other purpose at all.

Mayor Wybrew: That we cannot do anything that is not in this Ordinance.

Mr. Chamberlist: No you can't.

Mr. Legal Adviser: Not quite but almost. The rule of law is that a municipality has no power to do anything unless its given the power by the senior government by Statute. The reverse is true in this House, that once it's given the power it has the complete topic.

Mr. McKinnon: I really understand the city's point on this in that the last meeting of city council sounded like the Inspector of Municipalities should have been there in the Mayor's chair rather than the Mayor being there conducting the meeting because it was so involved with ... he was so involved with the workings of the council. Why couldn't a section like subsection (3) be made to read that "A bylaw passed under this section, and all subdivision plans prepared pursuant to a bylaw passed under this section shall require the approval of the Commissioner before the passage

BILL #10 Mr. McKinnon continues...
thereof" and eliminate (4), (5) and (6) because they then would become superfluous subsections because it would mean that the Commissioner certainly would have to rely on his Inspector of Municipalities that he wouldn't be doing things against plans that were already in there and if it were of too great a cost to the municipality and it wouldn't give the impression to the city that the Inspector of Municipalities was going to be constantly up in the council chambers wiping their nose, because I'd take exception to it too if I were a member of the municipal council.

Mr. Chamberlist: The Government is not objecting to the idea that's been put forward, and you know we could review this, but what I must ask Honourable Members to keep in mind, that the municipalities have continually said to us, spell out in the Ordinance what you want to be done. So instead of putting this...and I'm sure Mr. Legal Adviser could very, very easily put the whole of these items from (3) to (7) into about 2 or 3 sections. But what was asked for us to do, and this is where I will come to the support of my learned friend, this is what was asked to do that the legislation spell out clearly in the Ordinance exactly what is required. Now this has been done, as in other areas, and now there's a question being raised as to why it is spelled out in such an extreme manner. So it is very, very difficult to want ... to do what is wanted, and I would ask the Mayor of Whitehorse to say whether he wants the legislation spelled out or does he want it contracted into a very small area. And this really is the nub of the whole thing.

Mayor Wybrew: Well the nub of the whole thing, we don't want council to lose any prerogatives that they now have. We would like to see an enlargement in this regard. We appreciate the attempt of Territorial Council in gaining more autonomy for itself, and the Territorial Council has always appreciated the municipal councils feelings in this matter and have gone along with them as well.

Mayor Lehbauer: Mr. Chairman, I'd just like to ask: this Inspector of Municipalities, he's presented with a subdivision plan and he says it's no good. Perhaps the Commissioner and the council think it's a very good idea. Now can he sidetrack these things and it stops right there?

Mr. Chamberlist: If the question is, can the Inspector of Municipalities sidetrack the Commissioner and the Executive Committee? No way.

Mr. McKinnon: City council and the Commissioner can approve of the plans and the executive of the municipality can put the kibosh on it.

Mayor Lehbauer: No. What I'm saying is that the council approves... municipal council approves the plan and the Municipal Inspector says, no way, and perhaps the Commissioner himself might think it's a very good idea. Now does it stop at the inspector?

Mr. Tanner: Mr. Chairman, the inspector in this case and in all cases is a servant of the Territorial Government, and something as important as that, he will only make a recommendation to the Executive Committee who basically make the decisions. Not even the Commissioner, the Executive Committee. And I would point out to the Mayor that wherever he reads Commissioner here, he should read Executive Committee in effect not in words. Consequently, where the municipal inspector here makes the decision here of this weight, he would merely make a recommendation. The recommendation goes to the Executive Committee and they would make the decision

Mr. Legal Adviser: Mr. Chairman, I don't think the Honourable Member realizes the number of subdivision plans that pass across the desk each day. So many plans for subdivisions pass across my desk that we have to have block signature blocks, to save the time in writing this out. And if the Honourable Member even thinks that the Executive Committee is actually even seen one, unless it's of importance,...A big subdivision
.....

Mr. Tanner: Mr. Chairman, in that case if we're talking about little nitty gritty details like that, I don't know what the Inspector of Municipalities has got to do with it. I'm talking about a major project to subdivide for a hundred houses. Those everyday decisions, that should be for council.

Mr. Chamberlist: With respect, the Mr. Legal Adviser went from the sublime to the ridiculous, and let me bring it back to the sublime again. When we are talking about subdivision of land, we're talking generally about ... and in the area of where the Inspector of Municipalities comes in and his function of looking at a plan, is where you have ten acres over in Riverdale somewhere and somebody has purchased that ten acres and is going to subdivide the plan. It's then in that particular area that ... of course it's a large project, and the council the city council will, if they approve the plans, it should go to them first because it's in their jurisdiction, and then it would be sent to the Inspector of Municipalities. And the Inspector of Municipalities, because it is a project of that nature and because of the always an inherent involvement of the senior government in something like that some way or other, the plans will come to the executive committee member who is the head of that department of local government, who whether submission was submitted for the intention of the executive committee. And this is how it's dealt with in there. The decision wouldn't be made on that level, where it would come straight to the Inspector of Municipalities and he says no, it's not good enough, unless there was a couple of small points that might be cleared up, and there may well be correspondence between the municipalities and the Inspector of Municipalities before everything relating to the subdivision was taken care of. Then it would process via to the executive committee. I cannot help remarking at this time while I'm on my feet that the ...every time we make reference to the executive committee and it's functions the Honourable Member from Whitehorse West tends to make derogatory remarks and derogatory actions of it. He makes those because of, I must say, his obvious inability to be executive type himself. Consequently he is knocking those people who are doing their job. The executive committee is working, the Honourable Member tells me to sit down and he should keep his mouth shut because he should sit in that position that he is in. Mr. Chairman, there is no difficulty involved in this at all. The Government intends to co-operate wherever possible with the municipality when subdivisions are brought forward, so that nothing is done to hinder the progress and the growth of any municipality. The function of the people in the executive committee is to make it as easy as possible for municipalities to grow and increase their tax rate. This is their function.

Mr. Tanner: Mr. Chairman, may I ask a question which I had further enlightening on from the gentleman from the North of me? If I myself had a lot down in the City of Whitehorse and I wanted to divide the lot in two, and the plan was to build two separate houses on what was now presently one house, what procedure would I go through? And having gone through that procedure would I then have to go through all this procedure here for a little itsy bitsy thing like that?

Mr. Legal Adviser: I couldn't tell you all the procedures, there's lots of procedures about getting building permits and so forth, but if you're going to build two houses on what was formally one piece of property, under normal circumstances your going to divide into two separate titles because you're going to sell one, or else you're going to buy half of another man's lot in which event you need to get yourself registered in the Land Titles Office. So on that side of it you get a surveyor or somebody to subdivide the lot. The Land Registrar would lean heavily against simple verbal description. But before he will register that subdivision he requires you to have the Commissioner's approval. So the plan then comes into the Territorial area for this purpose, and there's a block signature which is about four inches... block signature block stamp, and on the top of it is the initial of the office of one of the Assistant Commissioners, the Legal Adviser, I think there's an engineer, and the Director of Local Government. It passes

BILL #10 Mr. Legal Adviser continues....

through their office and all they do is just check it for their purpose and initial it, and it goes on to the next person. The routine has been established in most of these areas now, but the Commissioner will not sign anything not recommended by the appropriate official department ending up with the member of the Executive Committee who is responsible for that area. So when you say the Commissioner you are actually getting a line of officials who look at it, make advisement, but this is necessary at the moment by the way the Land Titles Act is written so that we can prevent subdivisions which do not have city approval. From now on what we want to know is has he complied with the city bylaw, does the city approve, and then we can block it. At the moment it can slip through.

Mr. Tanner: Mr. Chairman, will then in those block of signatures, will one of them then be the city? Will somebody in the city be one of those signatures, say before the Commissioner signs this for registration he can ascertain to his own satisfaction that the city itself has seen it?

Mr. Legal Adviser: I imagine this routine will be set up and it will be transmitted across. But basically what you are doing is, lots of things that we put on it really represent the Commissioner's signature in the final analysis. We're merely advising the Commissioner what to do. In the city I presume it goes into some planning official, and goes through, and then finally some person is authorized to actually sign it, after being approved under the bylaw, and that's it. After it's checked by everybody.

Mr. Chamberlist: For instance, if the city has got a bylaw where it says you can't have two buildings on one lot, there is no way, because a person comes along with a lot and wants to subdivide the lot, there is no possible way that we are even going to give consideration to it, and that is contrary to a bylaw which already exists in the city, and by the same token, this is an area where perhaps once titles, if it happened that certain titles of course...there is ownership in the Yukon...titles on land. Lots of privately owned land. But if there is going to be a change in the Land Titles Act to a Land Titles Ordinance where we have title within our own capacity to look after, well then it makes it all the more simpler for that to happen. But this is an ongoing type of thing that will go on and this is where the city, if they see any difficulties arising from time to time, well the Government is quite prepared to co-operate with the city in any of these areas. There's no hold up there.

Mr. Tanner: My particular concern is not administrative but a little bit more nitty gritty still. From what we had described to us by the Legal Adviser, I didn't see anywhere from his description, where the city actually gets in. The only place they get in is through the Inspector of Municipalities, so he, in his wisdom, is making a decision for the city and obviously he's got to be conversant with what is going on in the city. But where does it say in there that the city itself must have the overall picture on each one of these.

Mr. Chamberlist: Right at the beginning. The council may regulate the subdivision of land, and for that purpose may by bylaw. The council. Right at the very beginning.

Mayor Wybrew: Mr. Chairman, that also, I believe, brings up another point. What about Crown Lands that are within the boundaries of the municipality? What control would a local council have over the subdivision or use of them?

Mr. Legal Adviser: Mr. Chairman, you can tell them it's persuasive, rather than legal.

Mr. Chamberlist: In other words, the Crown cannot be instructed by a lower legislative body, but just as the same remarks apply to another Ordinance we were talking about is the fact that the Crown usually complies with legislation of a local matter, and I think that if I can say without fear of contradiction that the ...well I won't say without

Mr. Chamberlist continues....

fear of contradiction because contradiction might always occur, but I should say without fear that my stand is that if at any time the Crown or Territorial Government, if it owns land in the municipality, would not and should not, subdivide any land until clearance has been received from a municipality in relation to that particular land. I think this is their right to know about it and I would support...

Mr. McKinnon: Like approval for Capital Sites.

Mr. Chamberlist: Look. This was already done in 1961/62, so that work is done. There was approval for it. The approval is continuous, but it was approved, nevertheless.

Mayor Lehbauer: Mr. Chairman, I would like to just bring up one point here, that at times there is poor communication between the Territorial Government and the council, regarding the sale of property and for what purpose.

Mr. Legal Adviser: Do you mean where the Territorial Government sells property.

Mayor Lehbauer: That is correct. Within our Municipality of Faro.

Mr. Legal Adviser: Yes, well, I'm not really competent to speak about it. There are lots of sales of land in Faro, of course, but I'm just not competent to speak. You want to ask the Inspector of Municipalities for the details of it. I don't know.

Mayor Lehbauer: This would refer to zoning as well, Sale of land...

Mr. Chamberlist: Mr. Chairman, there is a separation between the function of the Territorial Government selling a piece of land, and the bylaws of a municipality as to what that land can be used for. In other words, if in, take the village of Faro, there are certain bylaws relating to what type of buildings or what type of businesses can operate on a piece of land. When the Government sells a piece of land it doesn't put any condition on it except that the land that is being sold is, of course, subject to the I don't think you've got the condition in, but there is a recognized condition that we don't say to the person who has bought the land, that they can use it for such and such a purpose. Because, it's not our function to say that. The municipality has passed bylaws in relation to that, and then it is entirely up to the person who has bought the land, either before they have bought the land so that they know what that area is zoned for, or after they have bought the land in relation to what plans and specifications they have as to what they are going to construct. Now, this is an area the Territorial Government want to keep out of. It is purely municipal. We will not interfere in any way.

Mr. Chairman: I think this would be an appropriate time for a short recess.

RECESS

RECESS

Mr. Chairman: At this time I will call Committee to order. We are discussing section 103.

BILL #10

Mr. Legal Adviser: Mr. Chairman, I think that we will finish the debate on it by saying, that we will look at them again. I think that the House has indicated that they want the Inspector of Municipalities to be changed to Commissioner, and then the section realigned to make it run easier. I don't think that there will be any change in the bylaw having to be approved governmentally, or the individual plans. I think, but I will review this, I think that it is necessary to give us an input into the planning stage, because in the Land Titles Act, only the Commissioner can block the registration of plans. The city can't. We may have to pick this up in the Land Titles Act eventually. We will review it.

Mr. Chairman: Alright, then may we proceed.

Mayor Wybrew: Section 104, is it?

Mr. Chairman: Section 104, next.

Mayor Wybrew: Mr. Chairman, local improvement bylaws, "any public work of the following character or description may be undertaken by the municipality as a local improvement:". The description here differs to that defined in the Taxation Ordinance. We prefer the latter, the Taxation Ordinance, with the addition of sewage disposal.

Mr. Legal Adviser: I think that this can be done. We had so many Ordinances to do, that we didn't get all the definitions matched up.

Mayor Wybrew: This differs to that defined in the Taxation Ordinance. We prefer the latter, as I say, with the addition of sewage disposal.

Mr. Chairman: Does that meet with the agreement of Committee? Anything further on 104? Section 105?

Mayor Wybrew: Nothing, Mr. Chairman.

Mr. Chairman: Section 106?

Mayor Wybrew: Nothing Mr. Chairman. I am sorry, could I just hold you for a moment.

Mr. Legal Adviser: There is one thing, Mr. Chairman, that should be done in relation to that one group of sections. That is to determine, Mr. Chairman, whether or not the consent of the whole city has to be sought for a local improvement in a particular area, and how the money bylaw situation will be handled there. I think that has to be looked at, because it is not clear.

Mayor Wybrew: There are your two mills that are completely ridiculous right now.

Mr. Chairman: This is going to be studied.

Mr. Legal Adviser: Yes.

Mayor Wybrew: The manner of financing local improvements. This is it Mr. Chairman. The loan is subject to money bylaw vote, is this the understanding, Mr. Chairman?

Mr. Chairman: Wait a minute. We are still on 106.

Mayor Wybrew: All ratepayers will approve local improvements, is that also, so Mr. Chairman?

BILL #10 Mr. Legal Adviser: The particular question was asked, and it was asked in relation to an earlier section. If a few sidewalks are placed in Porter Creek, does the ... and the Porter Creek citizens are going to be debited with the cost of the local improvement, does the money bylaw to borrow the money have to be passed by the whole of the City of Whitehorse, or is it sufficient to deal with it in the Porter Creek areas itself, by the people who are going to be benefited directly or indirectly. That has to be examined again.

Mayor Wybrew: And loans subject to bylaw? Did you say that?

Mr. Legal Adviser: Yes, it may have to be subject to a local plebiscite. It would sort of hurt the city a bit if every small expenditure in a particular small area had to be approved by the whole of the city.

Mr. Tanner: Surely, Mr. Chairman, the way to get around it, is by setting a minimum number of people or taxpayers or houses or something or another effective, for example if it is less than twenty-five, you don't have to do it this way, and if it is more than twenty-five, as an example.

Mr. Legal Adviser: I am not an expert in this field. I am sure that the Inspector of Municipalities will have some ideas on the subject.

Mr. Chairman: Anything further on section 106? Section 107?

Mayor Wybrew: Well, I think that it is in this part, Mr. Chairman, "where the Commissioner has incurred the cost of a local improvement within a municipality, the council of that municipality at the request of the Commissioner and on his behalf shall by bylaw assess, levy and collect by means of a special rate upon the parcels of land directly benefited or upon ..." Could you explain that?

Mr. Legal Adviser: I think for instance, in Porter Creek, the Commissioner has prior to the amalgamation, incurred the cost and put in a local improvement, and he is in the process of collecting money at the time of the transfer to the city, of Porter Creek, then the city becomes the tax collector, so the taxing authority so they should have part of the ongoing services, just pick up the tab on that and remit it back to the Commissioner to repay the capital cost. It is for items like that, you see.

Mr. Tanner: Mr. Chairman, I think that this is a question that has been brought up which is of great interest in this case. Supposing for example that the city, well it is not supposing, the city is now liable to collect our tax in that area. They make a payment to the Territory for the taxes collected. Do they pay for the total amount which is due, or do they only pay what they have collected themselves? If they only pay what they collected themselves, who is liable for what they can't collect?

Mr. Legal Adviser: The city is always very co-operative. They insist on the amount being paid.

Mr. Tanner: No, Mr. Chairman, you misunderstand me. Suppose for example they have to collect on the front footage rate in Porter Creek, the amount to pay for that service, water service in this case one hundred thousand dollars. They manage to collect only sixty thousand dollars. Number one, who then is responsible to collect the other forty thousand. Number two, if they have to pay it in a lump sum, who pays the interest on the amount that they haven't paid but they have paid out to us. They haven't collected what they paid us.

Mr. Legal Adviser: The tax defaulter is defaulty to a certain extent. In default on that tax as part of his tax bill which he gets from the city. The city's default procedure goes into operation to collect for us. They only remain liable to remit to us the capital cost repayment

Mr. Legal Adviser continues ...

of the scheme itself, which they collect, not what they haven't collected.

BILL #10

Mr. Tanner: Well, Mr. Chairman, that leads to the next question. In school taxes which the city again collects for us, who is liable, number one, for what they haven't been able to collect? Number two, if they pay the lump sum at the beginning, who pays the interest on the amount that they paid out, if they haven't been able to collect again from the taxpayers?

Mr. Legal Adviser: It is the same as any other tax, Mr. Chairman, as I see it. The city impose at the request of the Commissioner, a tax of sixteen mills, or whatever it happens to be. It is part of his tax bill, and when they collect it they start paying it back.

Mr. Chamberlist: The municipality, of course, get a great benefit that the Government of the Yukon Territory does not get. That is, there is a penalty on the taxes plus interest. The city keeps the penalty, and keeps the interest. They still only pay the taxes that are owing, the fixed amount. There is some money that is being kept by the municipality in that particular area.

Mr. Tanner: Mr. Chairman, I am still not entirely clear on this point, and I don't want to persue it now, but it is an interesting point and one that I think the Legal Adviser should bring to the House sometime during the course of this discussion on all these Municipal Ordinances. Who is responsible for taxes collected for the Territory by the city which are not collected? Who is responsible for the amount of money paid, which hasn't been collected?

Mr. Legal Adviser: The correct answer is the taxpayer, the defaulting taxpayer is responsible, and somebody must go after him. The city has the legal power to do it, so they do it. I will bring a full report to the Honourable Member on Tibbs Eve.

Mr. Chairman: Councillor Stutter will you take the Chair, please.

Mr. Taylor: Mr. Chairman, this section 107 bothers me. In the case of an existing municipality, where the Commissioner causes or has incurred the cost of a local improvement within the municipality, an existing municipality. Now, this I assume would normally be done by an agreement with that existing municipality. Now, let us take the new up and coming municipality, whereby there is possibly a sewer system involved, we will take Porter Creek, for a good example. If this section insists that the Commissioner having incurred the cost of the local improvement before the introduction of the municipality, mandatorily goes to that new municipality and insists, it says shall. There is no agreement undertaken between the municipality, or those to become a municipality and the Commissioner with regard to the expenditure. It is that word shall that bothers me. It is a mandatory imposition. It seems to me that there should be provision in 107 for the new municipality where by agreement with the Commissioner the municipality ... In other words put some safeguards in there for the people. This is, in my opinion, too dictatorial, bureaucratic or whatever you want to call it.

Mr. Legal Adviser: Mr. Chairman, we can review it. On reviewing it, it may need another section or another subsection to deal with the two distinct positions, where in the first case before it became a municipality if the improvement had been done and the taxes are a continuing thing, I think then that the word must be shall. The municipality must continue to collect those taxes to reimburse the Commissioner. It is part of the agreement when the hand over takes place. In an existing municipality, the Commissioner moves in, I think that he would always do it with the consent of the municipality, there is no harm in saying where with the consent of the municipality the Commissioner does a local improvement, then the municipality shall collect the taxes in accordance with any agreement that they have, or something like that.

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Mr. Taylor: You still have a situation whereby a local improvement could have been created in, say a local improvement district, be it streets, be it sewer, be it fire department, be it whatever it might. Through our budget system now, the money for that improvement has been paid from general taxation, or general revenues, let's put it this way and has been paid out of general revenue for instances, streets, and upgrading of streets and this type of thing. Alright, a certain amount of those moneys have already been received, this would give the Commissioner the power to come in and say, well notwithstanding we value the streets at such and such. We valued them at that three years ago. We are going to again pick up additional revenues to pay for these streets. I am not putting my point over very well. I wish I had a specific case in mind. What I am saying is, I don't feel that the Commissioner should make it mandatory upon his request that a municipality shall by bylaw assess somebody at a figure stated by him. I think that this should be a product of negotiation first, something has to be put in the middle there.

Mr. Chamberlist: Mr. Chairman, it must be clearly understood that the reason for that section in there is, where for instance in the case of a local improvement district, a local improvement has been made. The money for that local improvement was borrowed and that money has to be repaid. If it is repaid on a foot frontage, or if it is repaid in any other manner by the people in the local improvement district, and the local improvement district became a municipality, all that the section is saying is that same amount of money that was previously owing to the Commissioner must be repaid in exactly the same way. Instead of it being repaid by the people in the local improvement district, it is being repaid by the people in the same area who have become a municipality. It is not making any difference to the increase of money. It is the same capital expenditure that is being repaid. I think that this is the point. The Honourable Member is trying to say that the ... when a municipality becomes a municipality, it should not have to pay for anything that they received by way of services prior to that date. That means that the burden then, is shifted onto all other taxpayers in the area, and this is not the idea. The idea is that those people who receive certain services and receive certain improvements should be participating in the payment of them.

Mr. Taylor: Let me give you a case in point. I don't have the correspondence here, but possibly Mayor Wybrev would have a good idea on this one. Porter Creek, again, there has been a system, a sewer and water system or sewer system or water alone. There has been a system in there which we say is one hundred thousand dollar system. These moneys are being recovered by taxation at, I believe at fifty some odd cents a foot. Now, we are a municipality, under this section 107, the Commissioner merely directs the Municipality of the City of Whitehorse to collect those revenues. Now he has increased the price. I believe the price is now sixty-one cents per front foot. He has increased the price and he is insisting upon it. When I got involved with this thing, it baffled me that the Administration couldn't justify the jump from fifty some odd cents a front foot to sixty-one to the city and then naturally the city can't go to their ratepayers and justify it to them. It is a hodgepodge. I think that at some point prior to the bylaw assessing these people under municipal bylaw, there has to be some area of agreement. Something must be arrived at before the Commissioner has the right to force the municipality to levy a bylaw to collect that particular figure.

Mr. Tanner: Mr. Chairman, the Honourable Member is referring to the water system that was put into Porter Creek which involved approximately 460 homes. There are two charges actually. There are one for capital cost and one for operation and maintenance. The operation and maintenance cost fluctuates. The capital cost fluctuates a little bit because of interest charges and various other things. It has fluctuated the year before last it was a figure, it went down last year and it has gone up a little bit this year. That is to take in the unforeseen charges on the capital cost alone. As far as the operation and maintenance charges are concerned they haven't yet been levied. They will be levied by the city in what manner they deem fit. I think that the

Mr. Tanner continues ...

Honourable Member has got to realize that was a project put in by the Commissioner, the Territorial Government which they are liable to repay. They can't go directly now to those people and tax them, so they have instructed the city, maybe they requested the city or instructed the city, whatever you like, to collect that tax for them. They have the right and in fact they have the obligation to do just that.

BILL #10

Mr. Taylor: Yes, but I am saying that there should be some negotiation before these responsibilities are hoisted upon the municipality. This does not provide for negotiation. It just says if the Commissioner says you do it, you do it. This is what I don't like about section 107 in essence.

Mr. Tanner: Mr. Chairman, in this particular case when the city amalgamated those areas outside the city, in this case Porter Creek, they realized that they were going to take over the water system. It wasn't a matter of negotiation. Now, in the future if referred to this section, the way that I read it, the Commissioner doesn't go in until there is a request to go in. When he goes in, he has got to recover the cost that he incurs for going in there and getting some facility in operation.

Mr. Taylor: Alright, then let me put it in a different way. Let's say, that if a municipality upon receiving an order from the Commissioner ordering the municipality to pass a bylaw to recover certain amounts of money for a public works which he had caused to be done within that municipality. If the municipality felt that more revenues were going to be recovered than that which was actually owing to the Commissioner, who do they appeal to? In my opinion a municipality should have either some right of negotiation or some right of appeal.

Mr. Legal Adviser: Mr. Chairman, just one point. The drafting of the section is very precise as to what the Commissioner does and how much he can get. He can get the cost of the work, plus interest. The interest is the interest used in determining the cost of the work. It is laid out precisely. True, the Commissioner could ask the city to increase the mill rate on the property from fifty to a hundred, say fifty cents a square foot to sixty cents a square foot. If that was done game ball, it just means that the work is paid off sooner. The total amount that will ever be paid to the Commissioner is a fixed amount set out in the section. If the Commissioner tries to collect one cent more, the city can take him to the High Court and that is game over.

Mr. Taylor: Yes, this is what I want to know. Can the municipality take the Commissioner to court?

Mr. Legal Adviser: Well, let's put it the other way around. They don't have to obey the order if it is not a legal order. The legal order can only be to collect the cost. When the cost has been paid, then the debt is finished, they just say, we won't collect any more. If the Commissioner insists, the he would have to go to court and he would loose his case.

Mayor Wybrew: Well, Mr. Chairman, one supplementary question then. Would it be illegal for him to, in this case of Porter Creek, to also make that a tax burden to the entire municipality?

Mr. Tanner: Mr. Chairman, in this case this is a system which is by referendum and by the choice of the people in that area have chosen to take unto themselves. He cannot, the way I read it, anyway at all spread it over the whole municipality. In this case I understand that it is a contract between the Commissioner and those 460 people who contracted to get under that system.

Mr. Legal Adviser: It is either a special rate on the parcels of land which are benefitted or a special rate upon that land and the municipality. It can share the cost. This will depend on what the

Mr. Legal Adviser continues ...

BILL #10 municipality has agreed to at the time of the handover.

Mr. Chamberlist: I think that the whole sentence should be read. It says, "as the case requires". Now this is the important, obviously you see, there again, here is a matter of where the Commissioner doesn't take a bludgeon. He goes to the municipality and he points this out. The point that has been raised by the Honourable Member from Watson Lake bothers me a little, because he is talking about fifty-two cents and sixty-one cents. This doesn't come into the picture here at this time, this just indicates that where there has been an improvement carried out prior to a municipality being formed, that improvement should be paid for in the manner that it has been paid for prior. Now, if there has been any correspondence which disturbs the municipality at this time, and it isn't factual, this is a matter of where the administrations of the municipality and the Territorial Government work this out between them. There might be different errors made. In this particular section here, this only deals with the means of doing it. The means is this, "where the Commissioner has incurred the cost of a local improvement within a municipality, the council of that municipality at the request of the Commissioner, and on his behalf shall by bylaw assess, levy and collect by means of a special rate upon the parcels of land directly benefited or upon that land and the municipality as a whole, as the case requires, ...", now what he is saying, there are two things that he has to make by way of request. He is going to say to you, now either way one or way two. He is going to ask for the cost of such local improvement with interest at the rate of interest used in determining cost of work as advertised in the notice. What is unreasonable about that? All that is being asked to agree to is that the cost of the work and the interest involved in raising the money for that particular cost, with no extra interest upon and over that should be collected. Surely, it is up to the municipality to work out with the Commissioner's officers at the time that this request was made how much that should be. Over what period of years it is going to be, and what the interest will be as a result. It may be that that particular ... that those particular funds were borrowed from the Federal Government to do that particular job, and to be repaid after a series of ten, twenty, twenty-five years. Now, if that is the case, the Government of the Yukon Territory, then to meet its commitments to the Federal Government must get those funds back in exactly the same manner. Surely this is an administrative function between the administration of a municipality and the Administration of the Territorial Government to work out the house-keeping and the proceedings for collecting that money. I don't think that we should attempt to read in it, in this section what is not in there.

Mr. Taylor: Well, Mr. Chairman ...

Mrs. Watson: Mr. Chairman, I believe the Legal Adviser can explain why that the municipality as a whole is included in there. I think that this is the hangup. Would you, Mr. Legal Adviser, explain?

Mr. Legal Adviser: Mr. Chairman, there are certain types of local improvements which specially benefit people who live right beside it, and benefit to a lesser degree the people who are near by, but do in fact benefit the whole of the municipality. I can think of say supposing we had a small bridge across the river, the Yukon River. It might specially benefit the people who are living on the far side in a special way. They might be adjudged to pay more in the original agreement with the city or whoever it was. People nearby on this side might pay a little bit less, and the municipality as a whole might be required to share up to fifty percent of the capital cost of the bridge between them. Then that is what would happen when the rate was set. This kind of programing is a very normal thing in lots of our public improvements. A water supply is the same way. A man may pay the section outside his own door, be double that cost, but everybody in the area may benefit because of the possibility of being able to connect on to it. The same with the sewer, the same way. They may only pay the cost of a six inch main, but in fact on his

Mr. Legal Adviser continues ...

street you may put in a twelve inch main because it is a collection point. Therefore you debit the extra six inch cost to the municipality as a whole. It allows a certain amount of flexibility. I am sure that Mayor Wybrew is quite familiar with the way that this actually works out in practice. I don't think he has made any objection to it. He has just asked for an explanation.

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Mayor Wybrew: I am not in full agreement with this, you know. We must determine the manner of financing local improvements. We must determine who votes on that plebsicite for local improvement if the money is to be raised by bylaw. Do all ratepayers vote on it? The Legal Adviser states that if a bridge is built, other people may benefit, but they may not, also.

Mr. Tanner: Mr. Chairman, I think that one of the purposes of this whole Ordinance is to put questions like that where they belong, and that is in city council not in this Council. I think that the reason that you won't find that spelled out here is because it is a decision that has got to be made in your council, Mr. Mayor.

Mr. Taylor: Mr. Chairman, I don't think that as long as this 107 is to remain as it is without any changes being made in the review acceptable to at least to myself, I would then insist in relation to the new municipalities that you include back in section 6 which has certainly got to be reviewed, which specifies the notice put in the newspaper circulating in the area proposed to be established as a municipality, the area proposed to be included, the estimated or actual population of the area. The estimated assessment of property in the area. The estimated mill rate which will be required to be established in order to meet the commitments of the proposed municipality in each of the first two years following its establishment. I think that at this point if you leave 107, you must include into 6 the amount of money which it is ... which the Commissioner intends to recover in terms of local improvements he intends on making the responsibility of that municipality.

Mr. Legal Adviser: Mr. Chairman, just one point. In a place which is not a municipality, which is the case of Watson Lake, it is the provisions of the Taxation Ordinance which apply, which this House read the other day. Subsection 54(1)"the Commissioner shall consult with the taxpayers in any area liable to pay a tax in respect of a local improvement, and where a majority of such taxpayers agree, the Commissioner may construct a local improvement. (2) Prior to the construction of a local improvement, the Commissioner shall determine, according to the preference of a majority of the taxpayers concerned, the manner in which the costs thereof shall be levied or charged." If he is putting a local improvement into Watson Lake it is the Taxation Ordinance section that he must apply, not the Municipal Ordinance.

Mrs. Watson: Mr. Chairman, if the local improvement was put in before the municipality was incorporated, the same agreement the Commissioner as the taxing authority has made with the property owners, would be the agreement that the new municipality picks up, and they fund that money that is collected by that agreement to the Commissioner. Isn't this the purpose of this section?

Mr. Legal Adviser: Yes, if you move from being a non-municipal area, if you move from a local improvement district or village, then this section will have already prescribed the choices, the tax and the method and when the new municipality is created, this other section comes into play to pick up and make legal the collection of the tax to fund the cost of the local improvement. The two are linked together in that way. They don't provide for a choice. If you provide a choice, the council of the municipality, of a new municipality would want to be in the same choo~~se~~to collect money and hand it over to the Commissioner, when in effect they can steal two million dollars worth of improvements and not have to pay for them at all.

BILL #10

Mr. Chairman: I wonder if I might ask from the Chair. Why it is not spelled out in 107? Why it isn't worded that where the Commissioner has incurred the cost of a local improvement before the formation of a municipality ...

Mr. Legal Adviser: Mr. Chairman, he also does it afterwards at the request of the . . .

Mr. Chairman: Then put before or after. I think that this is a point that is ...

Mr. Tanner: Section 54, he had the right to do it before, pick up the obligations before the municipality became one. If he does it afterwards, if he goes in and can do it again afterwards, so what is the point of putting before and afterwards, because it is all one and the same thing. In fact that is really what it says without saying before and after.

Mr. McKinnon: I understood this up to this point. I understood why this section 107 had to be in there. In the case of Porter Creek, you couldn't find a better example. When a place is now a municipality as it would read and as I am starting to understand now, the Commissioner can still go into a municipality and incur the costs of a local improvement and then demand that the municipality repay it. Is this correct?

Mr. Legal Adviser: If he is requested to do it. As I understand it there are many occasions when the Commissioner is requested to construct a local improvement. He agrees with the terms of the deal ... the terms of the deal are agreed before he puts a shovel in the ground. Once it commences the agreement continues and this validates the work of the municipal council in carrying out their side of the agreement afterwards.

Mr. McKinnon: Where does it lie down the conditions on where the Commissioner may get involved in the local improvements within a municipality. It reads here, the Commissioner could go in, do a local improvement even without the consent of the municipality and then charge the municipality for the improvements, the Commissioner may validate, but the municipality says no improvement at all, we didn't want the ... thing.

Mr. Legal Adviser: There is nothing in this Ordinance which allows the Commissioner to construct a local improvement within a municipality at all.

Mr. Chamberlist: Mr. Chairman, with respect if we look at 107(1) and then at 107(3), read them together. Subsection 107(3) "where a council has passed a bylaw pursuant to subsection (1), the amount of money collected pursuant to that bylaw shall be paid by the council to the Commissioner." Now, it is fairly obvious that if the council hasn't passed the bylaw pursuant to subsection (1), they couldn't go ahead and do the necessary collections for it. Now, it may be that at some date, the council of a municipality may not have the funds to perform a local improvement, and as a result of negotiations that take place, a municipality asks the Commissioner to do a certain local improvement. The Commissioner says, fine and it has to be collected in such and such a manner. So, this is the way that it is done. I think that perhaps what the Honourable Member from Dawson, the point that he has raised is a point that has some value, Mr. Legal Adviser, Mr. Chairman, and I would suggest that we look at that to see more clearly outside the debating forum here to see if we can do something to clarify that particular point that has been raised.

Mr. Taylor resumes the Chair.

Mr. Stutter: There is no use persuading my point any further, they are going to examine it.

Mayor Wybrew: There is just one point, Mr. Chairman. Councillor Watson raised a good point with regards to local improvement and using

Mayor Wybrew continues ...

Porter Creek as an example. I think that Councillor Watson used that, the agreement on the capital expenditures or recovery. The agreement that was made. My understanding was fifty-two cents, right.

BILL #10

Mr. Tanner: While I was out just now, I was checking those figures because off the top of my head fifty-two cents came to mind and there was a reduction of something like twelve cents. Until I check it out I can't make out for sure if that was on the O & M or on the capital. I think that the capital was consistent, but I can check it out. That is why I asked the question yesterday if Honourable Members will recall.

Mayor Wybrew: Council has been requested to raise it to sixty because it was seventy-six in 1970, which it was not so, it was fifty-two in 1970 and fifty-two in 1971. This is very confusing to us.

Mr. Tanner: Mr. Chairman, I don't want to get into debate with the Mayor on these figures until such time as I have checked them out for my own satisfaction.

Mr. Chamberlist: It has no bearing on this, because this is a legislative paper and if there is a problem between correspondence between the administration of the city and the administration of the Territorial Government that is the place to raise it, so that you can ask them to clarify what they are asking for. To come and ask us while we are going through legislation, to clarify dollars and cents when it comes to that we can't do that.

Mayor Wybrew: No, I didn't ask that. I didn't raise the point. I raised the point, Mr. Chairman, about prior agreements. If one existed then it would be unaltered as raised by Councillor Watson.

Mr. Tanner: I can probably have those figures in a few minutes, and maybe the Mayor and I can talk about it outside. But it's very important that you hang on for a couple of seconds.

BILL #10

Mayor Wybrew: Surely. Agreed.

Mr. Chairman: O.K. I understand then that 107 is up for revision. 108?

Mayor Wybrew: No comment.

Mr. Chairman: 109?

Mayor Wybrew: 109 Mr. Chairman, "Where, in the opinion of the council, any work or local improvement benefits the municipality generally and it would be inequitable to raise the whole of the cost thereof by local special levy, the municipality may pay out of the general funds of the municipality, a portion of the total cost thereof." Is this subject to section 82 restricting capital expenditures to two mills?

Mr. Legal Adviser: Yes, Mr. Chairman, it would be.

Mr. Chamberlist: Well it will be reviewed all in the same area.

Mr. Chairman: 110?

Mayor Wybrew: No comment.

Mr. Chairman: 111?

Mayor Wybrew: I have no comment.

Mr. Chairman 112?

Mayor Wybrew: No comment.

Mr. Chairman: 113?

Mayor Wybrew: No comment.

Mr. Chairman: 114?

Mayor Wybrew: No comment.

Mr. Chamberlist: I wonder if we could hear from the other Mayor as well.

Mayor Wybrew: Well he is speaking too.

Mr. Chairman: I think if anybody wishes to say that it is not necessarily so, may comment. 115?

Mayor Wybrew: 115 Mr. Chairman, "Subject to the Public Health Ordinance and the regulations made thereunder, the council may, with the approval of the Commissioner, pass bylaws for the purpose of constructing, operating and maintaining a water supply and purification system, sewage and drainage system and establishing a tariff of charges to be assessed against the users thereof". Could I refer to this? I have a question on this. Could we go on, Mr. Chairman.

Mr. Chairman: Alright. We'll go on to 116.

BILL #10 Mayor Wybrew: 116 Mr. Chairman, "providing for the supervision," this is (a), "regulation and licensing of taxi cabs, hearses, ambulances not operated by the Federal or Territorial Governments," the council may pass bylaws, you understand, "and buses not operated in accordance with a set time schedule", could you clarify that Mr. Chairman?

Mr. Legal Adviser: The regular carriers are outside this section. The charter buses, private buses, and so on, they're covered.

Mayor Wybrew: Private buses, I don't understand.

Mr. Legal Adviser: Well buses that are out for hire but a bus which runs on a timed schedule like the Greyhound buses isn't covered, if it operates in and out of Whitehorse on a set time schedule.

Mayor Wybrew: Strictly charter buses then.

Mr. Legal Adviser: Airport limousine is not on a set time schedule.

Mr McKinnon: If the city sets up a bussing service and sets a timed schedule for buses then they have to come under control of the city government.

Mr. Legal Adviser: That isn't the purpose of this section, it's not to deal with that, this is to control private operators not to have the city controlling itself. I'm not sure it would have in this Ordinance at the present time the power to set up an internal kind of service of its own. Perhaps, but I don't recollect putting it in. I don't recollect anybody asking for it, or dreaming about it. This is something for more like Victoria or Vancouver rapid transit system or the Whitehorse rapid transit system.

Mr. Chamberlist: There has been no request from the municipalities to provide for the granting of transportation franchises.

Mayor Wybrew: "the council may pass bylaws in accordance with a set time schedule", well we are asking why the exemption, or the exception rather.

Mr. Legal Adviser: I don't know why you ask a straight question, Mr. Chairman, I just don't know why, I can't recollect. But the purpose of it is clear and that is, the regular run buses and not in.

Mayor Wybrew: You would like to hear from us on this then

Mr. Chairman: Do we have anything further then in 116?

Mayor Wybrew: 116? No comment.

Mr. Chairman: 117?

Mayor Wybrew: Yes, Mr. Chairman, Domestic Animals Bylaws (a), "for restraining, prohibiting and regulating the running at large of dogs," what is the definition of running at large? Does it mean when it is off the owners property? What does it mean?

Mr. Legal Adviser: Mr. Chairman, running free, born free and running free. If it's tied up it's not at large, if it's within a compound it's not at large. I can't define it any better than that.

Mr. Chairman: Just for your edification, under the Dog Ordinance, running at large means to run off the premises of the owner either when the dog is not muzzled or when the dog is not under the control of any person. I don't know if this applies or not.

Mr. Legal Adviser: No. There's a special definition for the Dog Ordinance. You have to go back to your dictionary to look it up, but in general terms every magistrate knows what it means.

Mayor Wybrew: You, would say then, would you that this means off the owners property?

BILL #10

Mr. Chamberlist: With respect, Mr. Chairman, when we are getting asked questions like this from the municipality when there is a whole section that in the bylaws do whatever you want, and ask your own legal adviser while your preparing bylaws for that matter. We have tried to give you, really as wide a scope that has been requested, and now we are being asked what this particular thing means and what does that particular thing mean?

Mayor Wybrew: We are not supposed to ask, is this it?

Mr. Chamberlist: I'm not saying that, you should ask whatever you like, but within reason.

Mayor Wybrew: Running at large is very important, like the Legal Adviser points out, before a magistrate.

Mr. Legal Adviser: What it says is that they may make bylaws for impounding or destroying dogs running at large in contravention of any bylaw respecting dogs, so in your bylaw you say what must be done and you put a penalty when the dog is caught or his owner is caught doing something else. Then, that being so you impound or destroy. Largely you face your own definition by saying what can be done or not done in accordance with the bylaw.

Mr. Chairman: In other words, the municipality then can determine what they determine as "running at large" is defined notwithstanding this Ordinance?

Mr. Legal Adviser: No, they can't define something that is in the Ordinance. But, within that framework they can certainly, run at large themselves

Mr. Chairman: I think, it would have to be defined would it not?

Mr. Chamberlist: If a dog runs at large, you put the owner on a leash.

Mr. Chairman: From the Chair, if we don't know what it means, if we don't know what the legislation that we pass through this Table means, then we should not be passing this type of legislation.

Mr. Legal Adviser: We know what it means, Mr. Chairman, I have already explained what it is. It is a dog which is not tied up, or not in a compound. That is what it is. A dog, when it is running free, or capable of running free, you might say it is running at large. It is not an idle term, it is easily understood and as I said, every magistrate knows what it means, and justice of the peace.

Mr. Chairman: Is there anything further then, on 117?

Mrs. Watson: Did we miss any animals or birds, Your Worship?

Mayor Wybrew: No, I see you have got mules and asses in there, that's good.

Mr. Chairman: 118?

Mayor Wybrew: 118, "Subject to the approval of the Commissioner, the council may by bylaw grant a franchise;" We are wondering why a municipality cannot operate a utility, or a transit system, or an electrical distribution system? We have to get Commissioner's approval. It is just a point.

Mr. Chamberlist: I am not going to go over the same answers, because it is the same answer every time, when "to the approval of the Commissioner" in there, whatever I have said before on other sections, apply here.

Mr. Chairman: Clear then on 118?

BILL #10 Mr. Legal Adviser: Mr. Chairman, of course Mayor Wybrew may not be familiar with the facts, the Electrical Public Utilities Ordinance is actually on its way through this House. Whether it will be passed or not is another thing, but it will put further restrictions on the operations of this subsection. At that point in time the Commissioner's approval will be a rubber stamp because he will only approve it, if the board has approved it.

Mayor Wybrew: It is just again, one and two approval upon approval, that's all. It was rather confusing to us. That's it, Mr. Chairman.

Mr. Chairman: 119? 120? 121? I should point out that we noticed a typographical error in 121(2) and (3). In (2) line 1, should refer to subsection 1, and subsection (3) should be subsection (2) and (1) respectively. 122? 123?

Mayor Wybrew: Mr. Chairman, on (5), "The council shall, by bylaw, prescribe the date for renewal of licences or registrations and shall prescribe the duration of licences and registrations, except when a licensee must have a Territorial licence, in which case, the municipal licence and registration shall be for a full year and expire on the 1st of April of the year following. I think, study should be given to the possible effects of this, on the disruption of municipal administration. All municipal licences are for the calendar year.

Mr. Legal Adviser: The intention was, not to convenience the municipality, Mr. Chairman, but to convenience the particular person who is taking out the licence, so that his two licences would be coterminus, that was the intention. It may not work for awhile, but that was the intention, to relieve the individual.

Mr. Chamberlist: A good example is the cocktail lounge, an example, you might have Territorial licences from April the 1st, and if the other city licences is a calendar year licence you have two different dates involved. It is just to bring them both together.

Mr. Chairman: Anything further on 123? 124?

Mayor Wybrew: On 124, Mr. Chairman, Trailers and Trailer Parks, the definition of mobile homes, mobile home parks and mobile home subdivision. I think this is going to be looked into, is it not by the Legal Adviser?

Mr. Legal Adviser: The Legal Adviser is about to sneeze, Mr. Chairman.

Mr. Chairman: Proceed.

Mr. Legal Adviser: Yes, Mr. Chairman, what was the question?

Mayor Wybrew: Mr. Chairman, 124, Trailers and Trailer Parks, define mobile homes, mobile home parks, mobile home subdivision? It was my understanding that the Legal Adviser was looking into that, you remember it came up prior.

Mr. Legal Adviser: Yes, one of the Members spoke to me and he was concerned as was the Mayor with the definition of trailer and trailer park, and the different definitions that exist in some city councils and what have you, and I assured them that the intention of the drafting of this Ordinance is to give the widest possible power over owning trailer parks, controlling trailers within the municipality, from every point of view. We chose wide definitions, and that is what we have done here, so far as possible. Any area the Mayor sees is not covered where they need any authority I think there would be no difficulty in expanding the section to meet with his wishes.

Mr. Chairman: Anything further on 124? 125? 126?

Mayor Wybrew: 126, Mr. Chairman, municipal trailer parks, "The council may pass bylaws for acquiring, establishing, maintaining the operating..." I'm sorry it is 127 I was to speak on.

Mr. Chairman: 127.

Mayor Wybrew: 127, "The council may pass bylaws for licensing, regulating and governing trailer parks and for designating areas of land to be used as trailer parks, and for prohibiting the use of other land for such purposes," I am just wondering, provisions for mobile homes subdivisions such as Porter Creek, how would this apply to the existing area?

Mr. Chamberlist: The intention of the trailer park is also a mobile home park so it would give you the freedom to do what you want to do.

Mayor Wybrew: This is subdivision, you see that exists now, other land for such purposes.

Mr. Chamberlist: If it is a case of subdivision, the same thing really matters, it provided the subdivision and it is presented in the usual way... We are not going to interfere, in any way, with a municipality wanting to put a trailer court in there. We just want to get out of the picture as much as possible.

Mr. Legal Adviser: This is a section which is in the old Ordinance ...

Mr. Chamberlist: If, it is within the municipality, Mr. Chairman, we are just not concerned because it becomes a zoning problem of your own, as long as a subdivision is submitted for approval, the plan of the subdivision, not the location...

Mayor Wybrew: I am talking about the regulation and so on etc. here, I think you are missing my point, maybe it doesn't interfere in any way with municipal operation, or the right to control the area but the Territorial Administration or Government is selling land in a mobile home district, naturally what they call trailer lot. Will this interfere with municipal control of that particular area, back behind Porter Creek, do you know what I mean?

Mr. Tanner: Mr. Chairman, there are sixty-five lots being sold, I think they have all been sold now in Porter Creek, and I can give you that information but I didn't hear the rest of the question.

Mr. Legal Adviser: Mr. Chairman, it would not be the intention at any time of the Territorial Government, to sell a lot or land for a purpose which was not permitted in the place in which the lot was to be found.

Mr. Tanner: Mr. Chairman, just as a matter of interest, at the same time those sixty-five lots were sold, the Territorial Government went to the citizens of Porter Creek and asked what their opinion was about selling those lots and the citizens said, we would like you to sell them, go ahead and this is where we would like them sold. The Territorial Government at the same time made a commitment that they would open up more lots for trailers in another area of Porter Creek and I would be interested to know whether the city is going to continue that policy?

Mayor Wybrew: Provisions for mobile home subdivision, should it be in there that the Council has that power?

Mr. Chamberlist: That wasn't the answer to the question my honourable friend just put. The question was this; if the Territorial Government prior to amalgamation at the request of the people in Porter Creek, prepared and provided, rather provided sixty-five lots for trailers. They were asked, the Territorial Government was also asked to supply more lots for that purpose. Is the City of Whitehorse going to continue with that promise that was made by the Territorial Government?

Mayor Wybrew: Mr. Chairman, in all fairness we are not against such a program but this is the first time I have ever heard that the Territorial Government promised this. It is unknown to me.

Mr. Tanner: Mr. Chairman, I threw it out for a light-hearted banter here, to keep things warmed up. It is something that I will be talking to the City about, as an individual living in Porter Creek and the promise that was made that there would be more trailer courts but really this isn't the time to discuss it. I thought I might bring attention to it.

BILL #10 Mayor Wybrew: Well it's news to me. Why, do you think that we should have provision for mobile home subdivision here, to give the council the authority?

Mr. Legal Adviser: Mr. Chairman, there is no requirement to have it there, the place to have it is either in the zoning area, we could zone for it, or the subdivision of land. Unless, the city itself wants to take, acquire the land, develop it and so forth, in which event then it will be under a different area altogether.

Mayor Wybrew: They are talking about trailer parks all the time, what I am talking about is mobile homes subdivisions. There is a big difference between a subdivision and a trailer park.

Mr. Legal Adviser: We appreciate this Mr. Chairman.

Mrs. Watson: You will have to have it in both sections.

Mr. Legal Adviser: A good place to put it is in the zoning or the subdivision of land and I think the sections are wide enough there to allow them to do it.

Mr. Chairman: Anything further then, on 127? 128?

Mayor Wybrew: 128, "Where any bylaw made under the provisions of sections 123, 124, or 126 of this Ordinance conflicts with the provisions of any ordinance or regulations made thereunder, the regulations shall prevail."

Mr. Legal Adviser: That is a typographical error, Mr. Chairman, it should be the ordinance or the regulations shall prevail.

Mr. Chairman: The ordinance or the regulations shall prevail.

Mr. Chamberlist: In the last sentence. The ordinance or the regulations. Could you say this Ordinance or the regulations?

Mr. Legal Adviser: We are talking about any ordinance, it could be Motor Vehicles Ordinance, it could be Public Health Ordinance, Fisheries Ordinance, Game Ordinance, any one of these ordinances.

Mr. Chairman: Then in line three it would read, "or regulations made thereunder, the ordinance or the regulations shall prevail."

Mr. Legal Adviser: Yes, Mr. Chairman.

Mayor Wybrew: I see, Mr. Chairman, do the regulations prevail over the ordinance or what?

Mr. Chairman: They would both prevail over the bylaw.

Mr. Legal Adviser: Yes, because the law is made by this House as opposed to the slightly more junior Government.

Mr. Chairman: No that is not right, the ordinance is law made by this House and the regulation is law made by the Commissioner's edict and by-law

Mr. Legal Adviser: Regulations are made by the Commissioner under the authority of this House and not his own authority, whatever regulations he ever makes it is this House speaking through their delegated authority.

Mayor Wybrew: Do the regulations prevail or the ordinance then?

Mr. Chairman: The ordinance prevails over the regulations. The regulations prevail over the bylaw. Anything further then on 128? 129? 130?

Mayor Wybrew: No comment.

Mr. Chairman: 131?

Mayor Wybrew: 131, Mr. Chairman, "Subject to this section a council

Mayor Wybrew continues ...
may pass bylaws to erect and maintain parkades." What about off street parking lots? To erect and maintain, you don't erect a parking lot.

Mr. Chamberlist: If you want to call a parking lot a parkade, where you park cars.

Mayor Wybrew: No, it is just ...

Mr. Chamberlist: If you put asphalt in a lot, you have constructed a parkade.

Mr. Chairman: Yes, but it doesn't give you the word constructed here, you can only erect and maintain.

Mr. Chamberlist: I would suggest you read the rest of it.

Mrs. Watson: Mr. Chairman, I don't like to go back, but I wondered if there were any comments from the municipalities regarding 129(f) because this is completely up to their recommendations.

Mayor Wybrew: No comment.

Mrs. Watson: Is it enough?

Mayor Wybrew: I, just for one moment could, to make sure.

Mr. Chairman: I believe the question asked by Mayor Wybrew, the answer to it might be found in 131(3)(d).

Mr. Legal Adviser: Mr. Chairman, I think, the answer is to be found in section 92(1)(f) which gives the power to the municipality to acquire land for parking places "Establishing, controlling and regulating parking stands or places for vehicles or any class thereof on any highway or other public place or on any lands acquired by the municipality for parking purposes or designated as parking stands or places." The question, Mayor Wybrew asked was, did this section give them power to operate off street parking facilities on the ground as opposed to a parkade, without actually constructing the thing.

Mayor Wybrew: Did we not have a parking stand, I don't know what that means, parking stand? A parking stand is a place where you have two white lines and a meter in front of it.

Mr. Legal Adviser: It is a stand. Is the question what the difference between a parking stand and a parking place? The parking stand would be the part of the place where it was designated for parking purposes, like a taxi stand.

Mr. Tanner: Mr. Chairman, I'm confused what section are we doing, referring to that.

Mr. Chamberlist: We have gone past that section,

Mr. Chairman: 131.

Mr. Tanner: I suggest that we go on to 132 then.

Mr. Stutter: I would like to go back to 129. This is the question that Councillor Watson just brought up, I was half way drowsing when she brought up this point of were the municipalities in favour of this one-half mill on the current taxable assessment. In Dawson's case that would be either five hundred dollars or twelve thousand, which ever is the lesser. I think, we should review that half mill bit there.

Mr. McKinnon: Mr. Chairman, I made a point when we went through this the first time, I'll make it again that on 129(f) should read, "authorize the making of grants to any person, society or organization, other than a hospital or nursing station, in the municipality. Period. I think the municipality should have the ability to give grants to organizations,

BILL #10

Mr. McKinnon continues ...

charitable organizations, hospitals to the limit that they feel their purse can stand without it being based on some type of a mill rate. I for one, am tired of going to city council meetings and being used as a whipping boy by different organizations in town, by the city council. They want responsibility, give them responsibility. The last one was the Y.W.C.A. that went in looking for an grant from the City of Whitehorse, they say, we can't give you a grant because that mean dirty old Territorial Council just let us have a grant up to such and such a basis. Well, to heck with it, they have got to be responsible and look after the peoples' money and they have to make the decision of what grants they can give and I think we should give them that responsibility and there should be a period after "municipality" there. I think that upon the review that is what the Honourable Members and the Executive and Legislative Programming, should leave that section.

Mr. Chamberlist: This is quite true, this is the way we want to do it, but I think, that Councillor Watson was trying to get from the Mayor, specifically Mayor Wybrew, what his reaction is to this because there is a continual asking for power to do things themselves, but he remains deadly silent at this time in relation to this particular point. I would like to hear whether he wants the responsibility of making sure how much money they can get in grant. It will be guided by what he says here.

Mayor Wybrew: Certainly, and that is fair and I appreciate that, but I have made a note along with three other points that we are to give you a proposal, an answer on. I would like to discuss this with council, we will be coming back to you on it. The Chairman ruled that anything we wished to come back on we could, so I have made these notes.

Mr. Chamberlist: I was wondering if the Mayor would like to indicate his own feelings about this particular thing.

Mr. Chairman: The Mayor indicated that he had no hard feelings, at the moment, he just wished to ...

Mr. Chamberlist: Be quiet and let him answer the question.

Mayor Wybrew: We don't like using you as a whipping post, I'll admit that, there is a lot of pros and cons here, I do feel that council should have the opportunity to give me their feelings and I will be meeting with them and I will give it to you in writing.

Mr. Tanner: Mr. Chairman, of course the two members of the Executive Committee realize they still have an out, the City has still got an out on this. They can say sure, we will give you as much as you like, but you try and get anything out of the sixteen mills we collect in the Territory for school tax. We maybe should find another way, so we have got him pinned right down and they can't get out at all.

Mayor Wybrew: I appreciate these remarks, Mr. Chairman, like let us pin him right down, let's do everything, you know we will come on to where everybody can go to jail for doing this and that and the other, and all these stringent controls and yet we want to take away autonomy.

Mr. Chairman: 129 (f) is under review, agreed? Anything further on 130? 131?

Mayor Wybrew: I am looking at (d) "borrow money for the purposes of carrying out provisions of this section and issue sell debentures... and invest the same and make payments from such fund with the approval of the Commissioner...." This would be self supporting, Well my note is, what is the effect of a money bylaw vote, Mr. Chairman, if this would be self supporting? I am just trying to bring it into focus quickly for you, sorry about that. You see, we are running parkades and invest the sums and so on and so forth. The City can make payments on such funds with the approval of the Commissioner again. We are talking about autonomy, pin him down.

Mr. Legal Adviser: Mr. Chairman, I don't think the Mayor understands that there is a special series of provisions in the parkade which is designed to hold the balance between the legitimate desires of the City, to get the thing paid by getting putting the taxation on property owners and the amount that must be charged to casual visitors to the city who would not be subject to taxation in the ordinary way, it is a very special series of sections in this bylaw making power.

BILL #10

Mayor Wybrew: Mr. Chairman, "where petitions are filed with the clerk within the period of time mentioned in subsection (4), signed by a majority of the owners affected and who represent at least one-half of the assessed value of the land and buildings within the specially benefited area, the Commissioner shall not approve the proposed bylaw." Why Commissioner, why not the council shall not approve the proposed bylaw?

BILL #10

Mr. Legal Adviser: It earlier mentions "Commissioner may approve," you see subject to his approval, but this tells him how to operate an improvement. That is all. These are very carefully put together.

Mayor Wybrew: Would it change the careful way in which it was put together if that said city council instead of the Commissioner?

Mr. Legal Adviser: I would have to reread it in detail. I will put it this way, we will look at it and see if it would change it. If it wouldn't change it, then we can check it.

Mayor Wybrew: Fine. Subsection (6) "the council may, subject to the approval of the Commissioner, allocate such portion of the revenue from parking meters or such portion of all other parking revenues as it may deem proper, to be paid into the reserve fund referred to in paragraph (3)(d)." This is a further control. We look upon it as a further control over council decision making.

Mr. Legal Adviser: This whole thing is a package, Mr. Chairman, and I impress this on the mayor that it is a package. If we start tinkering with it, take out the paper, the package will fall apart.

Mr. Chamberlist; Mr. Chairman, I am sure that His Worship must understand that when you are dealing with a section of this particular description, that you can't take one section out and say, why are we doing this until you read the other sections. Then you will see the requirement for doing these things. If there is a suggestion being made on the principle of the section, and if His Worship could indicate whether he is opposed to the principle of the section or not. Certainly we can have some idea of what is requested to be reviewed. But, to pick out the sections and say what is meant by these and then having to deal with the whole lot, it is almost impossible.

Mayor Wybrew: Mr. Chairman, I can appreciate Councillor Chamberlist's remarks. We have read this, and what we are asking is (5)"Commissioner". Why not the city council and not the Commissioner?

Mr. Chamberlist: We said yes, we will review it.

Mayor Wybrew: You just asked me to say why we did it. Why we are asking. Subsection (6) "subject to the approval of the Commissioner..." for the control, why not elimination of that? Now we go to (8)"where the revenues from the operation of a parkade will permit, the Commissioner may make such changes in the levies made under paragraph (3)(f) for the following year as he may deem proper." Why can this not be the prerogative of city council? They run it anyway. I know that perhaps it is a buffer and all this. (10)"the Commissioner may review annually the schedule of fees, rents, rates or charges made by the council for the use of space in a parkade and may order the council to make such changes therein as he may direct." That number 10, we think shouldn't be there. This is our feeling.

Mr. Tanner: Mr. Chairman, I think that the whole idea here is to get the city off the hook between two different parties and let the Commissioner act as mediator or a buffer between the two various parties. One party wanting to reduce the rates and one party wanting to increase the rates. Unless you look at that whole section with that in mind, it doesn't make any sense to take the Commissioner out or put him in anyway. You either have him there all the way through and

BILL #10

Mr. Tanner continues ...

accept the theory or you take him out and forget the whole thing, and we start again in looking at the parkade. Inevitably it has been the experience, looking back in other jurisdictions, that there has been discussions and fights going on in city councils between the merchants, the people using the parkade, the businesses and so on. The basic theory is to use the Commissioner as a buffer, to really get the city off the hook of a dilemma they might get in in the future. You have either got to accept that theory and read the whole section that way, or come up with another suggestion and not accept the theory. There is no point in picking out here and there where the Commissioner is.

Mayor Wybrew: I can appreciate that, Mr. Chairman, but the revenues from parking meters. City council should have the right to use those where they want. This is the feeling of council, not without the Commissioner's approval or he can direct where they go. Those are the notes there, Mr. Chairman. I don't know if my ...

Mr. Tanner: Mr. Chairman, would the Legal Adviser agree with my definition of what that paragraph is all about?

Mr. Legal Adviser: This is basically what it is for, to let the Commissioner hold the balance. It has become customary in many big cities, and I suppose Whitehorse is the biggest city of all, to debit portions of money from the revenue of parking meters into constructing internal city centers spaced for the convenience of the public and the merchants in the area. Who better than the Commissioner to decide what ... how the revenue will go in the inevitable disputes that will occur between the merchants and the public over the parking.

Mr. McKinnon: Well, Mr. Chairman, I won't buy this patronizing attitude. I have fought too damn long in this House for the little bit of control that we have at the Council Table of the Yukon Territory. I don't see how an elected Member of this Legislative Council cannot really sympathize with the city council's position. When they are given the ability, and it is still under 131, still subject to the approval of the Commissioner and with the affirmative vote of all the members then, and only then are they able to do these number of things to provide for parking within the city. Even after they have done all these things and been subject to the Commissioner's approval, then any further changes they want to come about in the rates or fees charged, if they want to, as I say, change the fees, the schedule of fees, the Commissioner has to approve all these things. "Where the revenues from the operation of a parkade will permit, the Commissioner may make such changes in the levies", the council may subject to the approval of the Commissioner where petitions are filed with the clerk, the Commissioner shall not approve the proposed bylaw. I think that these should be the responsibility and on the shoulders of the council of these municipalities. They shouldn't be able to get off the hook. They shouldn't be able to say, well look it, we would do things this way, but we have to apply to the Commissioner, and he has decided to do things this way. Though we would like to help you, we can't. This should be the city council's responsibility. They should stand up and be counted. They should stand up and say yea or nay around the table. We are just patronizing them by saying well look it, we will give you a third party in here. We will give you the Commissioner. We will let him take the blame for you. We will let him be the buffer for you. We have laid the blame on the Commissioner for years and years around this Table, and finally we are able to give it to an Elected Member, which is the right order and progress of government and exactly the same way that it should be in the Municipality of the City of Whitehorse, and exactly the same argument that I used that they shouldn't be allowed to use the Territorial Council as a whipping boy or use the Commissioner as a buffer zone. For crying out loud if you want the argument as a right to make your own mistakes we'll give you enough rope and you will hang yourself. That is what democracy is all about, and that is what we should be looking for when we are going through this Municipal Ordinance. I agree. I sympathize. I have real feeling for them when they say, give us the

Mr. McKinnon continues ...

control. Don't try to patronize us, we will make our own mistakes. If we have got the ability to do that, we have got to give them the ability to do it because that is what we have been crying for around this Table for so many years. I agree with the members of the city council. Let's get the Commissioner out of there, if we can. It is no skin off the nose of the Territorial Council or the Commissioner, in fact it would benefit the both of us. It puts the responsibility right where it lies, and that is on the shoulders of the elected government at the municipal level where it should be. They make the mistake, they should be responsible for it. They do something good, they should get the ado and the pats on the back.

BILL #10

Mr. Chamberlist: Well, Mr. Chairman, I agree generally with the overall statements that have been made. I wonder what consideration the Honourable Member who has just spoken has given to a private entrepreneur who wishes to put in a parkade, and he is restricted from putting in his own parkade. This deals with..subject to this section a council may pass bylaws to erect and maintain parkades. This is where it is municipally-owned parkades. Now, what happens in the case of somebody who wants to build his own parkade? Is there going to be ... is the municipality going to put stops in their way, because they want to build municipal parkades? This is one of the reasons why the Commissioner is in there as well in that area, so that there isn't a restriction, that the municipal council doesn't abuse its authority by preventing a private operator from putting a parkade in. This is the only gap. It is not saying that the Commissioner is going to stop the municipality at any time. Otherwise if there was an assurance that the municipality would not interfere with a private operator by putting in a parkade. We haven't got that in here. What assurance do we know, what assurance do we have that a municipality would not after it has two of its own parkades up, and a private operator wanted to put a parkade up, how do we know that the municipal council would refuse to grant a licence to do that, in its own interests? Here is a point that has to be thought of as well. Otherwise I agree with the general comments.

Mr. McKinnon: We are really going to go off into a philosophical argument, which isn't the place to do it here. That is the municipality's business. If they want to limit, and if the people who elected them agree that they can limit the business of private entrepreneurship in the benefit and for the benefit of the city, and the people still support them in it, then it is the city's prerogative. If the people don't agree with them doing these things in the best interest, there is what we hope and we still have left in this country, the democracy of the ballot box to get rid of them because they think that a private entrepreneur or somebody else could do the job better than they do. I mean, it is the argument, who is going to go fight if the people, I am not going to, but the people of this country decide that they would rather turn to a socialist type of government than of free enterprise, that is a person's prerogative. That is the public's prerogative. That is their right to choose the type of government that they want then to do these things. If they agree with the city doing it at the expense of private entrepreneurship, and think that the city can do a better job, they're the people who elect that city council, it's their right and the city's right to do it, not the Territorial Council's business to interfere in the running of a parkade. Or, who is going to be the best beneficiary of different types, whether government or a private entrepreneur. I don't want to get into that type of argument.

Mr. Chairman: Order please, I wonder if I might just interject at this point. I have been trying to get the attention of Members here. While this is a most interesting debate that has been going on, we do have a shortage of stenographic help this afternoon. I think that it would materially assist Clerk's office, if we could consider postponing our deliberations until tomorrow morning. Would this be agreeable? It just puts an extra burden on the staff. We are also short one machine at the same time. I am asking for concurrence or

Mr. Chairman continues ...
otherwise of Committee? Can I have your direction?

BILL #10

Mr. Chamberlist: I disagree. I propose that we go along until 4:45 as we have arranged to do. We have arranged amongst ourselves that we will continue until 4:45.

Mr. Chairman: I am only saying in respect of the staff. However, it is whatever Committee thinks. Does Committee agree that we continue?

Mr. Chamberlist: Mr. Chairman, the Honourable Member from Whitehorse West expounded a philosophy that most of us agree with but by the same token he missed out the very, very important point, that we in this Legislative Chamber have also our rights. If we put legislation in, and it is disagreed with, then it will be thrown out. So, I think that what we should do, is to put that protection in. If we have done wrong, we will be thrown out. I find nothing particularly wrong from that point of view, except that I say there must be protection put in there for the private entrepreneur. The Honourable Member from Whitehorse West is always standing up and speaking about the protection that should be given to the free enterprise system. Here we are offering to give that, and make sure that the municipal council will not in any way step in where free enterprise at times cares to tread. The Honourable Member from Watson Lake is also from time to time saying not to interfere with the free enterprise system. I am saying that by having the Commissioner in there, it is a stopgap inasmuch as the Commissioner will not at any time abuse that right. He is no longer that individual that he has been in the past, and that is a one person decision. I personally see nothing wrong in that particular section. It is protection that we as legislators have to make sure that is all for the benefit of other people besides the City Council of Whitehorse. That part is under review. We are going to review the whole section, Mr. Chairman.

Mr. Chairman: Have you anything further on 131?

Mayor Wybrew: Section 131, Mr. Chairman, is it not number 10 there in 131, "the Commissioner may review annually the schedule of fees, rents, rates or charges ..." and so on and "may order the council to make such changes therein as he may direct.." Is this not transported from somewhere else in the Ordinance?

Mr. Chamberlist: We are going to review the whole section.

Mr. Chairman: The question was, was it not transported from some other section in the Ordinance? Was subsection 131(10) transported from some other section of the Ordinance, I believe was the question?

Mr. Legal Adviser: No, subsection (10) is part of the parkade section.

Mayor Wybrew: And it is recorded that city council feels that subsection should come out.

Mr. Chairman: I believe the record will show that.

Mr. Chamberlist: I wonder if His Worship would say, that the Whitehorse City Council have it, because His Worship said that the city wanted this to come out. I want it to be recorded that there are other municipalities involved. With respect, Mr. Chairman, he said the City of Whitehorse.

Mr. Chairman: Section 132?

Mayor Wybrew: No comment.

Mr. Chairman: Section 133?

Mayor Wybrew: No comment.

Mr. Chairman: Section 134?

BILL #10

Mayor Wybrew: No comment.

Mr. Chairman: Section 135?

Mr. Stutter: Mr. Chairman, I would like to move that Mr. Speaker do now resume the Chair.

Mr. Tanner: I haven't heard any one second that motion. I think we might as well go right down to section 138.

Mr. Chairman: I am at the direction of Committee, but I wish that Committee would make up their mind as to what they are going to do.

Mr. Chairman: Section 135?

Mayor Wybrew: No comment, Mr. Chairman.

Mr. Chairman: Section 136?

Mayor Wybrew: No comment.

Mr. Chairman: Section 137?

Mayor Wybrew: No comment.

Mr. Chairman: Section 138?

Mayor Wybrew: No comment.

Mr. Chairman: Now, is this as far as you want to go?

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

Mr. Tanner: I will second the motion, Mr. Chairman.

Mr. Chairman: Alright, I wonder if the witnesses might be excused at this time. I wonder gentlemen if it would be possible for you to join us tomorrow at possibly 9:45 a.m. Thank you very much. It has been moved by Councillor Chamberlist, seconded by Councillor Tanner, that Mr. Speaker do now resume the Chair. Are you prepared for the question? Are you agreed? I declare the motion carried.

MOTION CARRIED

*MOTION
CARRIED*

Mr. Speaker: The House will now come to order. May we have a report from the Chairman of Committees?

Mr. Chairman: Yes, Mr. Speaker. Committee convened at 9:50 a.m. to discuss Public Bills, Sessional Papers and Motions. Mayor Lehbauer of the Village of Faro and Mayor Wybrew of the City of Whitehorse attended Committee to discuss Municipal Legislation. Committee recessed at twelve noon and reconvened at 1:40 p.m. I can report progress on Bill No. 10. It was moved by Councillor Chamberlist seconded by Councillor Tanner that Mr. Speaker do now resume the Chair. This motion carried.

Mr. Speaker: May I have your further pleasure?

Mr. Taylor: Yes, I believe that it is the intention, Mr. Speaker of Committee to further discuss Municipal Legislation tomorrow.

Mr. Speaker: May I have your further pleasure.

Mr. Tanner: I move that we call it five o'clock, Mr. Speaker.

Mrs. Watson: I second that motion.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse North, seconded by the Honourable Member from Carmacks-Kluane, that we now call it five o'clock. Are you prepared for the question? Are you agreed? I declare the motion carried.

*MOTION
CARRIED*

MOTION CARRIED

Mr. Speaker: This House now stands adjourned until 9:30 a.m. tomorrow morning.

ADJOURNED

ADJOURNED

Mr. Speaker reads the daily prayer. All Councillors are present.

BILL #10

Mr. Speaker: Mr. Clerk, is there a quorum?

Mr. Clerk: There is Mr. Speaker.

Mr. Speaker: The House will now come to order. Are there any Documents or Correspondence to be tabled? Are there any Reports of Committees? Are there any Bills to be introduced? Are there any Notices of Motion or Resolution?

Mr. Taylor: Mr. Speaker, I would like to give Notice of Motion this morning respecting the Yukon Legislative Council. I would further like to give Notice of Motion respecting the logo symbol of the Yukon Territory.

Mr. Speaker: Are there any further Notices of Motion? Are there any Notices of Motion for the Production of Papers? As there are no Motions for the Production of Papers or Motions, we come to the Question Period. Mr. Clerk, will you see if the Commissioner is available? We will now have a short recess.

RECESS

RECESS

Mr. Speaker: The House will now come to order. Are there any questions?

Mr. Taylor: Yes, Mr. Speaker, I asked a question of Mr. Administrator yesterday morning. Possibly Mr. Administrator wasn't aware of the situation. I am wondering if I can redirect the question now, to Mr. Commissioner, Mr. Speaker, and ask him when we can expect the promised paper on the Watson Lake check point?

*QUESTION
RE
WATSON LAKE
CHECK POINT*

Mr. Commissioner: Well, Mr. Speaker, I know of no promised paper on this. If my memory serves me correctly, earlier in this Session I was asked if we were proceeding to construct or proceeding with plans for the Watson Lake Check Point that would put it into the category of a customs type station. My answer was that there has been no further plans drawn on this, or no further attempt made for construction until such time as the budget and certain papers in connection with the budget have been to this House and either are approved or not approved, Mr. Speaker, and there is no change in that situation.

Mr. Taylor: Mr. Speaker, in light of the fact that the Commissioner is replying to my question on Wednesday, February 2nd, and in view of his reply stating that there is a paper coming to Council which will have some bearing on the finalization of this project, could I again ask Mr. Commissioner when this paper will be forthcoming?

Mr. Commissioner: This is correct and that is taken out of context, Mr. Speaker, because I mentioned specifically the budget, either immediately prior or immediately after that and the paper is definitely coming and this is a budget matter.

Mr. Chamberlist: Of which, with respect, Mr. Speaker the Honourable Member knows about.

Mr. Speaker: Any further questions?

Mr. McKinnon: I don't get very excited about these things, but since everybody in the Yukon has seemed to have seen the proposed logo for the Yukon Territory except the Members of the Yukon Legislative Council, I wonder if Mr. Commissioner could bring the logo and the details of it before Council at his earliest opportunity.

*QUESTION RE
LOGO*

Mr. Commissioner: Mr. Speaker, I think that this is another item that will come again in budget time and as far as this proposed logo is

BILL #10

Mr. Commissioner continues ...

'concerned, I don't know whether it has been described in Council or not, but there is certainly no particularly vast secret about this, Mr. Speaker. It is an item that will be coming in full detail at the time the budget is taken.

Mr. McKinnon: I realize, Mr. Speaker, that the monies for the new logo will have to come in the budget, but I mean can we see the actual physical idea of what the logo for the Yukon is going to be. People are coming up to me, some are saying "congratulations, a beautiful logo," some are saying "I hate the new logo!" I haven't seen the logo, I don't know what they're talking about. I wonder if we could see it.

Mr. Commissioner: Mr. Speaker, certainly there is no reason that I am aware of why you can't. I don't know whether I have seen it myself to tell you the truth, but this is kind of beside the point. Leave the matter with me and I can assure the Honourable Member that...In fact I was going to suggest that we would attempt to bring the models of this here, live size into the Chambers, but perhaps this might not be an acceptable situation.

Mr. Taylor: Mr. Speaker, I have a written question requiring a written answer which I would direct to the Member from Whitehorse East. 1. Have treatment and counselling facilities been established anywhere in the Yukon Territory for persons involved with drug use or abuse? 2. If so, have such facilities been advertised by any method to the general public? 3. If so, generally what is the nature of such programs? I have a further written question this morning, Mr. Speaker, directed to the Honourable Member from Carmacks-Kluane. 1. Has a program of narcotics education been instituted within the Territorial school system? 2. If so, at what grade levels is such a program in effect? 3. Generally what form does this instruction take?

Mr. Speaker: Are there any further questions?

Mr. Commissioner: Mr. Speaker, I have an answer to a question that was asked by Councillor Stutter on February 2nd; I wonder if I could give this answer this morning. The question; have any plans at all been made for sewage treatment plants within the Yukon Territory, particularly regarding municipalities? The answer that is made available here this morning Mr. Speaker, pertains only to municipalities. I think the Honourable Members know that there are two basically privately-owned sewage treatment plants in the Yukon Territory, one being located at Clinton Creek and the other one being located at Faro, or in connection with the Anvil Mine. No planning studies have been carried out for sewage treatment plants for Yukon municipalities. Mr. J. S. Wishart, a Regional Engineer of National Health and Welfare did identify preliminary community needs in July of 1970, as a water pollution control and solid waste proposal position paper. Detailed sewage treatment plans had not been drawn for any municipality mentioned in this report. Several sewage treatment improvements have been carried out since this report, these consist of expansion of the sewage lagoon, a new force main in Watson Lake and an expansion of the sewage lagoon at Haines Junction.

Mr. Speaker: Councillor McKinnon.

Mr. McKinnon: Mr. Speaker, the Speech from the Throne in the other place yesterday, mentioned the proclamation of the establishment of a National Park in the Yukon. Would the Commissioner inform this House where the National Park will be located in the Yukon, and when it will be proclaimed?

Mr. Commissioner: Mr. Speaker, I am not at liberty to give an answer to that question at this time and I would ask that the second part of the question...I should have that information available within the next few days and I will see that the House is so informed, as quickly as I can.

Mr. McKinnon: A supplementary question, Mr. Speaker, will the Yukon Legislative Council be involved at all in the establishment of a National

Mr. McKinnon continues ...
Park in the Yukon?

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Mr. Commissioner: Mr. Speaker, the only method that I know, that I am aware of through my Minister to establish a National park is through a schedule or a necessary amendment to the National Parks Act which will have to be passed by the Parliament of Canada. The normal consultive process that is entailed in the Parliamentary process, I am sure would bring opportunity for the consultive process to this Council and to other interested members of the public in this matter.

Councillor Stutter: Mr. Speaker, I would like to ask the Commissioner a question that I am sure he has been asked several times in the last couple of days while he has been at Old Crow. Have any plans at all been made or any studies been made to alleviate the erosion of the bank in Old Crow, in front of the R.C.M.P. barracks and the rest of the Village.

Mr. Commissioner: Mr. Speaker, apparently we have two major problems in Old Crow, one of them created as a consequence of the building of the airport in which we have destroyed, or disrupted the natural drainage in the community. The other one is the action of the river eroding away the bank in front of the town. The latter is the one referred to by the Honourable Member and there has been considerable work done on this and I think, the situation at the moment is being dealt with through our Highways and Public Works Department endeavouring to secure monies from any Federal department or any source in order to get certain work done. If the Honourable Member would give me time on this I would bring forth a detailed answer exactly where this matter stands.

Mr. McKinnon: Including the drainage problem.

Mr. Speaker: Mr. Commissioner.

Mr. Commissioner: Mr. Speaker, I don't think that there is very much I can offer on the first part of the question, the drainage problem. It will be some months before we can offer a solution to this, but certainly with regard to the erosion problem of the river bank, this has proceeded far enough that I can bring some worthwhile details before the Honourable Members. I don't want to infer, Mr. Speaker that the drainage problem is not getting attention, but it is not too easy a solution, as I understand it.

Mr. Speaker: Councillor Taylor.

Mr. Taylor: Mr. Speaker, it was reported in the media that informed sources within the Department of Indian Affairs and Northern Development, in Ottawa stated that they did not anticipate at this time, changes to the Yukon Act, however that any constitutional change may take the form, as they put it, "programs and policies". I wonder if Mr. Commissioner could advise Council this morning as to whether or not he is aware of what these programs and policies are and what form they may take?

Mr. Commissioner: Mr. Speaker, the only source of information that I have on this matter is the same media to which the Honourable Member refers and if and when anything more concrete comes forward and gets to my attention, I will be happy to see that the Honourable Members are made aware of it.

Mr. Speaker: Are there any further questions? We wish to thank the Commissioner for his attendance. As there are no Private Bills or Orders and Public Bills, may I have you further pleasure?

Mr. Taylor: Mr. Speaker, I would move that Mr. Speaker do now leave the Chair and Council resolve into Committee of the Whole for the purpose of discussing Bills, Sessional Papers and Motions.

Mr. Speaker: Is there a seconder?

Mrs. Watson: I second the motion, Mr. Speaker.

BILL #10

Mr. Speaker: It has been moved by the Honourable Member from Watson Lake, seconded by the Honourable Member from Carmacks-Kluane, that Mr. Speaker do now leave the Chair for the purpose of convening in Committee of the Whole to discuss Public Bills and Sessional Papers and Motions. Are you prepared for the question? Are you agreed? I declare the motion carried.

MOTION CARRIED

Mr. Speaker: The Honourable Member from Watson Lake will please take the Chair in the Committee of the Whole.

Mr. Taylor takes the Chair.

Mr. Chairman: At this time I will call Committee to order. I believe we left off at section 138. I would ask this morning for indulgence of Committee to try and speak one at a time they are having difficulty with the recording apparatus. I think we are down to one recorder at the moment and the other one is heating up or something of this nature. The Chair would appreciate it, if we keep our discussions to one at a time. Have you anything up to 138?

Mayor Wybrew: Mr. Chairman, we want to express appreciation to the Territorial Councillors for the consideration they have extended to us, and the right to refer back to two or three points that were given to us. If I could perhaps at this time, Mr. Chairman, subject to your approval of course, refer back to section 76. I have given what we think would be a fair and appropriate ...

Mrs. Watson: Mr. Chairman, I wonder if His Worship would speak up, we are not able to hear him down here.

Mr. McKinnon: Remove your snow removal equipment.

Mayor Wybrew: If we could refer back to 76 of the Municipal Ordinance, I have put around what I feel would be fair and proper in respect to these sections, subsection 1 "does not apply so as to require the assent of the taxpayers to a bylaw passed" and (a) "when the monies to be borrowed are to be used to pay for local improvement works under section 104..." I think I would be just wasting time to read it all. In each of these cases, Mr. Chairman, you will find that water is a necessary thing, sewer lines are a necessary thing. This should be subject to council's initiative to provide wherever they are so able to do. It shouldn't be subject to plebiscites and things of that nature. These are normal operating requirements of any city. It is just like a fire hall, having a plebiscite to buy a fire truck that is essential to the protection of the people. Certainly, some people might vote against a fire truck, but the guy who loses his home is very concerned about there not being a fire truck and the same thing applies to water and sewage systems. I am sure that regardless of who might be serving on city council they will be competent enough to decide what is required for the efficient operation of the community.

Mr. Chamberlist: Mr. Chairman, we have indicated that this will be reviewed and with these further suggestions that have been made by the Mayor of Whitehorse, we will also take these into consideration. I would like to have indicated, Mr. Chairman, from His Worship, if it would satisfy him if section 131, dealing with parkades was removed entirely. It doesn't matter at all to the Government whether you have it in or not, it is just that we are trying to be helpful. If you do not wish to have it in, we are quite prepared to take it out.

Mayor Wybrew: We appreciate that very much, Mr. Chairman. I have one question in reply though, if it is not in there and the city wishes to buy a piece of property, say from revenues from their parking meters or whatever the case might be, would they be permitted? It is my understanding that certain things, if they are not in the Ordinance, the city cannot exercise that right.

Mr. Chamberlist: Mr. Chairman, in that area yes, they certainly can; there is nothing stopping them from doing that.

Mr. Legal Adviser: Mr. Chairman, there is already a section in there, which permits them to acquire land for off street parking purposes. The section doesn't possibly contemplate the building of a building, but it certainly contemplates the purchase of land for off street parking purposes.

Mayor Wybrew: Thank you very much, Mr. Chairman.

Mr. Tanner: To give the city complete assurance that they can do so, I would suggest rather than remove the whole section you would leave in; 131(1) and strike everything else.

Mayor Wybrew: That seems quite fine, Mr. Chairman, I think the Legal Adviser has explained to us that parkades include off street parking at a ordinary parking lot.

Mr. Legal Adviser: There is two separate things, Mr. Chairman, I don't think that is quite what I said. There is a section in here that allows the city, not the parkade section, to acquire land for parking purposes and to establish parking area, the parkade one, contemplates the actual building of a building for car parking purposes.

Mr. Tanner: Mr. Chairman, just to clarify a little further, I would suggest that we keep in 131(1) less the first four words and strike the rest.

Mr. Chamberlist: I have no objection to that, Mr. Chairman, all it would read then would be this: 131(1) "A council may pass bylaws to erect and maintain parkades". Just leave it at that?

Mrs. Watson: With the definition of parkade.

Mr. Chairman: Is Committee generally agreed to this proposal? What is your feeling in respect of 76? Is it up for review?

Mr. Chamberlist: Yes, Mr. Chairman, this will be reviewed with the overall picture.

Mr. Chairman: Committee is agreed then that this will be reviewed taking into consideration the submission by the municipalities.

Mayor Wybrew: I would also like to express, Mr. Chairman, our appreciation to the fact, that they know the ordinances that are before them fairly thoroughly because they have given so much consideration to them and study. We haven't had that length of time and you have been very considerate in our hesitancy on certain points in trying to analyze them before we answer them and we appreciate that as well.

Mr. Chairman: We will proceed then.

Mayor Wybrew: Could we, Mr. Chairman, like I said we have that other point on the question of the two mills. Section 82. I couldn't find any similar restrictions in the B.C. or Ontario Municipal Acts in this regard, but section 314 of the Alberta Act reads as follows and I would like to read this to you and see if you are prepared to consider this to replace the other. "Notwithstanding anything in this act, a council may make an expenditure for, or create a liability for any capital purpose authorized by this act if; (a) any debt created thereby is repaid within three years and (b) yearly payments of principal and interest under clause (a) do not exceed an amount equivalent to 5 mills on the assessment of the municipality upon which the taxes are levied".

Mr. Chamberlist: Mr. Chairman, we have indicated we are going to review that section because it also takes in those other sections 75 to 81 where we have already had a suggestion by the city because I don't think Council could give an opinion at this time until we are able to examine the value in dollars and cents involved, but we certainly will take a look at that.

Mayor Wybrew: Would you then, Mr. Chairman, want me to provide you with copies of this particular section before your study?

BILL #10 Mr. Chamberlist: I am sure, Mr. Chairman, that the Government of the Yukon Territory has the copies available.

Mr. Chairman: Mr. Legal Adviser, would you have a copy?

Mr. Legal Adviser: We have copies of all the Alberta Statutes.

Mayor Wybrew: 314, the Alberta Municipal Government Act. There is the other point that was raised in regard to 123 subsection(5). An explanation was given in regard to this section, in regard to liquor outlets, but Mr. Chairman, we are wondering about a computer system for the city. The change in the computer system or data processing system.... we do use a calendar year and besides liquor outlets we have construction firms and all of the service industries, taxis, and it goes on and on. We are licensing on a calendar year, and it can cause us bookkeeping problems but will not affect the employers of the industry.

Mr. Chamberlist: There is no objection, Mr. Chairman, we thought we would just make it easier for the city council but if the city council feels it doesn't make it easier, we have no objection in this area.

Mayor Wybrew: Thank you very much. In 118(1), Mr. Chairman, we would of course, appeal to Council to give the municipality the right to operate a transit system, electrical system, voted for by the taxpayers without Commissioner's approval. It is the taxpayer that is the responsible person in this instance. I can only say really that, is the Commissioner more important than the express wishes of the taxpayers? It is a democratic action and we would like to appeal to you to extend that right to the municipality.

Mr. Chamberlist: This is a point, Mr. Chairman, where Government can't see eye to eye with the municipality and the Government must have some control, there must be a stopgap in that particular area. I would not myself, support that type of thinking because the senior government must have an area where they can step in when the public at large, generally, is being abused in any way. Just to be there so in case this happens, however we will be prepared to discuss it again afterwards, that is my reaction.

Mayor Wybrew: With respect, Mr. Chairman, I mentioned that it must be voted for by the taxpayers within the municipality.

Mr. Legal Adviser: Mr. Chairman, there is a major departure in policy here, that the particular section to which the Mayor refers in section 118, is not intended to deal with the position of the municipality providing its own service. It is merely to control how a franchise is to be granted and that is controlled in respect of electrical public utilities and the transport public utility by two Ordinances of the Territory. It is a separate deal altogether to put it in a section or to not put it in a section, giving the municipality to provide a particular service whether it is a rapid transit service, electrical service, telephone service and so on itself. It is a different policy point and doesn't arise out of this section. Since the Mayor has requested consideration be given to it, then it can be examined on its own merit and independently of the franchise section.

Mayor Wybrew: Thank you, Mr. Chairman, the one last thing before we go on then, that I have is: on 115(1)(a), just clarification, in the column you notice "Water supply and sewage treatment", (a) for the purpose of constructing, operating and maintaining a water supply and purification system.. Purification of the drinking water that is what is intended I am sure, but then it says "sewage and drainage system and establishing a tariff of charges to be assessed against the users thereof;" I am just wondering if that could be reworded so that it states that this will include a sewage treatment plant, or does that mean that legally.

Mr. Chamberlist: No objection to that at all, it means that we are talking about ... A sewage treatment plant is part of a sewage system, it becomes part of a sewage system and if the municipalities want it spelled out to include a sewage treatment plant, we have no objection at all.

Mayor Wybrew: Thank you. Mr. Chairman is it 138, did you say?

BILL #10

Mr. Chairman: This takes us then back to section 138 which we have included. 139?

Mayor Wybrew: On 139, Mr. Chairman, this is the B.C. Act word for word, even to the dates. 139(1), "On or before the 30th day of November in each year, the council shall cause to be prepared a provisional budget for the succeeding year." This actually is a make-work project, there are again imported restrictions, not asked for and we don't feel they should be a requirement. We also feel it is an erosion of municipal control over its own affairs. That is the feeling of council on this matter.

Mr. Legal Adviser: Mr. Chairman, the Mayor mentioned that this is a copy even to the dates of the B.C. system, this isn't quite correct. The dates here are programed dates, to effect two purposes, one is to link in with the calendar year which is used by the municipalities, so that a provisional budget is ready and parallels the preparation of a budget by the Territory for the purpose of each side in knowing what money, in the case of the city will be granted to them and in the case of the Territory, know what money has to be set aside in the budget, in its preparational stages for the city. It is at this stage that the budget for the Territory is being prepared and being squared away with Ottawa. The other dates, dealing with this are programed into the tax collection dates and the imposition of taxation dates for both the Territory and the city. The Territory is tied into dates which must take account for accounting purposes of the financial year and the city must take into account that every second year there will be a new council coming in and taking charge on the 1st of January. We are linking in a whole system of dates in this which His Worship the Mayor, can get from us, in detail, as to why each date is picked because it is picked in relation to a series of interlocking things and if he has any suggestions to change it, he is welcome to, but there is a definite reason for each date.

Mayor Wybrew: Mr. Chairman, section 139 (1) "On or before the 30th day of November in each year", the way it has always worked in the City of Whitehorse, the council in office at that time, prepares a budget for the following year. That budget is given to the new council and they study it very carefully and they make final determinations and that is the budget. That budget is sent, as a courtesy, to Commissioner Smith.

BILL #10

Mr. Chamberlist: That is the provisional budget, so that we know what you are doing on this. We are asking for exactly what you have been doing before.

Mayor Wybrew: No, with respect Mr. Chairman, it states that it shall be done before the 30th day of November. It's restrictive and a make work project.

Mr. Chamberlist: Just to reply to His Worship, Mr. Chairman, usually nomination day is December 6th or the first Monday in December and the election is ten days after. So, really what we're saying is that the council at that time has until November 30th, which is a date as close to the calling of the nomination as possible to prepare that same provisional budget that they're going to give to the succeeding council to deal with. This is what is being done.

Mayor Wybrew: I agree with Councillor Chamberlist, Mr. Chairman, but now they're being told they must do this and they feel they are able to run their own affairs and do what is required.

Mr. Chamberlist: Mr. Chairman, with respect, we are told by our senior government to do this and we're telling the junior government to do this. It's exactly the same thing that's being done. There's a requirement upon us to supply information to the Federal Government when they have to in turn, request funds through their Treasury Board for the Territorial Government. Some of those funds are the funds that we in turn have to pass onto the municipal government. I don't think we're going beyond what is asked of us. I think this is a reasonable way, by allowing you the longest date possible to provide the provisional budget. Now, we've used the word "provisional", and I think this might be the hangup. We're saying that that provisional budget, that preliminary budget, is the one that must be given give an indication of what the requirements will be by as late as possible before the next council is elected, November 30th.

Mr. Tanner: Mr. Chairman, isn't this piece of legislation, this section 139, in effect what the city council.....we're merely formalizing it anyway.

Mayor Wybrew: Mr. Chairman, it's formalized in the next year. We make up....

Mr. Tanner: Mr. Chairman, isn't it in effect... you have been doing this, but we are now putting it in as legislation so that it's understood for all councils throughout the Territory.

Mayor Wybrew: Mr. Chairman, this is correct. We have been making up a preliminary budget for the new council and it is completed by the end of December, for the new council to go over and adopt and amend as they see fit.

Mr. Tanner: Mr. Chairman, I suggest that the Mayor had always done this and it's merely being put into the legislation when in effect you have been doing it anyway and I really can't see any objection....

Mr. Tanner con't....

ILL #10

All we're doing there in that case is making the people who are running in the elections, making sure they've got something to look at. The people who are elected have got something firm to work with. From what I understood from what the Mayor said, he's been doing it anyway. I can't see what his objections are except that it's been moved forward one month. In effect, you probably were ready on the 30th of November but you had it tied up together by the 30th of December.

Mayor Wybrew: No, Mr. Chairman, depending on the situation from this area too, sometimes a preliminary budget has not been completed until January. Where you must know...there are times when we have not known and you can't do something about something that you don't know. I would also point out, Mr. Chairman, that anybody running in the election should have this. Anybody that lives in the City of Whitehorse can examine the books, files or anything they like at anytime they wish. It's not a requirement.

Mr. Legal Adviser: Mr. Chairman, if the principle is accepted by the city of the advanced preparation of a provisional budget, followed by discussions on it and a final budget; I'd ask him to bear with us on the dates. We're on a treadmill. We must prepare all our forward estimates five years ahead and then for the individual years, they must be prepared at that point of time. This is dictated by the fact that the Department of Northern Affairs themselves, have to appropriate funds or ask for the appropriation of funds for us. They must then go to someone else, and so on and so forth. Then the date and all the earlier dates are fixed in relation to it. We might be able to discuss a week here or there with the Mayor, but if we discuss the matter with our officials who have chosen this programming time, he might get a bit of leeway. If he'd accept the principle, I'd ask him to leave the date to be fixed by us because we're the centre part of this particular treadmill.

Mrs. Watson: Mr. Chairman, we've heard from the Mayor of the City of Whitehorse regarding this matter, I'd like to hear if the Mayor from Faro has any objection to this or whether he feels this could be programmed into this.

Mr. Chairman: Mayor Lehbauer?

Mayor Lehbauer: Mr. Chairman, regarding the November date. Of course, the closer you get to the end of the calendar year the better you are prepared to go on historical facts. That is the only point I would bring up. Certainly, we are quite capable of preparing a preliminary budget by the 30th of November. In private practice we are continually preparing budgets anyway in business, years and years ahead of time. However, as I say, the closer to the end of the calendar year on budgeting of course, the easier it is and the more factual the information is going to be that you can put out.

Mr. Chairman: Will there be anything further then on 139?

Mayor Wybrew: Yes, on (3), Mr. Chairman, "until an annual budget is adopted, no expenditure shall be made that is not provided for in the provisional budget except with the approval of the Inspector of Municipalities." Now, the City of Whitehorse feels this is an interference. It implies a lack of confidence and responsibility and council feels that it is responsible to the electors and not to the Inspector and really it is an unnecessary section.

Mr. Chamberlist: Mr. Chairman, it may be quite often that a provisional budget is brought forward and there's a necessity to expend certain monies. Certainly, the Government of the Yukon Territory want to know if there's an urgency in spending some of those monies. Some of those monies that are going to be expended are monies that are going to be

Mr. Chamberlist con't...

given to the municipality by the Government of the Yukon Territory. I find nothing wrong with somebody wanting to know, before you spend it, what it's going to be spent on. There again, there's not a continuing refusal on the part of the Inspector of Municipalities, once the question is asked. It has to be dealt with on its particular merit. These remarks about an infringement on the right of the municipality, the municipality must recognize that we also jealously guard our legislative prerogatives as well. We don't want to have an infringement of our rights here. The Territorial Council, when approving legislation, have to consider whether to give our rights up too. In this area I find nothing wrong. There's a protection for the people, the little people, that some Members speak about so often. This is where we have a very important function to perform. Again, I say in this area I find no objections at all.

BILL #10

Mr. McKinnon: Mr. Chairman, I think it's more a matter of form than anything else and I agree with the members of city council. Where an Inspector of Municipalities is written in most of these areas, it should be the Commissioner. The reason being that you're talking about a wholly elected council and most of these things that go for approval are strictly a matter of form. The same thing as we have to get approval for different things from the Governor-In-Council, which is more formal than anything else. We all know what the Governor-In-Council is, it means the Cabinet of Canada. We know what the Commissioner means, at least I hope we do, I'm not positive about it, but we hope that it's going to be, one day the Government of the Yukon Territory....the Commissioner will be nothing but the elected Member. I think that that's the kind of a deal you should have. From the junior government to the middle government to the senior government; you're dealing with elected people all the way along the line. Even though we all know that the administrators are going to be actually doing the pouring over the budget, it should be that the approval comes from the Commissioner, which is the government, not from an administration.

Mr. Chamberlist: Mr. Chairman, you know the government has put wherever possible in going through this legislation, people who are not the Commissioner to comply with the general requests that have been made from time to time. At this time I will be very very happy, the government will be very very happy, to use the Commissioner in there. As the Honourable Member has said, it doesn't matter. The Commissioner just delegates his authority by appointing somebody as Inspector of Municipalities. Why the municipality should want to get involved into the administrative functions of the Government of the Yukon Territory, doesn't make any sense. We don't want to get involved into the administrative functions of the municipality. Now the municipality is saying to us, we don't want the Inspector of Municipalities and the Honourable Member has said we want the Commissioner. I wish sometime during the hours that the Honourable Member and His Worship work together, they'd talk together and find out exactly what they're trying to do. Then only one of them need speak and we'll know what they want. This practically living together with different versions is terrible.

Mayor Wybrew: I am very pleased, Mr. Chairman, to hear Councillor Chamberlist say that they do not wish to become involved in the administrative functions of the municipality. This is all we're asking for. Let the municipality run its own affairs and be responsible for its administration. I'm very pleased to hear that.

Mr. Chamberlist: Well it is, Mr. Chairman, it is simply doing that. This is what we're doing. We're saying that the approval must come from government. But once that approval is there, do whatever you want in administering it. If His Worship from Whitehorse can't understand the different functions between executive and administrative function, I can't help him. We don't want to interfere with the administrative function within the municipalities. The right to have the executive say in regards to the legislation must come from the Government of the Yukon Territory, who have this responsibility, the laying down of legislation. If Mr. Legal Adviser sees any objection to the words

BILL #10

Mr. Chamberlist con't...
"Commissioner" being in, instead of "Inspector of Municipalities", we...

Mr. Legal Adviser: What we have done Mr. Chairman, is taken out the word "Commissioner", as the Honourable Member says, in many of these places with the idea of moving the decisions one step down. If the decision has to come one step up, I can see no difference in putting it back as it was in the old Ordinance.

Mr. Tanner: Mr. Chairman, I think all Members will agree that one of the things we've been trying to do is tell the city where it's at. We take the "Inspector of Municipalities" out of there, we put "Commissioner" in, but the city knows full well that the decision will be made at the policy level but in actual fact the Inspector of Municipalities will be feeding the information in. I don't really see what we accomplish by taking it out, but if that's what the city wants I think we should do it.

Mayor Wybrew: While we're talking about the Commissioner, Mr. Chairman, in his Opening Address to the Yukon Territorial Council, he spoke of enlarging the powers of municipal councils. I guess he failed to mention that much of the responsible authority to regulate their own affairs has been taken away by the requirements of approvals upon approvals of various boards of government employees. In here you have very stringent regulations, actions and so on and so forth, against any member of council for doing anything off colour. They can be thrown off council for five years and so on; these are very tight controls. I'm not saying they shouldn't be there but certainly, this should be recognized. These tight controls do exist and these people are responsible.

Mrs. Watson: Mr. Chairman, we're here to consider this Ordinance. We've heard His Worship's remarks regarding this section. We will take it and consider it but I ask the Members to proceed with the rest of the information that the witnesses have to give us this morning on the rest of this Ordinance.

Mr. Chairman: Is there anything further on 139(3)?

Mayor Wybrew: Again, Mr. Chairman, (7);" the annual budget shall not be amended altered or varied before the first day of October except with the approval of the Inspector of Municipalities." Again, we feel this is restrictive.

Mr. Chamberlist: Your remarks are noted.

Mr. Chairman: Anything further on 139? 140?

Mayor Wybrew: Yes, Mr. Chairman,"on or before the fifteenth day of May in each year, the council shall cause to be prepared and adopted by by-law, a capital expenditure programme." We would request this be changed to "resolution", as "programme" could well be reviewed each year and it would allow the council to remain flexible on this.

Mr. Legal Adviser: Mr. Chairman, if we just remove the words "by by-law" then we're home on this.

Mayor Wybrew: Remove the word "by-law" and put "resolution".

Mr. Chairman: Can I have that again? Remove the words "by by-law?"

Mr. Legal Adviser: Yes, Mr. Chairman, because there is another provision in the Ordinance which says they can act either by resolution or a by-law, unless it specifically says by-law. If you remove those words then they have a choice.

Mayor Wybrew: Also on 143, Mr. Chairman, it says... 140 subsection (3) "except with the approval of the Inspector of Municipalities, a capital expenditure programme shall not be varied." The council already has to

Mayor Wybrew con't...

have the Commissioner's and ratepayers' approval, now we have to have the Inspector of Municipalities' approval as well.

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Mr. Chamberlist: Mr. Chairman, well at least the protection is there. You don't amend it without us knowing about it. Look at the word after "not be varied", there's a comma, "either by amendments or by adoption of a new programme." We're just saying that if you adopt or amend, we want to know about it. Otherwise it defeats the original purpose.

Mr. Legal Adviser: It's difficult for anyone to hear anyone else here, Mr. Chairman, due to the removal of the snow, but do I understand that we said if we change "Inspector of Municipalities" to "Commissioner", the section would be in order, or is there a further objection?

Mayor Wybrew: Mr. Chairman, with respect, we may be interpreting this incorrectly, but we feel we already had to have the Commissioner's approval and the ratepayers' approval. Maybe we're interpreting this wrong.

Mr. Tanner: Mr. Chairman, this is when you have already received the approval and you want to make further amendments. All we're asking for is if you do that, we want to know about it.

Mr. Legal Adviser: It only applies to capital programmes for which money is being borrowed. Which means there is a commitment on the part of council to a particular programme as a result of borrowing.

Mayor Wybrew: I apologize, Mr. Chairman, I see where I made my mistake.

Mr. Chamberlist: Well, with respect, Mr. Chairman, you can't have two capital expenditures adopted in the same year. The one that is done remains in effect until the new one is made and then you have to again get the approval of the Commissioner because it's something new. This has to tie in with the budget as well.

Mayor Wybrew: Mr. Chairman, I appreciate the Councillor's remarks but there could be extenuating circumstances where that could be changed. This could happen. On subsection (3) "shall not be varied," well we feel that in a way it infers well where did we get the authority to borrow the money. This is the feeling. I may not be completely clear on the feelings in this respect, but I am sure that's exactly what it is.

Mr. Tanner: Well, Mr. Chairman, I suggest that the Mayor give consideration, that if he accepts this basic premise that this Council does, then all those three items, 141 - 143 just follow one after the other.

Mr. Legal Adviser: Mr. Chairman, Mr. Clerk has just said that the girls are having difficulty in hearing Members of the House against this noise, so you might ask Members to speak a little louder.

Mr. Chairman: I think at least, this time we'll stand Committee in recess. Are you agreed? Committee stands in recess.

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Mr. Chairman: We're alright at the moment, however, we'll see. If this noise starts up, we may have to stop. We had reached section 141. Have you anything further on 141?

Mayor Wybrew: 141, Mr. Chairman, "Levy of Real Property Tax, on or before the first day in March of each year taxes shall be levied by by-law in accordance with the Taxation Ordinance as council deems necessary." We don't feel this is possible because the budget is not necessarily adopted until May 15th as provided in section 139(5). 139(5): "the annual budget shall by by-law be adopted on or before the fifteenth day of May in each year." This one says on or before the first day of March in each year, taxes shall be levied. Why? You can't perform your budget functions until you adopt your mill rate.

Mr. Commissioner: Mr. Chairman, with respect, there are dozens and dozens of items in the municipal budget that has nothing at all to do with the mill rate. You have local improvement taxes, you have special monies that are coming in from business licences, potential business taxes, you have sewer and water money coming in, there's hundreds of items Mr. Chairman, of revenue and expenditure which appear in the city's budget, which are not directly attributable to the mill rate. I see the question His Worship is asking Mr. Chairman, but it isn't quite that tight written policy in that section.

Mr. Chairman: Next section, 142? 143? 144? 145? 146? 147? 148? 149? 150? 151? 152?

Mayor Wybrew: 152, Mr. Chairman, "General Offences and Penalties; every duly appointed officer of the municipality"...it goes on and on and on. We're not arguing against these sections but we do want to draw to your attention that they are dealing with heavy penalties which with other checks of course, do provide necessary protection. That's why we say with the other sections back further we have a section in there whereby...I don't know what I can give you for an example, but an alderman may, in all sincerity, feel that it would be proper to do a certain thing. Just for an example now sir, we would perhaps have the power to give the Maryhouse a donation. I think this is quite right and proper and be subject to very heavy penalties. I don't know, I agree that the citizens have a right to protection for what you could call a corrupt practice. With these restrictions, we feel that the city shouldn't have all of these requirements ...upon approval, upon approval, upon approval... that they should have control of their House, the same as you have control of your House.

Mr. Chamberlist: Mr. Chairman, this has nothing at all to do with an elected person. It starts off "every duly appointed officer of..."

Mayor Wybrew: With respect, Mr. Chairman, I'm referring to the previous section on city council control as well as this. Both are controlled, the officers and the city council, with penalties.

Mr. Chamberlist: I understand Mr. Chairman, that we're dealing with this section by section. We're asking about section 152. First I'd like to reply as relating to this specific section. This specific section deals with every duly appointed officer of the municipality. Certainly, there should be a penalty involved against people who misuse the funds of the municipality.

Mayor Wybrew: No argument there.

Mr. Chamberlist: Well, I can't see the objection then.

Mayor Wybrew: We're not objecting, Mr. Chairman, you misinterpreted me. We're not objecting, we're saying that there should; we agree. But with this section over the officers and the previous section over the council, there certainly....Territorial Council has the protection and the control they require when it comes to city council activities

Mayor Wybrew con't....

in that they should be as much as possible, masters of their own home and not have to go upon approval, upon approval, upon approval, as in some of these sections that we've gone through. This is the point.

BILL #10

Mr. Tanner: Mr. Chairman, I think I understand what the Mayor is saying, but he ...I think there's two different things here. Where Inspector of Municipalities or the Commissioner show, he's looking after our interest, the Territorial interest, where these particular things show, both the officers and elected officials, they're there to protect the public at large.

Mr. Chamberlist: No, dealing with this specific section here, it's saying that when it comes to appointed officers who are not fulfilling their functions, the person is liable upon summary conviction, after he's been convicted, to a fine or imprisonment or both. It seems to me that when a question like this is raised, I can't understand why His Worship, Mr. Chairman, should be objecting. I know he says he's not objecting, but he's raising a point. Now when you're raising a point dealing with something that we feel should protect the municipality from somebody taking off with a hundred thousand dollars, a query is being raised about it. I feel sure that the members of city council themselves would want to see that protection. The other point that was raised, why are we using the powers of the Territorial Government... the way it's written is via the Inspector of Municipalities which we are prepared to pull out and put in some other word for that, why are we using the powers to protect the rest of the people in the Territory, inasmuch as having some control over the government of the municipality. We're not saying to you that you have to operate your internal matters the way we tell you to operate it. You do it your way. There's a reason for having legislation, so that the government can be the stopgap and that the municipality knows that it cannot go beyond power that has been given. I really see no point in raising things like that because all it does again is find a way you can confront government with, and we don't want to be confronted.

Mayor Wybrew: Again, Mr. Chairman, I'd like to point out that city council is not against anything that will protect the citizens of the City of Whitehorse.

Mr. Chairman: Have you anything further on section 152? 153?

Mayor Wybrew: Nothing, Mr. Chairman.

Mr. Chairman: 154? 155?

Mayor Wybrew: 155, a query. "Where the Commissioner deems it is in the best interests of the municipality that its affairs be conducted by an administrator," this is apparently a broadening of the terms of reference from that in the existing Ordinance. We wonder.....

Mr. Chairman: I would suggest at this time as its a little much trying to hear with all this noise, I would suggest we call a recess. Agreed?

RECESS

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Mr. Chairman: Alright, at this time I'll call Committee back to order. We were just embarking on section 155 and I'm wondering if you would take this from the beginning again.

Mayor Wybrew: Mr. Chairman, "Appointment of Administrator" 155(1); Commissioner Smith gave me an explanation of subsection (2), which makes sense. On subsection (1), "where the Commissioner deems it is in the best interests of the municipality that its affairs be conducted by an administrator, the Commissioner may by order, appoint a person as the administrator of the municipality." It's a broadening of the terms of reference from that of the existing Ordinance and the feeling is, it may be right, may be wrong but it puts the municipality in a shakey position. This is the feeling.

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Mr. Stutter: Mr. Chairman, I just wanted to say that this is also one of the comments that was passed on by Dawson the other night by phone. They felt that 155, if it were spelled out the way it was in the old Ordinance, it would be more acceptable. They feel that the newer phrasing is a little more limiting to their powers.

Mr. Commissioner: I wonder if I may say a word on this please, Mr. Chairman. I recognize that the wording is considerably broadened and has been..... a lot of leeway has been given to the Territorial Government here. I would point out to Honourable Members that we have had, I believe three separate situations that have arisen in the course of the last two or three years, in which the present wording of the Municipal Ordinance was to the detriment of the municipality that was involved. I believe that two of these occasions were in conjunction with the City of Dawson's affairs when, by virtue of a certain resignation and the resultant absence of another member of the council, we then required the resignation of the other members of the council before we could put an administrator into it. I just forget exactly what the second set of circumstances were but they follow from that. For that reason alone, the present reading of the Municipal Ordinance proved to be completely and totally inadequate. Another instance, Mr. Chairman, was when the Village of Faro was in its formative stages where we really did not have any authority to put an administrator there until such time as the municipality becomes an entity as a consequence of elections and I'm sure that Mayor Lehbauer will remember that particular time. I know we had great difficulty in dealing with this on a proper authoritative level. While I would tend to agree that the former wording might look more acceptable on paper, in actual fact it has not proven to do precisely what it was intended to do. For that reason the wording has been changed.

Mr. Chamberlist: Mr. Chairman, the formal wording only allows an administrator to go in under one circumstance only and that is where a municipality is in serious financial difficulty and the Commissioner deems it in the best interests of the municipality to put an administrator in. I know just a few years ago, there were insufficient people who would run for office in Dawson City. As a result there was an inability to have a municipal council. Consequently there was no way that somebody could go in to run the administration of the municipality. This is another area where an administrator would be asked to go in by the Commissioner until such time as another election is called. I think the explanation that has been given by Mr. Commissioner really is the thing that is wanted. I don't know whether we can....if we reverted at all to the old section....if we said in any case where a municipality is in serious financial difficulty and/or any other reason that the Commissioner deems fit, then it might be more acceptable. But I would agree it is the same thing. What we're trying to do is widen the powers so that any circumstance that comes up where it's really necessary for an administrator to go in, then the administrator would be allowed to go in. I don't think there's any other reason.

Mr. Tanner: Mr. Chairman, I would point out to the Mayor of Whitehorse that if the circumstances were such that are warranted here, it would be an extremely grave decision that would have to be made on the part of the Commissioner, or the government. I'm sure.... to make that decision would be a very delicate one and it wouldn't be taken very lightly at all. There's no way that this government and usurp the function of the city. It's really there in an extreme case, the way I look at it.

Mr. Chamberlist: Suppose the municipality refuses to strike a mill rate, or refuses to authorize the collection of taxes. Suppose then, notwithstanding that, they wouldn't resign. Somebody has to be able to do something. You can't leave the position in limbo.

Councillor Stutter: I wonder, Mr. Chairman, if I could just ask the Commissioner a hypothetical question at this point. Once this new Ordinance comes into effect, there is in fact going to be ...it's going to call for four aldermen in Dawson. Now, if you had difficulty in getting that fourth one, are the chances pretty strong that you would put an administrator in Dawson?

Mr. Commissioner: Mr. Chairman, without having a total set of circumstances to look at, the reason that the Honourable Member has questioned, in other words the lack of one alderman, would not in my opinion, be sufficient reason to put in an administrator. Now, Mr. Chairman, remember that there may be another set of circumstances along with the lack of this alderman, that might add up to reason for this, but by itself, I cannot see that that would be reason to put in an administrator. Mr. Chairman, one question just to bring this point across, what is the quorum to do business? Three, is it not? That nulifies the argument, there'd be no point....

Mr. Chairman: 156? 157? 158? 159? 160? 161? 162? 163? 164? 165? 166?

Mayor Wybrew: 166, Mr. Chairman, "Inspector of Municipalities; the Commissioner may appoint an officer to be known as the Inspector of Municipalities with such powers and duties in addition to those prescribed under this Ordinance, as may be authorized by the Commissioner." The feeling of council is that it's far too broad and as a matter of fact, even perhaps a little frightening.

Mr. Commissioner: Mr. Chairman, the Inspector of Municipalities could conceivably be the Territorial Treasurer, maybe he's got to keep the books of the Territorial Government. We're not talking about giving him powers beyond the powers that are delineated in the Ordinance. We're talking, that as an officer of the Territorial Government, his duties may not be confined to being that of the Inspector of Municipalities.

Mr. Stutter: Mr. Chairman, can I ask why then it would even be mentioned in the Municipal Ordinance, if the Commissioner is talking about powers over and beyond the powers that he would have under the Ordinance. Why would you put in that second paragraph of the Ordinance there then?

Mr. Chamberlist: Mr. Chairman, an Inspector of Municipalities....the Commissioner has indicated, may be the Treasurer. Now, if he happens to be the Treasurer that has been appointed to be the Inspector of Municipalities, it may be that as a result of him also being the Treasurer, the Commissioner gives other instructions to him in relation to the examination of books and matters like that. This mustn't be read out of context because there's commas after "municipality", "the Commissioner may appoint an officer to be known as the Inspector of Municipalities, with such powers and duties, in addition to those prescribed under this Ordinance, as may be authorized by the Commissioner." The Commissioner is then given the power to authorize that Inspector to do other duties beside that of Inspector of Municipalities. They might want to say that the Inspector of Municipalities can also participate in being a director of any recreational duty which they require, if they wanted to. There's nothing sinister here.

Mr. Tanner: Mr. Chairman, would the Honourable Member from Whitehorse East consider this point when they go back into....reconsider this whole thing, to give some clarification to that particular interpretation.

Mrs. Watson: Mr. Chairman, it's the Inspector of Municipalities position as far as the municipality is concerned, as outlined in the Ordinance. As far as the Territory is concerned, they are the prerogatives of the Commissioner. He could have them doing anything else, but he can only do with the municipalities, what is outlined in this Ordinance.

Mayor Wybrew: Well if we go on Mr. Chairman, to subsection (2); "the Inspector of Municipalities may, by himself, or by any deputy or other person authorized by him, inspect the records of any municipality and for this purpose, every officer of any municipality shall, make available to the Inspector of Municipalities, any record or document relating to the conduct of the municipality.

BILL #10

Mr. Tanner: Well, Mr. Chairman, that just follows on naturally from (1). If the city people have got any queries, they've got to get it straightened out in (1). (2) is a natural function of (1). I don't think there's any problem there.

Mayor Wybrew: Mr. Chairman, the point raised is that's it's not in the existing Ordinance and of course, council wants to know why?

Mr. Chamberlist: Mr. Chairman, the ridiculous thing about this, if one might suggest, is that instead of the "Inspector of Municipalities", the words that the "Commissioner mayauthorize any person authorized by him, to just authorize the Inspector of Municipalities...what's the difference?

Mayor Wybrew: Mr. Chairman, we're not talking about the person or the office, we're talking about this section. It's not in the existing Ordinance and again the council wants to know why this is necessary?

Mr. Chamberlist: If everything was in the existing Ordinance, Mr. Chairman, you wouldn't have this Ordinance. And as I understand it you wanted a new Ordinance. Now we've given you a new Ordinance....

Mr. Commissioner: With respect, Mr. Chairman, there may well be an occasion arise, we're talking about the prior section here where the potentiality exists of appointing an administrator. It may well be that the city council has resigned as a consequence of their feeling that certain records of the municipality are not in proper order. This is our means to find out whether or not they are in proper order.

Mr. Tanner: Mr. Chairman, I want to pursue this thought a little more because I can see the city's hangup here. Why can't you, and I'm asking the question of the people who are writing the legislation, why can't you explain that any powers and duties which such appointed Inspector of Municipalities will have, will be in addition, as another officer of the Territorial Government, to the powers that are specified here. You can read it right now, as it says there, you can read it that once he is appointed he can do what he likes as told by the Commissioner, in respect of municipalities. I think the city's got a good point.

Mr. Legal Adviser: Mr. Chairman, there's no special thing about this. This is a standard format. Subsection (1) is just merely a standard form that we use whenever we're giving statute duties to a board or an officer of this Territory. Subsection (2) gives the Inspector power to inspect, which is what his duties are, and this government and all its officers are subject to inspection of their records and books by the Federal Government to see that the money they allocate to the government is spent in the way it's supposed to be. The same thing happens with us to the municipalities.

Mr. Commissioner: Mr. Chairman, effectively the Auditor-General has the same kinds of powers as they apply to the Territory from the Federal Government. Internally in the Territorial Government, we have effectively the same thing in sections 4 and 5 of the Financial Administration Ordinance, in which we say that the Territorial Treasurer, who has control of the Department of the Territorial Treasury, and the Yukon Consolidated Revenue Fund has notwithstanding anything else, is entitled to free access at all times, to all files, documents and other records relating to the Territorial accounts. He's also entitled to require and receive from members of the public service, information, reports and explanations as he may deem necessary for the proper performance of his duties. In other words we've already got the same internal procedure within our own organization. The Auditor-General has it externally from the Federal Government to us. We're simply following through with regard to the municipalities.

Mr. Chairman: Do we have anything further on this. 167?

Mayor Wybrew: 167, Mr. Chairman, "the Commissioner may, on complaint, appoint one or more persons who shall constitute a board of inquiry."

Mayor Wybrew con't...

Again, council feels this is a restriction. At least a Board of Inquiry should dispense with an Inspector. The previous section....Inspector of Municipalities in the previous section, the Board of Inquiry should at least dispense with that.

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Mr. Tanner: Mr. Chairman, I think that the Mayor is reading that backwards. What happens as I see it, something is wrong in the municipality; a complaint is laid, a complaint of substance is laid, not some frivolous complaint; a Board of Inquiry is set up; the findings of the Board say yes, there is something wrong in the city; the Commissioner then appoints an administrator. This is the first step and the administrator comes in after. The way the Mayor was talking about it, it sounded like you put in a Board of Inquiry instead of an administrator. The administrator is there to rectify the problems as illustrated by the Board of Inquiry.

Mayor Wybrew: Mr. Chairman, the Board of Inquiry is even more powerful than the Inspector. Is he not?

Mr. Chamberlist: With respect, Mr. Chairman, the Commissioner only, when somebody has complained, and only at that time, does he institute a Board of Inquiry. Who can an individual complain to if it's something to do with a municipality. Are they going to complain to the municipality, who will set up their own Board of Inquiry made up of the very people that are the results of the complaint.? The Commissioner sets up an impartial Board of Inquiry. Nobody wants to get in the way of the municipality operating its business. These are little red herrings that are coming out of the fishing net.

Mr. Tanner: Mr. Chairman, let me post circumstances to the mayor of a case where an alderman, particularly in the outside area where you've got fewer of them, on his conscience he says that what's happening is wrong. What's he going to do? Is he going to go to the other aldermen whom he thinks are doing something really wrong and say I want to set up a Board of Inquiry. You've got to have an outside source to go to and that's what that is.

Mayor Wybrew: I'm not arguing this at all. The feeling of council is that with a Board of Inquiry, Mr. Chairman, 66 (1) and (2) is not necessary. That's all.

Mrs. Watson: Mr. Chairman, I'd like to point out that it also protects the elected representatives on the municipal council. I think it protects the public and it protects the aldermen and the mayor. If there were any complaints, they would receive a fair hearing.

Mr. Tanner: Mr. Chairman, perhaps just this one small point; it might make a difference. If we'd written that Ordinance in such a way that a Board of Inquiry physically came in the Ordinance before the Inspector of Municipalities, we would have probably put the two things in better prospective.

Mr. Chairman: 169? 168, pardon me.

Mayor Wybrew: In regards to 168, "Board of Examiners," Mr. Chairman, the council of Whitehorse feels that this is an unnecessary thing. It is really a form of central government control. They have this in B. C. but this is for giving out certificate of A,B, or C or whatever it might be. 168; the council of Whitehorse would like to see that removed.

Mr. Chamberlist: Mr. Chairman, I'd like at this time....I'm going to go back to that one section and the Commissioner with his great knowledge that he has at his command from time to time, pointed out here a very very important point in relation to Board of Inquiries. He gives a real valid argument here. A few years ago the City had a plebiscite and in the plebiscite, turned down the purchasing of equipment. Now, notwithstanding that it was turned down by plebiscite, the municipality went ahead and bought that equipment. There were complaints made to the Commissioner but the Commissioner had no power

Mr. Chamberlist con't...

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at that time within the Municipal Ordinance to deal with that complaint by way of holding a Board of Inquiry. This to me, for no other reason, strengthens my belief that there is a requirement that that type of section exists. I am sure in my own mind, that the city council of the Municipality of Whitehorse would not show objection to a Board of that description. It surprises me certainly, that this is the city council's wish. I'm afraid to say that I don't believe it is true because the press will then say I'm calling His Worship a liar. This has happened before. I say that I don't believe that this is the case. Nor do I believe that the Board of Examiners is requested to be removed from that area too. I think that these are areas where, in the case of the Board of Examiners, if the municipalities want it out, the government will not argue against them. This is something that is being given to the municipalities as a base for which they can create an association of municipalities as an area where each municipality can give help to each other in checking over qualifications and competency of the various people who should hold responsible offices in the municipality. It's the powers of right under 168(5) "the Board may make rules governing its own procedures," the composition is that of the mayor of every municipality, surely this is giving to the municipalities, that power that they were seeking to do something for themselves completely. Mr. Chairman, this is one section that is entirely within the municipality's power.

Mayor Wybrew: Two points, Mr. Chairman, point one, I'd like to clear up and get everybody to understand that City Council of Whitehorse is not against a Board of Inquiry and I don't like this inference that it is. Point two, the City of Whitehorse did not do anything wrong when the plebiscite was turned down in buying certain pieces of equipment. This is an incorrect statement as well.

Mr. Tanner: Mr. Chairman, the Mayor is incorrect; that's not what the Honourable Member on my right said. He said that the Commissioner received a number of complaints....he had no recourse, he had nothing he could do about it under the old Municipal Ordinance and he can do so now...

Mayor Wybrew: Mr. Chairman, everything that was done, was done above board. There was nothing irregular and the City is not against...

Mr. Chairman: Order, please.

Mayor Wybrew: Mr. Chairman, we're not against a Board of Inquiry.

Mr. Chairman: In view of the noise being back again, I would suggest we recess for about ten minutes. Agreed? Committee stands in recess.

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Mr. Chairman: At this time we will call Committee to order, I believe the Honourable Member from Whitehorse West won't be here till 2:30, and I believe Councillor Tanner, as well. We are on section 168.

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Mr. Stutter: Mr. Chairman. this is another section that Dawson has particular difficulty with. They feel that in their particular case for their own requirement, at least, there is no necessity to have standards set up. Ever since Dawson was a municipality the council have been firing... the only officer they have to begin with that would come under 168 would be, the clerk-treasurer and in many instances if such a position then becomes vacant there is only one or two people who are even interested in it so they feel for their purposes they don't particularly want that section in there. The Mayor also states that it would be very difficult for him to be on a board if he has to physically go to meet with the board. It would be nice for the mayors to get together, as far as he is concerned, but actually to do this work of the board, he feels is rather difficult for him to do for one thing, and for their purposes they feel it is not necessary.

Mr. Chamberlist: Mr. Chairman, as I have indicated we are not going to argue about the section, if you don't want it in you don't have it in. I think I should have to take exception, in regard to the statement that has been made by the Honourable Member for Dawson City because the board makes its own standards and its own ruling. You can make a particular standard for Dawson City, you can make a particular standard for another municipality. It is not the Government of the Yukon Territory that is setting any standards, the provision being made within here so that the board itself can set the standards. The question in relation to whether he can't be there physically or not, he might not be the mayor all the time, it might be another mayor who wants to be there physically so we can't really adjust to that particular argument. Certainly there is no reason if the Association of Municipalities was formed they couldn't meet in Dawson City, or meet in Faro, or meet in Whitehorse or whatever municipality is involved. There again if it is not required by all the municipalities they don't want the Board of Examiners, we'll take it out.

Mrs. Watson: May I make a suggestion here which may make this Board of Examiners more palatable. Would you have any objections to deleting (4) and changing (1) there may be a Board of Examiners, leaving it up to the discretion of the municipalities themselves. Leave it in the Ordinance so if you want to have a Board of Examiners, fine. Deleting (4) then if you want to have a Board of Examiners at the beginning of an association, fine.

Mr. Stutter: Mr. Chairman, if the Honourable Member from Whitehorse East has mentioned as far as the Government is concerned they would delete the whole section. I can tell you that, if this is the case Dawson would vote to delete this section.

Mayor Lehbauer: As far as the Village of Faro is concerned ...

Mr. Chairman: We will just declare a short recess.

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Mr. Chairman: At this time we will call Committee back to order. We are dealing with section 168. Councillor Stutter.

Mr. Stutter: Mr. Chairman, talking this over during that brief recess, would it not be perhaps a good idea to make this permissive so that if in the event of new municipalities being formed, that where the people of that area wanted advice as to standards for various offices, they could ask for the formation of a board and as long as it is permissive. Then in our case, it wouldn't be binding on their choice for their own clerk anyway.

BILL #10

Mayor Lehbauer: Faro would feel the same way, if the words were changed in it in subsection (1), there may be a Board of Examiners composed of two elected members of the municipality.

Mr. Chairman: Deleting the balance accordingly, two elected members ...

Mayor Lehbauer: I'm sorry, that applied to subsection (2) "two elected members of the Board constitute a quorum." There may be a Board of Examiners of every municipality.

Mr. Chamberlist: Mr. Chairman, I wonder if it could be left, and we will examine it to make it permissive, instead of mandatory. This is the main thing that I think is wanted.

Mayor Wybrew: With respect Mr. Chairman, ... Mayor Lehbauer is speaking first, it will wait.

Mayor Lehbauer: Mr. Chairman, subsection(4) and (6) could be deleted entirely.

Mr. Chamberlist: We have got the notations that the Mayors would like, and we will take it back to Legislative Programing and we will review it, so that it does make it permissive or remove it but we will not make it mandatory as it appears to read right now.

Mr. Chairman: Mayor Wybrew.

Mayor Wybrew: The City of Whitehorse understands, of course Mr. Chairman is that there may be a Board of Examiners composed of every municipality or an elected representative of each municipality that is an elected member of council or mayor. Two members of the Board constitute a quorum because at the moment there are only three this could be increased later. Subsection (3) "The Board may establish standards of proficiency." (4) "to go," (5) "to stay" and (6) "to go." I can't speak for Dawson City, of course, I don't know.

Mr. Stutter: Mr. Chairman, I am sure that as long as it is permissive, Dawson would go along with that. I see no reason, from my point of view, why (4) and (6) couldn't be deleted.

Mr. Chamberlist: I have no intention of committing the Legislative Programing Committee, at this moment. I think there are a couple of legal problems that may be involved especially with (6). All that the Commissioner is asking to do in this, is to make regulations and prescribe forms necessary for carrying out the purposes for which the Board of Examiners is...if it is wanted that the municipality's to do that, which municipality is going to do it. This way it is just left to the Government to make out the forms for the purpose for what the Board is to sit for, that is the only function that the Commissioner performs here, otherwise how will you get the forms? How will you get the rules unless you want to make the rules and the forms yourself.

Mr. Stutter: You can make the rules by (5).

Mr. Chairman: We will note then that 168 is to be reviewed as noted. 169? 170?

Mayor Lehbauer: Mr. Chairman, on section 170, reading it through, "With effect from the 1st day of April, 1970, all accounts receivable, sewer and water systems and related inventories now the property of the Government of the Territory with respect ... the Village and all liabilities in respect of said accounts receivable, sewer and water systems and inventories shall be debts of the Village." One question has come up in this regard, I understand that there may be something retroactive regarding the sewer and water operational costs and rates to the taxpayer that may still be coming up. I wonder if there was anyone here aware of it, perhaps to clarify the situation regarding what status the Village has in this regard. Would the Village of Faro be responsible for collecting something that is retroactive?

Mr. Chamberlist: These sections, I will give you my explanation and we'll have notes of your questions and we will examine them further.

Mr. Chamberlist continues ...

These sections are put in here because the Village of Faro had a separate Ordinance dealing with its formation at the time that the Village of Faro became a village. There were certain sewer and water installations prior to the time of incorporation of the Village of Faro. All we are saying in here, whatever had taken place that was in effect the 1st day of April, 1970, which was the time Faro became a village, is now those terms are incorporated into the Municipal Ordinance which is taking care of all municipalities now. Nothing has changed since that time in relation to that. The additional question relating to extra over and beyond that, we will have to find an answer from the Treasury Department and will make a note of it and look at that, in that case.

Mr. Chairman: Anything further on 170? 171? 172? 173? 174?

Mayor Lehbauer: Mr. Chairman, we did have a question on that but, I understand now this is just to bring the Village of Faro into line with other municipalities.

Mr. Chairman: 175? 176? Which is similar to 174, no it isn't either.

Mr. Chamberlist: Mr. Chairman, I would like to point this out to the Mayor of Faro that in 175, this answers most of the questions that were asked before. This Ordinance, this 175 will repeal the existing Municipal Ordinance, and the existing Ordinance of the Village of Faro. That section 170, that came into question, is that portion of that Ordinance that is of the Village of Faro Ordinance that is required to be put into the new Municipal Ordinance so it takes care of those obligations that the Village of Faro had, prior to this one coming into force through the Government of the Yukon Territory.

Mr. Chairman: 176? 177? and 178?

Mrs. Watson: I would like to note particularly 174. I wonder if the representative from Faro has any strong feelings on 174? The next term of office for your mayor and aldermen will only be for one year to bring it in line with other municipalities. I wonder if he would like to comment on this?

Mayor Lehbauer: I have discussed this with the council members and there is no objection, or no question in this regard. As a matter of fact, we always look forward to an election in Faro..

Mr. Chamberlist: You might be getting one very soon, for the District of Watson Lake, overall.

Mr. Chairman: That's very possible. Have you anything further then, in relation to the Bill at this time?

Mayor Wybrew: Mr. Chairman, we were asked a specific question, I am sorry, could the Councillors help locate the section dealing with grants? Do you remember the number? 129, no this is the grants to clubs, organizations ... Yes, 129(f) "authorize the making of grants to any person, society or organization, other than a hospital or nursing station, in the municipality not exceeding in any one fiscal year the lesser aggregate amount of one-half mill on the current taxable assessment of twelve thousand dollars"

Mr. Chamberlist: That should be or twelve thousand dollars.

Mayor Wybrew: Yes, that is correct, or. Councillor Watson asked if the City of Whitehorse felt that there should not be a ceiling there, and the feeling of the City is that they should be responsible for their actions and if they are not responsible they should be thrown out of office. They agree that the ceiling shouldn't be there.

Mrs. Watson: Should not.

Mayor Wybrew: Yes, if the Territorial Council will make note of that then, in their deliberations.

BILL #10 Mr. Chamberlist: I want it clear, it is my understanding then that the municipalities do not want to be limited in the amount of money they can give by way of grant.

Mayor Wybrew: That is correct, Councillor Chamberlist.

Mr. Chamberlist: I wonder if the Mayor of Faro would indicate his feelings in this relationship.

Mayor Lehbauer: Councillor Chamberlist, we would have no strong feelings on the ceiling of twelve thousand dollars, at this stage of the game.

Mr. Chamberlist: I wonder if Councillor Stutter can speak for the City of Dawson, in this regard.

Mr. Stutter: I think, I can speak quite freely for the City of Dawson. If you leave that one-half mill in there, it is ridiculous to say the least, because one-half mill in Dawson in only five hundred dollars. You have got to take out of there. You have got to take it out of there, I think as the Mayor does, that council itself is quite responsible enough not to go and put themselves in too much debt in the form of a grant. I think they are responsible enough to take that on themselves.

Mr. Chamberlist: The question is whether the existing city council is more responsible than the subsequent city council; it may not be as responsible. Do we have to change this condition everytime a new city council gets elected into office.

Mr. Stutter: This may be a good point, Mr. Chairman, but my point is if you are limiting it to five hundred dollars, which you are, at the moment with a one-half mill that is rather a ridiculous limit. There may be many instances where they might want to give a grant of greater than five hundred dollars, but leaving that in there you have tied their hands completely to that maximum amount. To compare five hundred dollars or twelve thousand dollars, whichever is the lesser, why ... In their case.

Mr. Chamberlist: I appreciate that point, that point is well taken and we will discuss this further and note the remarks that have been made. A further question that I would like answered for the record as well is; what would be the situation if a majority of a city council decided to vote grants that were in excess of ... in the case of Dawson City, in excess of the whole revenue that they have. It has been known that municipalities do tend to give away their money to be good fellows at election time. What would be the situation. Five hundred dollars certainly is the minimum but supposing the City of Dawson went ahead and they voted twelve thousand dollars out of their somewhat meager taxation that they can collect at this time. What would be the result then?

Mr. Stutter: Mr. Chairman, I would think you would resort to other sections in the Ordinance which makes it permissive for the Commissioner to dissolve council completely and appoint an administrator.

Mr. Chamberlist: Thanks very much, as long as we now recognize the reason for putting an administrator ... in there, I wanted to get that out.

Mr. Chairman: Do you have anything further to say on this?

Mayor Wybrew: No, that is the feeling of the Council of Whitehorse, Mr. Chairman, I have nothing more to add to that.

Mr. Chairman: What is the next Bill you have been considering?

Mayor Wybrew: Housing Corporation..

Mr. Chairman: What number is that?

Mayor Wybrew: I don't have the number on this.

Mr. Chairman: No. 9. Mayor Lehbauer has to leave us now, at this time. He indicated to the Chair at recess that he has some business to attend to and then to return to his Village. I think I can certainly speak

Mr. Chairman continues ...

BILL #10

for all Members of Committee when I say, a hearty vote of thanks to Mayor Lebhauer and his council for the work they have done and are doing in relation to the monumental task of going through these Bills, and no doubt we will be hearing further from him, and the Village of Faro. We would like to thank you very much for coming, you have been a great help to us all.

Mr. Chamberlist: I think, Mr. Chairman, that it should be recorded as well, that I for one am really pleased that the Honourable Member from Watson Lake, has had available his adviser from Faro in this regard.

Mr. Chairman: The Member from Watson Lake is most pleased to have had his adviser here.

Mayor Lebhauer: Thank you very much, Mr. Chairman, I would like to thank the Council very much for asking me down here and it certainly has been an education for myself and I would like to thank the Territorial Legal Adviser also. He is probably the most harried person who is here. Thanks very much.

Mr. Rivett: Mr. Chairman, I would just like to make one point, don't you think that if you had a handbook in conjunction with the Municipal Ordinance it would assist you greatly?

Mayor Wybrew: Yes, it certainly would.

Mr. Chamberlist: We are giving consideration to providing a very limited type of handbook that would be easily understood and taken out of the legalees in which legislation has to be written.

Mr. Chairman: Bill No. 9. section 1? 2? 3? 4? 5? 6? 7? 8?

BILL #9

Mayor Wybrew: Yes, Mr. Chairman, section 8(b)" the Corporation may, undertake to develop lands with roads, streets, sidewalks, water and sewer and other municipal facilities, either alone or" we will stop there. The council is concerned about the approval of the municipal council involved.

Mr. Chamberlist: I can assure His Worship that when talking about a loan, we are talking about the Corporation carrying the full financial load alone. The Housing Corporation doing that or with the conjunction but the actual approval must come from the municipalities, as far as zoning and regulations of the type that come within the municipality's jurisdiction.

Mr. Chamberlist: Anything further in 8?

Mayor Wybrew: 8, yes, Mr. Chairman, perhaps Councillor Chamberlist could enlighten me here too on (k) "carry out any of the duties and functions provided for by this Ordinance and any duties and functions related to any program of housing and urban development."

Mr. Chamberlist: There again it is the same answer, the same thing applies. None of these things that can be done by a Housing Corporation, can be done without the approval of the municipality or indeed, the government if the actual construction takes place outside a municipality because the Corporation itself is a separate entity. The government would have to go to the Corporation and make sure that certain things are being done; these things follow.

Mr. Stutter: Mr. Chairman, I wonder if I might ask, I have gone through the Bill once, the same as everyone else has but I don't recall at this point whether there actually was a section in it anywhere that stated, the Corporation will not carry on activities within a municipality without prior dialogue between the two. If this is a natural fact, why can't we write it in?

Mayor Wybrew: I can't help in this respect, Mr. Chairman, it may be in there but I cannot recall.

BILL #9

Mr. Chamberlist: It is in there, this is the intention of it, I will make a note of it and bring it to Council to concern themselves with it, to see that this is so.

Mr. Chairman: Anything further in 8? 9? 10?

Mayor Wybrew: Just a point in 10, "The Corporation may for the purposes of the Corporation, borrow by way of temporary loans from time to time such sums and upon such terms as the Corporation determines and may effect the loans by way of an overdraft or line of credit or by the pledging as security for such temporary loans of notes, bonds, debentures or other securities of the Corporation pending the sale thereof or in lieu of selling them, or in such other manner as the Corporation determines". Under "Temporary loans" this would appear to be more latitude than that permitted a municipal council, under the Municipal Ordinance.

Mr. Chamberlist: Surely this has nothing at all to do with the municipality, this is what the Corporation can do and this again is where I say, the municipality cannot step into the functions of this Legislative Council; this is our problem.

Mayor Wybrew: Fine, that is all on that, Mr. Chairman.

Mr. Chairman: 11? 12?

Mayor Wybrew: 12(2), "A municipality, with the approval of the Corporation may borrow from the Canada Corporation for any of the purposes mentioned in this Ordinance or the Act, on such terms and conditions as the Commissioner considers proper." With the approval of the Corporation, the interpretation there, is it the municipal council must have approval of an appointed board? On approval to that, then of course you would have to have a plebiscite for approval of the monies bylaw, we would like an interpretation here.

Mr. Chamberlist: First of all, we have got to keep in mind that this legislation deals with the formation of a corporation and it has its own separate entity. What this is saying is that, the municipality will be able to borrow funds from the Canada Corporation, which if you look at the interpretation section, is the Central Mortgage and Housing Corporation. With the approval of the corporation of the Housing Corporation, once that approval has been obtained there is a requirement then that the terms and conditions under which the municipality wish to borrow that money, is laid out by the Commissioner for the simple reason that if the municipality tries to borrow more money than it can borrow under the terms of the Ordinance which allows you to borrow up to twenty percent of the assessment base in the municipality. This is where the Commissioner steps in and says, no you can't, this is what you've got in the legislation and you can't do it. This is the only area where the Commissioner, to my knowledge, will step in and say no. At the moment, any funds that, first of all the municipality can borrow from the Corporation itself; if you didn't want to borrow from the Corporation itself, and you wanted to borrow from Central Mortgage and Housing, this is the way you have to come through. I should point out as well, that in any event the way the Yukon Act is set up, only the Territorial Government, can borrow from Canada direct, from a Canadian Corporation direct, then it loans. What is happening, for instance now, is the Federal Government loans money to the Territorial Government to loan to the Municipal Government. It is a peculiar thing that the Territorial Government pays to the Federal Government interest on the money, that is loaned to the municipalities, but we do not charge any interest on the money we have to pay out or any carrying charges. So the Territorial Government, really what it is doing is administering a loan to the municipalities that it has to pay for at no charge. In other words it is not a different rate; it is exactly the same rate that is being loaned from the Federal Government to the Territorial Government and is charged to the Municipal Government. This is the way it works around, that way. The idea of this particular section in there, I can tell you was discussed very close here and it was proved, I might add in exactly the same context that Mr. Chairman, and His Worship have proved it because when it came to this particular point and until I saw what was actually meant by it, that it also was a little

Mr. Chamberlist continues ...
confusing, but it is straightened out in my mind now, because of the basis of how money can be borrowed and transferred down from Federal Territorial and municipalities.

Mayor Wybrew: Just another point then, if the municipality concerned, which ever municipality it is, maybe you touched on this and I missed it, had the opportunity for land assemblage plan with the Canada Corporation, it would have to have the approval of the Corporation, which would incidently, I should add should not cost the municipality concerned any money. It would still have to have the ...

Mr. Chamberlist: The money from Central Mortgage and Housing would not be loaned directly to the municipality because under our set up, our constitutional set up, by the Yukon Act they are not empowered to do that. The Commissioner may set up, make new municipalities, allow the municipalities to do certain things, but before they can do it, he is supposed to supply the money over and above the normal taxation, to do those certain things. If Central Mortgage and Housing in any event said, yes, okay we will do that, they can't turn the money directly over to the municipality, it would have to go via the government. This is where the approval of the government has to come.

Mayor Wybrew: 12(3), Mr. Chairman, I do believe there is a point there. "The corporation and the municipality, with the approval of the Corporation, may receive contributions available under the Act." Yes, I see, agreed, Mr. Chairman.

Mr. Chairman: 13?

Mr. Chamberlist: Well, Mr. Chairman, His Worship doesn't have any comment here because the Territorial Government has to guarantee all the money.

Mr. Chairman: 14? 15? 16? 17? 18? 19? 20?

Mayor Wybrew: 20, Mr. Chairman, "Housing Projects" ; 21, I'd like an interpretation of this "the Corporation may undertake", in other words you can eliminate "or a municipality and the Corporation." You see it's not applicable. Our interpretation is that the Corporation determines which one they wish to do. It can be read "the Corporation may undertake, carry to completion, maintain, operate and lease or sell a public housing project. It doesn't in that particular area, mention municipal role except to the point that it can be excluded. There isn't a role.

Mr. Chamberlist: The municipal role is there right from the beginning, where the Corporation wanted to put a project in. They're there in the picture for zoning, where it can go, services and the like. In the undertaking of a program, it may be that the municipality doesn't want to, or hasn't got the funds to participate in a joint venture with the Corporation. I'm sure, Mr. Chairman, everybody understands what I mean, joint venture, where the municipality and the Housing Corporation are sharing the cost of the project. It may be that the municipality has expended it more that it can or is unable to raise more money to pay their portion of the construction of the project. The Corporation under the section, can go ahead and put this project in themselves. But notwithstanding they can go ahead and put this project in themselves, they must go to the municipality with reference to relocation. There's no reason under this section why they can't complete it, maintain it, operate it and/or lease it or sell the public housing project. It may be now, that the Corporation may bill the public housing project and in two years time the city might say well we'd like to buy that project and have it as our own rental-housing program. We're going to take on the responsibility of maintaining it and we're going to collect the rent, and we're going to meet the payments on the mortgages and things like that. This is where then, this section comes into being. The Corporation can do that, the Corporation can sell. This is something that the Corporation can do as opposed to interfering in any way with stopping the municipality from buying it. But if the municipality wants to buy it afterwards, or the municipality and the Corporation together may want to, when they find it's not operating efficiently and they feel that private enterprise can operate it in a better, more economical manner, so they might go and sell it to a private entrepreneur. It's exactly the same way the Y.W.C.A. might decide that they can't make their building pay so Central Mortgage and Housing says you're not meeting your commitments on it, we're going to put it up for public sale, perhaps the city would like to buy it and operate it themselves. This type of thing.

Mayor Wybrew: Then also then, Mr. Chairman, perhaps my interpretation will be correct or wrong on 22. "acquire and develop land for public housing projects, constructs public housing projects, acquire improve and convert existing buildings for a public housing project, enter into agreements for the development or management of public housing projects." All of these then, my understanding is it would require prior consent of council.

BILL #9

Mr. Chamberlist: Not prior consent of council to do these acts. The Corporation is its own entity. It can acquire and develop land for public housing projects itself. It can acquire the land for that purpose but it cannot build on there until the municipality has given them the authority and said this is a zoning area for that. They have to comply with the laws of the municipality.

Mr. Chairman: Just from the Chair, either way the municipality can't do a thing without the agreement of the Corporation.

Mr. Chamberlist: I don't get that Mr. Chairman, what do you mean?

Mr. Chairman: The municipality can't on its own do anything. They must have the prior cooperation of the Corporation.

Mr. Chamberlist: Mr. Chairman, if they take the money, if they want to share, if they have a shared construction cost in a project, then they're equal partners with the Corporation so they have some say in the manner in which it is constructed and what it consists of. This is the financial side of it. This particular section deals with the project itself and where the authority must come from as it relates to whether a project can be constructed in a certain area. For instance, as an example, if the Corporation purchased some land and they wanted to go ahead and put a public housing project on land and it was zoned for industrial; before they can do that, they would have to ask the municipality or the zoning people to rezone. If the municipality said no, we're not going to have public housing there, that zone is for industrial, as far as the Corporation is concerned, that's the end of it.

Mayor Wybrew: I see, Mr. Chairman.

Mr. Tanner: Basically, Mr. Chairman, you've got to keep in mind, as far as I read this legislation, it is addressed to the Corporation and when you read it in that context, it probably takes on a different light.

Mayor Wybrew: Mr. Chairman, under (d), "may exercise any other power," we weren't sure what that meant.

Mr. Chamberlist: Mr. Chairman, it's for the purpose of the project. All these powers of the Corporation are all subject to the approval with reference to the construction of the project, being granted by the municipality, the construction rules, the building by-laws, the fire protection by-laws, the zoning by-laws. These are all municipal matters that the Housing Corporation will, of course, work with. They will go to the municipality concerned and say we propose to do certain things, what are your fire regulations here?

Mr. Chairman: Just as a point from the Chair though, doesn't that... you say exercise any other powers to do any other thing that may be required to be exercised or done for the purpose of this project.... isn't that kind of an ended thing?

Mr. Chamberlist: Mr. Chairman, no, only within the meaning of this legislation.

Mr. Chairman: Yes, but it doesn't say that...

Mr. Chamberlist: Mr. Chairman, the whole thing is written in here.... It doesn't mean anything in relation to any other legislation.

Mr. Chairman: Any power, it doesn't specify under this Act or under this...

Mr. Chamberlist: Oh My God, Mr. Chairman.

Mr. Chairman: Anything further on 20? 21?

Mayor Wybrew: 21, just a question 21(2), with the Canada Corporation

Mayor Wybrew con't....

and the Territory, does Territory mean Corporation in this case?

BILL #9

Mr. Chamberlist: No, Territory?

Mayor Wybrew: You see, Mr. Chairman, 21, subsection (2) "with the approval of the Commissioner, a municipality may enter into agreements with the Canada Corporation and the Territory." Does the Territory mean the Corporation?

Mr. Chamberlist: No, Mr. Chairman, it doesn't. Here is a case of where there is a three-way sharing thing taking place. The sharing a municipality may enter into agreements with a Canada Corporation, that's Central Mortgage and Housing and the Territorial Government. Or either of them so that you can have a.....what are you are going to have a housing project now? Are you going to have a housing project with the Federal Government, Territorial Government, Municipal Government, that's three. This is exactly the same thing. The Corporation may enter into, this Housing Corporation, may enter into an agreement between those three people. Those three groups. Either two of them, or three of them together. The Corporation is outside the three governments. It is outside the Federal Government, Territorial Government, Municipal Government and it can enter into a relationship between those three to carry on its own projects.

Mr. Chairman: At this time we will call Committee back to order. Have you anything further on 21?

BILL #9

Mayor Wybrew: No, Mr. Chairman.

Mr. Chairman: Section 22?

Mayor Wybrew: Section 22, Mr. Chairman, (b) "may require the municipality to reimburse to the Corporation a percentage of the capital cost". Our interpretation, correct or incorrect, we say a commitment of municipal taxes without consent of council is being incurred here, or a taxpayer under the Municipal Ordinance regarding the money bylaw....

Mr. Chamberlist: When the Corporation, that is the Housing Corporation enters into an agreement with the Government of Canada under section 40, which is the power to borrow money, then and only that time may it be necessary for the Corporation to ask for the participation of the municipality in the capital costs, and then the capital costs will be paid to the tune of twenty-five percent. It is only in that particular area, which would be very rare under this new set up. I think that the Commissioner has some ... we dealt with that particular section..no he doesn't.

Mr. Commissioner: Excuse me, Mr. Chairman, but 22 is basically an extract from the Federal Act. It conditions what must be available if indeed the Corporation is to enter into an agreement with Canada Corporation under section 40 of the Act. This is a mandatory stipulation.

Mr. Chairman: All clear on 22?

Mayor Wybrew: No, I thought the Commissioner was looking something up there. I thought that he was wanting to add something.

Mr. Commissioner: Mr. Chairman, no, it was something else that I was looking for. Mr. Chairman, the explanation that I have given you, we have already verified.

Mr. Chairman: Anything further on section 21, or 22?

Mayor Wybrew: No, Mr. Chairman.

Mr. Chairman: Sections 23, 24, 25, 26, 27, 28, 29?

Mayor Wybrew: Section 29, Mr. Chairman, I think that we come back perhaps here to what Councillor Chamberlist said, the Corporation or the Corporation and the municipality may undertake and carry to completion a land assembly project or land development project.

Mr. Chamberlist: That is 30 that you are reading.

Mayor Wybrew: Oh, I am sorry. I thought I said no on 29, I am sorry.

Mr. Chairman: Section 30?

Mayor Wybrew: Again, you see it appeared to council that the Corporation can do land assembly without prior consent of council, and lease, sell or otherwise dispose. There are quite a few things and of course council remembers very clearly the Commissioner's repeated statements, if the municipality wants to do it let them. This is what brought this out.

Mr. Legal Adviser: Mr. Chairman, these sections are designed to supplement the basic power of a municipality to do a thing itself. If it utilizes these sections and obtains money in this way and grants an aid, then it goes according to the rules of this particular section. There is nothing to prevent the municipality, if it has the power in

BILL #9

Mr. Legal Adviser continues ...
the Municipal Ordinance, of undertaking a project of its own accord,
if it can raise its own money independantly of the Act and to do it and
pay for itself.

Mr. Chairman: Anything further on section 30? Section 31?

Mayor Wybrew: Section 31(2), Mr. Chairman. I may be repeating myself
here. "A municipality, with the approval of the Commissioner, may
enter into agreement with any one or more of (a) the Government of
the Territory, (b) the Government of Canada (c) the Canada Corporation,
and (d) the Corporation, for the joint undertaking of a project under
section 30." What affect does this have on restricting powers in the
Municipal Ordinance regarding money bylaw? That is a point that was
asked. I am not quite ...

Mr. Legal Adviser: A small grey area here, and I think that we have
already said, Mr. Chairman, that we are going to look into this, and
that is to make sure that we have the policy reproduced correctly in
the Ordinances and whether or not money bylaws are required for borrowing
under or other parallel Ordinances. I think that once the doubts are
raised, it should be spelled out in the legislation at some point.

Mr. Chamberlist: In the Municipal Legislation, not in the Housing
Corporation.

Mr. Legal Adviser: No, no, to put it into the Municipal Ordinance
exactly what the conditions are going to be.

Mr. Chairman: Section 32?

Mayor Wybrew: Section 32, I suppose is much the same, Mr. Chairman,
the effect of the Municipal Ordinance regarding borrowing and can this
section be exempt from the Municipal Ordinance?

Mr. Legal Adviser: It is the same point, Mr. Chairman.

Mr. Chairman: Section 33?

Mayor Wybrew: Could I catch up to you, Mr. Chairman. Section 33(1),
"the Corporation or the Corporation and a municipality, may enter into
agreements with ...". We read it this way, "the Corporation may enter
into agreements with the Government of the Territory, the Government
of Canada and the Canada Corporation or any combination of them for
the preparation and implementation of urban renewal schemes." It
appears again we may be incorrect. I think that Councillor Chamberlist
has given us some fine explanations on the points that we have raised.
Again, it appears that the Corporation can take unilateral action
without prior consent of council, that is all. I think that perhaps
you have covered this already, Councillor Chamberlist.

Mr. Chamberlist: The Corporation can enter into an agreement by itself.
It doesn't have to come to the municipality to enter into an agreement
about the purchasing on it. This is its function, but before it
does anything within the municipality, then it must come to the
municipality to make sure that it complies with its bylaws.

Mayor Wybrew: Thank you, Mr. Chairman. That is all, Mr. Chairman
on section 33.

Mr. Chairman: Section 34?

Mayor Wybrew: Section 34, I do have something here, Mr. Chairman.
This is a thing, the Corporation wanting to have a land assembly or
housing scheme or what, requires certain approvals by city council.
We come to 34(1)(a), we have been told that a municipality may be
able to do these things, finance it itself and so on, but now it
says "an urban renewal scheme approved by the Corporation for a
blighted or substandard area of the municipality." Now, it has
to have the approval of the appointed board, who appears and could

Mayor Wybrew continues ...

have, wait a moment, who could have a vested interest here, you see, why not the Territorial Government?

Mr. Tanner: Mr. Chairman, surely the point there is, when you read 34, this is just outlining to the Corporation the powers when it ties into the municipality. It says very clearly, "without restricting the powers it has under the Municipal Ordinance," that is the crux of it right there. To point out those powers that it has under the Municipal Ordinance to the Corporation which is working under this piece of legislation.

Mr. Chamberlist: Section 33(3) is the very answer to dozens of the questions that have been asked. "The council of the municipality may, by resolution passed before the first publication of the notice, prescribe the procedure to be followed by persons who wish to submit representations concerning the proposed urban renewal scheme and, without restricting the generality of the foregoing, may (a) require the submission of written representations ..." This is the type of thing that the Corporation would have to do prior to its putting, you know, this into effect. This answers all those questions relating to the municipality.

Mr. Chairman: Is section 34 clear? Section 35?

Mayor Wybrew: Again, some of these points, you must ... I expressed appreciation before for your consideration in this respect, because some of the points are not quite clear in my mind in regard to council's direction or in query of them. Where the Corporation enters into an agreement with the Canada Corporation, the Corporation may require the municipality to pay the remainder of the share that is not paid by the Canada Corporation. A commitment of municipal funds, is the question by city council. I think that Councillor Chamberlist raised this before, in other words the Corporation can commit municipal funds, that is our interpretation, without approval.

Mr. Tanner: Mr. Chairman, I think that the Mayor has read it wrong. After everything has been read ... we sat down and talked together maybe then

Mr. Chairman: Clear on 35? Section 36?

Mayor Wybrew: Section 36, again, well I think that Mr. Legal Adviser pointed out that the effective Municipal Ordinance regarding money bylaws is being investigated. Is that not right?

Mr. Legal Adviser: Mr. Chairman, I think the Mayor in going back to 35, has a point and I will check it out. Where that word "or" appears in the second line, it is possible the construction which the Mayor has put on it, may be correct as the section is drafted. "Where the Corporation enters into an agreement with a municipality or the Canada Corporation...". It might be correct to read "with a municipality or with a municipality and the Canada Corporation". As it reads here, the Mayor has said that it is capable of the construction, and where the Corporation enters into an agreement with the Canada Corporation, then they may independently require the municipality to do something. I think that it should be clear, that this would only arise where the municipality was a party to the agreement in the first place. I am not sure that this drafting reproduces that power.

Mr. Chairman: Section 36.

Mayor Wybrew: I am sorry, Mr. Chairman. Subsection 35(b), the value as determined in the manner provided in the agreement of land, in the urban renewal area retained by the municipality for public purposes. It is just a question. Is the cost of acquiring public lands to support activities of the Corporation?

BILL #9 Mr. Legal Adviser: Can I have the precise question, Mr. Chairman?

Mayor Wybrew: The question that I have from council, Mr. Chairman, is the cost of acquiring public lands to support activities of the Corporation?

Mr. Legal Adviser: No, I don't think that it has anything to do with supporting the activities of the Corporation. This is land which is acquired under a joint agreement for a specific purpose. Then the municipality will pay a share. If the land is not used for the original purpose, there is some land left, well then that will be turned into a money dollar value and assessed back to the municipality at its value. You might have an urban renewal scheme which you hope will encompass three acres. Only two acres may be devoted to the purpose, but the municipality might say, we will retain an acre for other purposes. In that event it is only fair that it should pay for what it takes.

Mr. Chairman: Anything further on 35? 36?

Mayor Wybrew: 36(1), I think, again we have come back to the point raised by Councillor Chamberlist. "A municipality may with the approval of the Commissioner, by bylaw borrow such monies as are necessary to enable it to prepare and implement an urban renewal scheme, and to secure the monies borrowed." (2) "The Commissioner may guarantee the repayment by a municipality of any money borrowed for its share of the cost of preparing and implementing an urban renewal scheme." Again, I think we come back to the question raised by Councillor Chamberlist, the Municipal Ordinance in regarding the money bylaw. Is that correct?

Mr. Chairman: 37? 38? 39? 40?

Mayor Wybrew: No comment.

Mr. Chairman: 41?

Mayor Wybrew: 41, Mr. Chairman, (1) "The Commissioner," ..

Mr. Legal Adviser: "may" is missing.

Mayor Wybrew: I am sorry, Mr. Chairman, I didn't hear the Legal Adviser.

Mr. Chairman: I believe he was pointing out that in 41(1), it should read, "The Commissioner may by order".

Mayor Wybrew: Yes, that was going to make. "The Commissioner, may by order, establish housing advisory committees consisting of such number of persons as he determines and prescribe their functions and duties." We were wondering, would this give equal number or concurrence by municipal council and a municipality where a project may exist or come into being. We wouldn't like to see, not by intention of course, any municipality being denied an inquest. Is this thought in mind?

Mr. Chamberlist: We are not going to give any answer to a question of that description for the simple reason that this is a piece of a Territorial Legislation, again this is where the Territorial Government have got to say, this is our legislation. Certainly, when the Commissioner comes to consider those particular points, consideration will be given to it, but we are certainly, not going to at this stage, commit to the municipalities, who, what and when are going to be representatives of the municipality involved in ...

Mr. Tanner: Mr. Chairman, as I understood what the Mayor is asking, he is saying, is there any obligation on the Commissioner when he appoints those housing committees, as it is now written, is there any obligation to make sure that the city is at least represented.

Mr. Chamberlist: Not necessarily, there might be circumstances, where

Mr. Chamberlist continues ...

BILL #9

it is necessary to put others in there. The municipality just might not be involved in a particular project. If the municipality is not involved in the particular project, why put a person from the municipality on it. Certainly, where the municipality is cost sharing on a project, I think, the Commissioner would, ordinarily be **duty** bound to recognize the fact that a municipality, having some of its finance involved, recommend that somebody in that advisory committee be from the municipality.

Mr. Commissioner: With respect, Mr. Chairman, I see the question that His Worship is asking, but I think the question should be tempered with this knowledge; that a lot as to who we would consider appointing to these housing advisory committees would be determined by the duties that we were going to assign to the committee, this would be the determining factor as to who was going sit on the committee.

Mayor Wybrew: Nothing more on the Housing Corporation from the City of Whitehorse, Mr. Chairman. Taxation is fine.

Mr. Tanner: Mr. Chairman, may I make a suggestion to the Committee as far as the Municipal Elections Ordinance, as long as the witness has no particular objections. This one is pretty straight forward and there is not very much pertaining to the municipalities that is too much different from the last part of the old Ordinance. Perhaps in this case the witness could indicate the areas he'd like reviewed and we could get to it rather quickly this time rather than going paragraph by paragraph.

Mayor Wybrew: Mr. Chairman, on the Municipal Elections Ordinance, I am going to have to apologize to you. I can't at this moment. Either I didn't bring it with me, and I am positive that did, or it has fallen out in Councillor Chamberlist's car, because he was kind enough to give me a ride to the luncheon. I don't have it here, and I did have it. Taxation yes.

BILL #13

Mr. Chairman: Maybe we could proceed to taxation then. Sections 1 and 2.

BILL #13

Mayor Wybrew: Section 2, Mr. Chairman, the Municipal Ordinance refers to the appointment of an assessor. We would like it explained somewhere in this Ordinance that a municipality may have its own assessor. I understand of course, that we can, but for those who are not legally minded, they can't interpret that meaning in there.

Mr. Legal Adviser: Mr. Chairman, the intention of this Ordinance and the other Ordinances, is that the one common assessment method throughout the Territory supervised by one individual or official in that...the municipal people may or may not have officials working with him, but the assessment responsibility is a Territorial responsibility for evenness throughout every area of the Territory organized into municipalities or unorganized. There are several reasons for this. One of them is the experience in British Columbia where they have great difficulties in evening up the assessment between towns and different areas for school tax purposes, grant purposes and other purposes. The intention here is to even up the measuring device by which taxation is imposed, although the taxes will be imposed by the respective tax authority for the individual place. That is why it is drafted in this way. Assessor means the Assessor for the Territory, that is the whole Territory including municipalities.

Mr. Tanner: Mr. Chairman, if Members of Committee will note that when we went through the Municipal Ordinance, the witness brought up the facts ... the same question, and we said that we would look at it, we haven't tied ... looking at it in the Municipal Ordinance with the Taxation Ordinance. We can do that at the same time too.

Mayor Wybrew: The City of Whitehorse has its own assessor who works, incidentally with the Territorial Assessor, and the Territorial Assessor works for the city, on a, I wouldn't want to say a rental basis, but

BILL #13

Mayor Wybrew continues ...
certainly we are billed for this.

Mr. Chamberlist: You won't have to fire him.

Mr. Chairman: Anything further on 2?

Mayor Wybrew: Yes, Mr. Chairman, "local improvement" means any of the following works or any combination of them "...I can't remember exactly where, but it would appear that this is a different description. There is a different description than this in the Municipal Ordinance.

Mr. Legal Adviser: I think, that it has already been indicated that this will be squared up and I think the City expressed a preference for one of the two definitions, as against the other. The wider one....

Mr. Tanner: Mr. Chairman, didn't the witness ask that sewage disposal, such be added on.

Mr. Legal Adviser: Sewage treatment plant.

Mr. Chairman: So this is under advisement.

Mayor Wybrew: On the trailer mobile home, I believe there is going to be standardization here with the Municipal Ordinance. 3, Mr. Chairman, "For the purposes of this Ordinance, all real property or property deemed to be real property pursuant to this Ordinance is liable to taxation subject to the following exceptions: (a) all real property held by Her Majesty or for the public use of the Territory;" I do believe we received an explanation...We will take the Royal Canadian Legion as an example. Schools et cetera are not included. Am I incorrect, could I ask the Legal Adviser, or Councillor Chamberlist what is Council's position on this.

Mr. Chamberlist: Simple, the municipalities have requested that they be given their own rights, who to exempt and who not to exempt. We have given you the privilege of dealing with matters of the areas, as listed in (a) to (f) and if you wish to, except in those areas.

Mayor Wybrew: Fine.

Mr. Chairman: 4?

Mayor Wybrew: I'm sorry, Mr. Chairman, I think, it is subsection (2). "The properties mentioned in subsection (1) may be assessed in respect of utility services or local improvements applicable to them and taxes in respect of such services or improvements shall be payable in respect of paragraphs (1)(a) to (1)(f), but in respect of paragraph (1)(a), shall only be payable insofar as the Crown submits to the operation of this Ordinance." The existing Ordinance did not exempt the schools from this requirement, however, insofar as Crown submits supplies to all Territorial and Federal properties, what is the policy?

Mr. Legal Adviser: Mr. Chairman, I think, His Honour understands that this House cannot bind the Crown, so we are making a very strong suggestion, but the Crown of the Territory should consent to be bound by putting the form in this way, without going beyond the actual constitutional authority.

Mr. Chamberlist: Mr. Chairman, in giving His Worship the Irish expression for a mayor, His Honour, the Legal Adviser pointed out that in other areas we have made it quite clear that although the Crown does do certain things, and is going to be in fact fair, it still cannot be bound by the law to do this because we haven't got the competence to do this.

Mr. Tanner: Mr. Chairman, I wonder if the Mayor has any comment on, 3(d), 3(1)(d)?

Mayor Wybrew: Of our understanding, no not to my knowledge, our understanding is that if it is used for religious purposes, of course and

Mayor Wybrew continues ...

that primarily, that is alright, but anything else, no. Is that what you are getting at, maybe I am not reading it correctly. Just hold on.

Mr. Tanner: My question is this Mr. Mayor, these various items; (a), (b) (c), (d), are exceptions to the taxation, and I am asking whether the Mayor and city council agree that these should be exceptions?

Mayor Wybrew: "land held by or for the use of any religious body on which is situated a building chiefly used for divine service, public worship or religious education" I do believe that is in the old Ordinance, and I have no notes from Council on this.

Mr. Tanner: Mr. Chairman, I am not asking whether or not it is in the old Ordinance, this is a new one and we can compose it anyway that is acceptable.

Mayor Wybrew: Perhaps I should clarify it a little bit. The position of council, as of this moment, is that if a building is used for divine services, fine, but not properties which are used for accommodation and so on. When I say that, I mean a pastor's home, a preacher's home, or father's home or whatever it might be. That will be taxable.

Mr. Chamberlist: You note it refers, to any religious body, does the Mayor wish any restrictions? Does he want to give it the widest possible scope and allow... Is the City prepared to have it so they can make their own exceptions themselves?

Mayor Wybrew: You have a very good point. That is a very good point that perhaps we missed. Could I submit something back to you afterwards on this and I will make a note of that. Certainly, we will submit something to you on that.

Mr. Chairman: Anything further then on 3?

Mayor Wybrew: No, Mr. Chairman.

Mr. Chairman: 4? 5? 6? 7?

Mayor Wybrew: Yes, Mr. Chairman. The authority for a municipality to appoint an assessor seems to be removed as we mentioned before. The municipalities priority becomes, seems to become the prerogative of the Territory. We would like, that somewhere it would be spelled out that the municipality, any municipality shall have the right to have its own assessor.

Mr. Legal Adviser: Mr. Chairman, I may have not made it clear, the deliberate intention of the section is to make it absolutely clear that the Territory will control assessment. This is for a very, very important purpose.

Mayor Wybrew: We're operating under misapprehension here. I always thought that the Territory did determine the assessment by the Commissioner adopting the manual that was to be used and employ their own assessor, who works in conjunction with ours and visa versa. I guess we will come to this, the Territorial assessor may be in Dawson or Old Crow doing a certain thing at a certain time in the year, the municipality should have the right to execute that particular piece of business, at that time. We will come to these things and I think, by ... We will show you certain parts in here where we can lose twenty thousand dollars a year as a result. We will come to this.

Mr. Chamberlist: Mr. Chairman, I would like to point out to His Worship that, as we exist today, there are four taxing authorities; the three municipalities and the Government of the Yukon Territory. They are the four taxing authorities. The reasoning behind this section, being put in is, that there is one assessor, one yardstick, one rule book, which applies to all those taxing authorities. This legislation does not say, that a municipality can employ an assessor, but the

BILL #13

Mr. Chamberlist continues ...

purpose of assessing; It is the assessor of the Government of the Yukon Territory that makes the assessment and he in turn will, when doing that assessment ...when the municipality does an assessment, within the municipality, it would be cleared with the assessor who will be able to sign in effect that this assessment has been carried out. This doesn't prevent a taxing authority from having his own person, but it must be clear that there shall be one method of assessment, one assessor, who does things in exactly the same way for all properties in all taxes by all taxing authority.

Mrs. Watson: With respect, I am afraid I am going to have to contradict the Honourable Member. It does not provide for each municipality to have their assessor.

Mr. Chamberlist: I didn't say that. I said they can have their own assessor if they want to, you can call him what ever you like. If you want to call him an assessor you can, you can call him an assistant. All he has got to be is an assistant to the assessor, when it comes to the matter of assessment, this my dear colleague, Mr. Chairman, is what I am putting across. If the municipalities wish to employ an assessor, or call him whatever name he likes, he can go ahead and do it, there is nothing says he can't do it.

Mayor Wybrew: What I understand is being said here, then, is that the City of Whitehorse can have its own assessor, but he must assess to the standards established by the Territorial assessor, is that it?

Mr. Legal Adviser: Mr. Chairman, it may be rash for me to intervene between two colleagues that cannot agree. However, about the semantics, as these words are written, "the assessment will be performed by the Territorial Assessor". I don't mind how the details are worked out, or what you call individuals. No assessment will be lawful, unless it is performed by the Territorial Assessor.

Mayor Wybrew: I think, we are going to run into a lot of trouble on this one, when we get further along. I will explain why, I think you will appreciate this perhaps later on.

Mr. Chamberlist: The point that you must keep in mind is, when the time comes along to supply the ... to bring forward the Municipal Aid Ordinance, you'll see that there is a necessity for there to be the same type of assessment to operate the same type of grant program, right the way through, in dealing with all municipalities. What has to be done, is that when an assessment is done, the one person must be responsible for supplying the information that brings forward an exact type of assessment so that the grants are based on that proper area, the same right across the three municipalities plus any other new municipalities that come into being. Therefore, you must keep in mind that the principle is equal methods of providing grants, equal manner in which assessment is made, and equal type or reports that are made in relation to assessment above, very, very important.

Councillor Stutter: Mr. Chairman, I would like to ask if the only assessment that is going to be recognized in the Territory, is the assessment that is done by the Territorial Assessor, assessment work done within municipalities, would there be any charge against municipalities for this work? This is the first question?

Mr. Commissioner: Mr. Chairman, the answer to that question is in the affirmative, yes.

Mr. Stutter: May I ask how this charge would be worked out, is it by a percentage of the assessment?

BILL #13

Mr. Commissioner: Mr. Chairman, I would hesitate to make an absolute prediction on this matter, but I think that you would be really talking not in relation to the value of the assessment but the number of units of assessment. In other words it doesn't take the assessor really basically very much longer to assess a piece of property that has say a value for taxation purposes of one hundred thousand dollars, than it does for him to do one that is ten thousand dollars. I think that you would find that there would be a charge based on the number of units that were basically assessed. There might be some consideration given to the charge in connection with large units that called for a lot of time, something like this. It would be a recovery under the Financial Administration Ordinance section that says, "where a service is performed on behalf of a third party by the Territory, there is a right to make a charge for it". It will not be a charge to make a profit, it will simply be a recovery of the actual cost.

Mayor Wybrew: I can verify this for you Mr. Chairman. I do believe that in the past where we have used the Territorial Assessor, we were charged fifty dollars a day.

Mr. Stutter: Mr. Chairman, it was just mentioned awhile ago by the Member from Whitehorse East that once this Ordinance is passed that the existing assessor for the Municipality of Whitehorse wouldn't be fired, that in actual fact if his work is not in any way recognized. I mean the man wouldn't be any longer classed as an assessor, would he? He would become a janitor or something like this.

Mr. Commissioner: Mr. Chairman, with respect, there may be in the metropolitan area here many dozens of reasons that the City of Whitehorse wants to retain an assessor for purposes other than assessment for general taxation purposes. For all we know, they might wish to levy a business tax in which they would use an assessor. They may have ... they may want to make special representation, we will say to the fire insurance, the Canadian Underwriters Association for fire insurance rates that are charged here, that they wish to have special assessments made with regard to ... there are a thousand things that they would conceivably have a need for an assessor for besides assessment for general taxation purposes. That is all that we are talking about here.

Mr. Chairman: Anything further on 7?

Mayor Wybrew: On 7, Mr. Chairman, I think that it is here, you see ... oh, I am sorry, no. Sorry. Nothing on 7.

Mr. Chairman: Section 8, 9?

Mayor Wybrew: Section 9. I think that this point has already been raised, Mr. Chairman. "The taxing authority for which the assessment was prepared shall pay the cost of the work done by the assessor to the Commissioner." It does look like a little bit of an open cheque.

Mr. Chairman: Clear on 9? Section 10?

Mayor Wybrew: No, no, 9. You see on 9, Mr. Chairman, "the taxing authority for which the assessment was prepared shall pay the cost of the work done by the assessor to the Commissioner." This point was just raised. It does appear to city council that it is an open cheque really. I don't know of anywhere where you set up the rate or cost or anything. It is an open cheque sort of thing.

Mr. Commissioner: Mr. Chairman, when it comes to prescribing costs of this nature, you would find that this would be done in the regulations

Mr. Commissioner continues ...

BILL #13

under either this Ordinance or the Financial Administration Ordinance, just the same as all other charges that are made to third parties are listed under the Financial Administration Ordinance at the present.

Mr. Chairman: Are you clear on 9?

Mayor Wybrew: No, Mr. Chairman. That is all though.

Mr. Chairman: If there is nothing further on section 9. Section 10.

Mayor Wybrew: No, Mr. Chairman.

Mr. Chairman: Sections 11, 12, 13, 14, 15, 16, 17?

Mayor Wybrew: Yes, Mr. Chairman, section 17. I think that we have something here. "The assessor shall forward to each authority the assessment roll of that authority not later than the 1st day of November in the year preceding the year in which taxes are to be levied on the assessment." The city has asked, I think that we asked for additions to assessment and tax rolls as and when property become occupiable. While the period has been extended for the return of the roll, I think that you will find that the whole Yukon can't be done on October 31st. This could possibly cause the city a loss of twenty thousand dollars a year.

Mr. Chamberlist: Mr. Chairman, because we say there is one assessor, this doesn't mean to say that he is the only person that does the whole of the Yukon. This is where there are assistants to the assessor. It is his responsibility. You know, because we have a Department of Education, we don't have just one school teacher.

Mayor Wybrew: I don't know. I think that there is a weak spot there legally.

Mr. Commissioner: Mr. Chairman, the point that the witness has raised concerning what you would call progress type assessment. I think that this is basically what you are asking here, is something which I doubt if any taxing authority has solved this problem yet. It is literally insolvable. It may be that there are some suggestions from the city council on this.

Mayor Wybrew: With respect, Mr. Chairman, I think that there are two or three provinces in Canada that now do this. If your building is not finished, and you move into it in August, and you are occupying it. You finish it up while you are occupying it, whether it be a business or what it be, you pay taxes for those three months.

Mr. Commissioner: Mr. Chairman with respect, the assessor is only permitted to assess for what he finds on the property when he does the assessment.

Mayor Wybrew: Agreed, that is where the city will lose money, about twenty thousand estimated.

Mr. Commissioner: Well, Mr. Chairman, this has been going on now in the City of Whitehorse since it was incorporated. You know, some of the glaring things that have happened in that period of time you know, are pretty rough. Could I suggest that if the city council has any real input here, I think the Legal Adviser would like to hear it. This is one which it affects us in the Territory as well as the city.

Mr. Chamberlist: Has His Worship, Mr. Chairman, got a suggestion to make in this regard at this time?

Mayor Wybrew: Yes, if the property has become taxable as they are occupied... We will present something in writing for you then. Alright?

Mr. Chairman: Alright, that clears 17? Section 18?

Mayor Wybrew: Yes, Mr. Chairman, I believe that I have a note here. "After examination of the appropriate assessment roll, the authority may note any errors and return it to the assessor not later than the 15th day of November." I do believe that this is highly impractical, returning the assessment roll. This was discussed at council, and I am very sorry that I can't give you the exact... I will submit this to you; Subsection 18(1) I will submit it to you Mr. Chairman.

Mr. Chairman: Section 19?

Mayor Wybrew: Section 19, Mr. Chairman, we are looking at this adoption of existing assessment roll and we have had an assessment put off for a couple of years as you well know due to the Alberta assessors not being able to come here. I think that one year they had to do Territorial work, we couldn't get them. It finally hit pretty close to its seventieth year which is the deadline to have the assessment. We are looking at the question of, that economic expansion requires a reassessment every three years, with one-third carried out each year. Would we be thwarted in this desire? Say for instance this year, we split up the city in three areas. This is done in Canada. This is a question that I am asked to ask.

Mr. Commissioner: Mr. Chairman, I think that ... I see the point that His Worship is raising here, and at some point in time where you know, the assessment problems became so great that it became a physical impossibility, I think that is when you would go for dividing your area up. I would like to suggest that this could work up a very unfair situation in certain instances, particularly where in a developing areas such as Faro or Whitehorse, that the arrival of new buildings and new types of buildings in various areas could change the total valuation picture throughout the community. I think that you have that situation going on in Whitehorse right now, Mr. Chairman, where you have the downtown core being threatened in its competitive position by suburban type construction, which may tend to change the whole valuation picture. I would suggest that this is maybe something for the future, but I don't think that it would be something for right now.

Mr. Chamberlist: It is limited to five years, maximum. It is limited that there can only be an adoption of existing assessment for five consecutive years, before it was seven. Is that too long? If you want us to bring it down to three years.

Mayor Wybrew: The point is that is the limit. That permits the city to bring it down too.

Mr. Chamberlist: Would you like, Mr. Chairman, the Government would be quite agreeable to bring this down to three years, do you want us to?

Mayor Wybrew: No, that is the limit, it must be done by then. The city could do it in three as it is now. It is okay.

Mr. Chamberlist: Right, would you like us to put a limit on this.

Mayor Wybrew: No, we are not talking about a limit on three, we are talking about rotating three.

Mr. Chamberlist: I know, but again, here we are saying that no such assessment roll may be adopted for more than five consecutive years. Would you like us to say that, no such assessment roll may be adopted for more than three consecutive years? Then you would force the Territorial Government Assessor to assess to reassess for sure after three years.

Mayor Wybrew: No, I would suggest that it perhaps be left as it is. The availability of assessors has proven the Territory has used them I think one or two years in a row, that is why we couldn't get ours done, and we went the limit. So, for your sake too, perhaps it should remain as it is.

BILL #13

Mr. Chairman: Anything further on section 19? Sections 20, 21, 22?

Mayor Wybrew: Section 22, Mr. Chairman, (1) "each authority shall at least thirty days before the date fixed for the sitting of the Court of Revision for the revision of the assessment roll in any year, (a) send by mail to every person listed in the assessment roll ..." at least thirty days before the date fixed for the sitting of the Court of Revision. The Court must sit before December 31st. The city has fifteen days to prepare and mail notices. We feel that this is a little tight.

Mr. Legal Adviser: We will check it out, Mr. Chairman. Of course, as His Honour knows, this is a carefully drafted program to fit in with the set of dates and we won't tamper lightly with it. We will have a look at it.

Mr. Chairman: Section 22 is clear? Section 23?

Mayor Wybrew: Section 22, I am sorry, Mr. Chairman, (b) "that the assessment roll to be revised has been deposited in the office of the authority and will remain open for the inspection of any person for a period of fifteen days from the date of the notice." Section 18(1), How? It was given back to the assessor on November 15th?

Mr. Legal Adviser: No difficulty with that. It is only given back to the assessor for the purpose of correcting errors.

Mayor Wybrew: I don't know how you are going to do it.

Mr. Tanner: Mr. Chairman, is that giving it back to the ... giving it back to check for any mistakes is more or less a formality. One must normally assume that the majority of the work done by the assessor and the various other departments is correct, and to pick up any glaring mistakes surely what does that take, one sitting? You are not going to go through it page by page, item by item.

Mr. Chamberlist: That is to take advantage of section 20(1), "the authority may appoint a special examiner to examine the assessment made by the assessor". If you wanted to just to appoint a special examiner, you could appoint a special examiner. Otherwise you take it for granted that the assessment has been carried out except when somebody has reported that in their opinion, that there has been a mistake made. It is then checked and corrected.

Mayor Wybrew: Nothing on (c) or (d), Mr. Chairman.

Mr. Chairman: Subsection (2). Sections 23, 24, 25, 26?

Mayor Wybrew: Section 26, Mr. Chairman. This comes up again in 26(1), "for the purpose of revising an assessment roll and deciding any complaints with respect thereto, the Court of Revision not later than the 31st day of December of the year preceding the year in which taxes are to be levied ...". Is there a possible conflict, that the Territorial Assessor might be elsewhere in the Territory at the same time or approximately the same time? Is there this possibility?

Mr. Legal Adviser: Yes, and there will be boards sitting in different ... well, hopefully the boards won't all clash on the same day.

Mayor Wybrew: No, but it says assessor, it doesn't say assessors. It says assessor, one.

Mr. Tanner: Mr. Chairman, it is the office, surely, not the gentleman particularly.

Mayor Wybrew: Then it must be that officer, right?

Mr. Tanner: No, it is the office not the officer. It is the office of the assessor that we are talking about here, not a particular

Mr. Tanner continues ...
assessor, Mr. Joe Blow.

BILL #13

Mayor Wybrew: Assessor means the Assessor for the Territory appointed, if you turn to section 7. I don't know.

Mr. Tanner: As I understand it, every office like that delegates a certain amount of authority. This assessor might have five assessors working for him.

Mayor Wybrew: Agreed, but he is the assessor. It is just a legal point, alright. Nothing on 27, Mr. Chairman.

Mr. Chairman: Sections 28, 29, 30, 31, 32, 33, 34?

Mayor Wybrew: Nothing.

Mr. Chairman: Section 35?

Mayor Wybrew: Section 35, we have something there, Mr. Chairman. "The Court of Revision may hear all complaints arising out of the general assessment on the same day, or if deemed advisable, adjourn from time to time until all complaints have been heard and determined, but the hearing and determination of all such complaints shall be completed before the 1st day of January in the year in which the taxes are to be levied."

Mr. Chamberlist: That is twelve months ago.

Mayor Wybrew: "Shall be completed before the 1st day of January in the year in which the taxes are to be levied." The Court doesn't sit until December 31st, do you think that it can hear all complaints in two days? That is the way that we read it.

Mr. Legal Adviser: It doesn't read that way to me, Mr. Chairman. Section 26 says, that they must decide complaints not later than the 31st. They can meet earlier. I would expect that they normally would.

Mr. Chairman: Clear on 35?

BILL #13

Mayor Wybrew: Clear.

Mr. Chamberlist: I would suggest that we take a look at it. If we look at 26(1), it says, "for the purpose of revising an assessment roll and deciding any complaints with respect thereto, the Court of Revision not later than the 31st day of December of the year preceding the year in which taxes are to be levied shall meet at a time and place to be designated ...". This one over here, 35(1) says, "the Court of Revision may hear all complaints arising out of the general assessment on the same day, or if deemed advisable, adjourn from time to time until all complaints have been heard and determined, but the hearing and determination of all such complaints shall be completed before the 1st day of January in the year in which the taxes are to be levied. Now if the 1st of January is the year in which the taxes are to be levied, and they have to hear it before that date, and the 31st of December is the year ending before the taxes are going to be levied, when does the hearing take place?"

Mr. Legal Adviser: The last day on which they can do anything effectively is the 31st. Presumably they can get out an order on the 1st. They have to decide on the 31st. The 31st is the deadline. We can look at it and program it out, but my understanding is that this time schedule has been checked out pretty carefully, not by me but by our Treasury and collection people programming these dates. Effectively what it means is, the last day for making corrections by the assessors is the 15th of November. All Court of Revisions must be finished by the end of December. There is plenty of time.

Mr. Tanner: Mr. Chairman, could I suggest that when this is reviewed to just assure the municipalities that this is so ...

Mr. Legal Adviser: We will give it another run round to check it out. We had a schedule at one time prepared, showing the various programmed dates for the assessment, the return and then right on to the taxation, when the taxation is due, when the bills are sent out, when the penalty becomes due and so on. This is all carefully done up.

Mr. Tanner: Mr. Chairman, I think that Committee would like to see that, if you could get a copy of that.

Mr. Chairman: Alright, section 36, 37, 38?

Mayor Wybrew: Section 38, yes we have something. Subsection 38(3) go down to but, in the sixth line, "but the Court of Revision without determining the complaint, may order a new assessment to be made of the whole of the taxation area or of any portion thereof that includes the real property in respect of which the complaint has been made." This could have quite an effect on when a budget can be prepared.

Mr. Chamberlist: That is exactly the same section that has been in there before.

Mayor Wybrew: It could have quite an effect, is that not right?

Mr. Chamberlist: It has got to be in there.

Mr. Legal Adviser: It is very seldom used, Mr. Chairman. I suppose that justice would demand that if it suddenly shows up in an area that an injustice is being created, something should be able to be done.

Mayor Wybrew: Fine, thank you, Mr. Chairman.

Mr. Chairman: Section 39, 40, 41, 42, 43?

BILL #13

Mayor Wybrew: Section 43, Mr. Chairman. "Where a person has a complaint in respect of an assessment that has been levied pursuant to section 52, that may complain to the Court of Revision in the same manner as set out in section 32." Section 52 seems to be pretty definite.

Mr. Legal Adviser: It is a perfectly reasonable section, Mr. Chairman. It is allowing an appeal against the assessment in respect of an irregular lot as to how much foot frontage tax the person should pay for his water or his sewer.

Mr. Chairman: Clear on 43? Section 44?

Mayor Wybrew: Section 44, Mr. Chairman subsection (2)(a), "the appellant shall, within fifteen days from the date of mailing of the notice of the decision of the Court of Revision, serve upon or send by registered mail to the authority a written notice of appeal stating the grounds upon which he intends to appeal." I have a note here stating that six days after January 1st plus fifteen days comes to January 21st. We have a ... we must be what?

Mr. Legal Adviser: Mr. Chairman, his Honours arithmetic is correct. A key date in it is the 1st of February, which is the end. His Worship, I beg your pardon.

Mayor Wybrew: I beg your pardon, what did he say, Mr. Chairman?

Mr. Legal Adviser: The key date is the 1st of February. I know that that is a firm date because the Territorial Government has to get its bills out during that period of March in order to make the taxes accountable in the correct year.

Mr. Chamberlist: Mr. Chairman, I would like to mention for the benefit of Members of Committee and also for the benefit of His Worship; in a Territorial Court of Appeal here in the Yukon in relation to an assessment, Justice Parker could have set aside the whole assessment, and if that section had not been in, this section 38(3), if that section hadn't been in there, it would have placed the city in the position of having to completely do a new assessment. He took advantage of the section and only dealt with those areas where the appeal had been successful and ordered a reassessment of just a portion of it. This really benefits a municipality in that particular case.

Mayor Wybrew: That is 44, Mr. Chairman we go down to (i) at the bottom of 44. Paragraph 44(2)(i) "... a return of the judgment shall be made to the authority before the 1st day of February in the year in which taxes are to be levied on the assessment." I was just wondering, the judge has only ten days including holidays in which to hear a complaint. Would this be sufficient, I don't know?

Mr. Legal Adviser: It might not be too popular a section with the court. As I said, the Territory needs to get out its bills before the end of March in order to have the taxes accountable in that financial year for us. It doesn't affect the city in the same way. They have a bit more time to get out their bills. The Territory is tied to it.

Mr. Chairman: It doesn't seem like a very long period of time, does it?

Mr. Chamberlist: It puts the onus on the court to hear it.

Mr. Chairman: What happens to the appellant if the court doesn't hear it? If they cannot hear it within that period of time?

Mr. Legal Adviser: If necessary in that case, if the judge happens to be occupied, for instance, he could be occupied in a murder trial, another judge would come from outside. We have several judges holding appointments to the Territorial Court at the moment. Another

Mr. Legal Adviser continues ...
judge would come in from somewhere and try that case.

BILL #13

Mr. Chairman: There is no danger that this period would pass by before it was dealt with.

Mr. Legal Adviser: No, Mr. Chairman, the danger of the judge or any judge disobeying the law as clear as this is quite remote.

Mr. Chamberlist: This becomes a legislative requirement for a Territorial Court Judge to deal with the matter.

Mayor Wybrew: Mr. Chairman, there are times when you have transportation difficulties. I am just wondering, that is all, if he has to come in from outside. It is kind of tight, you see.

Mr. Chairman: Are you clear on 44? Section 45?

Mayor Wybrew: Section 45 is alright, Mr. Chairman.

Mr. Chairman: Section 46, 47?

Mayor Wybrew: Section 47, I have a note here from Council. Second line "before the 1st day of February of the year" see section 44(2) (i), there is something there. Is there a problem there, Mr. Chairman? Mr. Legal Adviser does this

Mr. Chamberlist: There is one little problem. I would like to point this out to Mr. Legal Adviser when I can attract his attention from the services of another Territorial Councillor.

Mr. Chairman: Order please, I wonder if Mr. Legal Adviser could assist us.

Mr. Chamberlist: Mr. Chairman, Mr. Legal Adviser might take note of the fact that if the 1st day of February is the last day on which the judge shall hear, it is pretty difficult for him to determine and write to a municipality at Faro or Dawson City and give the judgement on the same day. I would suggest perhaps there should be a few days of allowance given for the judge to send his reply. If the hearing took place on the 1st of February or the 1st of February, that is the 31st of January, if it took place on the 31st of January, it would be an almost impossibility to forward his decision to the assessor who shall forthwith make the changes, if any, within one day. I think that we should give some consideration to make that three or four days.

Mr. Legal Adviser: It is a question of time scale. It can be considered. I know I was involved in a case which went right up to the deadline, and there was a certain amount of mumbling from the court, but the judge cheerfully obeyed the law. We will consider it.

Mr. Chamberlist: Notwithstanding that the judge cheerfully obeyed the law, this Legislative Body can make it convenient for ... to make him more cheerful about the situation.

Mr. Legal Adviser: I think the correct way to do it, is to have the tax collection and assessors look at it and check out and see what leeway can be given. I wouldn't like to give any hasty decision on dates alone.

Mr. Chairman: Section 48, 49, 50?

Mayor Wybrew: Section 50, oh, I am sorry.

Mr. Tanner: Mr. Chairman, seeing that it is getting near the end of the week, seeing as how it is Friday afternoon, I move that the Speaker do now resume the Chair.

Mr. Chamberlist: I am reluctant, but as it is one of my colleagues making the request, I second the motion.

Mr. Chairman: I wonder if Mr. Mayor might be excused at this time? Mr. Mayor would you be available, possibly Monday morning at say a quarter to ten.

Mayor Wbyrew: Yes, Mr. Chairman.

Mr. Chairman: Thank you for your participation this week. We look forward to seeing your smiling self on Monday.

Mayor Wybrew: I would like to thank Council for its kind consideration.

Mr. Chairman: It has been moved by Councillor Tanner, seconded by Councillor Chamberlist that Mr. Speaker do now resume the Chair. Are you prepared for the question? Are you agreed? I declare the motion carried.

*MOTION
CARRIED*

MOTION CARRIED

Mr. Speaker: The House will now come to order. May we have a Report from the Chairman of Committees?

Mr. Chairman: Yes, Mr. Speaker. Committee convened at 9:50 a.m. to discuss Bills, Sessional Papers and Motions. Mayors Wybrew and Lehbauer attended Committee to discuss Municipal Legislation. Committee recessed at 12:00 noon and reconvened at 2:00 p.m. I can report progress on Bill 10, 9 and 13. It was moved by Councillor Tanner, seconded by Councillor Chamberlist that Mr. Speaker do now resume the Chair. This motion carried.

Mr. Speaker: You have heard the Report of the Chairman of Committees. Are we agreed? May I have your further pleasure?

Mr. Taylor: I believe for Monday that it is the intention of Committee, Mr. Speaker, to proceed with Bills, Sessional Papers and Motions.

Mr. Speaker: May I have your further pleasure?

Mr. Tanner: Mr. Speaker, I move that we call it five o'clock.

Mr. Stutter: I second that motion.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse North, seconded by the Honourable Member from Dawson that we now call it five o'clock. Are you prepared for the question? Are you agreed? I declare the motion carried.

*MOTION
CARRIED*

MOTION CARRIED

Mr. Speaker: The House now stands adjourned until 9:30 a.m. Monday morning.

ADJOURNED

ADJOURNED

Mr. Speaker reads the daily prayer. All Councillors are present.

Mr. Speaker: Mr. Clerk, is there a quorum?

Mr. Clerk: There is, Mr. Speaker.

Mr. Speaker: The House will now come to order. Are there any Documents or Correspondence to be tabled? Are there any Reports of Committees? Are there any Bills to be introduced? Are there any Notices of Motion or Resolution? Are there any Notices of Motion for the Production of Papers? As there are no Motions for the Production of Papers, we come to Motions. Motion No. 15, it has been moved by Councillor Taylor, seconded by Councillor McKinnon, "In the opinion of the Council, the Administration give consideration to recommending an amendment to the Yukon Act, increasing the membership of the Yukon Legislative Council from seven to nine members, by creating an electoral district which will include Carmacks, Faro, Ross River, and an additional electoral district for Whitehorse." Is there any discussion on this motion?

MOTION #15

Mr. Taylor: Yes, Mr. Speaker, I have of course raised this question before. I raised it of course at a time when we were contemplating the creation of the Executive Committee. I had the concurrence of all Members at that time. This was back, incidentally in 1970. It has become more evident today that the people in the Pelly, Carmacks, Faro and Ross River area desire representation on site, that is a constituency of their own. I might point out that the population distribution in the Territory now, would indicate that within that area there are now from seventeen hundred to two thousand citizens, Yukon citizens, which fits very nicely into the general electoral scheme of the Yukon. The three major points or, including Pelly, of course, are linked by a road system. I think that generally speaking the people in those communities have common interests. I think that a representative from that area would have no difficulty in going from point to point within the area. It would be a fairly easy constituency for a member from that constituency to adequately represent. The developments taking place in the general area, Mr. Speaker, are of such magnitude as to foresee in the future new communities within that proposed area. I might say, I have outlined the area on a map showing the proposed Carmacks, Ross River area very easily defined geographically, taking in as I say, Pelly Crossing, Carmacks, Faro and Ross River. It borrows a little out of Carmacks-Kluane, and it borrows quite a bit out of the Watson Lake Electoral District. Under the present situation, I have been representing this area for quite a number of years, and I find it extremely difficult to be on site in those northern areas as much as I would like to. I must largely depend on the use of helicopters, fixed wing and of course road transportation to serve the area. I might also point out that there is a new development, Mr. Speaker, coming up on the upper Canol Road, north of Ross River. If this Hudson Bay Mine does go into production in the next year, two or three, or whenever it does, will no doubt create a new community in that area. I think that the importance of that particular possibility is evidenced by the placement of a Territorial Government grader station at Sheldon Lake. I won't go further into the other potentials, but I think that many Members are aware of some of the potential of that fantastically active district. Also, the further development of Carmacks as a key communication and supply centre is not to be overlooked when considering this motion. I really feel that it is imperative that these people in this area at the earliest possible moment be permitted representation at this Table. Now, it is also recognized, Mr. Speaker, at the same time in considering judicial redistribution or by whatever method it should occur, that in Whitehorse the population of Whitehorse has increased substantially and certainly by reshaping the electoral boundaries of the general Whitehorse area which now consists of three constituencies, the adding of a fourth would certainly do much to equalize the distribution of representation per population. So it is suggested in the motion

MOTION #15

Mr. Taylor continues ...
that another seat be given to Whitehorse, to be known possibly as the constituency of Whitehorse South. I think that the time has come when we should enlarge this Council by two Members. I don't know that we can go any further at this time. I certainly have seen no indication out of Ottawa in the Throne Speech presentation that it is the intention of the Government to amend the Yukon Act during this Session, if it is, it has not been indicated. The motion asks very simply in as straight forward terms as possible that the Administration give consideration to this proposal. I really think that it is an important motion, and I would most certainly, ask for the whole-hearted unanimous support of all Members of this House.

Mr. McKinnon: Mr. Speaker, in seconding the motion, it is simply a restatement of Council's wish and if I remember correctly, this motion was passed unanimously by Council the last time the Honourable Member from Watson Lake presented it. It is interesting to note that we hear so often about the input that this Council now has with the Federal Government of Canada. Even though this Council has unanimously passed this motion at one time, there seems to be no amendment to the Yukon Act on the horizon that would allow for the unanimous wishes of this Council to be fulfilled. As I say, I think that it is a very sensible motion. I think that the Honourable Member from Watson Lake has presented the case in Council before and has presented it well again. It certainly gives me pleasure to second this motion that would see the increase of the Yukon Legislative Council from seven to nine Members, Mr. Speaker.

Mr. Stutter: Mr. Speaker, although I support this motion in principle, I don't believe that it goes quite far enough. I think that by stating in the motion that we just request that these particular two areas be included as new electoral districts in the Yukon, I feel that the door should be left open to go to a greater membership in the future. I would at this time, like to propose an amendment to the motion, if I can find a seconder, that would provide a minimum of nine members to this Council, putting in the words "a minimum" and leaving out the last part of the motion.

Mr. Tanner: I will second the motion.

Mr. Stutter: May I read the amendment, Mr. Speaker?

Mr. Speaker: May I have a copy? It has been moved by the Honourable Member for Dawson, seconded by the Honourable Member for Whitehorse North, that Motion No. 15 be amended by adding the words, after "seven" "to a minimum of nine members", and deleting the remainder of the motion. Are you prepared for the question?

Mr. Chamberlist: No, Mr. Speaker, prior to the moving of the question, I would like to speak on the main motion. I haven't had the opportunity of doing that yet, if it is alright with Honourable Members?

Mr. Speaker: Proceed.

Mr. Chamberlist: Mr. Speaker, the motion that has been presented is identical to the motion that was presented in the 1970 Second Session on April 1st, 1970. At that time, I seconded the motion. At that time, Mr. Speaker, in seconding the motion, I said that I was accepting at the moment the assumption that the Federal Government have jurisdiction over the Yukon Territory, and, on the basis of that, I am suggesting that the Yukon Act be amended as outlined by the Honourable Member from Watson Lake. It is essential that we have more members, I feel, on Council so that the fulfillment of an Executive Council can really come into being with three members, as has already been suggested. I feel that all Members of Council should recognize the fact that as we grow, the Legislature has to grow with it. I would ask that they give support to this motion. Mr. Speaker, we have had an amendment to that motion, which in fact

Mr. Chamberlist continues ...

does the same purpose but doesn't bring it down to a minimum of nine. Mr. Speaker, as Members are aware, I had proposed a whole package of motions dealing with constitutional amendments, which would have included these very suggestions that have been made, and with the concurrence of the Honourable Member from Whitehorse West, it was agreed that when the constitutional report had been tabled in the House, we would receive a copy here, and I, in consultation with all Members of the House, would formulate the motions. It was my hope that this motion that has been put forward now, would not have been proceeded with until such time as we have the whole package deal, so that we can get in to the Federal Government the whole gist of what were looking for, towards a big step forward in constitutional reform in the Yukon. At this time, I would like to put a question so that I can allow myself to go on and refer to it some more, I would like to put a question to the Honourable Member from Watson Lake and his seconder, that in view of what I have just said, and my assurance that it is the intent to bring forward motions that will deal with the overall matter, that they withdraw their motion to allow that to happen. This was the assurance I was given from the Honourable Member from Whitehorse West. I know that he will not disagree that this was arranged with him. It is a question, Mr. Speaker.

Mr. Taylor: Mr. Speaker, in reply to the Honourable Member who has just spoken. This has been on the books for quite some time. It has been agreed upon by the former Council, and I certainly hope that it is agreed upon by this Council. I have no knowledge of any suggestion that ... other than there were three motions coming up. I have no knowledge as to their content, I know nothing about it. I think ... I really can't say what he had contemplated in his motions. I would like this motion to stand, as would the people who have sent me to this Table. I would most certainly like the support of all Members of Council in the acceptance of this motion at this time. I feel that it is very, very important and, as amended, is fine.

Mrs. Watson: Mr. Speaker, I would also like to speak to the main motion. I also accept the principle of enlarging the membership on the Territorial Council. The proposal in the original motion moved by Councillor Taylor representing Watson Lake, designates a new constituency. This constituency would be taking some of the area which is presently in my constituency. I would like to clarify it for the record, The Honourable Member from Watson Lake seems concerned that it was impossible to provide proper representation for these people at this time. I would like to state very emphatically that I feel that the area that he is referring to, that is within my constituency, is having very good representation at this time, since the indemnity to Councillors was increased and an allowance for rural Members was given an extra allowance of one thousand dollars. It makes it possible for us to give the representation to the extended areas that they deserve.

Mr. McKinnon: Mr. Speaker, I can't speak in debate on this subject again. It appears that there is going to be further debate needed on the motion. I don't think that as seconder of the main motion that I can move it into Committee, but if some Member would, that would probably be the easiest way in getting a full scale debate on the subject, which it appears that the House is ...

Mr. Chamberlist: Mr. Speaker, I just asked a question of the Honourable Member, so I am still in the debate and that the Honourable Members will agree, I just put a question. I am prepared to move that the motion be passed into Committee of the Whole for discussion.

Mr. Speaker: Is there a seconder?

Mrs. Watson: I will second that motion.

Mr. Speaker: It has been moved by the Honourable Member for Whitehorse

Mr. Speaker continues ...

East, seconded by the Honourable Member for Carmacks-Kluane, that Motion No. 15 be referred to the Committee of the Whole. Are you prepared for the question? Are you agreed? I declare the motion carried.

MOTION CARRIED

Mr. Taylor: Mr. Speaker, just one question if I may be permitted. I am wondering if Members would agree with me, that this be the first matter of business this morning in Committee?

Mr. Chamberlist: No, Mr. Speaker, we have to get on with the business in the House. As the Honourable Member knows that we should proceed in the ... we have witnesses here, who at his request..we would like to deal with them.

MOTION #16

Mr. Speaker: Motion No. 16. It has been moved by Councillor Taylor, seconded by Councillor Stutter, that the subject of a logo symbol for use by the Government of the Yukon Territory, be discussed in Committee of the Whole. Are you prepared for the question? Agreed? I declare the motion carried.

MOTION CARRIED

Mr. Speaker: We now come to the Question Period. Mr. Clerk, will you see if the Commissioner is available. We will now have a short recess.

RECESS

Mr. Speaker: The House will now come to order. Are there any questions?

QUESTION RE
BRIDGE AT
DAWSON

Mr. Stutter: Mr. Speaker, I would like to ask the Commissioner a question. We have before us, it hasn't been tabled, but there is a study put before us of the economic feasibility of a bridge across the Yukon at Dawson. I wonder if the Commissioner could tell me if any consultation has been had between the government and the mining people at Clinton Creek re the possibility of continuing to ship ore through the Territory, if a bridge were built. At the moment, it is my understanding that in 1977, in all probability if there isn't a bridge across the Yukon River at Dawson, all of the ore will in fact, go through Alaska and be shipped out via Valdez, so none of the benefits will accrue to Whitehorse or rather to the Yukon, or to the Canadian side of the shipping.

Mr. Commissioner: Mr. Speaker, to say that there has or has not been consultations on this matter between the Government and the mining company cannot be answered just in quite that simple terms. Also the statement that the Honourable Member has made, that he understands that after a certain date that all the ore will be diverted via Alaska, this is all tied in with the question of what is going to happen with the transportation problems that face the mining industry in the Yukon completely. It isn't confined just to the asbestos from Clinton Creek. Quite frankly, Mr. Speaker, the answer to the Honourable Member's question is a very long and complicated one that has to do with a total transportation package in the Yukon Territory as it relates to the mining industry and the tourist industry, and is not simply a question of whether there is a bridge built across the Yukon River at Dawson. I might like to suggest, Mr. Speaker, while I am on my feet, that the major question is railroad extension into the Territory, then the question of the bridge across the Yukon River at Dawson becomes something that can be dealt with as part of that total package.

Mr. Speaker: Are there any further questions?

QUESTION RE
SEARCH AND
RESCUE

Mr. McKinnon: Mr. Speaker, I would like to ask Mr. Commissioner, we seem to spend an enormous amount of money on search and rescue around and in the Yukon Territory. Most of the time we seem to be

Mr. McKinnon continues ...

searching for planes from other countries. As far as I understand, most of the time these planes that are travelling in the winter, are very ill-equipped, and in fact are often airplanes that are painted white. Has there ever been any representation to the Department of Transport concerning more stringent regulations on planes passing over the Yukon Territory?

Mr. Commissioner: Mr. Speaker, I believe that representations have been made on several occasions. I can't say that the representations have been made with regard to the coloring of the actual airplanes themselves. I think that the Honourable Members will remember that approximately two years ago, the Honourable Donald Jamieson, who is the Minister of Transport, was here in Whitehorse and was asked at a public meeting, as to whether or not his Ministry would attempt to require aircraft to carry some kind of a signal beacon, I am sorry Mr. Speaker, I can't describe it properly. Also, to carry a certain amount of minimal survival equipment. I believe the Minister's answer was at that time, was that it was not within the competence of his Ministry to place this kind of a requirement, and secondly that it was not possible to police it. However, this doesn't mean to say that further representations along these lines could not be made, Mr. Speaker. I would consider it very appropriate for this Council by formal motion, to put something forward, which I would be very pleased to use as a part of representations to the Ministry of Transport in this regard. I would point out to Honourable Members that the unfortunate incidents of aircraft being downed in the last few months, that we have had at least on one occasion that I am aware of, through the press and the news media, that one of these beacons that was referred to by the Minister at that time, was instrumental in assisting the search to be concluded successfully. Certainly the value of this particular kind of piece of equipment on the aircraft has been very visibly demonstrated to the practical situation.

Mr. Speaker: Are there any further questions?

Mr. McKinnon: Mr. Speaker, I would like to ask Mr. Commissioner whether it is in the competence of this Council to suggest that there be some sort of a manually operated stop button on the Alaska Highway for people going from the recreation centre to the Hillcrest area, or whether this should wait until April 1st when the Government of the Yukon Territory take over control of the Alaska Highway. The specific instance was with the traffic and the darkness in the winter, that one cub returning from his cubbing activities at the recreation centre went across the road and was hit by a car. There are no signal lights. The only flashing signal light that was there, was removed when the air force left. There is no protection at all for pedestrians travelling from the recreation centre to the Hillcrest area, where many of the recreation activities of the Hillcrest area take place...whether it is within the competence of this Council now, to suggest that some type of warning device, the manually operated stop button or some kind of flashing red light be installed. In the winter months it is extremely dangerous for children trying to cross to their Hillcrest homes across the highway.

*QUESTION RE
FLASHING
LIGHT IN
HILLCREST*

Mr. Commissioner: Mr. Speaker, I think that it is within the competence of the Council to make this recommendation at any time. I don't think that we have to wait until April 1st. I would also like to point out to the Honourable Members that at least in one location on the Alaska Highway, such a flashing light has been installed by a local service club. Hopefully I am not saying the wrong organization here, but I believe that it was the Lions Club that had this installed at Destruction Bay. I know that it is there, and I know that it is operating twenty-four hours a day. The Honourable Member from Carmacks-Kluane advises that there is a similar one in Haines Junction, Mr. Speaker. Certainly, if service clubs are able to perform this function, in small communities such as Haines Junction and Destruction Bay, surely we could encourage one to do something similar here in connection with the problem that the Honourable Member raises.

QUESTION RE
TRAFFIC
CONTROL IN
PORTER
CREEK

Mr. Tanner: Mr. Speaker, I have a question which follows on from the question which the Honourable Member from Whitehorse West has just asked. I was going to wait until we had taken over the Alaska Highway completely to ask this question. I thought that perhaps there was a jurisdictional problem right now between the two departments. There is a very serious situation in Porter Creek in the first turn off into Porter Creek. It is impossible when it is dark to see that turn off. I have been requested by many of my constituents and I have been trying for some months to get D.P.W. to get a 40 mile an hour zone through the Porter Creek area where there is five turn offs onto the main highway. I do believe that we need a very apparent and clear school crossing in Porter Creek because a number of residents and a number of children live across the highway. I would ask the Commissioner these questions, whether all of these things could be done now, and if not could they be done as soon as we take over the Alaska Highway. There is one other point too, which concerns me. I think that it should be cleared up immediately. At the top of the Two Mile Hill, as all Members are aware, we have a triangle. The habit of the people who are clearing snow there, whether it be Territorial or D.P.W., is to pile the snow in big ridges on the side of the road. Consequently, you are creating a very serious traffic hazard right now, because you can't, when you come to stop to turn onto the highway, you can't see either way. I would ask the Commissioner that in this particular case to have something done within the next twenty-four hours, before we do have an accident.

QUESTION RE
SNOW RIDGE
TWO MILE
HILL

Mr. Commissioner: Mr. Speaker, if the Honourable Member who represents the area in connection with the Porter Creek situation would bring these matters to my attention by a letter, we will attempt to determine just what the jurisdiction is, and see if something can be done about them. With regard to the last item that he has mentioned, certainly I am quite prepared to take this up with the local Department of Public Works people and see just what can be done with it.

Mr. Speaker: Are there any further questions?

Mr. Commissioner: Mr. Speaker, approximately ten days ago, I was asked by Honourable Members in connection with a press report that had to do with the Arctic Institute of North America Study concerning communications in the North, in which I believe, the inference was made that we didn't need any more live T.V. up here; that there was enough entertainment here as it is. I would like to advise the Members that one copy of this paper has come into my possession, and we have asked the Arctic Institute to send sufficient copies that will permit us to distribute them to all Members of Council. The request that was made, that I communicate our general displeasure, will be dealt with as soon as I have had time to pursue the details of the paper in question.

Mr. Speaker: Are there any further questions? We wish to thank the Commissioner for his attendance. As there are no Private Bills or Orders, and no Public Bills or Orders, may I have your further pleasure.

Mr. Taylor: Mr. Speaker, I would move that Mr. Speaker do now leave the Chair and Council resolve into Committee of the Whole for the purpose of discussing Bills, Sessional Papers and Motions.

Mr. Tanner: Mr. Speaker, I will second the motion.

Mr. Speaker: It has been moved by the Honourable Member from Watson Lake, seconded by the Honourable Member from Whitehorse North, that Mr. Speaker do now leave the Chair for the purpose of convening in Committee of the Whole to discuss Bills, Sessional Papers and Motions. Are you prepared for the question? Are you agreed? I declare the motion carried.

MOTION CARRIED.

Mr. Speaker: The Honourable Member for Watson Lake will please take the Chair in Committee of the Whole.

Monday, February 21, 1972.
10:10 a.m.

Mr. Chairman: At this time I'll call Committee to order. We have with us, Mayor Wybrew, today, to contribute to the discussions relative to Municipal Legislation. When last we rose we had discussed section 47 and read through to 49. Is there anything up to 49? BILL #13

Mayor Wybrew: There is nothing, Mr. Chairman.

Mr. Chairman: 50?

Mayor Wybrew: I have a point, Mr. Chairman, on 50 (3), "On or before the 1st day of March in each year, the council of every municipality shall, in accordance with this Ordinance and the Municipal Ordinance, levy taxes on the assessed value of all real property in the municipality liable to taxation." I have a note here that the amount levied may not be determined as budget, and need not be adopted until May 16. Interpretation on that, or are we reading this incorrectly? I don't know.

Mr. Legal Adviser: No Mr. Chairman, he's not reading it incorrectly. This section is, in any event, going to be revised. It's up for redrafting so this point will be taken care of at that time.

Mr. Chairman: 51?

Mayor Wybrew: No comment.

Mr. Chairman: 52?

Mayor Wybrew: No comment.

Mr. Chairman: 53?

Mayor Wybrew: No comment.

Mr. Chairman: 54?

Mayor Wybrew: 54, Mr. Chairman. 54 (1) "The Commissioner shall consult with the taxpayers in any area liable to pay a tax in respect of a local improvement, and where a majority of such taxpayers agree, the Commissioner may construct a local improvement." Do we read this as meaning outside of municipalities?

Mr. Chamberlist: That is all that is, Mr. Chairman, it just deals with that area where the Commissioner has the taxing authority.

Mr. Legal Adviser: We can specify this in the redraft.

Mr. Chairman: 55?

Mayor Wybrew: No comment.

Mr. Chairman: 56?

Mayor Wybrew: 56 Mr. Chairman. 56 (2), "The tax roll shall be in the prescribed form and shall set forth", will this allow the municipality to have a suitable form that will be capable of processing under data procedure or combined ledger card? You know, we are looking at data processing and I just wondered...

Mr. Chamberlist: Well that will be allowed, or we can arrange this so that it would be understood that the prescribed form may be the prescribed form of the municipality or of the Commissioner.

BILL #13 Mr. Legal Adviser: We may have data processing ourselves.

Mayor Wybrew: That's all for 56, Mr. Chairman.

Mr. Chairman: Will there be a review of this section?

Mr. Chamberlist: No, this section is not being reviewed, it's just to let His Worship know that we may have data processing in the near future. And in any event the prescribed form will be the prescribed form by the taxing authority.

Mr. Legal Adviser: To make it more than one type of prescribed form depending on what we need.

Mr. Chairman: 57?

Mayor Wybrew: No comment.

Mr. Chairman: 58?

Mayor Wybrew: No comment.

Mr. Chairman: 59?

Mayor Wybrew: 59, Mr. Chairman, perhaps you can help me on this. My notes from the council aren't quite clear. It reads, "The assessor shall upon completion of the tax roll forward it to the collector of taxes for the appropriate authority." Section 56 says the authority shall prepare the tax roll which is as it should be for the municipalities.

Mr. Chamberlist: Each tax authority has its own collector of taxes, so this is who the assessor will be forwarding the tax rolls to.

Mayor Wybrew: Thank you, Mr. Chairman.

Mr. Chairman: 60?

Mayor Wybrew: Nothing, Mr. Chairman.

Mr. Chairman: 61?

Mayor Wybrew: Nothing, Mr. Chairman.

Mr. Chamberlist: There is one question I would like to ask Mr. Legal Adviser. In No 60 (3), Mr. Legal Adviser, we have "The assessor shall in each year prepare a business assessment roll," I don't recall it was the intention of the assessor to be responsible for having a business assessment roll. This should be done by the taxing authorities themselves.

Mr. Legal Adviser: Mr. Chairman, there would have to be an assessor to do it. There is one assessment department. You know, I have no hard feelings on the matter but there has so far been no business assessment on tax, maybe there will and maybe there won't, but if there is, then the assessment rolls are linked together because the business assessment is founded on the original assessment.

Mr. Chamberlist: This isn't the point I'm making, Mr. Chairman. When we're talking about the assessor in this Ordinance, we are talking about the Territorial Assessor. Now it appears to me that the Territorial Assessor should not have anything to do at all with the business assessment, nor within the municipality; and I think this was indicated, Mr. Chairman, this is one of the reasons why the municipality may need its own person for assessing on business assessments. This was our intention.

Mr. Legal Adviser: We can think this over, Mr. Chairman, but an assessor's *BILL #13* an assessor. He's already had an assessment roll, and one is on top of the other, so we may have to break this section up if we want to switch from one type of assessment to the other.

Mr. Chairman: 61?

Mayor Wybrew: School tax. I may be ahead of myself here, Mr. Chairman, but I'm wondering about if those taxes are ever in arrears, will the municipalities be required to pay out of their general revenue, school tax on those buildings in arrears?

Mr. Legal Adviser: Are you talking about section 61, subsection (4)?

Mayor Wybrew: No. I say I may be ahead of myself, but we're in school tax and I'm asking a question here. Perhaps it's covered later on.

Mr. Legal Adviser: As I read the theme of the Ordinance, you collect the taxes and forward them to us. You don't have to pay, as a municipality, what you haven't got.

Mayor Wybrew: Fine. Thank you Mr. Chairman.

Mr. Chairman: 61 (4) covers that. 62?

Mayor Wybrew: Nothing, Mr. Chairman.

Mr. Chairman: 63?

Mayor Wybrew: Nothing, Mr. Chairman.

Mr. Chairman: 64?

Mayor Wybrew: 64, Mr. Chairman, the deterrent of six percent per annum; it is felt that it should be a minimum of at least eight percent.

Mr. Legal Adviser: As the House knows, the Mayor is in good company on that point.

Mr. Chairman: 65?

Mayor Wybrew: 65, Mr. Chairman. "On or before the 31st day of March in each year, the collector shall transmit by mail a demand for payment of taxes to each person liable therefor whose name appears on the tax roll or to his agent if the address of the agent has been transmitted to the collector." The council feels this is not possible for the municipality which has not finalized its budget, but it would perhaps be all right for the Yukon Territorial Government.

Mr. Legal Adviser: That date will have to be linked back into the other date and it maybe will be two dates.

Mayor Wybrew: And on 65 (3) Mr. Chairman, "The collector shall enter the date of mailing the demand in the tax roll opposite the property or the name of the person taxed," the City of Whitehorse ask that certificate of mailing suffice. It could be an enormous task for a stampede champion.

Mr. Chamberlist: It really matters not, but it appears that if you've got it on the tax roll, you've got all the information of what's taken place right in one location. This was the idea of this.

Mr. Chairman: 66?

Mayor Wybrew: Nothing on 66, Mr. Chairman.

Mr. Chairman: 67?

BILL #13

Mayor Wybrew: No comment.

Mr. Chairman: 68?

Mayor Wybrew: No comment.

Mr. Chairman: 69?

Mayor Wybrew: No comment.

Mr. Chairman: 70?

Mayor Wybrew: Nothing.

Mr. Chairman: 71?

Mayor Wybrew: Nothing.

Mr. Chairman: 72?

Mayor Wybrew: Nothing.

Mr. Chairman: 73?

Mayor Wybrew: 73 Mr. Chairman. 73 (1), "Where a person fails to pay his taxes within thirty days after they become due and payable, the authority may, with the consent of the Commissioner" we feel that surely the Commissioner doesn't want to become involved in the decision of the municipality to levy by distress.

Mr. Chamberlist: This is the point that we're coming back to so we put in something to do with a junior officer of the Commissioner, but then we're told you don't want the junior officer, you want the Commissioner.

Mayor Wybrew: I'm sorry, Mr. Chairman, perhaps it's felt that this should be municipal option and not in the ... Ordinance.

Mr. Chamberlist: Well we can't do that because the authority may be the Government of the Yukon Territory, but when we're saying "the authority may, with the consent of the Commissioner, subject to certain exemptions" what does Mr. Legal Adviser think about that.

Mr. Legal Adviser: I'm looking to see what was what before, Mr. Chairman.

Mr. Chamberlist: I'm sure it has exactly the same....

Mr. Legal Adviser: No, the Commissioner is new there, Mr. Chairman.

Mr. McKinnon: The authority of the municipality to pass the authority as a city, surely they should have...without the consent of the...

Mr. Legal Adviser: The insertion of the words "with the consent of the Commissioner" on, is from the old Ordinance.

Mr. Chamberlist: I wonder if Mr. Legal Adviser could recall why there was a reason for putting this in.

Mr. Legal Adviser: Without continuing conflict, I think the Honourable Member should make the recent recall better than me. I think it was put in at his suggestion, for the protection of the public, with a lot of discussion going on at the time as to whether or not any right of distress should be given to a municipality to take goods and chattels and sell them for taxes.

Mr. Chamberlist: Sure, I recall it now. The suggestion that I raised at the time was that if you allow a municipality the right to this, they can go and take the goods and chattels, apart from the property itself,

Mr. Chamberlist continues....
and dispose of them. I think somebody should be in a position to say "Just a minute. Just take a look at this." This is the reason I thought there was being protection involved for the public there. Not to give the Commissioner any powers, somebody, anybody. But where we use the Commissioner there perhaps is saying, be careful, take another look. I don't think it's anything....I would agree with the Honourable Member from Whitehorse West that the wording should be taxing authority, except that the fact is if the taxing authority went ahead and did this ...supposing the administrative side of the municipality just went ahead and did it... there's no stop beyond that ...

Mayor Wybrew: I agree, Mr. Chairman. The administrative side of the Territorial Government could do the same thing but they do have recourse to elected representatives and our position is, of course, that if this was the case by a member of the administration, the person concerned has a door open to the elected council who is there serving them.

Mr. Chamberlist: But once it's done, it's too late.

Mayor Wybrew: Well maybe it may not be done, Mr. Chairman, without the authority from the council, by the administration.

Mr. Chamberlist: We're easy, Mr. Legal Adviser: Mr. Chairman, you know it could be taken out as far as I'm concerned, it's just a little bit of added protection in this area. We'll take a look at it then.

Mayor Wybrew: That's all on 73 then Mr. Chairman.

Mr. Chairman: 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87?

Mayor Wybrew: 87, Mr. Chairman. Penalty for non-compliance. "A person who fails to comply with any of the provisions of sections 82, 83 and 84 commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty dollars and in default of payment, to imprisonment for a term not exceeding three months or to both fine and imprisonment." We felt that was an unreasonably severe penalty, rather frightening, and we're wondering what the purpose of this clause is.

Mr. Chamberlist: Obviously to let people understand what responsibility they're facing if they breach this. Section 82, 83 and 84 are very, very important sections to the municipality and it gives the municipality the power of prosecution in asking for severe penalties to advise the public that the taxing authority will not allow abuses in these particular areas.

Mayor Wybrew: Fine, Mr. Chairman.

Mr. Chairman: 88, 89, 90, 91, 92, 93?

Mayor Wybrew: 93, Mr. Chairman. "Until the time for redemption has elapsed, the land shall continue to be liable to assessment and taxation in the name of the owner and the taxes in respect of which the tax lien has been registered shall continue to be liable to the penalties for default in payment as provided in the Ordinance." That includes the interest, does it?

Mr. Legal Adviser: Yes it does.

Mr. Chairman: 94, 95, 96, 97, 98, 99, 100, 101?

Mayor Wybrew: 101 Mr. Chairman. Application for title. "At any time after the expiration of two years from the date of filing the tax lien the authority may authorize application for title", this is longer than the existing Ordinance apparently, and would appear to us, practically three years from time of first arrears.

BILL #13

Mr. Chamberlist: This will be reviewed but let's keep in mind that there's a true sense of mediation of this piece of legislation which will be coming into our House as well, which will have to be dealt with. This also has a process of time before it happens.

Mayor Wybrew: That's all on 101, Mr. Chairman.

Mr. Chairman: 102, 103, 104, 105?

Mayor Wybrew: 105, Mr. Chairman, I have a note here regarding proceedings in Land Titles Office Is this 106, Mr. Chairman?

Mr. Chamberlist: Section 105, with respect, Mr. Chairman, deals with the matter of substitutional service of any document that may have to be served.

Mayor Wybrew: I don't wish to delay Council Mr. Chairman; if I find something more, I'll submit it to you in writing.

Mr. Chairman: Alright, 106?

Mayor Wybrew: Well the whole thing of 106, of course, is we find it quite confusing. Perhaps we would require a Philadelphia lawyer to interpret the thing. I don't know if there is one in the Yukon.

Mr. Chamberlist: Mr. Chairman, I don't think His Worship should be concerned really about this particular section because this only deals with the proceedings that take place in the Land Titles Office in relation to titles, depositing of titles and things like that. Really a municipality doesn't come into it at all.

Mrs. Watson: Mr. Chairman, I also believe the Legal Adviser has already advised us with the ...that the government would be preparing a timetable of the various steps to follow in going through this process. Am I correct? To simplify it for the municipalities.

Mr. Tanner: Mr. Chairman, I would also point out to the House at the time we discussed this earlier, the Legal Adviser said they had something from Philadelphia on the way here.

Mr. Chairman: 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, and 117?

Mr. Chamberlist: I suggest we report progress, Mr. Chairman.

Mrs. Watson: Mr. Chairman, I'd just like to ask the witness a question. The concept of ...we're doing away with tax sales, we're going into tax liens in the Mediation Board, I wonder whether the witness would like to comment on the... what the city council thinks of this method. It's a completely new method we've introduced this time.

Mayor Wybrew: Well the provisions, Mr. Chairman, of the tax lien procedure combined with the Mediation Board, we feel are unnecessarily complex and do little to assist the municipality to cover tax arrears in a reasonable length of time. We feel that other provinces should be researched for an equally protective procedure, but less complex. We understand that the Ontario procedure is considered a very progressive procedure and much less complex than this.

Mr. Chamberlist: Mr. Chairman, I wonder if His Worship can indicate whether there is any concern for the general public through ... who this Mediation Ordinance is set up for so they have protection from a municipality appealing their property without being given the opportunity to having it dealt with in that particular area.

Mayor Wybrew: I have to agree with Councillor Chamberlist, Mr. Chairman, that there must be protection for members of the municipality, and we're wondering if it could be by a procedure less complex. Actually the Ontario procedure is considered very progressive and much less complex.

Mayor Wybrew continues...

That's what you asked, what council feels. This is what I am passing to you.

BILL #14

Mr. Chamberlist: Mr. Chairman, I should point out the procedure that is used is almost identical, except for a few words, to the Ontario ...

Mr. Chairman: Herewith I report progress on Bill 13. Next is Bill No. 14, the Mediation Board Ordinance. Are there any questions?

Mayor Wybrew: I think I have a couple of things, Mr. Chairman. There is one section here, ... I'm not going to hold you up, I'll submit it in writing.

Mr. Chairman: You wish then to report progress on Bill 14. Agreed.

Mr. Chamberlist: I wonder, Mr. Chairman, if there is no objection to this that we may be able to pass it in... pass it out of Committee because there doesn't seem to be any objection raised to any part of it.

Mr. Tanner: Mr. Chairman, with respect, there is a question of 13. 13 (1).

Mr. Chairman: Next is Bill No. 11, Municipal Elections. Sections 1, 2, 3, 4, 5, 6,

BILL #11

Mayor Wybrew: 6 Mr. Chairman. 6 (2) (a) "In this section, taxpayer means any person or the spouse of such person who pays a tax of at least twenty-five dollars annually to the municipality," should that read property tax because there are many taxes?

Mrs. Watson: We are reviewing that, Mr. Chairman. It needs clarifying.

Mr. Tanner: Mr. Chairman, may I ask the Mayor at this time what his feeling on this tax paper is. We've had a lot of discussion in the House on money bylaws, where he feels that as a person representing the city and the other aldermen, whether he feels the money bylaws should be restricted to only taxpayers.

Mayor Wybrew: Mr. Chairman, taxpayer is what?

Mr. Legal Adviser: Property taxpayer.

Mayor Wybrew: I should state at this time, Mr. Chairman, that this is a point that has not been discussed by council. I have some views on it that are six of one and six of the other. Really, many people are paying taxes through rents and so on, but council has not made a decision and I think it would be unfair if I committed them at this time. But I could find out and certainly let you know.

Mr. Chamberlist: I wonder, Mr. Chairman, if the Mayor could indicate himself, whether in terms of taxation, does he mean in his mind, property taxation or other taxes? I would like to get, what's his feeling as Mayor of the largest community in the Yukon.

Mayor Wybrew: Well in relation to section 6 (2) (a), it is the feeling of council that this should clearly state property tax or if it is going to be something else, it should so state. Otherwise you are going to have certainly, a court case over it in future.

Mr. Chamberlist: Mr. Chairman, I didn't ask what it should state in the section, I just tried to ascertain from His Worship what is his opinion in relation to whether it should be a property tax owner or whether it should be a tax owner, and I would ask the witness's help to tell me what the council might indicate. I mean, I want to get from him his own point, Mr. Chairman, his own position in this particular thing.

BILL #11

Mayor Wybrew: Well I'm confused on the question property tax owner, or a tax owner. I don't understand Councillor Chamberlist.

Mr. Chamberlist: Mr. Chairman, with respect, ...

Mayor Wybrew: You say two things.

Mr. Chamberlist: I'm very articulate in what I mean. And I'm very articulate in what my expressions are, and it's quite clear to me that the question is easy. But in this section, section 2 (a), does a taxpayer mean any person or the spouse of such person, who pays a tax of at least twenty-five dollars annually to the municipality. What we are saying here is that every taxpayer is qualified to vote in the money bylaw. Now is it His Worship's opinion that this should be that every taxpayer should be qualified to vote on a money bylaw if it is for property tax owing. This is what I want to know.

Mayor Wybrew: The answer is yes. All right?

Mr. Tanner: Mr. Chairman, I'm sorry, I'm still not clear. I don't really think it's a fair question to ask the Mayor unless it is understood by all Members of the Council, that he is speaking for himself. My question is more basic than that. I want to know whether the City ... or no... the Mayor himself personally feels the taxpayer should only vote on bylaws, or whether all electors should vote on bylaws.

Mayor Wybrew: Well I answered that very clearly Mr. Chairman, and I'm going to give you an answer in writing from council.

Mrs. Watson: Mr. Chairman, I would also like to point out that when we are getting the comments from the rest of the members of the council of the city, I wish they would refer to the definition of taxes which we have in the Taxation Ordinance. This will clarify the meaning of tax.

Mayor Wybrew: Interpretation, Mr. Chairman, tax there, means a person who is qualified.

Mr. Chairman: Just from the Chair, it means taxes imposed pursuant to this Ordinance or the Municipal Ordinance and includes any interest or penalty payable... Section 6. Is there anything further on section 6?

Mr. Tanner: Mr. Chairman, I've got a question again for the Mayor on 6, and I wonder whether ... 6 (3), I wonder what is the City's feeling or if the City hasn't discussed it in total, I wonder what the Mayor's personal feeling is on corporations having a vote.

Mayor Wybrew: I have a note here, Mr. Chairman, in regards to corporation that the tax should be defined to avoid confusion. Again, a corporation paying a tax to a municipality. And in regards to corporation, Councillor Tanner is asking what the city feels about the corporation having a vote. We haven't experienced any resentment about the corporation or an agent voting. There has been feelings that they shouldn't have in excess of three and some occasions, two. No one should be able to vote six, seven, eight, nine times. There has been this feeling, but there has not been a definite decision and if you wish one, I'll certainly obtain it for you.

Mr. Tanner: Mr. Chairman, I personally would like to hear the City's total opinion on this, because I don't think corporation should have a vote, but I think I'm in a minority on this.

Mr. Chamberlist: What, Mr. Chairman, does His Worship mean that the council is opposed to a corporation having two, three, four, six votes? They never have.

Mayor Wybrew: I'm very sorry, Mr. Chairman, they have. It has been questioned. The last two elections they were allowed not more than one

Mayor Wybrew continues.....

I believe, by the Returning Officer, but this has always been an unclear *BILL #11* situation and has caused many an argument in the polling booths as you know.

Mr. Chamberlist: Mr. Chairman, is His Worship getting involved with the difference between an agent and a corporation. The Municipal Ordinance is quite clear, that the corporation only has one vote and an agent votes that one vote.

Mayor Wybrew: Right. We're talking about an agent, Mr. Chairman.

Mr. Chamberlist: Oh. Well, with respect Mr. Chairman, I think the witness made reference to a corporation, he means that the agent....

Mayor Wybrew: I'm sorry that I ... Yes.

Mr. Chamberlist: Well, when an agent represents six different companies what difference is it, if the agent happens to be a representative of those six corporations. Is His Worship saying here, a corporation should name an agent who is not already an agent for the purpose of voting for another corporation.

Mayor Wybrew: Right. This has been a subject of a court case in municipal elections here in Whitehorse. I don't know if the judges read it as a specific decision; but it has always caused arguments for the Returning Officer, complaints, fights and everything else in the polling booths, and the interpretation should be very clear.

Mr. Chamberlist: I wonder, Mr. Legal Adviser, if we could put something in, to the effect that a corporation shall vote by an agent but authorized on that behalf by written authority of the company. But that agent shall not be an agent for another corporation. That's easy. You can overcome that.

Mr. Legal Adviser: You can put it in but it's a meaningless thing to do. Meaningless thing to do because all you do is you have the man's wife hold a couple of votes, and the man's son hold a couple of votes, and his brother hold a couple of votes, and his first cousin, and his second cousin, and third cousin. It's the same guy who is doing all the voting. The vote is given in respect of the ownership of the property by a company if it is given at all.

Mrs. Watson: Mr. Chairman, I would appreciate having the comments from the city though.

Mayor Wybrew: Whether the corporations have a vote or not. Yes, I have that noted.

Mr. Legal Adviser: And, Mr. Chairman, there's two things. Voting only on a bylaw or voting ...for election itself. There's two separate votes that are available for the opinion of the council. One is whether or not the corporation should have a vote in the election itself, and second, whether or not it should have a vote as a taxpayer in a money bill.

Mr. Chairman: Anything on 7?

Mayor Wybrew: I have a note here, "conditions of firing authority required." You will have to appreciate that many of these things that we split up and work on them and then agree to them, and I can't recall all of the points. But I have it noted, "conditions of firing authority required."

Mr. Chairman: I think at this time I will declare a recess for coffee.

RECESS

RECESS

Monday, February 21, 1972
11:10 a.m.
Page 645

BILL #11

Mr. Chairman: Well, at this time we'll call Committee back to order. We were discussing section 7. Anything further on this?

Mayor Wybrew: Nothing, Mr. Chairman.

Mr. Chairman: Section 8?

Mayor Wybrew: Mr. Chairman, I think you perhaps have discussed the eligibility of a mayor for a municipality. It's not listed here.

Mr. Chairman: Anything further on 8? 9?

Mayor Wybrew: Mr. Chairman, pursuant to section 9 of the Ordinance, I have a note this section should presumably read to be eligible to become "....oh, I'm sorry, 9: "two years of disqualification following a prison term of five or more years" has been deleted but I don't think it is necessary. Those are the remarks I have.

Mrs. Watson: Mr. Chairman, I didn't hear that remark, I'm sorry.

Mayor Wybrew: Mr. Chairman, my notes state that "two year disqualification following a prison term of five or more years" has been deleted; we don't think it is necessary to delete it. That's it, Mr. Chairman; nothing on 10.

Mr. Chairman: 11?

Mayor Wybrew: 11, Mr. Chairman, 11(1)(b); I have notes here in regard to "people whose names appear on the revised list of electors for polling division, may only vote in that polling division even if he is no longer resident in that division on polling day." (2) Any person whose name does not appear on any revised list of electors may only be sworn in and vote in that polling division in which he resides on polling day." I don't think there are any complaints here, I think these are just notes, Mr. Chairman.

Mr. Chairman: 12? 13? 14? 15? 16? 17? 18?

Mayor Wybrew: 18, Mr. Chairman, "the Deputy Returning Officer in charge of the poll, to make and sign the declaration in the prescribed form which will be kept by the Deputy Returning Officer." We're just wondering, do you need a description of what the form will be? Attached is a schedule...

Mr. Chamberlist: Mr. Chairman, the prescribed form is part of the regulations and that will be provided.

Mr. Legal Adviser: Mr. Chairman, the forms will be prescribed in the regulations to go with the Ordinance and they will contain a list of the things which go into that. The main one of course is, if a person says that he expects to be absent on the official polling day.

Mr. Chairman: 19? 20? 21? 22?

Mayor Wybrew: 22, "the Deputy Returning Officer in the presence of the candidates and the agents who are present, shall at the time the poll closes, open the ballot box. Shouldn't this be done on a day of regular poll? Doesn't it infer that you can open the advanced polling box?"

Mr. Chairman: 23?

Mayor Wybrew: Well, Mr. Chairman, we're just wondering here, this provision is unchanged. However, under the new Municipal Ordinance, the Treasurer might find himself Returning Officer, if the clerk normally acts in that capacity in the first place. This section might be changed to recognize the fact that the clerk might well be the appointed Returning Officer.

Mr. Chamberlist: 23(1) takes care of it because it says "the council shall, on or before the first Monday of November, in each year and at other times as required, appoint a Returning Officer. It doesn't specifically say that there's a requirement for the clerk to be the Returning Officer. We have within the municipalities, appointed people as Returning Officers who are not the clerk of Municipalities and there's no intention to limit it to the clerk. It might be that you'd appoint somebody completely outside of the city administration.

Mrs. Watson: Mr. Chairman, there is a question with that. If you look at (6), it says that if the Returning Officer dies, the clerk shall act as the Returning Officer. I think we need a little clarification here.

Mr. Chairman: Anything further on 23? 24? 25? 26? 27? 28? 29? 30? 31?

Mayor Wybrew: 31, Mr. Chairman, I have a question here. 31(2) "the first day of September in a year in which," is that the way it's supposed to read?

Mr. Legal Adviser: The word "in" is omitted, Mr. Chairman.

Mr. Chairman: Alright on 31? 32?

Mayor Wybrew: 32, Mr. Chairman, my notes state that this section almost, but not quite, touches on what polling division one can or cannot vote in, as referred to under section 11(1)(b). Perhaps this is where it should be spelled out.

Mr. Chamberlist: It should be obvious, Mr. Chairman, that where you have separate polling divisions, and you don't indicate which polling division a person may vote in, it can easily give people the opportunity to vote twice and three times. They'll just move around to different polls and cast a vote. This way they will only be able to go to the poll to which their name has been listed and they'll be able to vote there only. The same procedure, Mr. Chairman, in Territorial and Federal elections, you can only vote in the poll where your name is unless you have a special transfer certificate in accordance with the terms of the election itself.

Mr. Legal Adviser: I'm not sure if that is the point made by His Worship, Mr. Chairman. There may be more than one polling place within a polling division. It should be made clear that each person should be allocated a polling place within the division as required.

Mr. Chamberlist: Mr. Chairman, haven't we got that now, the way this is?

Mr. Legal Adviser: No, Mr. Chairman.

Mr. Chamberlist: Mr. Chairman, the only thing here now is Mr. Legal Adviser telling me that what he's brought here now is bad legislation, he hasn't put it in.

Mr. Legal Adviser: Mr. Chairman, that's unfair. I only produce what I'm asked to produce and this is what we produced. We weren't asked to separate it into polling booths because in practise the polling booth is not determined upon at the time of the preparation of the preliminary list. Customarily, the Returning Officer has cast around to determine what places are available. Some places that were available one year are not available the next year. He doesn't divide his list into polling stations if there's more than one and ignore the population. For instance in Riverdale, there might be two particular places in Riverdale. Somebody has to choose, put it in legislation if necessary, or alternatively, there's nothing to stop the municipality, they've already been given the power, to do this by bylaw wherever there's a lacuna in the Ordinance. The municipality can fill it with a bylaw. They can do it, we don't have to do it.

BILL #11

Mr. Chamberlist: Mr. Chairman, the system that has been used in Territorial elections, where you have two polling places in Riverdale, as a matter of fact you had three polling stations in Riverdale; they were separate polling divisions. You only have one polling place to a polling division and this is how it is worked. If you have a list for that polling division, then you have the polling place in the polling division. I have never heard yet, of two polling places in one polling division. This never happens.

Mr. Legal Adviser: Mr. Chairman, it's on that basis that the Ordinance is drafted. The Mayor's query is, if he has more than one polling place within the same polling division, is there any provision for separating the sheep from the goats.

Mr. Chamberlist: Well, Mr. Chairman, with respect, we're making the legislation here to have one polling place in one polling division so how can they go by bylaw and do something that they are not allowed to do? This is why we're making it this way, so there'll only be one polling place in one polling division.

Mr. Legal Adviser: Mr. Chairman, we haven't said they can't. We've reflected the legislation on the assumption there'd be one polling place. There's nothing in the Ordinance that says they can't.

Mr. Chamberlist: On the contrary, Mr. Chairman, I disagree.

Mayor Wybrew: It is quite an important thing, Mr. Chairman, that it be spelled out because you take in West Whitehorse now, it's quite an area and it doesn't allow us to set up a polling division in the Industrial area, the Indian Village, South Whitehorse....it's a problem.

Mr. Legal Adviser: Mr. Chairman, this Ordinance allows them to set up as many polling divisions as they like. This is the opt of the council. You can have polling divisions or you can do without.

Mayor Wybrew: Mr. Chairman, now that we can do that then, have two or three polling stations in a riding, that's fine.

Mr. Tanner: Mr. Chairman, I don't want to pursue this subject further but I wonderedit's very interesting and I want to have it clarified to my satisfaction that the city can set up polling booths wherever they please within a polling division....that they can set up as many polling stations as they like.

Mr. Chamberlist: Mr. Chairman, if you have a polling division, for instance, you say the whole of Porter Creek is one polling division and they set up two polling places in that polling division, you'll never know whether the people who are going to vote are using both polling places unless you specifically say on a poll list that the people in this particular list go to poll place number one or that particular list to go to poll place number two. This is why you have one polling place for one polling division, so that you can only go to that polling division. I see that Mr. Legal Adviser is shaking his head and as far as I am concerned, he can shake his head as much as he likes because when it comes to elections and procedures perhaps he should take a little advice from me. I'm very very familiar with what goes on there. I would suggest that we leave it alone and we'll argue in the proper place but not here.

Mr. Chairman: Well, it would appear that this section needs clarification and that being the case....with so many interpretations, I'm wondering if we could have this cleared up.

Mr. Chamberlist: It will be reviewed, Mr. Chairman.

Mr. Chairman: 33?

Mayor Wybrew: On 33, Mr. Chairman, I think in Votes and Proceedings you did discuss this and felt it was discriminatory, did you? 33(1)? We feel that it is not discriminatory, that rather a classification system that can be used by the Department of Education, the schools here and so on and so forth. The "t" could be for a tenant,

Mayor Wybrew con't...

an "o" for an owner and so on and so forth. Many things can be done with this list from an educational standpoint. If we have the authority to determine class and ages then we can prepare supplementary lists; no problem.

Mr. Tanner: But, Mr. Chairman, that wasn't the point that I made. In fact I went down to have a look at the assessment roll last time and I noticed these indications there and I thought there was a very definite implication of discrimination and I would like to see that taken out. Whether we want to do it by bylaw, that's up to the city, but I certainly don't think it should be in our legislation.

Mayor Wybrew: Mr. Chairman, would we have the authority then? These are actually very valuable lists to the Department of Education, I know. Would we have that authority, Mr. Chairman?

Mr. Legal Adviser: Mr. Chairman, unless it's **prohibited here**, they have the authority to add a notation to it if they want. As you suggest, they could put an "o", a "t" or a default if you like...

Mr. Chamberlist: Mr. Chairman, I'll tell you, I don't like it at all, quite frankly. The next thing you'll have is "P" for Protestant and "RC" for Catholic, "J" for Jew, "M" for Mohammedan, because we're going to be giving you the right to start separating the people and that's where, as far as I am concerned, that's where it's wrong. At election time everybody is the same; at all times everybody is the same and any change of that philosophy, of trying to change people....it's like saying India; rice; Chinese...this is absolutely sickening even to think that we should be able to do things like that.

Mayor Wybrew: I'm sorry, Mr. Chairman, that inference was not intended. This is not intended at all as discrimination

Mr. Tanner: Mr. Chairman, I'd just like to make one further point that the Honourable Member has just brought up. In actual fact everybody isn't the same because if everybody were the same you wouldn't have corporations and you wouldn't have taxpayers voting on money bylaws and it's been my contention right the way through this legislation that we should wipe out that definition and let everybody vote on a money bylaw, if they're the same; and the corporation shouldn't get another vote, because where do you stop. If a corporation is spending a hundred thousand dollars in taxes then they get two votes....I don't think you should make that distinction at all. There should be one list of electors who elects the city council, or any council, and one list of electors who makes the decision for the municipalities. In my point of view, all the way through, and this just adds to that discrimination right here.

Mr. Legal Adviser: Just one point, Mr. Chairman, unless there's some lists prepared of the taxpayer, assuming the taxpayer rules remain, then the persons left from the list, there's no convenient way of finding out whether his name is included in the list, whether the corporation is included in the list, in order to use this power to appeal to the Court of Revision. There's got to be some list that he can look at to see, has he a vote or not.

Mr. Chamberlist: Mr. Chairman, this is true and I would suggest that subject to the review....we're going to review it in any case in relation to whether we are going to use electors or taxpayers, then we would be able to deal with this section accordingly.

Mr. Tanner: Mr. Chairman, I'm sorry, but I'm not going to let it go that easily. I think that during the discussion we had the Standing Committee that set up the amalgamation, some of the other Honourable Members here, were with me on that Committee and we made this point very clear that we thought everybody was the same that everybody should have the vote and I still think in this case, you've got to continue the same premise. I would ask all Honourable Members and particularly those Members who are going to be reviewing this legislation to think of it in that light. You'd solve a great number of problems if you had in

BILL #11

there right now, in definition, apart from the basic justice of the point of view that I have, you'd solve a lot of administrative problems and a lot of legislative drafting problems if you took that taxpayer thing right out right down the line...

Mr. Chairman: Well, I understand that 33 will be under review. Is that correct? 34? 35? 36? 37?

Mayor Wybrew: 37(4) "the Board of Revision shall sit on the last Wednesday of October, in each election year"? That's all on that one, Mr. Chairman.

Mr. Chairman: 38? 39? 40?

Mayor Wybrew: 40, Mr. Chairman, in the last line "leave with the clerk notice of his application ", would it not be better if it was "leave with the clerk, written notice of his application"? Then it should be used to suit subsection (2), is that not right?

Mr. Legal Adviser: Mr. Chairman, I think "written" there is fine.

Mayor Wybrew: (2), Mr. Chairman, "the name, residence and post office address of the person making the application." Post office I think, is the mailing office, if not an address. Post office is not an address.

Mr. Chamberlist: Mr. Chairman, instead of adding "post office" have residence and "mailing address".

Mr. Tanner: Mr. Chairman, why put mailing address? Some people might not have a mailing address, why not just main address?

Mayor Wybrew: They're mailing address, Mr. Chairman, could be general delivery, but those who live on avenues or streets would have a house number and that's they're mailing address.

Mr. Chairman: Anything further on 40?

Mayor Wybrew: Mr. Chairman, we're wondering about(3), like 262 of the existing Ordinance"requiring written notice to be sent." 260, subsection 2, insert that as subsection (3) of 40.

Mr. Legal Adviser: Mr. Chairman, "that any person who makes an application would then get a notice of the city's Court of Revision" that would look better.

Mayor Wybrew: It's for the protection of the citizens, Mr. Chairman.

Mr. Chairman: 41? 42?

Mayor Wybrew: 42(3), Mr. Chairman, "where the name of a person qualified to vote is incorrectly spelled or where a person is not properly described in a preliminary list of electors, the Board of Revision may correct such spelling or description notwithstanding the absence of any notice or application required by this Ordinance." We feel it should be broadened to include, correction "where an elector has been listed in more than one polling place."

Mr. Legal Adviser: It doesn't specifically say that Mr. Chairman, and it's certainly a logical thing to put in to take out a duplication.

Mr. Chairman: Anything further on 42? 43? 44? 45? 46? 47? 48? 49? 50? 51? 52?

Mayor Wybrew: 52, Mr. Chairman, I have something here. Apparently we don't have provision for appeal if the Returning Officer refuses to accept a nomination paper and no specific authority for him to do so. We feel that the present section 70(a) should be retained.

Mr. Chamberlist: Mr. Chairman, a Returning Officer cannot refuse to accept a paper, he's got no power to refuse.

Mr. Legal Adviser: It doesn't say that, Mr. Chairman. It's just silent. On that point the Ordinance is silent. Under the old Ordinance, he could refuse, and appeal later, the refusal. Now, no provision is made as to whether he can refuse or cannot refuse.

BILL #11

Mr. Chamberlist: Where, Mr. Chairman, can he refuse, even under the old Ordinance?

Mayor Wybrew: Mr. Chairman, it would probably be section 270(a). It may not be, I'm... No, it isn't.

Mayor Wybrew: Where the Returning Officer has refused to accept a nomination paper pursuant to subsection (1), he shall immediately notify the person for whom the nomination paper has been made, and return the nomination paper stating the reasons why he has refused to accept it. 270.

BILL #11

Mr. Chamberlist: Mr. Chairman, this was a change in 1966 First. I don't know why this has been put in here, because courts are continually ruling in all matters that nomination papers cannot be refused by a Returning Officer. He should say that it is invalid. He can't refuse to take it. Once that it is handed to him, he has accepted it, and how would he know whether it is good or bad until he has taken it. It should be very, very clear that if somebody comes and hands a nomination paper to a person, to the Returning Officer, the moment that he has it in his hand, he has accepted the nomination paper to do something with it, to read it. He can't then give it back and say, I haven't accepted it. He gives it back to declare that it is invalid. The very fact that he has taken it in his hand physically got hold of it, he has accepted it. This follows automatically.

Mr. Legal Adviser: It is a question of semantics. I agree that in a sense that he cannot refuse to accept it when it is handed to him. He then looks at it, and he sees that someone like Nikita Krushchev is nominated for the seat. He sees that not only is this man dead, but in the first place he is a Russian. He rejects the nomination.

Mr. Chamberlist: Ah, that is different. He rejects the nomination.

Mr. Legal Adviser: The phrase that was used in the old Ordinance was that if he rejects it, then the person has an appeal. This Ordinance is silent on whether he can reject at any stage or not, or merely because he received a piece of paper with any name on it it must go forward to the election. There is no provision for it.

Mr. Chairman: Why is it silent? It was expressed in the old Ordinance, there must be some reason why it has not been expressed here.

Mayor Wybrew: Mr. Chairman, we submit that there must be something on this. It can cause court cases and what have you. If he has the right to refuse a nomination paper, an improper nomination paper if you wish, regardless of what may be wrong, then that person must have the right of appeal.

Mr. Legal Adviser: The appeal is stopped, Mr. Chairman because in the old appeal was, this was discussed during, I can recollect, during the discussions on this section. It is awkward for a person in Faro to appeal within moments to a magistrate in Whitehorse. Also if Watson Lake was to have a council or Dawson, it is an awkward situation to handle to give a quick appeal.

Mayor Wybrew: If this were silent, Mr. Chairman, remains silent Mr. Chairman, and a Returning Officer does refuse to accept a nomination paper or declares it an improper one, what happens to that person?

Mr. Legal Adviser: Well, if he came to a lawyer for advice, the lawyer would suggest to him that he take a mandamus action against the Returning Officer, and ask the Territorial Court to issue an order by way of injunction ordering the Officer to accept the nomination as being correct. The court would give him that because a public officer refused to do his duty. The court would examine the circumstances and see if the person was qualified to be nominated.

Mr. Chamberlist: That is an impossibility because the Returning Officer says at two o'clock in the afternoon the nominations close. You rush around looking for a judge to draw the papers and serve the papers for a mandamus. It becomes absolutely ludicrous that way. The very reason why there ... why this section was put in here, what lawyer dreamed this one up and how it was written, I don't know. I know that

Mr. Chamberlist continues ...

BILL #11

it wasn't our present Legal Adviser, it must have been his predecessor. When you read the section that is in there now, the Returning Officer shall refuse to accept a nomination paper that does not meet the requirements of section 270. How can he refuse to accept it, until he has got it. He has to take a look at it. Once he has got it, he has accepted it. Where the Returning Officer has refused to accept a nomination paper pursuant to subsection (1), which again is critical, he shall immediately notify the person for whom the nomination papers have been made, and return the nomination papers stating the reason why he has refused to accept it. The point is, that if a person supplies a nomination paper prior to the closing of nominations, the Returning Officer, he doesn't accept it, he looks at it and says that there is a couple of things that you need corrected on there before I can accept it as a nomination, he can't refuse to accept anybody's nomination paper, and I think that this should be clarified. The reason why it is left out is because it is pretty difficult, I would suggest to put that type of thing, this section in here. This section should never have been here. It speaks but says nothing. This is the danger.

Mr. McKinnon: It is so obvious, Mr. Chairman, that the Returning Officer has to accept a nomination paper and it should be part of the Ordinance also, that he has to accept it. There is no way that you can remain silent in an Ordinance like this, that a Returning Officer has the power. Doesn't even say whether it was for any cause, just to refuse a nomination paper for somebody who wants to be nominated, and then the onus is on that person to go through the courts and everything to fight, if Returning Officer hasn't accepted the nomination. If, once the nomination is received, and his Returning Officer finds that it is invalid, the signatures are improper, the person isn't eligible, then of course, do all these things to declare it invalid. The Returning Officer has to and it is only reasonable that he accept the nomination paper. To give the power to a Returning Officer, you can just see the ... knowing Yukon elections the way that some Members do around here, and for a Returning Officer to have the ability to say, no I don't like you, I am not accepting your nomination paper, put that guy into a frenzy of having to deal with the court. It has got to be clear in the Ordinance. It is just reasonable to be clear.

Mr. Legal Adviser: Mr. Chairman, I am not saying that this Ordinance says in fact I am saying the reverse, that this Ordinance says that the Returning Officer hasn't any powers to accept a nomination at all. The Ordinance says nothing, so the assumption is that he must accept it. We will go on further. He must accept it in any form which it happens to be, and put this ... continue on with the processes of the election. There is no power as there was in the former Ordinance, which says that he can look at it and reject it, at least refuse to carry on the election process by including an actually invalid nomination on to the electors list. It is just silent.

Mr. Chamberlist: The point of trying to bring it right down into a closing. The way that it is written now, and it is for this particular purpose the nomination papers must be accepted by the Returning Officer. The only way; after the closing of nominations, he can say that Joe Blow, whose nomination papers he has accepted, does not qualify, therefore his name will not be put on the ballot. Then it gives time for that particular person to go through the various channels. If you put it in there now, and Mr. Legal Adviser says he can go and get a mandamus, well he knows how long it takes to do that.

Mr. Legal Adviser: It is a two day notice, Mr. Chairman.

Mr. Chamberlist: Yes, but the nominations close in an hours time.

Mr. Legal Adviser: If he is invalidly accepted, you know, invalidly refused to accept the nomination papers, the closing of the

Mr. Legal Adviser continues ...

nominations would not prevent the judge ordering him and saying he should have included the nomination there in the first place. What do we put in there?

BILL #11

Mr. Chamberlist: Nothing, leave it as it is.

Mr. Commissioner: Mr. Chairman, this problem was resolved at the Territorial level approximately fifteen years ago by saying in Territorial elections that the provisions of the Canada Elections Act apply. Would this be a sensible application in this particular instance?

Mr. Chamberlist: The provisions of the Canada Election Act ... Territorial and the Canada Election Act do not apply. If you say they apply, then you would have to take the whole lot. You can't bring in all those areas of the Canada Election Act into a municipal election.

Mr. Legal Adviser: You can bring in sufficient to actually say the point or write in whatever they say. I personally don't know what the provisions are.

Mr. Chamberlist: Leave it alone. It should be left alone, because this makes sure this..... makes sure that the Returning Officer can't refuse the acceptance of nomination papers. It is only after the nominations have closed that he can say upon examining, he can declare that there is an invalid paper. This is the way that it is done, and this is the way that it should be done, to give the person the opportunity after the closing of nominations to take necessary legal proceedings if he so wishes, but not to put what is in there and give the ... as the Honourable Member from Whitehorse West says, give some Joe that has been given the job of Returning Officer, and say that I am going to screw that guy up right here and now. I just refuse to accept his nomination papers. This is what you do. I would suggest that we leave it alone.

Mayor Wybrew: This is just the point. We are asking if he has the right to refuse an improper nomination paper. If he does of course, the nominee should have an immediate appeal, the right to an immediate appeal. We are asking that.

Mr. Chamberlist: I think that this is fine. I looked at that particular section, that is a real bad section that was in the old one.

Mr. McKinnon: The point is, I am just wondering on something so important, whether we should remain silent. Whether it shouldn't be stated that the Returning Officer has to accept a nomination paper. The reason being that whenever I have been around elections, that people really are looking to make sure that they don't make any mistakes the Returning Officer or the Deputy Returning Officer and following the terms of the Election Ordinance to make sure that they are going along in proper manner. I think that a Returning Officer would be helped by knowing that he can't refuse a nomination paper. I would rather see it spelled out, rather than remain silent. I think that it is an extremely important point.

Mr. Chamberlist: I think that there would be no objections. We can talk about this afterwards. We can take it under review, and indicate that a nomination paper shall not be refused by the Returning Officer but up until the time of nominations but if it is invalid after he examines it, and before he calls out the names of those who are ... have been properly nominated. That is the time when he says, Joe Blow or what not has been properly nominated. We will take a look at it.

Mr. Legal Adviser: It needs taking a look at. Somewhere there should be a duty where the paper is presented at the start of the nomination proceedings and there is a technical error in it. I think that the nomination officer should examine it and bring that to the attention of

BILL #11

Mr. Legal Adviser continues ...

the people to give them time to correct it, but if the error has not been corrected by the close of nomination proceedings, he should then be authorized to drop the name of that particular candidate from the list going forward, with a right of appeal, somewhere, somehow.

Mr. Stutter: Mr. Chairman, I wonder if I could just ask the Legal Adviser, under 51(3), the last part. "The returning Officer shall if requested to do so, give a receipt to the person who delivers to him a nomination paper with the accompanying declaration." What actually is that accompanying declaration? Is that the Returning Officer's decision?

Mr. Legal Adviser: No, no, the nomination paper has as part of it, either on the back or a separate thing, a declaration by the electors saying that they are nominating him and that they are valid electors and qualified to support him.

Mr. Chairman: Well, this is going to be reviewed?

Mr. McKinnon: If I remember correctly in my Canada Elections Act, probably the Honourable Member from Whitehorse East can help me out, there is a section in there that specifically says that the Returning Officer is supposed to bend over backwards, be completely lenient in the field of taking nominations, and even technical errors, if I remember correctly, were noticed, even then the nomination was allowed to stand by decision of the court. It is a very lenient procedure in allowing a person to get nominated to run. After he gets nominated, and when the actual election comes into being, that is when the really stringent applications of the Elections Act apply. The concept being that nobody should be stringent because of a technical error of disallowing a person to allow himself to stand for office. I think that this is the point that we are trying to make, that it shouldn't be in the hands of a Returning Officer or someone to disqualify a person who comes forward to offer his name from office because of a technical error because of some other area.

Mr. Chamberlist: Probably the Honourable Member ... Mr. Chairman, Mr. Legal Adviser will recall that in Manitoba there was somebody that was named just recently. There was somebody that was named Jim (Nobby) Clark. This is what he put on his nomination paper. The Returning Officer waited until the polls closed and then wouldn't accept it because the requirement was that the name should be spelled out with ... you can't have doctor, lawyer, nicknames or anything like that, so he refused it. Instead of it having James Clark, the fellow had put Jim (Nobby) Clark, of course he immediately went to court for mandamus, and they made the Returning Officer take the paper. It was a slight technical error that would not interfere in any way with the election. It is things like this that you get hold of a Returning Officer in the city who wants to read the strict lettering, he could make it miserable for a fellow. We will take a look at the whole thing.

Mr. Chairman: Alright, section 51.

Mayor Wybrew: Section 51, nothing, Mr. Chairman.

Mr. Chairman: Section 52?

Mayor Wybrew: Section 52, no Mr. Chairman.

Mr. Chairman: Section 53?

Mayor Wybrew: Section 53, nothing.

Mr. Chairman: Section 54?

Mayor Wybrew: Nothing Mr. Chairman.

Mr. Chairman: Section 55?

Mayor Wybrew: Nothing.

Mr. Chairman: Section 56, section 57, sections 58, 59, 60, 61?

BILL #11

Mayor Wybrew: Section 61, Mr. Chairman, subsection (4). This is the present section 279, subsection (4). We feel that there should be a change here.

Mr. Chamberlist: This, Mr. Chairman, is the particular subsection where the Returning Officer has some capability of correcting anything in a nomination paper. "Any candidate may, within one hour after the close of nominations, (a) supply in writing to the Returning Officer any particulars of his address or occupation ..." etc. This is where the Returning Officer shouldn't refuse the paper. After the nominations have closed, the returning officer says to him, Joe Blow there are some things that you haven't put in here that should have been put in here on your nomination paper. That is when he has the time to do those things. He accepts them and corrects them afterwards.

Mayor Wybrew: The point is well taken, Mr. Chairman, the only thing that we say is, why can't it read between the time his nomination papers are filed and one hour after the closing of nominations.

Mr. Chamberlist: Well, he can do that in any event.

Mayor Wybrew: Within one hour after any candidate may, within one hour after, it says.

Mr. Chamberlist: Within the one hour afterwards that means. It doesn't say within the hour, that he can only do it within that one hour. If nominations haven't closed, you can even go to the Returning Officer and withdraw your papers, because if you go further on, you can withdraw your papers under certain conditions as well. Until such time as that nomination closes, you can go to the Returning Officer and take your papers out and say that you have changed your mind, I am not going. All he is doing is holding it. They only become his property, they are only in his legal power to deal with in an election manner after the closing of the nominations. The hour is an extra time off the nomination because he has up till that time if the person supplies his nomination papers five minutes before the closing of polls. This gives the Returning Officer time to examine the paper before he declares those candidates. Before he declares his candidates, he can say to the candidate, now would you please put your occupation in, you haven't put your occupation in. He can correct all these things before he says these are the people who have been properly nominated. He hasn't declared that they have been properly nominated.

Mr. Stutter: Mr. Chairman, would it not clarify that if we just put in the word "until" instead of "within".

Mr. Chamberlist: Well, if you say until one hour.

Mr. Stutter: It means that he has up till then.

Mr. Chairman: The inference is within one hour, that sets it between the close of nominations and one hour. That is what Mr. Mayor is asking, should it not be from the time of the filing of the nominations until one hour after the close of nominations.

Mr. Chamberlist: This is what is intended, if you want it clarified.

Mr. Chairman: Would that be in agreement with everybody? Anything further in section 61? Section 62? Section 63?

Mayor Wybrew: Yes, Mr. Chairman, "any person who campaigns either for himself or on behalf of a candidate in any municipal election in the twenty-four hours preceding the opening of polling stations on polling day commits an offence ...". Why don't we put and not on polling day either?

BILL #11

Mr. Chamberlist: I think that this is a very, very difficult area to enforce. There is no way that twenty-four hours before the opening of the polls and on polling day, that if I happen to see one of my friends on the street and I say, come on let me drive you down to the what's-it's-name, so that you can vote for me. There is no way that you can put that type of thing, especially twenty-four hours before, why twenty-four hours before? I can see that as far as polling day. It means that every candidate, which is an impossibility, with some, the Honourable Member from Whitehorse West and myself, to walk about the street with plasters over our mouths. It is just impossible. You have to be able to talk.

Mr. Commissioner: Mr. Chairman, is there any chance of inserting that requirement into the Ordinance.

Mr. Chairman: I note that this is contained in the existing Ordinance.

Mayor Wybrew: That is the point, Mr. Chairman, twenty-four hours, the day preceding. Why not polling day? Why is it the day preceding? Why not the day before that or polling day?

Mr. Legal Adviser: I don't know, I suppose whoever wrote the section originally intended to cover polling day, but it doesn't specifically say so. It should be from a certain point until a certain point to be specific. This would permit a guy to campaign once the polls are open.

Mr. Chamberlist: They all do in any event.

Mr. McKinnon: Why put into legislation what is completely unenforceable, completely unworkable and ignored as a law of Irish politics, Canadian politics or any other political arena anywhere. I think that the Honourable Legal Adviser and the Members of Council and the members of the municipal council know, why put unenforceable legislation in legislation. Everybody is campaigning prior to twenty-four hours to the opening of the poll. They are campaigning right through the day of the election. Everybody knows it, nobody ever gets prosecuted. Let's eliminate the section and be sensible about it.

Mr. Chamberlist: We allow the bars to be open for twenty-four hours before polling ... election day. They are open the day before. There's no way you can go into a bar without talking to somebody.

Mr. Commissioner: We are not closing the bars on election day.

Mr. Chamberlist: I am not talking about..... I say that they are. You can go into a bar. There is nothing says, in the legislation that no candidate shall enter a bar. I would suggest that we take a look at that to see if we can pull it out altogether.

Mrs. Watson: Mr. Chairman, just a minute. There is just one thing that concerns me. I am thinking about rallies, public meetings, news media, T.V. coverage, radio. I would like to see that twenty-four hours in there. I can see a rally going until midnight before election day. The indiscrete campaigning plan, but let's keep the formal campaigning out of it for twenty-four hours. Let's leave it in here.

Mr. McKinnon: Mr. Chairman, I think the Canada Elections Act is really stupid in this respect, their concept, that all these things can't be done, and not only that, you have to have twenty-four hours of silence on the media. It is really archaic in this day and age. Why if a person wants to campaign up to the minute that the polls open by radio or television or by having a midnight rally, who cares for goodness sake. I can't get that excited about it at all. I don't think that the voter is that naive that they are going to be influenced if a person wants to spend their money that way hoop-la, rallies. Where we have the ability in the Municipal Ordinance of making the law that is so unenforceable, so archaic of removing it from statute books, I

Mr. McKinnon continues ...

think that we should just remove it. I think that 63(1) should be removed, and I would like to see our Territorial Election Ordinance, if it were possible, but we are so stringently tied with the Canada Elections Act, be more liberal also in this regard.

BILL #11

Mayor Wybrew: I would like to point out, Mr. Chairman, if I might 63(1) is unenforceable. I can campaign during the preceding twenty-four hours legally through the postal office, no one can stop me. I can't see why it is in there, I have to agree.

Mrs. Watson: Mr. Chairman, I would like to see it stay in there for that simple reason. I think that we are slowly approaching a circus type, a three ring circus in the Territory. We have liberalized our liquor laws, so that you can throw beer bottles all over the place any time of the day or night. I think that there is something almost sacred about an election day. I think that twenty-four hours before an election people are so tired, the general public of being constantly victimized by this campaign both on the radio, on T.V., public address, people up and down the street. Let's have one quiet day where you can think about who you want to vote. If somebody wants to come to your door, you don't have to let them in. This is fine, but formal campaigning yes.

Mayor Wybrew: Formal campaigning, Mr. Chairman, can be done with the Federal Government's assistance during the twenty-four hours prior to this. You can't stop it, right now.

Mr. McKinnon: It doesn't say. It doesn't force any campaigner, politician to do any of these things if he doesn't ... if he thinks the public is so ... has become so full of election promises and campaigns and media advertising, then he would be extremely wise not to do any within the twenty-four hours. If a person wants to conduct a campaign like a three ring circus, he wants to campaign right up until election time, let him do it. If he hasn't read the public writ, let him suffer the consequences. It should be completely within his capability of doing it. I say, that when you start making laws like 63(1), which I really don't and obviously unenforceable and impossible for any politician to ever even hope to try to obey, and you are forcing a politician and a legislature who shouldn't be put in that position of breaking the law because I don't know of one politician worth his salt who could ever obey 63(1) as it now sits in the Municipal Ordinance and it is just asinine.

Mr. Chamberlist: You are saying here in any event. I will show you how. I personally would ignore it completely, myself, because it says, "any person who campaigns either for himself or on behalf of a candidate" so I am going to campaign on behalf of three candidates at the same time. So, you are safe, you see. That way you are safe. It is only on a candidate that you can't do it. On three candidates you are alright. Don't be so ridiculous, do you see that point.

Mrs. Watson: Maybe we should rewrite it and come up with something.

Mr. Chairman: I think that we can consider this over the lunch hour. I think that at this time we will stand Committee in recess until 1:30 p.m.

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Mr. Chairman: At this time we'll call Committee back to order. *BILL #11*
We are reviewing section 63. Councillor Stutter.

Mr. Stutter: Just one point that I would like to bring up. It seems that most of the Members feel that this part is ridiculous, as it can't be enforced and therefore should be thrown out, but I find if we don't put some sort of restrictions, at least to open campaigning on the day of polling, you could have a situation where you could have people supporting their candidate right outside of the polling booth, right as people were going in, and it could be a real free for all. I think, there should be some restriction, at least on the day of the poll.

Mr. Legal Adviser: The thing is badly drafted, it should be; two days, it should cover polling days, itself, I think. This is the wish of the House, I gather. So, if we have, for twenty-four hours commencing at midnight on the day of polling.

Mr. Chairman: From the Chair, up until the poll closes and then after that, it is of no consequence.

Mr. Legal Adviser: On midnight on the day the polling takes place, until the close of the poll.

Mrs. Watson: Mr. Chairman, I would again, like to rise to speak on this twenty-four hours before the beginning of polling day. I do feel that we should consider the public to a certain degree, on this. You people are all people who have been involved in elections, at one time or another, it is quite obvious. You look at it from a different point of view. I think, the public looks at it from another point of view, also. By the time the twenty-four hour period before polling day arrives you are sick to death of political speeches, telephone calls, T.V. programs, radio programs, formal meetings, caravans on the street and this type of thing. I think, that we should give this very serious consideration before we fill out the twenty-four hours preceding polling day.

Mr. Chamberlist: Sometimes, Mr. Chairman, we get sick to death of radio programs, election or not. I think, we should just talk about it, afterwards, and combat with it.

Mr. McKinnon: The point still has to be made, Mr. Chairman, that that is the candidate, if he feels that there is going to be a backlash, because the people are so sick and tired of him forcing their intentions upon him that he is going to suffer the consequences at the polls. Some campaign with this type of a three ring circus aura about their campaign, there are others who don't present any of this type of a campaign, before the public. Certainly, it should be their prerogative to do it, and the public are the ones who are going to answer, whether they accept it or not. Putting in legislation of unenforceable laws, which as it is written here, at any rate, is completely and absolutely and totally unenforceable and unacceptable. We're just making a whole mockery out of the legislative process, if we leave this type of a clause in an Ordinance because everybody here knows that it is just abused by every politician, both municipality and Territorially. To have laws in an Election Ordinance, that the legislatures themselves, are going to break at the first opportunity, just makes a whole mockery of the democratic process. As I say, let the candidate beware, if they are forcing their intentions upon the households and through the media to the point where the elector is sick and tired of...disgusted and disgusted with them and the backlash is going to present itself in the polls and they are going to be unsuccessful candidates.

Mr. Chairman: Have you anything further, at this time on 63, which I believe is certainly, up for review.

BILL #11 Mr. Chamberlist: I would like to ask, Mr. Chairman, what Mayor Wybrew's reaction to this particular section is? We are dealing with a municipality, let them have their own say.

Mayor Wybrew: It was 63(1), we were still on this. Well, 63(1) is not enforceable, is this what you mean? You can now, in answer to Councillor Watson's remarks, you can now campaign during the preceding twenty-four hours. It is a unnecessary section.

Mrs. Watson: Mr. Chairman, I was just giving my views on this, I'm not saying that the phrasing of this is correct we have to review the phrasing and give further consideration to my views on the subject.

Mayor Wybrew: In answer, Mr. Chairman, I have to agree that, if you wish to campaign during the preceding twenty-four hours, or on polling day, I don't see anything wrong with that. I do agree with Councillor Stutter, there could be problems around the actual polling stations. A block away, a hundred feet away, or something you would have signs all over, but let them go their best...other than that...

Mr. Chairman: This is up for review then. 64? 65?

Mayor Wybrew: 65, Mr. Chairman, this section should perhaps refer to a polling,..to any polling place. 65(1) "During the holding of the poll, no persons may be present in the polling" place rather than station. A polling place is where you mark you ballot, right?

Mr. Chamberlist: It means, if you go and take advanced poll with a ballot box..we've made it easier now to take into a hospital, we do have to clear all the rest of the patients and the nursing staff and the doctors out, it still is a polling place. We are dealing with a polling station, in the true sense of the word, of a polling station that is set up. This is being picayune, if we start picking every little thing out like this.

Mayor Wybrew: Alright then, this section should refer to any polling place and not polling station, Mr. Chairman. In the last election, at the polling place for Division 2, where there were six polling stations, the following were permitted to be present in addition to any voters: two hundred and four candidate's agents, twenty candidates, twelve D.R.O.s', and poll clerks, a total of two hundred and seventy two people, at any one time.

Mr. Chamberlist: That is getting a little bit ridiculous because a polling..... I must say, Mr. Chairman, that the witness isn't aware of what a polling station is, he is saying now that there were six polling stations in one polling place, it is the physical building where the poll is taking place, that is the polling station. This is what it refers to, the polling station.

Mayor Wybrew: There may be more than one polling station in a polling place, that's all.

Mr. Chamberlist: No.

Mr. Chairman: I am just wondering if this interpretation can be placed upon, possibly it should be clarified. What is a polling station?

Mr. Chamberlist: A polling station is where the poll is held, this is a polling station. We are saying this quite clearly in there. "During the holding of the poll, no persons may be present in the polling station."

Mayor Wybrew: I would like to point out, Mr. Chairman, that 65(2), correctly refers to polling place.

Mr. Chamberlist: The problem is that they are saying, ... on the other hand, I would say that we are using two different nomenclatures here, we are using polling station and polling place, but it is a polling station that is the intention. These are the words that are used in

Mr. Chamberlist continues ...

all elections. It is a polling station, it is used in the Canada Election Act completely, everywhere. Alright, we will take the word "place" out, I'm not going to get into an argument over something like this.

BILL #11

Mayor Wybrew: No, there is no need for an argument, Mr. Chairman, but there is a problem of interpretation, here perhaps, is there?

Mr. Chairman: Maybe if you just define a polling place, in the interpretation section, that would solve the problem.

Mr. McKinnon: A little restrictive, in that as I read it, the members of the press, who are fulfilling their duties are disallowed from the polling station also. Isn't that being overly restrictive from an enterprising reporter going to find out how many people have voted at a certain time?

Mr. Chamberlist: No, come on.

Mr. McKinnon: No, seriously.

Mr. Chamberlist: A member of the press is not in anyway concerned with the operating of an election. If a member of the press is allowed to be in there, why can't every other person of the public be in there, they have no special reason for being in there, but just to give out information that will be given to them at the direction of the Returning Officer. Surely, not while the election is taking place.

Mr. McKinnon: This also, restricts them, I think, Mr. Chairman from being in the polling station during the counting of the votes, also. I think, you will find under this Ordinance that was and as it stands that you are excluded, even as a member of the press from being in the polling station when the votes are being counted and I think, that that is being restrictive on a person trying to bring the information to the public on the results of the election.

Mr. Chamberlist: I agree with that, I think that in that area there should be consideration to allowing the press, at the time, after the closing of the polls. I wouldn't be prepared to say, yes, or no because I think that, that would have to be discussed. Certainly, that has some merit, but for members of the press to be in the polling station and given the right to be in there, almost as an official during the poll. The point afterwards, I think we can look at it and see if there is anything wrong with it.

Mr. Legal Adviser: It is taken care of, Mr. Chairman, it says, certain people may be there, "Returning Officer, Poll Clerk, candidates' agents, but no other person except with the Deputy Returning Officer's permission."

Mr. McKinnon: The Deputy Returning Officer, has made the ruling that he will not allow permission for the members of the press to be in the polling station where the votes were being counted and I think that this is, ... I think that it is the duty of the press, particularly on a voting day, that it is their duty, to get the results to the public, just as quickly as possible. The way to get it as quickly is to be there when the votes are counted and the decision is made, as to what candidates reviewed what votes.

Mr. Legal Adviser: The Honourable Member has a point, except that all of these people are sworn into secrecy, the purpose of the presence of the members of the press is, the reverse. He certainly is entitled to announce the result, at some convenient place, when the results are actually announced. All the others are sworn to secrecy, so the secrets of the ballots may not be impeached, in any way.

Mrs. Watson: Mr. Chairman, section 76(2), very specifically refers to the fact, that these people who are present at the counting of the votes, must maintain and aid in maintaining, the secrecy of the voting.

Mr. McKinnon: It is inconsistent, because I have been covering several

BILL #11 Mr. McKinnon continues ...

municipal election campaigns, in one the Deputy Returning Officer allowed the press to be there, they sit entirely by themselves watching the counting of the votes, not involved in it at all as soon as the votes were announced, they got to the phones and went to their respective medium, pronounced the results. The following one, where every-one thought the decision was going to be accepted with a different Returning Officer, they didn't allow the press into where the voting count was taking place and the Deputy Returning Officer informed the medium, himself of the result, which means, he can take the preference, not over the guy...of what medium, he wants to give the results to first. There is no way that he simultaneously is going to be able to give it to the various and I say that, that is where a reporter and his enterprising and ability to get the results fastest to his medium shouldn't be precluded by him not being able to get the results from the election as quickly as possible.

Mr. Chamberlist: It is obvious then, the Honourable Member agrees then that it is at the discretion of the Returning Officer, but he is responsible for the conduct of what takes place in that polling area. I know I have seen a municipal election here, where the press very unobtrusively stays in the background and waited until they were given some information and then they were given that information. On the other hand, I have seen another municipal election, where the press have been moving around the people while the actual counting was taking place, the Returning Officer ordered them to get away because it was interfering with the counting. Certainly it is the prerogative of the Returning Officer, as it is now, to see that everything that takes place within that polling station is carried out properly. I'm not firm, one way or the other, perhaps this is another thing that could be discussed. I think, that we mustn't give a privilege to the press that we are not prepared to give to the general public. It is like having a public gallery, if we are going to give it to the press why can't we open it up to the public to allow anybody to be in there. There is no special privilege that the press should have because after all, I know members of the public at times, are more responsible than members of the press and this is obvious.

Mr. Legal Adviser: I think, a lot depends on the place in which this is taking place. In a small pokey little place, as sometimes happens there may not be room for many people, if there is room I'm sure the returning officer exercise his discretion. He can say to the press, that they also serve those that stand and wait.

Mr. Chairman: Anything further on 65? 66?

Mr. Chamberlist: I want to get a question from 66, it has already been raised in Council here, in going through this. There is a desirability to, lock and seal the ballot box, I wonder what His Worship, Mr. Chairman has got to say in relation to 66(b)(ii) where it just says, "lock or seal".

Mayor Wybrew: I would have to agree, I do believe the proper procedure for a Returning Officer is to open the boxes in front of the candidates who are present, to be examined and then they are padlocked or sealed with...like a railroad seal.

Mr. Chamberlist: This is the question that I am asking, whether it is satisfactory to lock or seal, or lock and seal, as has been done in most cases. Lock or seal means, one or the other, but lock and seal means, put a padlock on it and then seal.

Mr. Rivett: I agree with you, but you say "or seal" and it goes on to say; "prevent it being opened without breaking the seal" obviously it has to be sealed.

Mr. Chamberlist: This is a very good point that comes from the Honourable Member from Mayo, when he does speak, he speaks words of wisdom. This is quite true, here we say in this section "lock or seal" and then we refer to the breaking of the seal. If it is only going to be sealed, why is the word "lock" in there at all? It means it only has to be sealed,

Mr. Chamberlist continues ...

but, in most elections, all elections you put a lock on and then you seal and then you mustn't break the seal.

BILL #11

Mayor Wybrew: I would agree with Councilor Chamberlist on that, Mr. Chairman, lock and seal.

Mr. Chairman: 67? 68? 69?

Mayor Wybrew: 69, Mr. Chairman, I think, in 69(1)(b), "who have complied with the requirements of section 5;" Shouldn't that be section 71(1)?

Mrs. Watson: 5 is the elector isn't it? The qualifications?

Mr. Chamberlist: That's only persons who have qualified under section 5. Section 5 details the qualifications of the elector.

Mr. Chairman: 70? 71?

Mayor Wybrew: 71, Mr. Chairman, "A person," should it read that?

Mr. Chairman: Yes, that is a typing error I believe. 72? 73? 74? 75?

Mayor Wybrew: 75(i), Mr. Chairman, the second line, "to the compartment provided for marking ballots and shall mark his ballot paper" Doesn't the Canada Election Act refer to a cross. Should be substituted in this case, instead of mark?

Mr. Chamberlist: We indicate what the mark is afterwards.

Mr. Legal Adviser: My recollection is that this was taken from another province because there was a certain amount of switching over from marking with an "X" to marking with a tick. A tremendous number of modern forms ask the person marking it to give a tick in a particular box. Some people become in the habit of giving a tick and the main thing is, to indicate clearly which candidate you are voting for. That is why the change was made, that is the reason for it.

Mayor Wybrew: I think, Mr. Chairman, that this could cause confusion because in any election we have here, if you have the privilege of looking at the ballots as they are being checked out and counted, you will find that everybody is using an "X" and very seldom do you get a tick from a spoiled ballot, spoiled ballot from a tick rather. Would it not cause confusion?

Mr. Chamberlist: There is a word that should be in first of all, it says right after "his ballot paper in a pencil" that should be "by" a pencil. The word "in" should be corrected, "by".

Mr. Legal Adviser: With or else drop the "a" and say in pencil, but I think that "with" is the best word.

Mr. Chamberlist: I think we should with "a cross".

Mr. McKinnon: I like this section because I think if a person, and that is all you are really trying to do, there are four or five names, is to signify a choice. Why if a person has an obvious "v" or a tick mark beside someone who obviously he has chosen, I don't believe that ballot should be discounted, which it is, under the Canada Elections Act with anything else except an "X". I think that person shows a clear preference of a choice of a person who he wants to cast his ballot for. Why his ballot should be discounted...I don't agree that it should be.

Mr. Chamberlist: In the new Canada Elections Act, I wonder if we could refer to it, I think, they have made provisions for ticks, for other markings, I think, they have done that now. Perhaps we'll take a look at that and check what the Canada Election Act has. They have provided for markings, as long as all the mark in within the two lines and if anywhere it overruns, then it becomes a spoiled ballot.

Mrs. Watson: Mr. Chairman, I had visions of someone, when you have

BILL #11

Mrs. Watson continues ...

elections just such as we had very recently in the Municipality of Whitehorse, and I believe we had seven people and what if somebody would mark by preference, one, two, three, four. Would you have to accept that, would you count those votes? They are still marking them beside the name. We had I believe, six aldermen this last election and someone could have put; one, two, three, four, five, six, beside the names of six of the people. Would you count each one of those as having a vote, whether they have the number four or the number two beside the name.

Mr. Legal Adviser: I think the essence of the thing is to devise a section, which will allow a voter to show his preference of the candidate of his choice and in an intelligible way. The only time a vote should be disqualified is, if it is capable of being read in a duplex fashion; the person who is counting the votes does not know clearly what the man's referring. This is certainly the normal way in most elections, I don't know the procedure too well in Canada, but in other elections this is certainly the way and all the spoiled papers, or the potentially spoiled papers and the candidates sit around and agree, you reduce it then to a couple papers that may not be agreed upon, and then if anyone wants to take action they do. Anything will do to indicate the mark.

Mayor Wybrew: Anything would do, Mr. Chairman, to indicate a mark. There could be ...

Mr. Legal Adviser: We use the word "mark" and he puts down, one, two, three, four, five; that will be accepted as a vote for the candidate of his choice, assuming he can vote for that number of candidates, if he goes past it of course, he has gone too far and the vote becomes invalid. If there are three seats and he goes down to five, that is no vote then.

Mayor Wybrew: Anything would be recognized as the mark, say there was several men and several women and the elector put in there "him", "her", "him", "her"; actually wrote the word in, would that be acceptable?

Mr. Legal Adviser: That is a question for the Returning Officer to give the decision subject to appeal in the normal election machinery as to what is the mark that indicates what the choice is.

Mayor Wybrew: There you are, you are getting back to one mark again.

Mr. Rivett: Mr. Chairman, wouldn't it be "in a pencil or with a pencil provided for the purpose by placing a mark" as long as he shows his preference, what more is required, does it really make any difference what kind of a mark it is?

Mr. McKinnon: Certainly, the thing is, if the person has crossed the ballot line and has part of his mark on one section and part on the other then definitely the mark has to be invalidated, but we think, most of us who are so used to the democratic process, the voting process, it is nothing at all just to walk into a hall and give your name and get your ballot and go in the booth. Believe you me, this is quite an experience for a lot of people and I have been involved with a lot of people, who it has really been something for them to go into a polling booth and see all these people sitting there and go and receive their ballots, go to the booth and place their mark. I think that if they can clearly indicate on that ballot that they do have a definite choice, that ballot should be accepted, just because it doesn't have a definite "X" or a tick or a one, shouldn't disqualify that person who has made a very real effort to get to that poll and vote for someone of their choice, from having their vote not counted. It is so easy for us sitting here to say, anybody can just go in and mark and "X" in pencil but, believe, you me it is just not that easy and not that simple for an awful lot of people in the Yukon to be able to do. When a person has clearly indicated his choice, beside a name that he is trying to vote for that person then that vote I think, should be accepted and the mark no matter what it is should be accepted as a clear indication, that that person wanted to vote for the person beside who the mark is made. Anything that we can do to make that...to ease that I think, that is an onus on this Council to do. I like this section as it is and I think a Deputy Returning Officer, most of them that I have seen are quite sharp and able to accept what is

Mr. McKinnon continues ...

actually a mark in favour of a candidate. I have been at judicial recounts *BILL #11* and I have been impressed by the judges' ability to be able to distinguish what really is a mark that the person wanted to vote for a candidate. Everything that we can do to make sure that a person who makes an attempt to go to vote that their vote is counted, I am all in favour of it. I like the section under this.