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# The Yukon Legislative Assembly

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Debates & Proceedings

**Tuesday, April 12, 1977**

Speaker: The Honourable Donald Taylor

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# The Yukon Legislative Assembly

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## Debates & Proceedings

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

*(Prayers)*

**Mr. Speaker:** We will proceed at this time with the Order Paper.

Are there any documents or correspondence for tabling?

#### ROUTINE PROCEEDINGS

#### TABLING OF DOCUMENTS

**Mr. Speaker:** The Honourable Minister of Education.

**Hon. Mr. Lang:** Mr. Speaker, I have for tabling a White Paper on Insurance Ordinance changes.

**Mr. Speaker:** Any further documents or correspondence for tabling?

Reports of Committees.

#### REPORTS OF COMMITTEES

**Mr. Speaker:** The Honourable Member from Hootalinqua?

**Mr. Fleming:** Yes, Mr. Speaker, I have the honour to present the second report of the Standing Committee on Statutory Instruments.

**Mr. Speaker:** Are there any Petitions?  
Introduction of Bills?  
Notices of Motion for the Production of Papers?  
Notices of Motion or Resolution?

#### NOTICES OF MOTION

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

**Mr. McCall:** Yes, Mr. Speaker, I give Notice of Motion, seconded by Mr. Berger, that the Standing Committee on Statutory Instruments review and make recommendation respecting any proposed regulation.

**Mr. Speaker:** The Honourable Member from Kluane?

**Mrs. Watson:** Yes, Mr. Speaker, I'd like to give Notice of Motion, seconded by the Honourable Member, Mr. Berger from the Klondike, that it is the opinion of this House that the following roads listed under Establishment 902, Maintenance of Abandoned Roads, should be maintained by the Government of the Territory for the summer and winter use of the residents thereon.

Location, Klondike near Dawson, one-half mile of road; Rock Creek, one and one-half miles; Mile 926 to 928 Alaska Highway, Whitehorse, two miles; Mile 1054, Silver Creek, Alaska Highway, two miles.

And that any future section of arterial highway which

is bypassed by a relocation be also maintained for the use of residents who reside thereon prior to the relocation.

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

The Honourable Member from Hootalinqua?

**Mr. Fleming:** Yes, Mr. Speaker, I give Notice of Motion, seconded by Mr. Berger, that the second report on Standing Committee on Statutory Instruments presented April 12th, 1977 be concurred in.

**Mr. Speaker:** The Honourable Member from Whitehorse Riverdale?

**Mr. Lengerke:** Mr. Speaker, I give Notice of Motion, moved by myself, seconded by the Member from Kluane, that whereas the Yukon Government has scheduled a game research project along the Dempster Highway to commence during early 1977, be it resolved that it is the opinion of this Assembly that the Yukon Government provide or make arrangements for manpower and facilities required to complete the game research project or study and to make known the findings and recommendations so that regulations and other required measures can be put into effect and in place and the public be fully informed prior to the completion and opening of the Dempster Highway.

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

Are there any statements by Ministers?

#### STATEMENTS BY MINISTERS

**Mr. Speaker:** The Honourable Minister of Education?

**Hon. Mr. Lang:** Mr. Speaker, I would like to take this opportunity to comment on the controversy surrounding the Indian language issue at Haines Junction and inform Members of the decision taken on this matter.

The Haines Junction situation has forced the Department of Education to assess its priorities and review the fundamental principle of parental involvement in the school system in the light of the political pressures being exerted by the Yukon Teachers' Association and the Yukon Native Brotherhood.

In recognition of the role of parents in the education system, Territorial legislation provides for parental involvement through representation on school committees. Thus, the Department has no alternative but to seriously consider the wishes of the parents as expressed through a duly elected school committee. Pressure groups can exert influence, Mr. Speaker, but cannot be permitted to bypass the democratic process. It is an accepted fact, that in our rural areas, there is a high rate of teacher turnover, and the only protection that the parents have is to maintain a meaningful presence in the decisions affecting their children in the school.

The Haines Junction School Committee chose to hold a referendum on the language question in conjunction with a by-election for a school committee member. The results of the referendum showed by vote of 55 to 41, the



voters were opposed to an Indian language program.

On reviewing the voters lists of eligible voters, I was surprised to find that had the Haines Junction Native Community exercised its franchise at the ballot box, the vote would have been reversed by at least a majority of two to one.

Also, the native candidate who ran for election could possibly have been elected thereby ensuring native representation on that particular school committee.

This Government is very disappointed that a boycott was instituted by the Yukon Native Brotherhood. Since the emergence of all the facts, the decision has been made to permit the program to be carried on after school hours in the school facilities for the balance of this year.

The Department is prepared to assume the cost of the instructor, provided a program outline is approved by the Superintendent. The Department has been instructed to carry on with the program as it is during the school day until the end of this week in order that the appropriate arrangements can be made to accommodate the change.

Mr. Speaker, in the meantime, the future of the Indian language program in our school system will be reviewed in depth by the Department of Education and recommendations will be put forth at the next superintendent's annual meeting of school committees in order to ensure that the wishes of the parents are taken into account in any policy decision made by the Department.

**Mr. Speaker:** Are there any further statements by Ministers?

This brings us then to the Question Period.

#### QUESTION PERIOD

**Mr. Speaker:** The Honourable Minister of Education?

**Hon. Mr. Lang:** Mr. Speaker, I have for tabling, answers to the following written questions: Number 14, relating to the Yukon Teacher Training Program; Number 15, relating to regulations respecting Wellesley Lake; Number 18, relating to payments made to Yukon under the terms of the Financial Agreement.

Mr. Speaker, I also have for tabling the answer to an oral question asked by the Honourable Member from Hootalinqua concerning fishing quotas in the Yukon.

**Mr. Speaker:** The Honourable Minister of Health and Welfare?

**Hon. Mrs. Whyard:** Mr. Speaker, I have for tabling the remaining answers to written question Number 7.

**Mr. Speaker:** Are there any further questions?  
The Honourable Member from Hootalinqua?

#### Question re: Public Drinking

**Mr. Fleming:** Yes, Mr. Speaker, I have a question this morning for the Minister of Local Government with respect to the new liquor regulations and the possibility of a plebiscite being held in a small town or village or LID District whereas there is possibly a mile or two

miles of what we may call public beach in that area. If that plebiscite turns out to be in favour of no drinking on the streets, no public drinking, in other words, would we also, or the people in that town also have to go to the Commissioner directly to prevent the drinking on the beach itself, which in the Ordinance, is actually a place where you can drink?

**Mr. Speaker:** The Honourable Minister of Local Government?

**Hon. Mr. McKinnon:** There are provisions under the amendments to the Liquor Ordinance for the Commissioner to name any areas that the district so desires him to name to be excluded from the public consumption of alcohol.

**Mr. Speaker:** The Honourable Member from Hootalinqua?

**Mr. Fleming:** A supplementary Mr. Speaker. In reference to the Alaska Highway itself which is more or less a federal -- is this also, could it be included in this, going through the town?

**Mr. Speaker:** The Honourable Minister of Local Government?

**Hon. Mr. McKinnon:** Yes, Mr. Speaker.

**Mr. Speaker:** Are there any further questions?  
The Honourable Member from Klondike?

#### Question re: Tourism Survey in Dawson

**Mr. Berger:** Yes, Mr. Speaker, I have a question for Mr. Commissioner this morning. In the light of the 100 per cent commitment of Dawson City to tourism, I was informed in Dawson on a recent visit there that the Economic Planning Unit is going to conduct a survey about the economic impact of tourism in Dawson, about the Klondike Park area and I was wondering if Mr. Commissioner could explain to us what this study is going to do to Dawson and why this study is actually done?

Like I said, Dawson is committed to tourism 100 per cent.

**Mr. Speaker:** Mr. Commissioner?

**Mr. Commissioner:** Mr. Speaker, I'll have to bring the information back if that's satisfactory to the Honourable Member?

**Mr. Speaker:** Are there any further questions?  
We will then proceed on the Order Paper to Orders of the Day under Motions.

#### ORDERS OF THE DAY

#### MOTIONS

#### Item No. 1

**Madam Clerk:** Item 1 standing in the name of the Honourable Member, Mrs. Watson.



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

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

**Mr. Speaker:** It has been moved by the Honourable Member from Kluane, seconded by the Honourable Member from Ogilvie that the Green Paper on Bid Differential be referred to Committee of the Whole. Are you prepared for the question?

**Some Members:** Question.

**Mr. Speaker:** Are you agreed?

**Some Members:** Agreed.

**Mr. Speaker:** I shall declare that the Motion is carried.

*(Motion carried)*

#### Item No. 2

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

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

**Mr. McIntyre:** Mr. Speaker, I think all Members are aware of the recommendations that are contained in this Resolution.

**Mr. Speaker:** Is the Honourable Member prepared to proceed at this time?

**Mr. McIntyre:** Yes.

**Mr. Speaker:** It has been moved by the Honourable Member from Mayo, seconded by the Honourable Member from Whitehorse Riverdale that this House recommends to the Minister of Indian Affairs and Northern Development, the appointment of Messrs. Neil Olsen, Michael Stutter and Charles Eikland to the Yukon Territorial Water Board, and that Mr. Bert Boyd's term be extended for an additional three years and that he continue as Chairman of the Board. Is there any debate?

The Honourable Member from Kluane?

**Mrs. Watson:** Mr. Speaker, I certainly support, very much, the Motion that we are proposing here, but I would also like to comment that in the Fall Session we also brought forward a Motion which recommended that Mr. Keith Byram be appointed to the Yukon Territorial Water Board. Up until this date, Mr. Byram has not received his appointment and I would like this House to go on record that we don't want to continue making recommendations that are not going to be carried out and that I would strongly urge that this recommendation be brought to the Minister's attention and request that the Minister take some action. Either he turn down our recommendation, by writing, or go ahead and make the appointment but not to leave them up in the air as he

has since last Fall with Mr. Byram.

**Mr. Speaker:** The Honourable Member from Whitehorse Riverdale?

**Mr. Lengerke:** Mr. Speaker, I'd just like to comment as well that it's not very often that I can get up and commend the Minister of Indian Affairs to react to some of our wishes, because if you recall on March 17th of 1976, this House did pass, I believe it was Motion Number 26, that asked that amendments be made to the Northern Inland Waters Act to amend it whereby we could have appointed to the Board, seven Members as named by this House and two from appropriate Government departments.

Certainly this Paper, and the recommendations that we're making today don't quite go as far as our Motion of that previous date because now we will have three members named by government departments, however, I think we've come a long way in getting our wishes and as I say, I think it's again, a step in the right direction and it certainly is a response to our wishes, our Motion of March 17th, 1976.

**Mr. Speaker:** Is there any further debate? Are you prepared for the question?

**Some Members:** Question.

**Mr. Speaker:** Are you agreed?

**Some Members:** Agreed.

**Mr. Speaker:** I shall declare that the Motion is carried.

*(Motion carried)*

**Mr. Speaker:** We will now proceed to Public Bills.

#### PUBLIC BILLS

**Mr. Speaker:** The Honourable Member from Whitehorse West.

**Hon. Mrs. Whyard:** Mr. Speaker, I would ask that the order for the consideration of Bill Number 9, Real Estate Agents' Licensing Ordinance, in Committee of the Whole, be discharged and that the Bill be withdrawn.

**Mr. Speaker:** Is there a seconder?

**Hon. Mrs. Whyard:** Mr. Speaker, seconded by the Honourable Member from Whitehorse Porter Creek. If I may be allowed to speak to this, Mr. Speaker?

**Mr. Speaker:** Proceed.

**Hon. Mrs. Whyard:** I think all Members will recall that when Bill Number 9 was considered in Committee, a number of changes were directed. There was a certain amount of inaccurate typing and some pages had been misordered. Your Legislative Programming Committee, with some trepidation, approached the task of ordering all of these amendments.



For the information of Members, Mr. Speaker, I would like to point out that there were changes in many, many places throughout the Bill. For example, the name "Registrar" had to be changed to "Superintendent" in 56 different sections. The word "licence" was respelled to oblige the Honourable Member from Mayo on eight different pages. A number of definitions were clarified at the request of Members, because that was the section we had gone through in Committee.

In Legislative Programming, a number of other clarifications and amendments had been made for the more intelligent consideration of this Bill in Committee. And I am simply asking this morning, that the original version as seen in Committee now be withdrawn in order to facilitate the replacement of that original version by the amended version.

**Mr. Speaker:** It has been moved by the Honourable Member from Whitehorse West, seconded by the Honourable Member from Whitehorse Porter Creek, that the order for consideration of Bill Number 9, Real Estate Agents' Licensing Ordinance, in Committee of the Whole, be discharged and that the Bill be withdrawn.

Are you prepared for the question?

**Some Members:** Question.

**Mr. Speaker:** Are you agreed?

**Some Members:** Agreed.

**Mr. Speaker:** I shall declare that the Motion is carried.

*(Motion carried)*

**Mr. Speaker:** The Honourable Member from Whitehorse West.

**Hon. Mrs. Whyard:** Mr. Speaker, according to procedural requirements of this House, I would move that the House revert to Introduction of Bills for the purpose of introducing a re-typed version of Real Estate Agents' Licensing Ordinance.

**Hon. Mr. Lang:** I second that.

**Mr. Speaker:** It has been moved by the Honourable Member from Whitehorse West, seconded by the Honourable Member from Whitehorse Porter Creek, that the House revert to Introduction of Bills.

Are you agreed?

**Some Members:** Agreed.

**Mr. Speaker:** The Motion is carried.

*(Motion carried)*

#### **BILLS: INTRODUCTION AND FIRST READING**

**Mr. Speaker:** The Honourable Member from Whitehorse West?

**Hon. Mrs. Whyard:** Mr. Speaker, I move, seconded by the Honourable Member from Whitehorse Porter

Creek, that a Bill entitled, "Real Estate Agents' Licensing Ordinance" be now introduced and read a first time.

**Mr. Speaker:** It has been moved by the Honourable Member from Whitehorse West, seconded by the Honourable Member from Whitehorse Porter Creek, that a Bill entitled, "Real Estate Agents' Licensing Ordinance" be now introduced and read a first time.

Are you prepared for the question?

**Some Members:** Question.

**Mr. Speaker:** Are you agreed?

**Some Members:** Agreed.

**Mr. Watson:** A point of order, Mr. Speaker — not that I'm trying to block the introduction of the amended version of the Bill, but is it possible to do this under our rules where we've already introduced one Bill and that now we're introducing another one under the same title, the same Bill? We certainly can't do that with Motions and I'm very concerned whether we can do that in the same sitting.

Now, had we prorogued and come back again... but we've only adjourned.

**Mr. Speaker:** No, I think that the question of Bills is quite clear. The Bill that had been before the House and in fact was reposing in Committee of the Whole, has now been withdrawn. No decision was made on that Bill; it was neither carried in the affirmative or the negative. It was simply withdrawn and this would pose no problem procedurally with the conduct of procedure as is now being followed by the House.

Are you prepared for the question?

**Some Members:** Question.

**Mr. Speaker:** Are you agreed?

**Some Members:** Agreed.

**Mr. Speaker:** I shall declare the Motion as carried.

*(Motion carried)*

**Mr. Speaker:** The Honourable Member from Whitehorse West?

**Hon. Mrs. Whyard:** Mr. Speaker, I request leave of the House to move second reading of Real Estate Agents' Licensing Ordinance.

**Mr. Speaker:** It has been moved by the Honourable Member from Whitehorse West, seconded by the Honourable Member from Whitehorse Porter Creek, for leave to move second reading of Real Estate Agents' Licensing Ordinance.

Are you prepared for the question?

**Some Members:** Question.

**Mr. Speaker:** Are you agreed?



**Some Members:** Agreed.

**Mr. Speaker:** I shall declare the Motion as carried.

*(Motion carried)*

**Mr. Speaker:** Is leave granted? I believe I have skipped there. I believe it has been agreed to.

**Mrs. Watson:** Mr. Speaker, on a point of order, you're getting ahead of me here. You're giving it second reading and then you're asking for leave to do it.

**Mr. Speaker:** I'm sorry, I had erred. The Motion was for leave and this was agreed upon; it was my error, I'm sorry.

**Mrs. Watson:** Mr. Speaker, you didn't put the question. I'm not going to make an issue out of it, but you didn't put the question for leave. I think no-one would have withheld leave and then have second reading given.

**Mr. Speaker:** The Honourable Member from Whitehorse West?

**Hon. Mrs. Whyard:** Mr. Speaker, I would request leave of the House to move second reading of Real Estate Agents' Licensing Ordinance.

**Mr. Speaker:** I believe leave has already been granted.

**Some Members:** Agreed.

**Mr. Speaker:** The Honourable Member from Whitehorse West?

#### **Bill Number 14: Second Reading**

**Hon. Mrs. Whyard:** Mr. Speaker, I move, seconded by the Honourable Member from Whitehorse Porter Creek, that Bill Number 14, Real Estate Agents' Licensing Ordinance, be now read a second time.

**Mr. Speaker:** It has been moved by the Honourable Member from Whitehorse West, seconded by the Honourable Member from Whitehorse Porter Creek, that Bill Number 14, Real Estate Agents' Licensing Ordinance, be now read a second time.

Are you prepared for the question?

**Some Members:** Question.

**Mr. Speaker:** Are you agreed?

**Some Members:** Agreed.

**Mr. Speaker:** I shall declare the Motion as carried.

*(Motion carried)*

**Mr. Speaker:** We will now proceed. This Bill is now ordered for Committee.

We will now proceed to Private Members' Public Bills.

#### **PRIVATE MEMBERS' PUBLIC BILLS**

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

#### **Private Members' Public Bill 103: Second Reading**

**Mr. McCall:** Yes, Mr. Speaker. I move, seconded by the Honourable Member from Klondike, that Private Member's Public Bill 103 be now read a second time.

**Mr. Speaker:** It has been moved by the Honourable Member from Pelly River, seconded by the Honourable Member from Klondike, that a Private Member's Public Bill, Number 103, An Ordinance to amend the Labour Standards Ordinance, be now read a second time.

The Honourable Member from Whitehorse North Centre?

**Hon. Mr. McKinnon:** Mr. Speaker, I would like to give the Government's position on this Private Member's Public Bill.

I believe it was a Motion of this House, if my memory serves me correctly, or at least a suggestion that the Government take a look at the Labour Standards Ordinance because in many areas it was not contemporary and there were many sections of it that Honourable Members felt should be looked at. We have an Executive Committee recommendation now on file that the total of the Labour Standards Ordinance be undertaken in review so that we can come up with the many suggestions and alterations and amendments that Members have asked for and we know are needed presently in the Labour Standards Ordinance.

Our timing on the Legislative Programming Committee is that we try to have all budget-related matters done at the Spring Session which makes, as all Members know, for a full session of time and effort of all Members. Then, in the Fall Session, come up as much as possible with the type of policy-related bills that Government things are necessary.

We have for this Fall Session the timing of the complete review and updating of the Labour Standards Ordinance. We, the elected Members on the Executive Committee, feel that, rather than approach it in a piecemeal fashion, the Labour Standards Ordinance, as suggested by the amendments of the Honourable Private Member from Pelly, that it would be much more sensible to approach it in a comprehensive overall manner and bring in some of the suggestions which the Honourable Member suggests in the Bill, along with a general and total upgrading and review of the Labour Standards Ordinance for the Fall Session.

We really don't have that many objections with the amendments which are presently before us. We don't think that they're absolute priority and a necessity at this time because the major portions of the Bill look for two additional holidays which will not even come up prior to the amendments that will be brought at the Fall Session.

It is our suggestion, Mr. Speaker, that we have enough work and plenty of work with the budget-related matters at this time, rather than attacking the Labour Standards Ordinance with just some of the amendments at this time, that we could serve all of the people of the Yukon better if we came up with the total package at the



**Mr. McCall:** Agreed.

**Madam Clerk:** The Honourable Member, Mrs. Watson?

**Mrs. Watson:** Disagree.

**Madam Clerk:** The Honourable Member, Mr. Lengerke?

**Mr. Lengerke:** Nay.

**Madam Clerk:** Mr. Speaker, the results of division are four yea, seven nay.

**Mr. Speaker:** I must declare that the Motion is not carried.

*(Motion defeated)*

**Mr. Speaker:** May I have your further pleasure at this time?

The Honourable Member from Pelly River?

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

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

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

Are you prepared for the question?

**Some Members:** Question.

**Mr. Speaker:** Are you agreed?

**Some Members:** Agreed.

**Mr. Speaker:** I shall declare that the Motion is carried.

*(Motion carried)*

#### COMMITTEE OF THE WHOLE

**Mr. Chairman:** I will call this Committee to order and declare a brief recess.

*(Recess)*

**Mr. Chairman:** If Committee concurs, we will proceed with Bill Number 5 and Bill Number 7 and now the new Bill Number 14, the Real Estate Ordinance.

Are you agreed?

**Some Members:** Agreed.

**Mr. Chairman:** Bill Number 5, An Ordinance to amend the Community Assistance Ordinance.

*(Reads Clause 1)*

Fall Session which we have under advisement, under review, from suggestion from Honourable Members here and an Executive Committee decision that that will be the timing of the Bill. The elected Members on the Executive Committee, that's the position that we're taking, that we are going to vote against the Bill at second reading so that we can come up with the total package at the Fall Session, as we have suggested.

**Mr. Speaker:** Any further debate? Are you prepared for the question?

**Some Members:** Question.

**Mr. Speaker:** Are you agreed?

**Some Members:** Agreed.

**Some Members:** Disagreed.

**Mr. Speaker:** Division has been called.

It has been moved by the Honourable Member from Pelly River, seconded by the Honourable Member from Klondike, that Bill Number 103, Private Member's Public Bill Number 103, An Ordinance to Amend the Labour Standards Ordinance, be now read a second time.

Madam Clerk, would you kindly poll the House?

**Madam Clerk:** The Honourable Mr. McKinnon?

**Hon. Mr. McKinnon:** Disagree.

**Madam Clerk:** The Honourable Mrs. Whyard?

**Hon. Mrs. Whyard:** Disagreed.

**Madam Clerk:** The Honourable Mr. Lang?

**Hon. Mr. Lang:** Disagree.

**Madam Clerk:** The Honourable Mr. McIntyre?

**Mr. McIntyre:** Nay.

**Madam Clerk:** The Honourable Member, Mr. Berger?

**Mr. Berger:** Agree.

**Madam Clerk:** The Honourable Member, Mr. Hibberd?

**Mr. Hibberd:** Agreed.

**Madam Clerk:** The Honourable Member, Mr. Fleming?

**Mr. Fleming:** Agree.

**Madam Clerk:** The Honourable Member, Ms. Millard?

**Ms. Millard:** Disagreed.

**Madam Clerk:** The Honourable Member, Mr. McCall?



**Mr. Chairman:** Is there general debate on the Bill?  
Mrs. Watson?

**Mrs. Watson:** Mr. Chairman, may I refer to any section?

**Mr. Chairman:** Yes.

**Mrs. Watson:** Mr. Chairman, I refer to Sections 6 and 7, where the community organization must contribute a sum of \$750.00 and the \$1,000.00 per annum to the operation and maintenance cost.

Now, number 7, where the organization fails to pay the costs mentioned, the Commissioner must pay on behalf of the organization an amount equal to the cost and recover such amounts, together with any accrued interest thereon, by levying an annual mill rate on the assessment of every property in the area sufficient to recover such amount.

Now, I think that, on the face of it, this is a very good section, but when you go into it a little bit deeper you have different sizes of communities and different assessment rolls in every community and this is the thing that concerns me. For example, if you have a small community such as Destruction Bay where the, I would say 85 per cent of the property is owned by the Territorial Government. Now, would the other 15 per cent of the taxpayers in that community be obligated on their mill rate structure to make up the \$1,000.00 per year? That's my question and I don't know who wants to answer it. Maybe the Minister of Local Government.

**Hon. Mr. McKinnon:** Yes, Mr. Speaker, that's how I understand it by these terms of -- this is exactly the same as the terms of the letter that went to every community organization when they requested television service in those communities. We thought that we would make an agreement by the terms of the letter rather than putting it into ordinance at that time, and all we're doing is putting the agreements that were signed by the community organizations into the Community Assistance Ordinance rather than having it in regulations. We feel it should be part of the ordinance so that everybody knows exactly where they stand at any given time.

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

**Mrs. Watson:** Mr. Chairman, I recognize that it is practically the same as the letter that the community, that I believe one of the communities in my constituency, the community that seems to be fairly radical in their thinking on Native proviso, that they didn't feel that the mill rate structure should automatically be put on. They should be given Notice so they would have opportunity to collect the fee structure, and they recognized that if this goes in the way it is quoted here, only the private taxpayers in the community would then be paying the operation and maintenance costs of the television system. I think that they, as private taxpayers, are quite willing to pay their share, but they didn't feel that they should be paying their share and the share of people who were residing in our Government housing and Housing Corporation housing under the Housing Corporation. This is the big question we're faced with in this section.

**Hon. Mr. McKinnon:** Mr. Chairman, we hope that Section 7 will never have to be invoked. We feel that it's necessary to be there in case, for some reason or another that I can't see at the present time, the community with which we signed the Agreement renege on their original agreement.

You know, there's so many different methods of doing it. Two dances a year will bring the thousand dollars to the community. I know in Teslin their method of providing the monies is to have the biggest board I've ever seen right in the community hall and it says those who have paid their television up to date and every member of the community is there and everybody's got a star beside it because every time you walk into the community hall you see who's paid and who hasn't.

So all Section 7 is, sub 7 is, is a saving clause if the agreement that has been signed with the community club is abrogated and I don't feel, and I don't think that Members feel, that a thousand dollars even in the smaller communities is that onerous an amount to be able to raise with the myriad of methods that community organizations go about raising a thousand dollars. Indeed, I said two dances; if it's really well attended and the bar is well stocked, that's one dance in the smaller communities.

I don't think that we should remove Section 7 because it would be removing the portion of the Agreement that all the community organizations signed that they know that they have to do something for the television service that all the taxpayers of the Yukon are paying a considerable amount for. I think leaving it in the way it is will have a continuous trigger on those people who would be affected, who are usually the moving forces in the community, to make sure that the Agreement with the Territorial Government is lived up to.

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

**Mr. Fleming:** Yes, Mr. Chairman, I was also a little concerned over 6 and 7. I'm concerned about 6, the fact that \$750.00, now that is an initial cost and a one-time payment, and then the \$1,000.00 per annum naturally could be put on taxes, however, if it becomes necessary at the beginning, say the community doesn't wish to pay the \$1,000.00 on their own and they wish to go the other way and put it on taxes, the first year would be \$1,750.00 and from there on it would only be \$1,000.00 which would be very hard to put in a tax situation. I think the 700 should have been something separate and should have been in a separate section under this Ordinance.

The sum of \$750.00 be paid for the installation cost, then the \$1,000.00 in another section, and then go to Section 7 where the organization fails to pay that \$1,000.00 and they could collect it yearly.

I don't have too much problem with it because it says at the bottom "... interest thereon by levying an annual mill rate on the assessment of every property". Now, "every property" I would presume would take in RCMP quarters and DPW or anything else; I would presume they would be all levied to obtain the \$1,000.00, not just the private citizens and taxpayers.

So, other than that -- but I do have problems with 6, because that \$750.00 is only paid once. I don't know why we should start getting into a mill rate that's going to last for ever and ever, amen, you know.



**Hon. Mr. McKinnon:** Mr. Chairman, when we prepared subsection 7 to attempt to send the Bill to the federal organizations, the RCMP, the different federal agencies within the smaller communities to the Department of Indian Affairs and Northern Development; we don't know whether we have that much chance of collecting. We think probably that acting in good faith because it has provided service to the communities, they would divide those costs if subsection 7 came into play. I'm not positive and it would take a legal opinion — and I see Mr. Legal Advisor here — whether they would be forced to pay under this section of the Community Assistance Ordinance and whether we have the legal clout to force them to pay if, in fact, they decided they were going to refuse to pay their fair share of television costs on an annual basis.

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

**Mr. Fleming:** Yes, Mr. Chairman, then I would ask the Legal Advisor, you know, if we propose to raise the mill rate and the taxes in this country, can the federal departments back off in something like this and not pay the way with the rest of us?

**Mr. Legal Advisor:** Yes, Mr. Chairman, they can. But it's not the custom. There's a Grant-in-lieu-of-taxes made and this will be one of the items to make up the Grant-in-lieu-of-taxes.

So, I wouldn't anticipate that they would pull back, assuming they accept responsibility for the taxes by way of a Grant-in-lieu-of-taxes.

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

**Mr. Lengerke:** Yes, Mr. Chairman, Mr. Legal Advisor probably commented the way I was going to. As I understand it, it is a grant-in-lieu that the federal government pay and it's based on whatever the mill rate is and this would then just become, by levying this additional mill rate, becomes a total amount and I would imagine the grant-in-lieu would be based on that and so, in fact, you probably would be picking up a portion of that in the grant-in-lieu from the federal government.

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

**Mrs. Watson:** Mr. Chairman, I wonder if I could ask the Legal Advisor a question regarding Section 7? Under the Taxation Ordinance, are the assessments of every property in the area, would that include the assessment of all property, federal, territorial government, Housing Corporation property? Would it be included in the assessment of every property liable for taxation, under the Taxation Ordinance?

**Mr. Legal Advisor:** I can't -- I don't know the answer to that question, Mr. Chairman. It depends on what normally is done in the area in the event. I don't know, without asking the Tax Assessor, whether he imposes an assessment other than a tax structure. I doubt if he, in fact, does, but some calculations are made.

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

**Mr. Fleming:** Yes, I would like to ask Mr. Legal

Advisor whether it would have something, some effect on this, if it is true. Is there any differential in the taxes charged to a federal employee and, say, private citizens in the Yukon Territory or anywhere else on such things as recreational, cottage lots or any, or taxes in a town on properties?

**Mr. Legal Advisor:** Mr. Chairman, it's an ad hoc situation. A federal or territorial employee that is living in private houses, pays taxes in the normal way. If he's living in a government house, a calculation is made as to the taxes that he would pay and that's added to the rent that he's charged by the government, and the government on his behalf pays the taxes in respect to the property. This is the system which is in universal use now. You are charging people the actual market rent for the property and this has been in force for some time.

So, there would be money available from some source, eventually, resulting from territorial employees to pay these taxes. Now, federal employees are a different ball game.

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

**Mr. Lengerke:** I have a question about 5, where it says, "the Community Organization shall provide shelter of required size", and then it says, "in accordance with specifications and directions from the Project Manager." My question may be a bit nit-picky, but I'd like to have some clarification — probably the Minister of Local Government could do this. Is there a standard size, is there some sort of standard that has been set, because it strikes me by Clause 5 that, if you had a project manager that had some visions of grandeur, that he might ask for a building to be put up that's twice the size as is really required or, you know, the conditions whereby this thing is put together are somewhat different than a previous community. And this way you would have a bit of a discrepancy there. I'm just wondering if there's any, if there are any set standards for this?

**Hon. Mr. McKinnon:** Yes, Mr. Chairman, there are standards and specifications and they are minimal.

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

**Mrs. Watson:** Mr. Chairman, I have no argument at all with the fee structure that is outlined in Section 6. I think it's quite a generous package for small communities, and I also agree that \$1,000.00 per annum is not that large a sum, and with any effort on the part of the community they can raise that money.

That is now. I'm looking at three, four, five years down the line when people take these things for granted and the enthusiasm is lost. This is what concerns me, and this is what is concerning a lot of private taxpayers that I represent. I know that in the one community I have exactly three private taxpayers. Now, if they have to pay, and I think it's \$1,000.00, it doesn't seem quite fair, and I would be very happy to approve this Bill if Section 7 was rewritten to give some indication that all property in the communities would be liable to taxation including territorial and federal. I know that territorial and federal, that Government is not liable to taxation, but some wording to indicate that their Grant-in-lieu-of-taxes must reflect the additional cost for the televi-



sion service just as any other private taxpayer would be paying.

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

**Hon. Mr. McKinnon:** Mr. Chairman, the reason why we left Section 7 so general and by levying an annual mill rate on the assessment of every property in the area, when we discussed originally the television program under the Community Assistance Ordinance, that was our intention, that if the Bill was reneged on that we were going to attempt to recover from every property owner. That's what we are going to do.

If the Department of Indian Affairs -- if the community doesn't pay, we'll be sending a bill for that portion of the responsibility of Indian people in the community to the Department of Indian Affairs. We're going to make every attempt to make sure as much as we can that it will be split amongst every recipient of that television within that community. What we're saying is, there's nothing that we can put in law, I don't think, that if the Federal Government agencies and organizations want to renege on the Bill that is sent, if they don't want to increase their grant-in-lieu, then I think it will be up to us to put the political pressure on those different Federal organizations to make sure that they come through with the portion of their bill. I think that we can probably do that without too much difficulty, Mr. Chairman. I would hope so at any rate.

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

**Mr. Fleming:** Yes, Mr. Chairman, I would be prepared to support the Bill, as I said before, if the \$750.00 was set aside by itself to be paid by the community or otherwise and not put into anywhere where the mill rate could affect it. However, it could affect the mill rate and I have a very good reason for that, because for \$750.00 the Territorial Government couldn't move a backhouse two feet on Hallowe'en night. They would want at least \$1,500.00 and they have already suggested that the buildings that are to be put up will be around \$1,400.00, I think it is, if you look at the plans that they have for them, and consequently some day this may drop down and they will be wanting more than that. It will be going on to the taxes, so therefore I'm not prepared to vote for it the way it is. I agree with the \$1,000.00 per annum, and I agree with it that it could go on to the mill rate and so forth and so on, but I'll not agree to where it says, in 7: "... fails to pay the costs mentioned in subsection (6)....", which includes the \$750.00 which actually includes \$1,000.00 or \$1,500.00 or whatever that cost will be someday. It doesn't say that they'll only collect the \$750.00. It says they will collect whatever the cost may be some day and it may not be \$750.00, I can assure you that. However, if that is out of there and the community puts up \$750.00, you know, that's the end of that, if they want T.V. then I would vote for the Bill; otherwise, no.

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

**Hon. Mr. McKinnon:** Mr. Chairman, that's exactly why it is in there, in legislation; it's enshrined so that the community can't get dinged by the Territorial Government for more than \$750.00. It says, "the community organization must contribute a sum of \$750.00 to the

installation cost..." I have a copy of all the installation costs that the community television broadcast system -- the capital costs to date. In Carcross, the capital cost was \$28,604.93.

We lived up to our Letter of Agreement, and the cost to the community was \$750.00. This enshrines that \$750.00 unless the Members of this House change the legislation no matter what the costs go up to. In Destruction Bay, Burwash, the capital costs to date were \$18,542.91; all that had to be paid by that community was \$750.00. In Stewart Crossing, \$16,300.00; on Paint Mountain in Haines Junction, \$23,450.00; in Carmacks, \$19,890.00; Teslin, \$11,647.00; Beaver Creek, \$16,721.00, and Pelly Crossing, \$14,803.00.

Now, with all those capital costs, because of the Letter of Agreement that we have signed with the community organizations, only \$750.00 had to be contributed by the community organizations. Now we feel the community should be doubly protected by putting it into Ordinance that only the Members of this House can change and that's the maximum regardless, unless this legislation is changed, no matter what the capital costs go to, other communities coming up on the system, which is obviously going to be more, and Mr. Chairman I think that \$750.00 contribution towards \$150,000.00 that it's cost so far to date for the program and \$1,000.00 a year when it's costing us \$13,900.00 for each ground receiving station that we get, that this is a pretty generous program and a darn good one on behalf of the people of the Yukon. Let's protect it in legislation, let's not leave it by Letter of Agreement or in regulation. And then we know exactly what the costs to the community are, and the only way it can be changed, the maximum for those who now want to go into the program can be through a change in this legislation. It's double protection. I can't understand the Honourable Member's concern.

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

**Mr. Fleming:** I can't agree more with the Honourable Member that it is, the program is very good. However, it goes on to say, in Section 7, "where the organization fails to pay the cost mentioned in subsection 6", fine. "The Commissioner may pay on behalf of the organization an amount equal to the cost" -- not \$750.00, "equal to the cost". "And recover such amount of money together..." It actually, it says that he can collect whatever the costs are; it doesn't say the Commissioner may, on behalf of the organization, collect an amount of \$750.00 and then the rest is paid by him. It says he can collect an amount equal to the costs. And the costs would be, as the Minister has said, probably \$16,000.00 and that's what I'm worried about. I have nothing, no hassle about it at all, except in that Section 7 it says that.

**Hon. Mr. McKinnon:** Well, Mr. Chairman, I'd ask Mr. Legal Advisor and the Honourable Member from Mayo to help me out in the language, but I'd say that it refers back to the cost mentioned in subsection 6 and states that unequivocally the legislation can't be interpreted any other way than the \$750.00 and the \$1,000.00. That's what I read in 6 and 7 and if Mr. Legal Advisor and our resident expert on the English language, the Member from Mayo, disagrees, then we'd be willing to change it to make it absolutely clear, but it is to me at



this moment.

**Mr. Chairman:** Mr. Legal Advisor.

**Mr. Legal Advisor:** Mr. Chairman, the words "the costs" makes it clear. The costs you're talking about are the costs already mentioned. They are the ones mentioned in subsection 6. I think it's quite clear.

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

**Mr. Berger:** Yes, Mr. Chairman. I really don't know what the whole discussion is all about because we discussed it already in this House. My question to the Minister: was there any communities, are there any communities that failed to pay their \$750.00? And, if so, was there any problem collecting it?

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

**Hon. Mr. McKinnon:** Mr. Chairman, not that I know of. We had \$750.00 coming out of our ears so quickly once the program was announced. I never saw money coming in from the communities so quickly in any program that the government has attempted. They just wanted television; they thought they were getting a good deal and they came up with the bucks just as quickly as you could bat your eye.

**Mr. Chairman:** I think the question, Mr. McKinnon, was, from Mr. Berger, whether there was any community that did not come forward with the \$750.00.

**Hon. Mr. McKinnon:** I'll check Mr. Chairman, but to my knowledge, no.

**Mr. Chairman:** Thank you.  
Ms. Millard?

**Ms. Millard:** Mr. Chairman, it might clear up some of Mr. Fleming's problems if he knows what happened in Old Crow which was, I was told, I was told, that prior to receiving the \$750.00, no action would be taken on installing the equipment, so that there's no way that they would be liable because they'd have to pay the \$750.00 before any action was taken anyway.

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

**Mr. Fleming:** I actually have no problem. However, there is one \$750.00 outstanding yet in Teslin because it was a makeshift station put in illegally and so forth and so on. That \$750.00 will be paid when that installation is moved to the permanent position where it belongs.

The other \$1,000.00 was paid to the Territorial Government a few days ago and they had some problem as to find out where to put it; I don't know what happened to it, it's there. So, I have no problem and I take the Legal Advisor's word that this word is right. I guess I will vote for the Bill as it stands.

**Mr. Chairman:** Clause 1.

*(Reads Clause 1)*

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

**Mrs. Watson:** Mr. Chairman, one last comment. I believe this piece of legislation, particularly section 7, will rest in peace for four years or five years, until the novelty of paying the \$1,000.00 -- 'til someone forgets about it and then everything is going to let loose and I could tell you right now where it will come from. So you can rest assured, and I think they have a very good case.

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

**Hon. Mr. McKinnon:** Mr. Chairman, all of us here are working on the assumption that Haines Junction will certainly be over 500 people in four or five years' time and then they will come under the CBC Northern Television program. So, with the growth of the national park and all of the work happening on the North Alaska Highway, we're positive that won't come about in four or five years.

**Mr. Chairman:** Does Clause 1 carry?

**Some Members:** Agreed.

**Mr. Chairman:** Clause 2.

*(Reads Clause 2)*

**Mr. Chairman:** Does Clause 2 carry?

**Some Members:** Agreed.

**Mr. Chairman:** The Commissioner of the Yukon Territory, by and with the advice and consent of Council of the said Territory, enacts as follows: An Ordinance to Amend the Community Assistance Ordinance.  
Does the title carry?

**Some Members:** Agreed.

**Mr. Chairman:** Shall I report the Bill without amendment?

**Some Members:** Agreed.

**Mr. Chairman:** We now ...  
Mrs. Watson?

**Mrs. Watson:** May I just comment on section 2? I'm very happy to see it in there. There is clarification for the taxes that people can calculate as taxes under the Homeowner Grant Ordinance; it didn't slip by me.

**Mr. Chairman:** Shall we go to reading clause by clause of Bill Number 7? 1.

*(Reads Clause 1)*

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

**Mrs. Watson:** Mr. Chairman, I wonder whether we could have an explanation of this because I have one question on it and it does bother me. I can see the need for it, but why was this brought up and can you, when can you see it happening again, under what circumstances?



**Mr. Chairman:** Mr. McKinnon, you wish to comment?

**Hon. Mr. McKinnon:** Mr. Chairman, I can see it happening as most provincial jurisdictions do now, on a more or less regular basis. A checking into the history of the Taxation Ordinance and the background of it, this section was included in prior Taxation Ordinances. There have been various amendments. At one time, the assessment had to be done only every seven years, rather than five years. It was found that there were still problems in getting the assessment done when the municipalities were doing their own assessment in a seven year period, and they asked for an extension in the Taxation Ordinance or the type of exclusion that they couldn't be met in five years by Commissioner's Orders.

I went back to the Votes and Proceedings at the time we debated the amendments to the Taxation Ordinance and I've looked at various provincial jurisdictions and their legislation. It appears to me that it was just an oversight that it was not included in the last amendment to the Taxation Ordinance.

In every provincial jurisdiction, I see there is a saving clause if, for obvious reasons, the assessors not being able to complete their work on time, but the assessment roll shouldn't be invalid because it goes over the five year period.

There was a saving clause in the last Taxation Ordinance. There are, in any of the provincial jurisdictions that we have studied and the only thing that we can come up with, that it was an oversight, that it wasn't included, the saving clause in the last Taxation amendments which were done, I believe four or five years ago at this time.

The timing process just came to light really this year because areas were going over their five year assessments. I wouldn't be too optimistic that this clause, saving clause, wouldn't be used quite substantially in the future because of the very real problems that the Yukon, as well as all other jurisdictions, are meeting and finding qualified assessors to keep their assessment plans on time. We'll have problems, I believe, over the next few years in getting our general assessment done in all Yukon communities.

I might say though, that once those general assessments are caught up and completed, that we will never have to do the work again in keeping the general assessments up to date. The work just hasn't been done at the level of professionalism at this point in time that we would like to see it done. With the completion of the general assessments now in their five year timing cycle, we don't believe that we'll be running into the major problems that we are finding in this cycle of assessment bringing the assessments up to perfect order throughout the total of the Yukon Territory.

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

**Mrs. Watson:** Mr. Chairman, then would it not be advisable in this section to put a time limit on the number of times that the order of the Commissioner can apply to an assessment roll. You wouldn't want to have two municipalities, or two areas, have to require a Commissioner's Order, more than two years.

What we are doing there is we are leaving it quite wide

open so that there could be -- we're leaving it open to almost a type of shuffling of an assessment roll so one certain area, particularly in a municipality, could get quite an advantage because a reassessment certainly often means an increase in taxation.

Wouldn't it be wise to set no more than two, to let them know that they can apply twice for that same area and after that they have to have the assessment done, the reassessment done.

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

**Hon. Mr. McKinnon:** Mr. Chairman, we looked at various methods, one of them being a total of two extensions for a seven year period going back to the old Taxation Ordinance, then we looked at a very simple method of just allowing the Commissioner, not even by Order, to extend the period of time. We didn't think that that would meet with too much success in the House, so we thought the way of allowing it to be triggered, depending upon really exceptional circumstances, that went past the seven years without having it changed in the legislation would be by Commissioner's Order because the Commissioner's Order would have to be presented to the House at the first session following the signing of such an order, and we knew that Members would be keeping a close eye on how many of the Orders extending the five year period were extended in any certain taxing area or municipality.

So, we hit on 19(1), the Commissioner's Order being signed and all Members being aware of it as probably the best method of not really limiting ourselves and getting locked into a corner from a time period. Certainly we would hope that it wouldn't be more than one extension except in very, very special circumstances. Every time there has to be that extension for a year, there has to be Commissioner's Order signed and made public.

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

**Mr. Berger:** The Honourable Minister made a statement before to encompass a professional type of assessment to the whole of the Yukon Territory. I was wondering if he means an assessment being done beyond communities, beyond municipalities, that he's going to include assessments of all the squatter cabins in the whole Yukon Territory?

**Hon. Mr. McKinnon:** All we can find, Mr. Chairman, if the Honourable Member has some areas where we aren't getting at least our minimum tax off, we'd be most happy for the information so that our assessors can help those Yukoners become part of the tax-paying residents of Yukon also. Any other Members who have such information and so desire to make it public, it would be much appreciated.

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

**Mr. Berger:** Mr. Chairman, I can see a problem arising. There's a lot of the people just squatting. They have no right to the land and I was wondering how you would go about assessing the property and this particular land where the people have no title to.



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

**Hon. Mr. McKinnon:** Mr. Chairman, if it's federal land, the Yukon Territory still has the taxing authority on all lands for the improvements and the taxing by the Y.T.G. on improvements on any property regardless of who owns it, doesn't establish any type of ownership, title, squatting rights or any other type of rights upon that property.

I've done quite some background work into this problem because of the different situations we face and Mr. Legal Advisor has too, and it's perfectly clear that taxing on improvements, it doesn't matter who owns the land, it doesn't give any right to that land to the person who is squatting thereon. It gives us the full right to be able to tax on improvements on that property.

**Mr. Chairman:** Does Clause 1 carry?

**Some Members:** Clear.

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

**Mrs. Watson:** I'm going to support it, but I'm certainly going to have my concern recorded that I think there could be a great deal of pressure put on to the Commissioner through sort of a political process to have these extensions for the assessment and I would have preferred to have a time limit of two more years put in the legislation to provide the protection for that type of thing so that there is an absolute requirement as there has been this year when you change your legislation.

However, I will be supporting it but I do have some misgivings.

**Mr. Chairman:** Clause 2.

*(Reads Clause 2)*

**Some Members:** Agreed.

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

Shall the title carry?

**Some Members:** Agreed.

**Mr. Chairman:** Shall I report the Bill out of Committee without amendment?

**Some Members:** Agreed.

**Mr. Chairman:** We'll proceed to the reading of Bill 14, clause by clause.

**Hon. Mr. McKinnon:** Mr. Chairman, I'm wondering -- I see Mr. Legal Advisor here, who I think is necessary for the Real Estate Licensing Ordinance, I wonder if Mr. Spray, the Territorial Secretary could be invited before Committee for the Real Estate Licensing Ordinance reading, also.

**Mr. Chairman:** I believe Mr. Spray is coming down.

We will proceed reading clause by clause while we're waiting for Mr. Spray to come into the Committee.

**Some Members:** Agreed.

**Mr. Chairman:** Very well. 1(1).

*(Reads Clause 1(1))*

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

**Mrs. Watson:** Mr. Chairman, since we only brought in this amended copy of the Real Estate Bill today, I wonder if, in Committee, we could be a little more lax and require a little more time in case we want to pursue a section overnight and suggest amendments, suggest changes the next day. I don't think we should hold it up, but, you know, if we haven't had a chance even to read it.

**Mr. Chairman:** Mrs. Whyard?

**Hon. Mrs. Whyard:** Mr. Chairman, I believe the Chairman has been provided with a copy of comparisons which show the changes as they occur in this amended Bill, which might be useful to Members of Committee. So, there's a quick way to comparing what it was and what we've done.

**Mr. Chairman:** Yes, I will allow general discussion on sub (2), it's quite a lengthy subsection and as we go through it I will read both definitions and stop so that a general discussion can take place in case any of the Members wish to have something clarified.

Sub (1).

*(Reads Clause 2)*

**Mr. Chairman:** Mrs. Whyard?

**Hon. Mrs. Whyard:** It might be helpful, Mr. Chairman, if we point out that the only changes made in these definitions in this section have been for agent, business, licensed person, property user's licence, real estate, registrar and trade. The others remain as they were.

**Mr. Chairman:** Mr. Legal Advisor?

**Mr. Legal Advisor:** May I speak briefly to explain what a property user's licence is? As I understand it caused some difficulty during the debate when it hit the floor on the last occasion.

This is a new word, property user's licence taken as a whole, and it's a new form of possession of property and it is intended to cover the situation which arises when a person makes a deal with a company to have the use of a condominium or hotel room, or an apartment in a place like Arizona or Hawaii. So they get the right to go there for one month each year or two weeks each year on a continuous basis, but does not necessarily reoccupy the exact same property each year. He just registers himself and he pays, we'll say, \$500.00 and for that he gets a particular apartment in a particular block or a particular pair of rooms, or a particular mobile home, or a particular cabin; but the property owner in Hawaii can assign him the one that's vacant at that time of the year.



But he has a right to get something.

The draftsmen, in the jurisdictions from which we took this, had no words to describe this because it's a new form of property. A landlord and tenant relationship is the same piece of property on a continuous basis. It's more like a hotel room type of property and the right to go to the Vancouver races and get a similar room without it being the same room. The word is a whole word and is highly technical and that's what it is trying to convey.

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

**Mrs. Watson:** Could we have an explanation of why agent, the definition of agent was changed?

**Mr. Chairman:** Mr. Legal Advisor?

**Mr. Legal Advisor:** I've forgotten, Mr. Chairman, why it's changed without having the earlier one before me, but I don't think there was any real change other than to eliminate sub-paragraphing or to throw the thing together. I doubt there's any real change in the spirit of it.

**Mr. Chairman:** Mr. Spray?

**Mr. Spray:** Mr. Chairman, it is almost the same words, just for clarification, it reads, it is easier to read and understand. We simply tried to clarify these definitions.

**Mr. Chairman:** Real Estate. Mrs. Watson?

**Mrs. Watson:** Mr. Chairman, could we get back to Property User's Licence again?

**Mr. Chairman:** As I have said before, Mrs. Watson, this is a general discussion.

**Mrs. Watson:** Well, after the comments that the Legal Advisor made about the need for a property user's licence, the real estate agent would be able to apply for a property user's licence, is that correct?

**Mr. Chairman:** Mr. Legal Advisor?

**Mr. Legal Advisor:** But the person who is a client gets this lease from the real estate agent or the company he deals for. It's a lease, it doesn't entitle the real estate agent to do anything. What he is selling is permission to use a premises for two or three weeks, and that's what is called a licence. There's no government licence of any description. It comes from the old word where a person has a tenancy or a licence, a licence is permission that anyone might give to somebody to use their kitchen to draw a bucket of water every day. That's what you call a licence, a permission. We took the original English word, not the modern English word where you are issuing a piece of paper.

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

**Ms. Millard:** Mr. Chairman, I thought I heard mentioned the definition of Registrar. It seems not to be here. I don't know whether the definition has been

changed by simply eliminating it, or if it's been eliminated, why?

**Mr. Chairman:** Mrs. Whyard?

**Hon. Mrs. Whyard:** Mr. Chairman, because the word has been made Superintendent.

**Mr. Chairman:** Mr. Spray?

**Mr. Spray:** In the definition of Trade, there is a typing error in the sixth line down. It should read, "such transaction and any act." The word "and" has been omitted.

**Mr. Chairman:** Would you repeat that Mr. Spray, please.

**Mr. Spray:** In line 40 of the Bill it should read "...purpose of such transaction and any act."

**Mr. Chairman:** Mr. Legal Advisor?

**Mr. Legal Advisor:** If one of the Honourable Members happens to live in Haines Junction and goes on a holiday every year, and gives a property user's licence to me to use that premises, then the licence and the premises are the one thing.

It's like, a rental property is the property where the property lies.

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

**Mrs. Watson:** I think I would rather go to Hawaii than to Haines Junction. I think you might really explain it a little bit better.

**Mr. Chairman:** Mr. Legal Advisor?

**Mr. Legal Advisor:** For the purpose of this Ordinance, a licence to use a condominium in Hawaii is a permission to use it, and the property is deemed to be located in Hawaii and the permission to use it, which is the contract of tenancy is also located in Hawaii. What we're trying to control in this Ordinance is not buying and selling of rental properties in this Territory, we are trying to control it, it's the transaction like a share option to use property outside the Territory. This section is designed for that purpose.

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

**Mrs. Watson:** Mr. Chairman, now that's fine. Sub (2) says that if the property user's licence is deemed to be located where the furnished real property - furnished, does it have to be furnished?

**Mr. Legal Advisor:** Yes, Mr. Chairman, it must be furnished.

**Mr. Chairman:** Mr. Legal Advisor?

**Mrs. Watson:** Then, if I have a property user's licence for a condominium in Hawaii, so for the purpose of this Ordinance, that property user's licence is deemed to be a licence in Hawaii. Is that correct?



**Mr. Legal Advisor:** That's --

**Mr. Chairman:** Mr. Legal Advisor?

**Mr. Legal Advisor:** That's a licence, it's permission to use the property in Hawaii and it's outside this Territory. And what the control is, the dealing in Whitehorse of these contracts.

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

**Mrs. Watson:** Mr. Chairman, what control do we have for the other end of the transaction? Now there's a dealing in Whitehorse, but then there has to be a light dealing in Hawaii. What control have we over that, through our real estate legislation?

**Mr. Legal Advisor:** We wouldn't do it, Mr. Chairman. We would attempt to do it through negotiations with the Superintendent of real estate here and the Superintendent of real estate agents in Hawaii. That's how the control would be. We cannot make laws for Hawaii, nor can Hawaii make laws for us. But jurisdictions are beginning to relate now in this field to try and eliminate fraud which is of the nature of stock fraud and land transactions with which all the Members are familiar. We try to do it jurisdiction to jurisdiction.

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

**Mrs. Watson:** Under this legislation, then a real estate agent would have the authority to deal in property user's licences, automatically. Would we endeavour, under this legislation, to somehow or other control the property user's licences that he gives to make sure that there isn't fraud at the other end?

**Mr. Legal Advisor:** Yes, Mr. Chairman --

**Mr. Chairman:** Mr. Legal Advisor?

**Mr. Legal Advisor:** Sections dealing with that force the person here, who's selling these licences, to come to the Superintendent and to put the prospectus before him for examination. The Superintendent can then check that the man has legitimate rights to legitimate property in Hawaii or elsewhere. The type of control is the same as is presently found over the selling of shares and other securities. It's a security type of thing you're dealing with.

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

**Mrs. Watson:** A hypothetical question. If the Superintendent of real estate in the Yukon okays the real estate agent issuing property user's licences for a development in Hawaii and it turns out that certain people in Yukon have invested considerable sum of money for these property user's licences and it turns out that, in fact, there is no related body in Hawaii, there is no actual property in Hawaii, is the Territorial Government liable or is it the real estate agent if the Territorial Government has given approval?

**Mr. Chairman:** Mr. Legal Advisor?

**Mr. Legal Advisor:** The government would become liable if the Superintendent acted in a negligent manner, in not doing his work properly. But if he has carried out his duty and checked, then the government would not be liable. It becomes a question of negligence like any other action of a government servant, but they're not liable to the investors merely because the property in Hawaii fails. The negligence of a civil servant is always the responsibility of the government.

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

**Mr. Berger:** Yes, Mr. Chairman, I can see a little complication coming out of this. What power does the Superintendent have to investigate such property in Hawaii?

**Mr. Chairman:** Mr. Legal Advisor?

**Mr. Legal Advisor:** Mr. Chairman, we will come to it in due course, Mr. Chairman, in the special sections which are dealing with this type of security registration and perhaps it would be better to deal with that portion of it at that time when the sections have already been read and are understood by the Members.

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

**Mr. Lengerke:** Mr. Chairman, just a question for my clarification, is the Superintendent of real estate then, is that really, as it had implied in the previous Bill is that the Registrar?

**Mr. Legal Advisor:** Yes, Mr. Chairman, it is the same person but when we were redoing the Bill, a number of things fell for examination at the same time. It seemed to be ridiculous to be calling a person a "registrar of real estate" when we felt it wouldn't get far past this House with former registrars of Land Titles.

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

**Mr. Lengerke:** My question, Mr. Chairman, is this, it has no reflection on the registrar or the "to be superintendent of real estate" but if we are dealing in a very complex situation like this and we are, as the Legal Advisor pointed out, we have now other jurisdictions entering into it, what are the qualifications of the Superintendent of real estate, how is he qualified in this, in order to answer the problems that are put before him?

**Mr. Chairman:** Mr. Legal Advisor?

**Mr. Legal Advisor:** He does the best he can, Mr. Chairman. I guess the prime qualification is that he is a suspicious man.

**Mr. Lengerke:** I hope so, Mr. Chairman.

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

**Mrs. Watson:** Mr. Chairman, I'm suspicious, but don't think I'd make a good superintendent of real estate, that's not a very good answer.



**Mr. Chairman:** Mr. Spray?

**Mr. Spray:** Mr. Chairman, until very recently, property user's licences to take an example, were considered a security in the Province of Alberta. They were traded as an investment, which is really what they are. They have moved them into the Real Estate Agents Licensing Ordinance, as we are doing now. We have never covered them here, although you could treat them as a security under our present Securities Ordinance. The Securities Ordinance is a prime example of how we now cooperate with other provinces. We check the prospectuses back to the superintendents in the other jurisdictions. This is a tradable item. This is a piece of property in other jurisdictions.

**Mr. Chairman:** Committee will recess until 1:30.

*(Recess)*

**Mr. Chairman:** I now call this Committee to Order. Real Estate Ordinance, Section 2. Is Clause 2 carried? Shall Clause 2 carry?

**Some Members:** Agreed.

**Mr. Chairman:** Mr. McCall?

**Mr. McCall:** Mr. Chairman, we were on general discussion on Section 2, sub one and two. I didn't carry any clause.

**Mr. Chairman:** Well, is there any further debate in Clause 2?

**Mrs. Watson:**

**Mrs. Watson:** Mr. Chairman, could we not accept it at this time and just go on? We may want to refer back to it and change some of it. Would it be possible to do that?

**Mr. Chairman:** If Committee concurs, yes. Are you agreed?

**Some Members:** Agreed.

**Mr. Chairman:** Clause 3, subsection 1:

*(Reads Clause 3(1))*

**Mr. Chairman:** Mrs. Whyard?

**Hon. Mrs. Whyard:** Mr. Chairman, the only change made here was in reference to sections which are now renumbered to 37 and 49.

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

**Mrs. Watson:** May I ask anyone who is able to answer? This Ordinance, except certain sections, does not apply to "(c) a person (iii) who is an official or an employee of a person engaged in so acquiring or disposing of real estate" -- well, a person who is engaged in acquiring or disposing of real estate would be a real estate agent or salesman. Well, then, maybe we could have that corrected.

**Mr. Legal Advisor:** The word "so" is the important word in that subsection or that paragraph. It is a person who is covered by (i) or (ii), that is one or two that is immediately above it -- an agent of that person.

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

**Mr. McIntyre:** Mr. Chairman, I wonder if the Legal Advisor could say whether the word "trade" in 3(1)(d) has the same meaning as it has in the definition in the interpretation section?

**Mr. Legal Advisor:** Yes, it's intended, Mr. Chairman, the word "trade" itself is defined.

**Mr. McIntyre:** So that "trade" in (d) means a transaction in real estate?

**Mr. Legal Advisor:** Yes, Mr. Chairman.

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

**Mrs. Watson:** Mr. Chairman, I don't know whether it's just my interpretation of section (c)(3). I wonder if it would be advisable to try and clarify that or is it just myself that is having some problem?

And also, in the section that the Member from Mayo mentioned, where the word "trade", where the trade is made in the course of and as part of a solicitor's trade, could you not use another word other than "solicitor's trade"? You're using "trade" twice there and you don't want both of them to use the definition in the definition section.

**Mr. Chairman:** Mr. Legal Advisor.

**Mr. Legal Advisor:** Mr. Chairman, to answer the second question first, one always attempts in legislation to always use precisely the same word and never to vary it when you're talking about the same thing because otherwise judges will assume that you had a secret meaning attached to the change of use of the word.

So far as the remark on paragraph (c) is concerned, it's intended to cover, as an exemption, a person who buys the real estate, a person who sells real estate which he owns and an employee of either of those people. So, I think it's correct.

**Mrs. Watson:** Mr. Chairman, well, what about the second trade then in (d)? The solicitor's trade -- does the trade there refer to the definition of trade in your Definition section?

**Mr. Legal Advisor:** Yes, Mr. Chairman, in my opinion it does. It's a transaction in real estate by a solicitor. A solicitor, I presume, is used in the genitive case. It means a trade and by trade it means a transaction in real estate by purchase, sale or agreement for sale, which is made by a solicitor. Solicitors, as the phrase goes, have a profession, they don't have a trade. So I assume that trade is used in its technical meaning within the framework of this Ordinance.

**Mr. Chairman:** Mrs. Whyard.

**Hon. Mrs. Whyard:** Mr. Chairman, I can see the



Honourable Member's difficulty and I think the inference now immediately is that this barrister or solicitor that we're considering under this section would be in the real estate business.

Can Mr. Spray assist us?

**Mr. Spray:** Well, Mr. Chairman, it is our intent that solicitor's trade in the second reference is real estate. This is the only one that we're referring to here and a solicitor does act on behalf of his clients in the course of real estate transactions. As long as he is acting as a solicitor and not as a real estate agent, then this section exempts him from the application of the Ordinance for trades in the Yukon of Yukon based properties. It does not exempt him -- section 37 to 49 in the preamble of this section are trades in lots outside of the Yukon and none of these people are exempt from the application of the Ordinance in that aspect.

**Mr. Legal Advisor:** This was taken from -- this was discussed immediately before lunch, this trading in real and property licences.

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

**Mr. Berger:** Yes, Mr. Chairman, I'm just comparing the B.C. Legislation in here and they have two definite sections which I think may be valid to bring up in here, and one is, one particular section dealing in mining properties who are exempt in this part also and the other section there is a duly licensed collection agent or his employees are also exempt in this section. I was wondering why those persons were not exempted under this legislation also.

**Mr. Chairman:** Mr. Spray?

**Mr. Spray:** The only reference I caught, Mr. Chairman, I am sorry, is collection agents. There were two other classes that were exempt, and I missed that.

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

**Mr. Berger:** Yes, Mr. Chairman, for the information of the House, I will read this:

"A person engaging in a real estate transaction in respect of any mine or mining property within the meaning of the Mineral Act, the Placer Mining Act, the Coal and the Petroleum and Natural Gas Act, owe in respect of the real estate comprised in any ground plant or lease of a mineral claim under the Mineral Act or in respect of any licence or lease under the Coal or Petroleum or Natural Gas Act."

I wonder if this would apply here in the Yukon also?

**Mr. Legal Advisor:** Mr. Chairman, I would expect that B.C. has got quite a wide ranging control over the buying and selling of mining properties and speculations in mining property. Those particular acts would govern the transactions in mining property. We don't have those controls at all so if we want to control the buying and selling of pieces of mining property they have got to find their way into this particular Ordinance here.

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

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

**Mr. Berger:** I was just wondering if it is not wise to put these regulations in there right now to come up with eventual controls over these pieces of properties, mining properties and so forth?

**Mr. Legal Advisor:** Mr. Chairman, as I understand Mr. Berger, he is saying that in the B.C. Act there are certain exemptions from control. These exemptions include anyone who is dealing in mining property.

We do not have these exemptions; therefore those subjects are controlled by this Ordinance. I am assuming that this is the intention of the Government and the House, if it passes this Legislation, that speculation in land under which there may be mining property will in fact be controlled when it is bought and sold through agents such as real estate agents.

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

**Mr. McIntyre:** Mr. Chairman, there is very little mining property in the Yukon Territory that is considered real estate. These are only the patented mineral claims.

**Mr. Legal Advisor:** I presume it is shares that is mostly dealt with and where they are floated within the Territory, they would come under the controls of the Securities Ordinance.

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

**Mr. Lengerke:** Mr. Chairman, in 3(1)(d) where we are talking about the barrister or solicitor, does this then apply to someone who works for that barrister or solicitor?

**Mr. Legal Advisor:** No, Mr. Chairman, barristers and solicitors operate as partnerships and the acts of their employees in the course of business would be the acts of the principal who is the partner and that is why, I guess, the barrister or solicitor is exempted, because he is allowed to do what he would normally do in the course of his business. In the course of his business, he may have to liquidate the property of clients, former clients who have died or deal in bankruptcies, deal in sales and what have you, and these things he is allowed to do without being licensed under this Ordinance.

Anybody else who is dealing in it has to be registered under the Ordinance.

**Mr. Lengerke:** I don't know if I got my answer. I think I did. Mr. Chairman, I was asking if an employee of a certain solicitor or lawyer, if the lady working in the office is engaged in this, she is part of the partnership then and this doesn't apply?

**Mr. Legal Advisor:** If she's part of the partnership and acts on behalf of the partnership, she's exempt because her act is the act of her boss. If she is doing it on her own account, she's not protected merely by being in the solicitor's office.

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



**Mrs. Watson:** After listening to the Legal Advisor, that a solicitor as part of his duties and functions does have to deal in real estate, would not he deal through a real estate agent?

**Mr. Legal Advisor:** Only if he wishes to pay a 5 per cent commission, Mr. Chairman. He quite often deals with it on his own, he advertises for sale and he accepts bids.

**Mr. Chairman:** Mr. Lang?

**Hon. Mr. Lang:** Mr. Chairman, that would depend on the direction by the client to the lawyer in question, would it not?

**Mr. Legal Advisor:** Yes, Mr. Chairman.

**Mr. Berger:** Mr. Chairman, in answer to the Honourable Member from Riverdale, again I refer to the B.C. Legislation. It is spelled out in there. I again quote from the B.C. Legislation, "a barrister or a solicitor whose name is inscribed in the rolls as a barrister or solicitor in the Province, or the person employed by him". I think we should do the same thing in this section also, to spell it out.

**Mr. Legal Advisor:** I have no objection to adding it. I don't think it's necessary because the act of an employee is the act of the principal, but there's no objection in principle to enshrining the extra words in it, because they have already been done in paragraph (c) immediately above.

**Mr. Chairman:** Mr. Spray?

**Mr. Spray:** Mr. Chairman, it was our intention, it was clarified by using the terms "solicitor's trade" and therefore any employee of the solicitor, it had to be a solicitor's trade in real estate.

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

**Mrs. Watson:** Mr. Chairman, have we any assurances in this legislation that a solicitor could not then be acting as a quasi real estate agent?

**Mr. Chairman:** Mr. Lang?

**Hon. Mr. Lang:** Mr. Chairman, just for clarification for all Members: if you look at 3(a) as opposed to (d), I think section (a) qualifies section (d) in relation to the various areas in which a lawyer would be dealing with somebody else's estate. Is this not the case?

**Mr. Legal Advisor:** The exemption given to a lawyer is quite wide. He can buy or sell real estate on behalf of himself, but so can anyone else in the Territory, without using an agent. He could do it on behalf of a client and he is the only one who is allowed to do it on behalf of a client, but it is a necessary part of his business to be able to do this, and it has always been part of the lawyer's business anywhere in Canada. To change it and take away the privilege from him would be major departure from the existing legislation.

**Mr. Chairman:** Clause 3, are we clear?

**Some Members:** Clear.

**Mr. Chairman:** Four (1).

*(Reads Clause 4(1))*

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

**Mr. McIntyre:** Yes, Mr. Chairman, is there any requirement in this Ordinance that these partnerships must be registered under the Partnership Ordinance before they can apply for a licence under this Ordinance? And if there isn't, why isn't there?

**Mr. Legal Advisor:** There is a requirement of sorts, Mr. Chairman; I've forgotten exactly where it is, but there is a requirement of sorts. Perhaps we will come to it in due course.

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

**Mr. Lengerke:** Mr. Chairman, while we are getting into the salesman side of it, I was just wondering if the witness could tell me if, or maybe one of the Ministers, there was a letter written on March 30th and I think I circulated it around, by the Real Estate -- the Yukon Real Estate Association, and it was in answer to some of the requirements of salesmen, the bonding and some qualifications. I'm wondering, did the government have a chance to look at those particular recommendations and were they able to react to them?

**Mr. Spray:** Mr. Chairman, may I take the liberty of commenting on Mr. McIntyre's point first?

**Mr. Lengerke:** Oh, I'm sorry.

**Mr. Spray:** The point you raised, Mr. Chairman, was in section 8(3)(b) on page 5.

The letter from the Yukon Real Estate Association was received in our offices on Thursday afternoon, Thursday morning, by the time it got into us - Thursday afternoon. We have not had -- you know, the Bill is prepared but it is a submission on the regulations under the Ordinance, not really the Ordinances. It is the submission that the Association had promised us and told us would be in our hands by the end of March.

**Mr. Lengerke:** Okay, good.

**Mr. Chairman:** The initial letter, Mr. Spray, is February 16th.

**Mr. Spray:** Well, Mr. Chairman, the letter of February 16th has been taken into consideration and has been discussed when dealing with the legislation. It has also been discussed with the Association.

**Mr. Chairman:** Clause 4, are we clear?

**Some Members:** Clear.

**Mr. Chairman:** Clause 5 (1).



*(Reads Clause 5)*

**Mr. Chairman:** Mr. Spray?

**Mr. Spray:** Mr. Chairman, there's a typographical error in 5(4). It should be "with a licensed agent" in the second line.

**Mr. Chairman:** Clause 5 clear?

**Some Members:** Clear.

**Mr. Chairman:** Clause 6(1).

*(Reads Clause 6)*

**Mr. Chairman:** Clear?

**Some Members:** Clear.

**Mr. Chairman:** Clause 7.

*(Reads Clause 7)*

**Mr. Chairman:** Clear.

**Some Members:** Clear.

**Mr. Chairman:** Clause 8.

*(Reads Clause 8)*

**Mr. Chairman:** Mrs. Whyard?

**Hon. Mrs. Whyard:** Mr. Chairman, there were just two minor changes made in the re-typing of this Section 8(2)(b). It had originally read, "upon being satisfied that the applicant is suitable to be licensed having regard to that applicant's competency and personal integrity" and the Committee agreed that it should be amended and end it, "... suitable to be licensed." The Superintendent has enough intelligence to interpret what is meant there and under 8(3)(b) it is simply a matter of changing the wording from "maintaining a business office in the Territory" to "maintaining an office for the conduct of business in the Territory". There was some discussion, I believe, in the drafting regarding whether or not you were operating out of your own home and whether or not that was a business office and so on. Those were the only two changes made there.

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

**Mrs. Watson:** Mr. Chairman, under 8(3)(a)(iii), you're requiring a three month residency and I see where the real estate association has questioned that and wondered why you're not using twelve months to make them more of a permanent resident.

**Mr. Legal Advisor:** Mr. Chairman, as the House will recall, back at the turn of the century a number of Ordinances were disallowed by the Government of Canada and I think a Medical Profession Ordinance was one of them, where they required a long period of residence before you could become a practising operator of a particular trade or profession. Twelve months was

knocked out on several occasions; six months was knocked out, so in order to go part of the way three months was left in.

It's admittedly a compromise, but, there it is.

**Mr. Chairman:** Mrs. Whyard?

**Hon. Mrs. Whyard:** Mr. Chairman, the reference was to acting as a salesman for one year prior to being licensed as an agent and what we are saying is that you would not license him to be a salesman until after three months' residency. Is that not correct?

**Mr. Spray:** Mr. Chairman, the reference is to both salesman and agent.

**Mrs. Watson:** Mr. Chairman, all of section 8 applies to licences for both salesmen and real estate agents?

**Mr. Legal Advisor:** Yes, Mr. Chairman.

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

**Mrs. Watson:** On 4, 8.(4), on Page 6, where the superintendent may cancel or suspend a licence of a licensed person, and I would assume that is salesman or real estate agent, and we go down to (g), "it is in the public interest to do so." Now, I wonder how you would define what is in the public interest when you are dealing with the cancellation of a licence?

**Mr. Spray:** Mr. Chairman, that admittedly is a rather catch-all clause and it does refer to both agents and salesmen. Some of the restrictions are to agents only. We're dealing here with the cancellation mainly through fraud, misrepresentation, some legal problem, although we've attempted to catch most of them, it would be, I think we would be remiss if we did not have a clause in there that after careful investigation that we were able to suspend or cancel a licence for some reason other than those listed in the section. It is primarily for the protection of the consumer.

**Mr. Chairman:** Mr. Taylor.

**Hon. Mr. Taylor:** Yes, Mr. Chairman, I noticed this morning that there was some discussion about the fraud aspects and I think the Honourable Member has a good point. How do you determine just what is in the public interest and what isn't in the public interest? And if we're talking about fraud, are we not protected under the Criminal Code of Canada? Don't we have the vehicle under the Criminal Code to deal with fraud cases?

**Mr. Legal Advisor:** Not for about six months after it comes to light, Mr. Chairman. There's a gray area of six months where lots of things can be done before the jury finally comes in with its verdict.

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

**Mrs. Watson:** Mr. Chairman, I would hope the Statutory Committee would support me on this. I think that is too broad completely, when it is--when you can cancel or suspend a licence, and I know that you have to be very careful, the consumer has to be protected, but on the



other hand, all we're saying, you can take away a person's livelihood and the Honourable Member from Watson Lake has been talking about this a great deal this Session, when it is in someone's opinion that it is in the public interest to do so. And to me that is really--that has to be tied down a little bit better than that.

**Mr. Chairman:** How could you tie it down, Mrs. Watson, any ideas?

**Mrs. Watson:** Take it out.

**Mrs. Chairman:** Mr. Spray.

**Mr. Spray:** Mr. Chairman, we have provided in Section 9 for appeals to any decision for cancellation or suspension by the Superintendent.

**Mr. Chairman:** I thought under our present system you are innocent until proven guilty, not the reverse.

**Mr. Spray:** These are appeals against a decision, Mr. Chairman, of the superintendent, but we're allowing for suspension of a licence as well in the public interest. If there's a case pending and the preliminary investigation shows that perhaps this agent's dealings with the public should be suspended, this is what this clause is intended to do.

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

**Mrs. Watson:** Mr. Chairman, when we are giving one person, deeming that it is in the public interest to take away a guy's licence, or suspend it, and then saying well, you can appeal it. Well, that isn't right. That person has--first of all, there is a reflection cast upon his business or upon his character immediately, and then he has to go to the expense of appealing this decision. Meanwhile, while this is going on, he isn't in business. And I think that we have to be very careful and protect the consumers and make sure that licences can be suspended or cancelled from operators who are not operating according to law, but we shouldn't leave it up to the opinion of one person when--you know, what is the public interest? That's so broad.

**Mr. Chairman:** Doesn't this underline the problem that we've been running into as far as the Committee of Statutory Instruments is concerned in that we would like our legislation to be drawn up with specific references to regulations, rather than just a broad term of reference that gives the regulations much more power than was ever intended by the legislation.

**Mr. Legal Advisor:** Mr. Chairman, the terms of that, it's intended to be broad. It's intended to cover all the new frauds which have not been thought up in Arizona yet and to cover us for the next two years under the new frauds and in two years time we can review what it is and we can put in the ones that have been found out in the mean time.

**Mr. Chairman:** In regulation.

**Mr. Legal Advisor:** No, no, Mr. Chairman, our regulations are always very thin because the statutes are so

thick.

**Mr. Chairman:** Mrs. Whyard?

**Hon. Mrs. Whyard:** Mr. Chairman, I would be very unhappy to see this Section removed. Everytime, it seems to me in my experience, that we go to implement a Section of an Ordinance for the protection of the public, we find there is a loophole, and that the particular offense which is now before us, which is bilking the public or exposing them to a danger of some kind from which we are supposed to protect them, there is a loop hole there where it didn't actually say "if he didn't do this", we couldn't.

**Mr. Chairman:** I really would ask Members to allow us to have that Section, particularly in this Ordinance. I really cannot see what your problem is since the Superintendent is not going to invoke that Section unless it is required for the public interest and unless that is the only way to do it.

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

**Mr. Berger:** Yes, Mr. Chairman, I'd like to go back to 8.(2) where it says that "The Superintendent may issue a licence to an applicant" and it's under (b) "upon being satisfied that the applicant is suitable to be licensed."

I wonder what the qualifications are under this statement "should be suitable to be licensed". I wonder if we have any idea what the qualifications should be for a real estate agent?

**Mr. Spray:** There was a paper, I believe, distributed to the Assembly, giving some broad outlines and thoughts on the proposed regulations and in there, we did have minimum qualifications such as age, language, residence, references, education, and we are dealing with the Yukon Real Estate Association on a proposed course for realtors which we will implement. We have a transitory section that will go into the regulations to cover the existing agents, "suitable to be licensed" is really making as much reference as anything else to character.

**Mr. Chairman:** Is that document to be appended permanently to the Ordinance, Mr. Spray?

**Mr. Spray:** The regulations?

**Mr. Chairman:** The document you are referring to? Mr. McIntyre?

**Mr. McIntyre:** Yes, Mr. Chairman, I'm dealing with the public interest section. It seems to me that this is really going very far and it reminds me of the situation we have with the Liquor Ordinance where somebody has said it's in the public interest not to issue a licence to one party, but it is in the public interest to issue a licence to another party when they were in a street length of each other. It seems to me this gives the Superintendent the power to say there are too many real estate agents in town, so I won't issue you a licence and I think that would be frivolous, but it's possible to do it under this Section.

**Mr. Chairman:** Mr. McCall?



**Mr. McCall:** Yes, Mr. Chairman, while we're on this particular subject, I think the colleagues on my left have been bringing up some very valid points and being a Member of the Committee which reference was made to, I can see again, the horrendous problem rearing its head on regulations where we give particular people in this Government structure, the autonomy, to make regulations as they so please. I think Mr. McIntyre brought up a very valid example where we are failing to see in legislation items in reference to Section 8, subsection 2 where "upon being satisfied that the applicant is suitable to be licensed", well anybody can come up with some trumped up regulations to find out just who is suitable to licence. I'm pretty concerned, being a Member of that committee where we see more regulations adopted after legislation or a piece of legislation has been moved through this House, where it should be part of the legislation and not part of the regulations.

When a piece of legislation is documented and presented properly, it would not need regulations and I can see substantial power given to people like Superintendents under this particular legislation which I do not concur with, I do not agree with.

If we want real estate to be catered for under legislation, well let's do it, but let's not do it under regulations, because people can change just like, excuse the expression, changing toilet paper in the washroom.

**Mr. Chairman:** Mrs. Whyard?

**Hon. Mrs. Whyard:** Mr. Chairman, the regulations are available if the Member wishes to read them. I'm not interested in defining who is a suitable applicant to be a real estate agent, and I certainly wouldn't want to be held to it in this House today.

I have every confidence that the man who is going to be Superintendent and who is going to be enforcing this Ordinance is competent, or he wouldn't be named Superintendent. If the Honourable Member would like to cast his memory back a little farther, this is not unusual, this is not unique. This is a procedure which is used at many levels of Government for very good reasons, and if you'd like one example of it, it's the licensing of taxi drivers. City Council doesn't sit down and rule on who is a suitable applicant. They ask the Chief Constable who is competent to rule on whether they are suitable applicants.

Mr. Chairman, if you don't have enough confidence in the Superintendent who is going to enforce this Ordinance to allow him to say whether a man who fills out these forms is a suitable applicant or not, why are we bothering, why are we trying to make any sense at all out of the fraudulent state that this business is in in this community right now? Mr. Chairman, it is not funny. There are all kinds of practices taking place on Main Street in this town now that have got to be regulated and this Ordinance is an attempt to do so.

**Mr. Chairman:** Mr. McCall.

**Mr. McCall:** I'm not objecting to what the Minister has stated. What I am objecting to, Mr. Chairman, is that I'm getting sick and tired of seeing regulations coming out after a piece of legislation has passed and you might as well put the piece of legislation to bed because it's not important. Only the regulations coming

under that piece of legislation, that is what I am saying and that should not be the case, Mr. Chairman.

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

**Mr. Berger:** Yes, Mr. Chairman, I again have to refer to the B.C. legislation. They do have a real estate council in B.C., where they do have certain powers, self-regulated powers, and I think it is the main objective in a lot of pieces of legislation in this Territory these days. We're talking about the Electrical Ordinance, we're talking about Consumer Protection and all sorts of things, but I think that momentum should come from the people directly involved in this type of thing and that it should not come from the Government.

The Government could be sitting there as a regulatory body and regulate the suggestions from the different organizations and I see the Yukon Real Estate, they have a Yukon Real Estate Association now.

I'm wondering, I haven't had a chance to go through this brief here, if they have any suggestions of coming up with self-regulatory controls over themselves. What is a suitable applicant for real estate agents? As far as I'm concerned, a real estate agent in most cases has to have a certain amount of education. He's got to be, as the Honourable Minister said correctly, they should be free of any fraudulent charges or anything like this in the past, but I think this should come from the real estate agents themselves and the Superintendent of it should be only the regulatory body above them afterwards.

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

**Mr. Fleming:** I have to agree with the Honourable Member on this. The government may say that they, you know, that they don't see why it shouldn't be in here, but, the fact is that upon being satisfied the applicant is suitable to be licensed, now that is going to have to be straightened out in the regulations. Who makes the regulations? The government makes the regulations.

The same thing down here, it says such qualifications as may be prescribed. Who's going to do the prescribing? The government's going to do this prescribing, so why is it so hard to do it in the regulations? If it's not hard to do it in the regulations, why shouldn't it be the same thing to do it here? So that when the regulations do come out they will be going along with this, not something that's just decided upon not by us or by anybody, but just by the government, whoever writes them up.

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

**Mrs. Watson:** Mr. Chairman, a question, whoever can answer. Section 8.(2) (b), upon being satisfied that the applicant is suitable to be licensed, and I have written beside my regulations where there qualifications will be specified and are specified, suggested in regulations. My question is, if an applicant met all of the requirements under the legislation and the regulations, could that applicant still not to be found suitable by the superintendent and his application turned down?

**Mr. Legal Advisor:** As I see it, he could be turned down for other reasons, it might be casual reasons or some such thing. All of the qualifications are not neces-



sarily stated here and it's not possible to state them all here because they change from time to time and this is the purpose of regulations to meet the change in demand.

For instance, it's impossible to put down the qualifications of a candidate in a statute without being unduly restricted because you might acquire--as we go on we will require more and more qualifications. We'll require then agreements by the local people here as to what constitutes an equivalent of that qualifications such as membership or passing the examination in, may, Nova Scotia or Ontario, what have you, these may be, as they are paraded, may be deemed suitable qualifications. It would be unfortunate if every time you had to change ordinance in a minor particular, the statute had to come back to this House here for another run over the course.

The main purpose of putting in details to be done by regulations is to save the time of this House and to make it possible to update the legislation in minor particulars without the necessity of coming back and the purpose of the Committee supervising is to see that is what they do. They don't make legislation on their own, they fit within the framework of the parent ordinance itself.

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

**Mr. Lengerke:** Yes, Mr. Chairman, it does concern me in 8(1), where we are talking of qualifications again and I do have in fact, the regulations or at least the suggested regulations in front of me, and it's Appendix 1 and I'm sure that most Members have got it, we have that information circulated to us. It says, "...application for licence and qualifications as agents or salesmen" and of course, the application forms are to be submitted on the prescribed form and I commend the government because we do have a prescribed form, we have an application here which is, as I said, great. Then it says, "...qualifications will be prescribed as..." and then it's got the minimum age and the language and so on, residents, references and I think this is all part of it, but then it comes to education, it says, "...initially none specific."

I would think that, you know, even in the bare bones qualifications here we should at least have some education requirements especially, Mr. Chairman, when we're talking of an agent and a salesman. Now, I can see where if a salesman was coming in with an application that maybe it would be -- there'd be a reference to an agent who would say, yes, I have interviewed this fellow and I think he'd be an excellent candidate for a salesman. But it does concern me, Mr. Chairman, that when we're talking of an agent and I go right back to 8(2), pardon me, 8(3), again where we can say that the agent can be here for a period of not less than three months and I would suggest, Mr. Chairman, in view of even what the Legal Advisor had said earlier, that that for agents should be twelve months and the salesman could be three. I am concerned here that we're going to have agents that are going to be so licensed with no education requirements whatsoever and no knowledge of the Yukon whatsoever, other than a three month stint.

**Mr. Chairman:** Mrs. Whyard?

**Hon. Mrs. Whyard:** Mr. Chairman, this is exactly

the point I was trying to make. We've had some agents who have had lots of education and have lived here more than a year, but I would not have considered them qualified.

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

**Mrs. Watson:** Mr. Chairman, you know, that concerns me. This constant reference to the character of people who are involved in real estate. I don't like it. I think that our Ordinance should be written and our regulations so written and the industry so supervised by the government, so that there is no possibility of this happening and that just because we feel, or a Superintendent of real estate feels that a person's character isn't what he himself would want him to be, we're not setting any criteria, we're leaving it up to the Superintendent.

I'm speaking of the position in this case, not the person, and I'm sure that the Minister's idea of a good character is very different from my idea of a good character. So there we have differences of opinion there. So you have to have specific -- you have to have an Ordinance that is pretty tight and your regulations, but I don't think we should constantly infer that we have to leave a little bit of room because of possible character that you could turn them down, or you could be able to jam on them a little bit harder than any other business organization. I don't think we should do that.

**Mr. Chairman:** Mr. Spray?

**Mr. Spray:** Mr. Chairman, in the Application for Registration as an agent we make reference -- we ask the question whether or not they've ever been refused licensing in another jurisdiction, whether any of the exemptions permitted under the Ordinance have ever been refused. If we put this into legislation, we must have either yes or no. If they have been refused licensing in another jurisdiction then they are not eligible for licence in our jurisdiction and we felt that was rather restrictive, because sometimes someone may have been refused a licence for a point that is not necessarily applicable to the Yukon Territory, and we would give way on it. We wouldn't be quite that rigid.

Really, what I am trying to say is that it works both ways. If we put it into legislation, I'm afraid that we would be very, very restrictive.

**Mr. Chairman:** Mr. Lang?

**Hon. Mr. Lang:** Mr. Chairman, a little earlier in the debate, there was some reference in relation to the education qualifications and it is my understanding from what Mr. Spray has told us that he is presently discussing what education qualifications would be necessary in relation to being a salesman and agent, so subsequently, it's not in the regulations at the present time, the draft regulations, because they are attempting to determine what courses would be necessary for real estate agents. It will be put in after consultation with the real estate association. Is that not correct, Mr. Spray?

**Mr. Spray:** Yes, Mr. Chairman, we worked closely with the Association which is a new association. They've only been in existence for a month or two and they are dealing with the B.C. Realtors Association and



University of British Columbia themselves and with their help we will have a realtors course available. It is not firmed up at this time. It has to be modified to suit our land titles system which is different from British Columbia and we have to set up a system of examinations.

We will be assisted in this regard by the Association.

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

**Mr. McIntyre:** Yes, Mr. Chairman, I'm still on public interest.

I would rather see, if we have something that the Superintendent is given the authority to do, it shouldn't be what he thinks is in the public interest. It should be for a cause and if we put in (g) a clause to the effect that he can suspend or cancel the licence for cause, then we've pinned him down to a specific charge that he would have to sustain on appeal. Whereas leaving it the way it is, we'd get back to the famous Chamberlist case where he was denied a licence by the Commissioner because in the opinion of the Commissioner, he shouldn't have it. The Judge said, in his judgment that he wasn't able to determine what was in the Commissioner's mind at the time. So nobody would be able to determine what was in the Superintendent's mind at the time when he decided that something was not in the public interest. So he should be compelled to put down a cause and not leave it as loosely as it is.

**Mr. Chairman:** Mr. Spray?

**Mr. Spray:** Mr. Chairman, I would be pleased to see an open clause in there allowing the Superintendent for cause to suspend or to cancel the licence because it would be for cause that we would be prepared to defend for an Appeal Committee. It would be the same effect as in the public interest to do so if it was just for any cause that we've considered necessary.

**Mr. Chairman:** Mrs. Whyard?

**Hon. Mrs. Whyard:** Mr. Chairman, may I ask if the Honourable Member from Mayo has an amendment to that effect.

**Mr. McIntyre:** No, I haven't at this time, Mr. Chairman.

**Mr. Chairman:** Mr. Taylor?

**Hon. Mr. Taylor:** Yes, well, the Honourable Member from Mayo has put his finger on the point that I was going to make, and that is that in 4(a) -- there are clauses shown all the way down through this. First of all, if he fails to comply with the provisions of the Ordinance, in (b) he is accountable, in (c) a misappropriation of funds, in (d) it's a breach of contract, in (e) it's the failure to maintain proper records, in (f) it's the case of making records available for inspection.

In each case, we have -- you know, cause must be shown, if the section is to be implemented by suspending or cancelling licences, and (g) is just so far out and I think that most Members would agree with me that you know, "...in the public interest to do so", it's got to relate to cause. I would suggest that what we do is first of all

remove (g) and perhaps, working with the administration maybe perhaps we could come up with a suitable replacement for this section, but I would like to move at this time, Mr. Chairman, that subsection (g) of subsection 4 of section 8, of Bill 14 be deleted, if I could find a seconder.

**Mr. McCall:** I will second that.

**Mr. Legal Advisor:** Mr. Chairman, could I ask that we not actually go through the motion of having it deleted and in the course of the next day or thereabouts, there will be a few points which will be brought by the administration and a government amendment might come asking for the elimination of (g) and the substitution of something else, if the House would bear with me on that.

**Mr. Chairman:** I was going to suggest that myself, but now the motion is before us, it's up to the mover whether he wishes to withdraw the motion in that context or does he wish to leave it stand.

**Hon. Mr. Taylor:** Mr. Chairman, I'm not all hard bound on this to the point that I wouldn't listen to any further argument from the administration, but I just find that this section is so repugnant that perhaps if we were to delete it now, then perhaps we could come in with a new subsection at a later date, but I will certainly feel more comfortable to see that out of there at this point in time and I would ask that my motion stand. If my --

**Mr. Chairman:** Mr. Lang?

**Hon. Mr. Lang:** Mr. Chairman, is it not my understanding that if the motion carries then we can -- we will not be able to bring in any more amendments to this particular section of the Bill?

**Mr. Chairman:** Yes, you can.  
Mrs. Watson?

**Mrs. Watson:** Mr. Chairman, didn't we have a new form, suggested amendments that we're using for committee work? Wouldn't it be better to use rather than to go -- I would -- I find this section just terrible but I wouldn't want to take a vote on it at this time until we've gone through the whole Bill and we may be able to substitute another section before -- you see, I have no problems supporting to get rid of it, but I would just as soon we used it as a suggestion for amendment to the Bill at this time, because then it would be treated as a suggestion. We could still change our mind later on. I recall the Liquor Ordinance too vividly.

**Hon. Mr. McKinnon:** Mr. Chairman, I just want to get clear from the Chair what the removal of (g) does. I'm confused on whether or not we'll be able to bring in an amendment delineating what public interest is which seems to be the feeling of the House, that they don't want just a broad term like that then I have no problem with that concept.

I'm still not clear as to whether that wouldn't be bringing up the same subject matter at the same Session because we would be doing that. All we're doing is de-



lineating and trying to put a handle on what public interest is to take that onus off the Superintendent under the Real Estate Ordinance. I'm a little worried and a little confused of just what we would have the ability of doing because I think we want to do what the majority of the Members want and if we're assured by the Chair that we're capable of doing that, then I have no problem with removing (g) at this time.

**Mr. Chairman:** You're right, Mr. McKinnon, it does pose a problem and it is a finalized draw. I would see to it that you could bring in further amendments.

I would also suggest to the mover - do you have any other suggestions, Mr. Taylor?

**Hon. Mr. Taylor:** Yes, Mr. Chairman, I was just going to say the removal of (g) does not prohibit the substitution by another amendment at any time to place back into the Ordinance any other thing that the House may wish to put in, but removing (g) simply deletes (g) and if you want to add another (g), you do it by another amendment, but that's quite --

**Mr. Chairman:** Mr. McKinnon's point is that if the subject matter that you reintroduce by the amendment -- yes, it is.

**Mrs. Watson:**

**Mrs. Watson:** Mr. Chairman, if you want to put another section in, dealing with public interest in (g), you would have to introduce your amendment at another stage of the Bill and that would be at third reading. Yes, you would.

**Mr. Chairman:** I think Mr. Taylor really trusts the government too much from the sound of it.

**Hon. Mr. Taylor:** Mr. Chairman, you have got my sentiments completely.

**Hon. Mr. McKinnon:** But, Mr. Chairman, with respect, when we go through Bills and we come to points that we can agree on, we'll say look it, we'll try an amendment on for size and bring it back to you to see whether that's what you want. We've got your point now. That's the whole purpose of this exercise. That's what the Legal Advisor's committed the Committee and the government to do and if you don't like it then throw it out. But, you know, give us the opportunity of amending (g) which I would like to see done.

I agree with the points that Honourable Members have raised. I don't think that unless we follow the procedure the Honourable Member from Kluane has stated, and she seems to follow the concern that the Chairman of Committee has, that we're not going to be able to bring back, except at third reading, an amendment to (g) dealing with the same subject matter which is what really public interest, as delineated, is. So, if we could allow the normal course of events to follow, then if we can't satisfy the Members of Committee, they still have that option at that time of chucking the thing out.

**Mr. Chairman:** Mr. Taylor?

**Hon. Mr. Taylor:** Yes, Mr. Chairman, well, rather than bog down at this point in this item, with the assur-

ances that the government have made, I would withdraw with the concurrence of my seconder, at this point I would withdraw the motion and perhaps they will come back with some suggestions and we'll deal with it in that way.

**Mr. Chairman:** Mr. McCall?

**Mr. McCall:** Yes, Mr. Chairman, before we, before I would concur with the mover of the motion, I would like a proper understanding from the government that they are going to come back with something constructive.

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

**Mrs. Watson:** Mr. Chairman, as long as the Chairman of the Committee doesn't make us vote on this section now, we're fine.

**Mr. Chairman:** I think the government has the undertaking and it is now quite specific if the mover of the motion will withdraw it, I think that we have that undertaking now. Am I right?

**Hon. Mr. McKinnon:** If it was worded that what we feel is constructive, Mr. Chairman, because what we feel is constructive may not be in the Honourable Members' minds what is constructive. We will attempt, taking into consideration the views expressed at this table, to bring in an amendment to 4(g) that we, at least, feel hope will be constructive to the Real Estate Ordinance.

**Mr. Chairman:** Mr. McCall?

**Mr. McCall:** Then therefore I will withdraw as seconder of the motion.

**Mr. Chairman:** We will now have a brief recess.

*(Recess)*

**Mr. Chairman:** I will now call Committee to order. Clause 8, we will stand over. Nine?

*(Reading of Clause 9)*

**Mr. Chairman:** Mrs. Whyard?

**Hon. Mrs. Whyard:** Mr. Chairman, I was going to comment when we resumed that in addition to considering the Section (g), I would like to suggest that at the same time we look at a requirement that in all cases of cancellation or suspension of an existing licence, that the Superintendent should provide the reasons for same in writing to the person so that that would then flow to 9 where they appeal, because they would then be in possession of the information they required for Appeal.

It's not my Bill, Mr. Chairman, I can't undertake to do that, but I would certainly recommend that this be discussed.

**Mr. Chairman:** Good point, Mrs. Whyard. Does Committee concur with that?

**Some Members:** Agreed.



**Mr. Chairman:** Is there any further debate on it, Mrs. Watson?

**Mrs. Watson:** Mr. Chairman, there should also be a time limit on that too, shouldn't there, within so many days. If they are not going to renew the licence within so many days the Superintendent must, in writing.

**Mr. Chairman:** Agreed.

**Some Members:** Agreed.

**Mr. Chairman:** Any further consideration on Clause 9?

**Mrs. Watson:**

**Mrs. Watson:** Mr. Chairman, again with the timing on this, particularly when a person's licence is suspended I think it would probably be not as severe as if a person's licence were cancelled. We're looking at quite a bit of time there where a person whose licence has been suspended, they appeal it. You could easily flow into two or three months, which, if the person is exonerated from the charges that were used as the basis for the suspension of the licence, that person then has lost quite a great deal of time and business, so I think we should be looking at ways where we could speed up the Appeal procedure.

**Mr. Legal Advisor:** Mr. Chairman, that's a happy thought, it's not always the Government's fault that they can't pull together a tribunal immediately, especially when the names have been supplied by an outside body from which they have been chosen.

**Mr. Chairman:** Any further consideration of Clause 9?

**Mrs. Watson:** Mr. Chairman, but in Section 4 we are saying an appeal board. Now we've got--the person--now this is a refusal too, a refusal, cancellation or suspension and a person has thirty days within which to appeal it. Okay, that's fine. So what if he appeals it within the first week or so, then the Commissioner has a Notice and he shall within thirty days appoint an appeal board. The Commissioner has thirty days to appoint an Appeal Board, then where an Appeal Board is appointed, the Commissioner may from time to time, he may prescribe the time within which the Appeal Board shall hear the appeal and render a decision, and again we could be looking at thirty days, sixty days, ninety days. We're saying that the Commissioner "may prescribe the time", and that could take quite a while, so maybe we should, in some of these Sections, try to squeeze in the time.

**Mr. Chairman:** Do you have any specific suggestions, Mrs. Watson, as to how you would like that put in?

**Mrs. Watson:** Well, Mr. Chairman, if we weren't looking at time, why in Section 4 do we say "the Commissioner may from time to time prescribe the time within which the Appeal Board shall hear the appeal". Now, it's going to take time to gather the Board together, and I understand, with reference, you have to get your list from your Association, I believe, and you have to get a Chairman, and I would assume you would probably get

a Chairman from some other jurisdiction likely, so that would pose some problems. But after you have your Board assembled, well they could posthaste--couldn't they take some action. Then if there's a--if the client or the person who is appealing it asked for more time, then it could be granted, but I think that the Government should be taking the necessary--If they have reason to suspend, cancel or refuse, they shouldn't have to prepare for the appeal. They must have a good enough case in order to put the suspension in or the cancellation in. So that is where we should be tying it down, in Section 4.

**Mr. Chairman:** Mr. Taylor?

**Hon. Mr. Taylor:** Yes, Mr. Chairman, it seems to me though that it may work in the interests of the person appealing by leaving a little latitude here. I know in the case of at least one Board where a certain time was necessary to prepare perhaps a defence. To prepare the case that you are going to lay to the Board and it seems to me that by giving the Commissioner this latitude, in allowing him to prescribe that time may work in the better interests of the person who is appealing. This may be something we should be looking at as well.

**Mrs. Watson:** Mr. Chairman, but shouldn't there be a requirement that the Appeal Board should sit within a certain length of time, after they've been appointed. At that time, the person who is aggrieved may require more time and then it would be up to the Appeal Board but I think that the Commissioner should ask the Appeal Board to sit, originally, within two weeks after it's appointed and start.

**Mr. Chairman:** Mr. Taylor.

**Hon. Mr. Taylor:** Mr. Chairman, even if it does sit, I mean, what's the object of the exercise if it's not going to be able to hear the appeal and if it's just going to recommend the extension of the board hearing for a month or two. You know, it seems so pointless when the Commissioner, upon application, can, you know, has the latitude to do this--you know, make all these things possible.

**Mrs. Watson:** Mr. chairman, that's the point. The Commissioner shouldn't have the latitude, the Appeal Board should have the latitude.

**Mr. Chairman:** Mr. Lang.

**Hon. Mr. Lang:** Mr. Chairman, I think the Honourable Member raised a good point a little bit earlier in relation to the Chairman who probably would have expertise in the area of real estate. It may take two and a half weeks or something to contact an individual who has the necessary expertise in order to make himself available to the Appeal Board. I'm sure that the government would try to do it as quickly as possible. But there can be other circumstances entering into the situation as the Honourable Member from Watson Lake outlined as well.

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

**Mr. Lengerke:** Yes, Mr. Chairman, it was just again,



with respect to what the Honourable Member from Kluane was mentioning. Just try this on for size, okay, in 9.(4), where an Appeal Board is appointed under subsection (3), the Commissioner may from time to time, and how about we say "within a period of 60 days or something, prescribe the time within the appeal board shall..."

In other words, then you're giving the Commissioner the latitude to name that time but it has to be done within a total framework.

**Mr. Chairman:** But then they would have to render the decision within that time.

**Mr. Lengerke:** Yes, they would.

**Mr. Lengerke:** How does that sound?

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

**Mrs. Watson:** There's another point, too, that in section in sub (7) of 8, the top of page 7, we're also saying that a person who applies for a new licence, if their licence has been cancelled under subsection (4) and they apply for a new licence, he's not eligible to be issued a new licence until 12 months have elapsed from the date of the cancellation. Now, if the person appeals it, would it not be up to the Appeal Board then, if they found that there was some action contrary to subsection 4, by the individual in question, would it not be up to the Appeal Board to say how long their licence should be cancelled for? We're saying it in Number 7.

**Mr. Chairman:** Mr. Legal Advisor.

**Mr. Legal Advisor:** They're making a distinction in the suspension of the cancellation. A cancellation is a cancellation. It means that. It's forever. A suspension is a thing for a term of time. So, this is really unnecessary in a sense to have section 7 there, because his licence is cancelled. And that's it.

**Mrs. Watson:** Mr. Chairman, the Legal Advisor is not saying what the section is saying. If you will read section, it says that where a person's licence has been cancelled, it's cancelled, and you're saying that if once a licence is cancelled, it's cancelled for a lifetime.

**Mr. Legal Advisor:** It's the end of a licence, Mr. Chairman, and they're just picking up the pot in section 7. What happens when a person's licence has been cancelled and he comes along next year and asks for a fresh licence. They're just dealing with that specific situation. It's a section in mercy, rather than the reverse. It's not intended to be harmful. It's allowing the situation to the superintendent that when a person has been without a licence for 12 months, he can make a fresh application.

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

**Mrs. Watson:** Mr. Chairman, but if your licence has been cancelled and you appeal the decision and you go before the Appeal Board and the Appeal Board found no foundation for the cancellation of the licence, under this legislation, that person's licence could not be reinstated.

**Mr. Legal Advisor:** No, Mr. Chairman, subsection 5 of Section 9, at the foot of that page, deals with the situation. When hearing the appeal, the board may order the licence to be issued, remove or vary the suspension or reinstate the cancelled licence. Then the licence goes back again. That's quite--that's quite different from issuing a fresh licence after a valid cancellation. The order of the Appeal Board would move and bury the order of the Superintendent. Subsection 5, Section 9.

**Mrs. Watson:** I know.

I would just suggest we proceed on it. I'm certainly not satisfied. I think that 7 and 5 contradict each other.

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

**Mr. Berger:** It's a little puzzling to me. I think I have to go back to 8.(2) on feeling satisfied and suitable.

If the person under 8.(4) has been found guilty, his Appeal has been refused, he was refused the renewal of a licence--under 8.(7) actually the way I read it here, he can wait for twelve months and reapply for another licence. Now again I ask, shouldn't we have certain qualification in there as to what makes a person suitable. This 8.(7) to me sort of contradicts the purpose of 8.(4). If it was found that under 8.(4) he was--his qualifications were not suitable to be acting as a real estate agent or salesman, why should he get under 8.(7) a year later another licence?

**Hon. Mrs. Whyard:** Mr. Chairman, with respect, it doesn't say he will. It says he may be eligible and he may apply, but it doesn't say he will unless he has changed certain things which required his licence to be cancelled.

**Mr. Chairman:** Does the Committee wish to make any specific recommendations as far as Clause 9 is concerned, or do you wish it to be stood over until the alterations are made? Does Committee concur?

**Mrs. Watson:** Mr. Chairman I would prefer that we have it stood over.

**Mr. Chairman:** Does Committee concur?

**Hon. Mrs. Whyard:** Stood over for how long, for what?

**Mr. Chairman:** The Government has undertaken to make some alterations in 8.

**Hon. Mrs. Whyard:** Not in 9.

**Mr. Chairman:** Yes, but they are interrelated and I think what Mrs. Watson is referring to, she'd like to see what recommendations are coming down as far as 8 is concerned before passing Clause 9. Am I right?

**Mrs. Watson:** Yes, Mr. Chairman, I would like to be able to go through the Bill first, because even though we've gone through the Bill on our own, we're getting clarification of a lot of Sections where there was some doubt, so I would hate to make some recommendations at this stage of the game.

I'd like to be able to look at the whole Bill in one package before I would make some recommendations.



**Mr. Chairman:** That's where we stand, I'll go on to Clause 10.

*(Reads Clause 10)*

Clear?

**Some Members:** Clear.

**Mr. Chairman:** Clause 11.(1)

*(Reads Clause 11)*

**Mr. Chairman:** Clear?

**Some Members:** Clear.

**Mr. Chairman:** Clause 12 (f)  
*(Reads Clause 12)*

**Mr. Chairman:** Clear?  
**Mrs. Whyard?**

**Hon. Mrs. Whyard:** Mr. Chairman, I wonder if this is the section that Mr. Legal Advisor had in mind regarding partnership or do we find some further clarification?

**Mr. Legal Advisor:** I've already advised the Honourable Member from Mayo, it was in Section 8, subsection (3).

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

**Mr. Lengerke:** Mr. Chairman, I realize, I think we cleared 11(1) but I just want to go back to it for a second. It says: "A document or other notice under this Ordinance may be served..." Would that not be better if it said, "shall be served"?

**Mr. Legal Advisor:** Mr. Chairman, there are many ways of serving a document and the lack of this section in another Ordinance cost us a lot of money when we had to send an agent to Toronto to personally serve a person with a Notice. This section is alright, Mr. Chairman, with respect.

It is personal service by handing it to a person or by dropping it in his pocket or reading it out to him or various methods.

**Mr. Chairman:** Mr. Taylor?

**Hon. Mr. Taylor:** Mr. Chairman, I was very interested in the remarks of Mr. Legal Advisor. Am I to understand that, under our Ordinances, we have had to send somebody to serve a person in Toronto and pay that expense?

**Mr. Legal Advisor:** Not the whole way to Toronto. We had to hire a person under a particular Ordinance to search in Toronto and then deliver a Notice, and the Notice was refused. We didn't have this Section.

**Mr. Chairman:** Bonding, 13(1).

*(Reads Clause 13)*

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

**Mrs. Watson:** Mr. Chairman, I wonder if the Legal Advisor or someone could sum up that Section and tell us where 4 and 5 are different?

**Mr. Chairman:** Mr. Legal Advisor?

**Mr. Legal Advisor:** As I understand it, where the total amount matches or exceeds, in other words, where there is more owing than the bond carries, then the whole of the bond goes. Where there is less owing than the bond, it goes proportionately, but the amount may be increased by subsequent actions because one, two or three people may sue in turn and then the court would hold the money until all of the actions are satisfied and hold it in trust for two years and then give it out. The last section just provides that the surety only has to pay what he undertakes to deliver in the first place.

**Mr. Chairman:** Mrs. Whyard.

**Hon. Mrs. Whyard:** Mr. Chairman, there is that possibility if the bond or surety is not sufficient to cover the amount.

**Mr. Legal Advisor:** Yes, Mr. Chairman. That's definitely a possibility and a normal possibility in these kind of cases. In that case, all of the people, there's a delay period of two years, so all of the claims come in and then they're paid so many cents on the dollar.

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

**Mrs. Watson:** Are all the claims given equal status?

**Mr. Legal Advisor:** No, Mr. Chairman, they've got to go through a court to get it and prove to the satisfaction of a court that the money is due to them and it's due in respect to a fraud or a similar circumstance. Then the court gives a final judgment. It's not the decision of the government in that sense, in those kinds of actions, to forfeit the bond. They go through the mechanics of ordering that the money is to be paid to the court, but it's the judge who makes the decision who gets what and how much.

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

**Mr. McIntyre:** Yes, Mr. Chairman. I wonder if someone could tell me what kind of a bond is contemplated by this section? Is the bond with two sureties who may be private persons or is it a bond by a bonding company, or sometimes I've seen bonds that were by two private sureties that weren't worth the paper they were printed on.

**Mr. Spray:** Mr. Chairman, the bonds are normally by a bonding company and in our proposals for regulations we're talking of \$10,000.00, where there is an agent and no salesman, and \$20,000.00 where there are -- where the agent employs more than, you know, one salesman or up to eleven. These are the same bond requirements that Alberta have.

**Mr. Chairman:** Is there further consideration to



Clause 13?  
Mrs. Watson?

**Mrs. Watson:** I'm sorry, I don't understand a lot of this, where a judgment remains unsatisfied 30 days after the date that it becomes final.

**Mr. Legal Advisor:** That technically means that the judge has ordered them to pay \$5,000.00 and he hasn't paid it. The judge gives his decision on day one. It takes a few days for the lawyer to get the court order written up and filed. Now there's a 30 day appeal period. Now, if apart from the appeal period the money has not been paid as a result of the court order within that 30 days, then the trigger starts. It's satisfying a judge and paying the amount of money ordered to be paid.

**Mr. Chairman:** Clear?

**Some Members:** Clear.

**Mr. Chairman:** Not very.  
Fourteen (1) --  
Mrs. Watson?

**Mrs. Watson:** Do you mind if I go back again to number 2 on page 10. Two (1) where a bond is forfeited under subsection 1, "the surety shall pay to the Commissioner the amount of the judgment in respect of which the bond was forfeited". Pay to the Commissioner — this is where I'm confused. I can see where there's a judgment then the value of the bond will be paid to the people who have taken their judgments to the court and are awarded it, but where does the Commissioner come into this?

**Mr. Legal Advisor:** He immediately provides the mechanics for the correspondence for dealing with the surety. Something has occurred and a bond becomes forfeited. It becomes forfeited usually because of a judgment given against the real estate agent. The Commissioner writes to the bonding company, points out what's happened and demands that the money be paid. The amount of money that he demands is the amount of the judgment, which may be less than the face value of the bond. Upon receiving it, the Commissioner then pays it into court and the person who is the beneficiary of the judgment must make an application to the court to get the money out. He doesn't personally get it from the Commissioner.

The Commissioner is a mechanism to see that the bonding company does its duty because otherwise the court would have to enforce it and the court doesn't have the easy mechanism in that way.

**Mr. Chairman:** Fourteen (1):

*(Reads Clause 14)*

**Mr. Chairman:** Investigation and Action by Superintendent, Fifteen (1).

*(Reads Clause 15)*

**Mr. Chairman:** Mrs. Whyard.

**Hon. Mrs. Whyard:** I was just going to ask, Mr. Chairman, if the Superintendent could tell me how we're going to ensure that the person shall make prompt and explicit answers.

**Mr. Spray:** Mr. Chairman, if the person does not make prompt and explicit answers, his licence will be suspended, under previous provisions.

I may also point out Mr. Chairman, a typographical error in Section 15 on Page 12, the second line. It should be, "person authorized by the superintendent", not "registrar".

**Mr. McIntyre:** I was merely going to ask who this new character of the registrar was.

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

**Mrs. Watson:** I have "inspector". What type of inspector would this be?

**Mr. Chairman:** Mr. Spray?

**Mr. Spray:** Mr. Chairman, the Ordinance makes provision for appointment of persons other than the superintendent or the deputy superintendent. Depending on the reason for the investigation, we may appoint or go through the R.C.M.P. or we may have a member of a Superintendent of Real Estate's office in another jurisdiction who is particularly competent in this particular area.

**Mr. Chairman:** Is that not redundant? "The superintendent or any person authorized by the superintendent"?

**Mr. Spray:** Well, further to that, Mr. Chairman, we have inspectors. We may very well in the future have specific people working on this Ordinance who will be designated as government employees, as inspectors, so we are covering not only our own employees but people from other jurisdictions.

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

**Mrs. Watson:** Mr. Chairman, we say laying of complaint by a person interested. Again, that seems quite wide open. Couldn't it just be "on a complaint" or a written complaint or something? Why does it have to be a person interested?

**Mr. Legal Advisor:** Possibly to require in this kind of case that the person who is making the complaint and is going to trigger something must be a person who is concerned, not a person off the street making casual complaints. He must have an interest in having this done because it is quite an onerous task to investigate and quite a difficult thing for the business person himself to be investigated. It shouldn't be a casual thing by a person off the street.

**Mrs. Watson:** I agree, you don't want to trigger this type of mechanism with just some frivolous complaint. But the way the section is written the person that is interested almost means a person who has been a victim of one of the real estate trade. Is that necessarily re-



quired? Or could a legitimate complaint from someone who isn't directly involved in a real estate trade be acceptable?

**Mr. Spray:** Mr. Chairman, we have provision under Section 16 to inspect books of real estate agents. On general complaints or general points being brought to our attention, we can move under Section 16.

**Mr. Chairman:** Mrs. Whyard?

**Hon. Mrs. Whyard:** Would I be correct in assuming, Mr. Chairman, that until the Real Estate Association grows to the stage where it could discipline or police its own members, it is conceivable that a member of their executive might, for example, trigger this procedure without being a victim in any way.

**Mr. Spray:** That is correct, Mr. Chairman.

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

**Mr. McIntyre:** Mr. Chairman, is it intended that this complaint is a piece of paper the same as an information and complaint under the Criminal Code or is it just a conversation?

**Mr. Legal Advisor:** No, Mr. Chairman, a complaint can be oral or it can be written. If it is oral, it would normally be recorded by the person who receives it, so there would be some foundation in writing to start with.

I have some sympathy with the word "interested" because the word "interested" is a heavy word and viewing it from the point of view of the superintendent administering the Ordinance it means that he may have personal knowledge of something but unless he can find the person who is willing to stick their neck out, he may be rendered powerless.

Maybe if the matter could be taken into consideration with the other sections, perhaps some consideration might be given to looking at it again.

**Mrs. Watson:** Mr. Chairman, yes, if the person is interested, fine.

**Mr. Chairman:** Sixteen, one.

*(Reads Clause 16)*

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

**Mrs. Watson:** Mr. Chairman, this provides for the routine inspection of the books, does it, on a routine basis, such as if you do have inspectors under your authority as a superintendent of real estate?

**Mr. Spray:** We will be able to look at the books on a routine basis. It is an onerous task to put on the real estate agent to produce all of his books. It is not something that we would do more often than, say, once a year unless we had cause. If we had, by word of mouth, a notification that there was something wrong with the agency, we could move in and do it under Section 16 rather than wait for someone to report it to us under Section 15.

**Mrs. Watson:** Would you not do it as a matter of routine every so often without waiting for a complaint, or is that done?

**Mr. Spray:** I would expect, Mr. Chairman, that we would do it once a year.

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

**Mrs. Watson:** Yes, Mr. Chairman, something that's always bothered me, Page 14, subsection (4) of 16, where you are carrying on an investigation and you seize and take possession of all documents, books, papers, correspondence, and so on, are you obligated if the person who owns the documents that you have seized wants to get information from the documents for some other reason other than this real estate trade, would you let them have access to their own documents?

**Mr. Legal Advisor:** Yes, Mr. Chairman, their own documents, yes; other people's documents we would treat as confidential.

**Mrs. Watson:** Mr. Chairman, would you even let them go as far as to get copies of the documents that you have seized and have in your possession with the Government?

**Mr. Legal Advisor:** Mr. Chairman, to be reasonable — sometimes people may require documents, you know, a couple of old ledgers; where this is so, then special arrangements have to be made for them to copy their own documents under supervision. But where it is a question of one or two documents, and one of the staff of the holding officer can be told to supervise, then it can be done. That is the custom. I'm not saying what would be done in this case, but I think that the Registrar, the Superintendent, would follow the normal course, thus follow the other departments of this Government and the Federal Government.

**Mr. Chairman:** Clause 17.

*(Reads Clause 17)*

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

**Mr. McIntyre:** Yes, Mr. Chairman, I was going to ask under the previous section how far the investigator can go in seizing and taking possession of documents. Does this give him the equivalent of a Search Warrant so that he can enter any part of the person's premises and look for documents that aren't in the place of business? For instance, the person's residence?

**Mr. Legal Advisor:** It appears to go that far, Mr. Chairman.

**Mr. Chairman:** Clear?

**Some Members:** Clear.

**Mr. Chairman:** Mr. Spray?

**Mr. Spray:** There is a typographical error in 17, in



the fifth line. The Registrar should read the Superintendent.

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

**Mrs. Watson:** Mr. Chairman, again 17(1), I would not like to clear Section 16 even, I would like to -- and 17, it -- I want again, where it appears where it is the opinion of the Superintendent that the agent may have misappropriated funds which that agent holds in trust, then we may suspend the licence of that agent -- so it's really on the supposition of the Superintendent.

**Mr. Legal Advisor:** Yes, Mr. Chairman, in that case a reasonable supposition, the Superintendent has immediate access to the bank accounts and the trust companies, and he can match one against the other with the use of a small calculator and where they don't balance he is then entitled to suspend.

**Mr. Chairman:** Clause 18.

*(Reads Clause 18)*

**Mr. Spray:** Mr. Chairman, the third last line of Section 18, there is a typographical error; it should be "release any particular fund" rather than "funds".

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

**Mrs. Watson:** Mr. Chairman, I can see why this Section is in here, but I just don't like that "in the public interest to do so".

Is it necessary to have that in there? A Superintendent may order the chartered bank, trust company or credit union and so on -- why do you have to have "in the public interest"?

**Mr. Legal Advisor:** You know, Mr. Chairman, it's just that I didn't do the original drafting of this, but it was a safeguard that it wouldn't be actually done. If I had been personally drafting it, I would have written that the Superintendent considers it necessary to do so, or considers it proper to do so.

**Mrs. Watson:** Mr. Chairman, the purpose of that is to guard the money that's in the trust account, right?

**Mr. Legal Advisor:** Yes, Mr. Chairman.

**Mrs. Watson:** Mr. Chairman, it isn't in the public's interest, it's in the interest of the people whose money it is in the trust account.

**Mr. Legal Advisor:** Yes, Mr. Chairman. I've already said that it's merely a drafting point, and I would be prepared to recommend to the -- during the review, that we change it from "considers it necessary to do so", if that is acceptable.

**Mr. Chairman:** Does Committee agree?

**Some Members:** Agreed.

**Mr. Chairman:** Clause 19.

*(Reads Clause 19)*

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

**Mrs. Watson:** It refers to an order of the Superintendent. That would refer to the order that we were just speaking about, the order to freeze the money.

**Mr. Legal Advisor:** Yes, Mr. Chairman, an order to the bank to hold all the funds locked.

**Mrs. Watson:** Mr. Chairman, does that section just refer to that specific kind of an order or could it refer to other orders such as an order by the Superintendent, that a person's licence is being suspended or cancelled?

**Mr. Legal Advisor:** No, Mr. Chairman, it's an order of the Superintendent made pursuant to section 17 or 18 --

Oh, I'm sorry, it's -- the order of suspension would go to court as well.

**Mrs. Watson:** Suspension would --

**Mr. Legal Advisor:** Under Section 17.

**Mr. Chairman:** Twenty (1).

*(Reads Clause 20)*

**Some Members:** Clear.

**Mr. Chairman:** 21(1).

*(Reads Clause 21)*

**Mrs. Watson:** Mr. Chairman, I was just counting the people in here.

**Mr. Chairman:** Right.  
**Mr. Spray?**

**Mr. Spray:** The last line of section 21(1), there is a typing error. The Public Inquiries Ordinance is spelled with an "I".

**Mr. Chairman:** Mrs. Whyard?

**Hon. Mrs. Whyard:** Before leaving that section, could I just clear in my own mind, with a question to Mr. Spray, I have found nothing in the submission from the Real Estate Association themselves, the Yukon Real Estate Association submission, in no way criticises the power which we were giving in the preceding sections. And I have found no objection from them to the wording which Honourable Members are objecting to and I simply draw that to your attention at this time because if they, in the business themselves, can find no reason to object to the latitude we are providing here, I'm certainly not going to.

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

**Mrs. Watson:** Mr. Chairman, I believe that they did specifically object to that section 4(g) in their letter of February 16th, point number 3. 4 (g) was felt by the membership to be too broad and that it was requested that this be removed and replaced with specific clauses for suspension. So they did object to that.



**Mr. Spray:** Mr. Chairman, I have, and this is referring to their letter, I think of February 16th, or thereabouts, I have discussed all of these points with the Real Estate Association subsequent to their letter coming in. And, while they have made in one or two places, objections to the provisions in the Ordinance, in consultation with them, they have given me to understand that they are not opposed to the Ordinance going through in the form it is now, that they understand some of the reasons and some of the reasons why we may not be too specific in some areas. The indication I have from the Association is that generally they are quite pleased with the Ordinance. In some cases they don't feel that we are quite strict enough. They would like us to come down even harder on agents, but other than that, they have appeared to indicate that the Ordinance is quite suitable.

**Hon. Mrs. Whyard:** Thank you, Mr. Chairman.

**Mr. Chairman:** Accounts. 22(1).

*(Reads Clause 22)*

**Mr. Legal Advisor:** Typographical error in paragraph (d) at the top of page 17, it should be "...the use of that money..." as that last line of paragraph (d) and in the second last line of the page itself, it should be "...kept separate and apart from monies."

**Mr. Chairman:** Mrs. Whyard?

**Hon. Mrs. Whyard:** Mr. Chairman, would it be fair to assume that Section 22 implies the arrival of a number of new auditors in town?

**Mr. Chairman:** Mr. Spray, does this money, the interest money that's paid to the Yukon Consolidated Revenue Fund, does it have any specific destination?

**Mr. Spray:** At this point, Mr. Chairman, it would be, it would not have a specific destination other than to say that it's used for the administration of this particular Ordinance, such as the Appeal Boards. I would expect that should the Association reach the point where we would turn the discipline of its members over to that Association, then this type of money would be turned over to the Association as well. This is quite common. This section is very similar to the sections that are in the Legal Professions Accounts Ordinance.

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

**Mrs. Watson:** Mr. Chairman, has anyone any idea what amount of money we would be looking at or considering?

**Mr. Legal Advisor:** No, Mr. Chairman, simply that it's said to be small. I'm not sure what small means in that circumstance. Real Estate agents are said not to carry, these days, large amounts of money in their trust accounts, but some of the professions, of course, do.

**Mr. Spray:** Fine, Mr. Chairman. I would expect that most of these trust monies are in accounts in the banks, on which no interest is being paid by the banks. The

agents themselves do not take the interest from the trust monies. The only thing that could happen now is that the money could be put in an interest bearing account to be paid back to the client. But in many cases, there's not sufficient money to go back to the client and they're held in interest free accounts. The bank has the use of the funds.

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

**Mr. Berger:** Mr. Chairman, I was just wondering if somebody could tell me, is this the policy all across Canada, for the banks not to pay any interest on trust accounts?

**Mr. Legal Advisor:** It all arises out of a celebrated law case about 25 or 30 years ago, which decided that where money was in trust, the interest was not the property of the person who held the trust account. So, since that time, lawyers and all of such people have deposited monies on trust, but have not taken the interest unless they were in special single accounts for a single named person. The presumption is that the bank finds this somewhat profitable, but the people who operate the trust accounts, perhaps not so profitable.

It also has become common for governments to milk the trust accounts for some income for the purpose of which the ordinance or act is intended.

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

**Mrs. Watson:** Mr. Chairman, then, in the past banks in the Yukon have been able to absorb the interest from the trust accounts, in the real estate agent's trust accounts.

**Mr. Legal Advisor:** Absorb is a delightful word, Mr. Chairman, it's accurate also.

**Mr. Chairman:** 22, are we clear?

**Some Members:** Clear.

**Mr. Chairman:** 23(1).

*(Reads Clause 23)*

**Some Members:** Clear.

**Mr. Chairman:** 24(1).

*(Reads Clause 24)*

**Mr. Legal Advisor:** Mr. Chairman, it's something which is capable of being inherited unless your father was an outlaw.

**Mr. Chairman:** Obviously Mrs. Whyard asks who Mr. Lengerke?

**Mr. Lengerke:** Yes, Mr. Chairman, perhaps Mr. Legal Advisor can just put that in about 60 words or less and in a language I can understand.

**Mr. Legal Advisor:** It means that the agent ca



any commission or other remuneration unless he does what he's supposed to do under the Ordinance.

**Mr. Chairman:** Regulation of Trading, 25(1).

*(Reads Clause 25)*

Mrs. Whyard.

**Hon. Mrs. Whyard:** Mr. Chairman, I need a little clarification on that from Mr. Spray. Does that mean that the agent can't say I am going to offer you so much money for your house?

**Mr. Spray:** Only, Mr. Chairman, if they enter into a guaranteed sales agreement, to put it in writing and make a firm contract. In drafting, Mr. Chairman, I will admit, because 25(1)(a) goes with 26, 25(1)(b) goes with 27 and we could simply say that you're not permitted to do these things unless you do what we say in 26 and 27. We've set down the restrictions and then we've given the exemptions.

**Mr. Chairman:** Clause 26 and 27, first then. 26(1).

*(Reads Clause 26)*

**Mr. Chairman:** 27(1).

*(Reads Clause 27)*

**Hon. Mrs. Whyard:** Well, Mr. Chairman, it all has to be in writing.

**Mr. Spray:** Yes, Mr. Chairman.

**Hon. Mrs. Whyard:** That'll be a switch.

**Mr. Chairman:** Any further consideration of clauses 25, 26 and 27?  
Clear?

**Some Members:** Clear.

**Mr. Chairman:** 28(1).

*(Reads Clause 28)*

**Some Members:** Clear.

**Mr. Chairman:** 29(1).

*(Reads Clause 29)*

**Some Members:** Clear.

**Mr. Chairman:** 30(1).

*(Reads Clause 30)*

**Mr. Chairman:** Mrs. Whyard?

**Hon. Mrs. Whyard:** Mr. Chairman, I wonder if Mr. Spray can tell us in what circumstances that might arise?

**Mr. Spray:** If we, Mr. Chairman, if we suspend or

cancel the licence of a real estate agent, another agent may not take over that -- the salesman of the agent whose licence was cancelled, he must actually engage those salesmen in his own firm and attend to the bonding and take the responsibility for their actions.

**Hon. Mrs. Whyard:** But it doesn't say "unless", Mr. Chairman.

**Mr. Legal Advisor:** With respect, Mr. Chairman, it says he may have employed a salesman of an unlicensed agent, so when they leave the unlicensed agent's employment, they then can become his own employee. A man cannot serve two masters, Mr. Chairman.

**Mr. Chairman:** Mrs. Whyard?

**Hon. Mrs. Whyard:** With respect, Mr. Chairman, it says no agent shall employ the salesman.

**Mr. Chairman:** Yes.

**Hon. Mrs. Whyard:** And I feel that we have left out a step which is unless, da duh da duh.

**Mr. Spray:** Mr. Chairman, if they are the salesmen, the employees of an unlicensed agent, he may not employ them whilst they are still employed by the unlicensed agent. If they terminate their employment with the unlicensed agent, then any agent may employ them, but we must remember that the agent is responsible for the actions of his salesmen. He must actually employ them independently of another agent.

**Mr. Chairman:** Mrs. Whyard?

**Hon. Mrs. Whyard:** But, Mr. Chairman, this is the chicken and egg, isn't it? Because if the agent is unlicensed, they're not working for him anymore. They can't.

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

**Mrs. Watson:** Mr. Chairman, with respect to section 5, sub (1), it specifically states that a salesman may only be licensed where he is a salesman of a licensed agent, so he isn't a salesman. Once his employer, his agent is gone, because in the application he has to have the name of the agent on it. His licence has to have the name of the agent on it.

**Mr. Spray:** Therefore, Mr. Chairman, if he is going to work for another agent, he must reapply and go through the process of having his licence issued again and we would look at his licence application. Mrs. Watson is quite correct, Mr. Chairman, that you cannot transfer your licence from one agent to another. Perhaps we haven't worded it too clearly.

**Mr. Chairman:** Mrs. Whyard?

**Hon. Mrs. Whyard:** Mr. Chairman, I'm just wondering in view of the earlier section if this is necessary. Should we have a look at it, Mr. Chairman?



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

**Mr. Berger:** Yes, Mr. Chairman, I was just wondering how we can talk about an agent if he is unlicensed, he's no longer an agent then. This is the whole thing.

**Mr. Legal Advisor:** A person can be an agent although he's not licensed. The definition makes it clear, I think. A person who holds himself out as a real estate agent becomes an agent, so he doesn't have to be an agent at all, he just holds himself out. Or just a trade in real estate and he's an agent.

**Mr. Chairman:** Clause 31.

*(Reads Clause 31)*

**Mr. Chairman:** Clear?

**Some Members:** Clear.

**Mr. Chairman:** Clause 32(1).

*(Reads Clause 32)*

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

**Mrs. Watson:** Mr. Chairman, can we go back to 31 sub (1) where you were saying "...shall not pay a commission for services rendered in connection with a trade in real estate except to a licensed salesman employed by him or to an agent who is licensed pursuant to this Ordinance or comparable legislation in another jurisdiction". How would you envision them paying a commission to an agent who is licensed in another jurisdiction.

**Mr. Legal Advisor:** Mr. Chairman, a person transferring from here to Edmonton might become involved in the sale of his house here with agent number one and through him then deal with another person in Edmonton in order to buy a house and they may have a business arrangement between them. This would not stop a fee splitting arrangement between two jurisdictions, or the reverse situation could happen - a person coming from the south to here to relocate and he may have to deal with one real estate agent who would deal through another one in a different jurisdiction. He just pays one fee and they would split it.

**Mr. Chairman:** 32. Clear?  
**Mr. Fleming?**

**Mr. Fleming:** 31 isn't quite clear to me. An agent is in Edmonton or somewhere operating out there could be selling here through an agent out there without being here at all. Is that right?

**Mr. Legal Advisor:** Yes, it visualizes exchanges between all people outside the jurisdiction and inside the jurisdictions but it prohibits people fee splitting within the jurisdiction. You can only pay a commission to your own salesman. Anything else you've got to declare and bring out on the surface and deal with openly.

**Mrs. Watson:** We say a licenced agent shall not pay a commission for trade except to a licenced salesman or to an agent who is licenced under this Ordinance. So your two--you can split there between the two agents, both of them being licenced under this Ordinance.

**Mr. Legal Advisor:** Yes, Mr. Chairman, but not to another man's salesman or to a private person. Only to a licenced agent. Or he can go to other jurisdictions then to another person's licence there, it could be a salesman.

**Mrs. Watson:** Mr. Chairman, you're making provision for splitting that to pay the commission to one licenced agent with another licenced agent under this Ordinance.

**Mr. Legal Advisor:** Yes, Mr. Chairman.

**Mrs. Watson:** Well, Mr. Chairman, why would this be necessary? What would you see as the situation?

**Mr. Legal Advisor:** Under cover of trading in real estate, a person may employ unlicensed people and be dealing with other people. He must only deal with his own salesmen and pay them. He cannot pay any other person a commission.

**Mrs. Watson:** Mr. Chairman, you're making the provision there for paying another licensed agent.

**Mr. Legal Advisor:** Yes, Mr. Chairman, but he's a licensed agent to keep within the control of the Ordinance only. No other person can partake of the commissions so that everybody who deals in this Ordinance is subject to the Ordinance.

**Mrs. Watson:** Mr. Chairman, if you have a real estate deal going on between two real estate agents, is one going to pay the other the fee or are they both going to take a part of it? The Commission?

**Mr. Legal Advisor:** If there's an arrangement between the salesman, Mr. Chairman, I don't know.

**Mr. Chairman:** Mr. Spray.

**Mr. Spray:** We have two separate points here. There are two agents licensed in the Yukon Territory and it's quite possible that one agent will sublet his contract to another agent to handle for him and there has to be a split of the commission fees, depending on the size of the development. And we're talking here not only of individual properties, we may be talking of development where two agents actually--there may be one chief agent handling the development and he may turn around and employ the services of another licensed agent and in the cases of the licensed agents in another jurisdiction, no one may advertise and trade in real estate located outside of the Yukon, in the Yukon, except through a Yukon agent. So there again we have commissions flowing from our licensed agents to an agent licensed in another jurisdiction.

But we're really talking here probably of large developments or industrial properties, rather than the in-



dividual residential property.

**Mr. Chairman:** Mrs. Whyard.

**Hon. Mrs. Whyard:** Mr. Chairman, are we then referring to a large deal where there would be more than one agent involved at the request of the owner of the property?

**Mr. Spray:** This is also quite possible, Mr. Chairman.

**Mrs. Watson:** Well, Mr. Chairman, we are making it possible to have two commissions on the one deal.

**Mr. Spray:** Yes, Mr. Chairman, there could be two commissions; the two commissions may not total more than one commission, but it depends on the agreement entered into by the vendor.

**Mr. Chairman:** This is normal procedure elsewhere, but it is not being carried on in the Yukon at the present time. Is that not correct?

**Mr. Spray:** That's right, Mr. Chairman.

**Mr. Chairman:** Clear?

**Some Members:** Clear.

**Mrs. Watson:** Mr. Chairman, was that 32 or 31 clear?

**Mr. Chairman:** We had already actually cleared 31.

**Mrs. Watson:** Oh. Well, Mr. Chairman--go ahead.

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

**Mr. Lengerke:** Yes, I'd just, on 32. (1), I was just wondering on how he would disclose this. Is this again in writing that he would clearly disclose how the details of the negotiation--

**Mr. Legal Advisor:** It's the same, Mr. Chairman.

**Mr. Lengerke:** What exactly is the intent, Mr. Chairman, of that clause then? Could we have just a--what's the purpose of it?

**Mr. Legal Advisor:** Mr. Chairman, it's alleged to be a common practice in certain places for a person who is dealing in real estate to purchase the property from his own client without disclosing that to his client. And then afterwards to resell the property, thereby making a profit on the transaction. This has been said, I don't know whether it's true or false; this section is intended to control the actions of the agents and salesmen who are purchasing directly for themselves by forcing them to disclose some of the particulars and the particulars are what negotiations they have had to sell the property.

**Mr. Chairman:** Mr. Lang.

**Hon. Mr. Lang:** Mr. Chairman, in respect to what the Honourable Member from Riverdale raised, would it not be beneficial to have the agent or salesman disclose that in writing. It does not say it in the--

**Mr. Legal Advisor:** It doesn't say in writing, Mr. Chairman.

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

**Mr. Berger:** Maybe I should try, Mr. Chairman. I think the intent was that the Honourable Members from Riverdale and Porter Creek, maybe we should put it in--that the disclosure should be in writing.

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

**Mrs. Watson:** Are we going to make it possible for an agent or salesman if he purchased the property for himself to charge a commission on that transaction?

**Mr. Legal Advisor:** It has been the custom to charge the commission, I regret to say, Mr. Chairman.

**Mr. Chairman:** It sure has.

**Mrs. Watson:** Mr. Chairman, we don't permit that under a Guaranteed Sale Agreement.

**Mr. Legal Advisor:** No, Mr. Chairman.

**Mrs. Watson:** Mr. Chairman, why?

**Mr. Legal Advisor:** Mr. Chairman, I don't know what the policy behind it is. I think this section stands on its own. It says that he must disclose what he's doing to the listing owner on whose behalf he is working in order to sell the property.

**Hon. Mrs. Whyard:** My problem in this Section is not with those points, but I would like an interpretation of directly or indirectly. How far down through the family does he have to go when he's buying that property. Can it be his son-in-law or daughter, or does it stop with the wife, or what?

**Mr. Legal Advisor:** Anybody that he uses as an intermediary to do this has an indirect method of doing it for his own benefit, Mr. Chairman.

**Mr. Fleming:** Mr. Chairman, I'm a little confused as to how he discloses to the listing owner, complete details. If he doesn't do it in writing, how is he going to do it? In other words, why couldn't we have it in writing and then it's finished, isn't it?

**Mr. Legal Advisor:** Mr. Chairman, I understand that it's normally done on the long distance telephone.

**Mr. Fleming:** I don't think it would be very good.

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

**Mrs. Watson:** Mr. Chairman, there's a great similarity between the guaranteed sale agreement where they are not allowed to take the commission and this same transaction. Maybe it could be reviewed when we go over it, unless there is a difference that I'm not aware of.



**Mr. Chairman:** Mr. Spray?

**Mr. Spray:** On the guaranteed sale agreement, the agent is knowingly entering into an Agreement. He feels that he is going to buy this property at a set price, knowing that he will resell at a profit and he's setting his price low enough that he will sell at a profit. In the case of Section 32, he has not made this prior agreement, he has gone through the process of advertising this property, showing it to clients, and they still have not come up with a client who's willing to pay the money that the vendor wants. Then he will buy it, he may buy it from the vendor, but he's already made a great deal of expenditure on behalf of this property. He may or may not sell at a profit, and therefore it's felt that he should be allowed to take his commission. There is a distinct difference between the two provisions.

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

**Mrs. Watson:** I guess, why do I worry--you know, if somebody's dumb enough to do it, let them go ahead.

**Mr. Legal Advisor:** They may not know that that's being done. It may not be disclosed, he may not disclose, and he doesn't have to disclose under this Section the fact that he is purchasing it indirectly. He may purchase through a nominee company or a bank nominee company or a bank, so he doesn't necessarily disclose to the person he's working for that he is the vendor of the property and, in selling the property a second time, he may not disclose to the second person that in fact he is the new owner who is now selling the property.

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

**Mr. Berger:** Mr. Chairman, it's a real puzzle, we say "shall--no agent shall purchase the property for himself" and further down we say, "unless he clearly discloses everything to the listing client." Now why shouldn't he put that in writing. This is what I'm getting at, unless, over a long distance telephone call, it's just one word against the other guy's. The guy could say, oh, I phoned you. Maybe a ten year old boy answered the telephone or something and he could say, "I spoke to you." Why shouldn't he put this in writing and show his intent to his client?

**Mr. Legal Advisor:** It's awkward to explain, Mr. chairman, the Section is not drafted so that it will force the agent to say I am buying your house myself, but what it does say is that all previous offers, if any, must be disclosed to the vendor. But he doesn't have to disclose his own offer as part of that because he's now making an offer, although not necessarily in his own name. So, perhaps the Section can be examined, but the Section is being strained by suggestions policy-wise as to what new ideas should find--should be found in the Section rather than to consider the Section in its original intent on its plain English.

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

**Mr. Lengerke:** Yes, Mr. Chairman, that section does seem to give us some trouble and I just took a look

at the B.C. Act again and I wonder maybe if we could have the administration take a look at section 28, because it certainly is clear there, at least in my mind. It says that "...no licensee shall directly or indirectly for himself or any corporation to which he is a share holder, director or officer, purchase or acquire or offer to purchase or acquire any real estate or interest in real estate unless he has disclosed in writing to the owner." And then they go on. And it's very explicit. I think it makes some sense. I wonder maybe if we could ask them to take a look at that because all through our Ordinance and other ordinances, it does, Mr. Chairman, refer to written agreements and written proposals.

**Mr. Legal Advisor:** Mr. Chairman, we will undertake this, in light of the remarks because otherwise we'd be here until suppertime, Mr. Chairman.

*(Laughter)*

**Mr. Chairman:** Mr. McCall?

**Mr. McCall:** Yes, Mr. Chairman, I move Mr. Speaker do now resume the Chair.

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

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

Are you ready for the question?

**Some Members:** Question.

**Mr. Chairman:** Are you agreed?

**Some Members:** Agreed.

**Mr. Chairman:** The motion is carried.

*(Motion carried)*

**Mr. Chairman:** The witness is excused. Thank you, Mr. Spray.

*(Mr. Speaker resumes the Chair)*

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

May we have a report from the chairman of Committees.

**Mr. Hibberd:** Mr. Speaker, the Committee of the Whole has considered Bill Number 5, an Ordinance to Amend the Community Assistance Ordinance and Bill Number 7, an Ordinance to Amend the Taxation Ordinance, and directed me to report the same without amendment.

The Committee has also considered Bill Number 14, Real Estate Agents Licensing Ordinance and directed me to report progress on same.

Committee has also directed me to ask that we may sit again, at which time we would like further consideration of the Real Estate Agents Licensing Ordinance and the Insurance Ordinance.

**Mr. Speaker:** You have heard the report of the



Chairman of Committees. Are you agreed?

**Some Members:** Agreed.

**Mr. Speaker:** And leave is so granted.  
When shall Bill Number 5 be read a third time?  
The Honourable Member from Whitehorse North Centre.

**Bill Number 5: Third Reading**

**Hon. Mr. McKinnon:** Mr. Speaker, I move, seconded by the Honourable Member from Whitehorse West, that Bill Number 5 be now read a third time.

**Mr. Speaker:** It has been moved by the Honourable Member from Whitehorse North Centre, seconded by the Honourable Member from Whitehorse West that Bill Number 5 be now read a third time.  
Are you prepared for the question?

**Some Members:** Question.

**Mr. Speaker:** Are you agreed?

**Some Members:** Agreed.

**Mr. Speaker:** I shall declare the motion is carried.

*(Motion carried)*

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

**Hon. Mr. McKinnon:** Yes, Mr. Speaker, I move, seconded by the Honourable Member from Whitehorse West, that Bill Number 5 do now pass and that the title be as on the Order Paper.

**Mr. Speaker:** It has been moved by the Honourable Member from Whitehorse North Centre, seconded by the Honourable Member from Whitehorse West, that Bill Number 5 do now pass and that the title be as on the Order Paper.  
Are you prepared for the question?

**Some Members:** Question.

**Mr. Speaker:** Are you agreed?

**Some Members:** Agreed.

**Mr. Speaker:** I shall declare the motion is carried.

*(Motion carried)*

**Mr. Speaker:** Bill Number 5 has passed this House.  
The Honourable Member from Whitehorse North Centre?

**Bill Number 7: Third Reading**

**Hon. Mr. McKinnon:** Mr. Speaker, I move, seconded by the Honourable Member from Whitehorse West, that Bill Number 7 be now read a third time.

**Mr. Speaker:** It has been moved by the Honourable Member from Whitehorse North Centre, seconded by the Honourable Member from Whitehorse West, that Bill Number 7 be now read a third time.  
Are you prepared for the question?

**Some Members:** Question.

**Mr. Speaker:** Are you agreed?

**Some Members:** Agreed.

**Mr. Speaker:** I shall declare that the motion is carried.

*(Motion carried)*

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

**Hon. Mr. McKinnon:** Yes, Mr. Speaker, I move, seconded by the Honourable Member from Whitehorse West, that Bill Number 7 do now pass and that the title be as on the Order Paper.

**Mr. Speaker:** It has been moved by the Honourable Member from Whitehorse North Centre, seconded by the Honourable Member from Whitehorse West that Bill Number 7 do now pass and the title be as on the order paper. Are you prepared for the question?

**Some Members:** Question.

**Mr. Speaker:** Are you agreed?

**Some Members:** Agreed.

**Mr. Speaker:** I shall declare the motion as carried.

*(Motion carried)*

**Mr. Speaker:** Bill Number 7 has passed this House.  
May I have your further pleasure at this time?  
The Honourable Member from Whitehorse Riverdale?

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

**Ms. Millard:** I second that.

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

**Some Members:** Question.

**Mr. Speaker:** Are you agreed?

**Some Members:** Agreed.

**Mr. Speaker:** I will declare the motion is carried.

*(Motion carried)*



**Mr. Speaker:** This House now stands adjourned until 10:00 a.m. tomorrow morning.

(ADJOURNED)

LEGISLATIVE RETURN # 20  
1977 (First) Session

Mr. Speaker  
Members of the Assembly

On March 14, 1977, the Honourable Member for Ogilvie asked the following question:

- " 1. Will the proposed Yukon teachers' training programme be underway by next school year? What are the objectives of this programme for the next school year?
2. Since there is an evaluation of the remedial tutor programme due this spring, what is the expected date of completion of this evaluation? May we expect a copy of the evaluation to be tabled, or if we are not in session, to be made public? Is this evaluation of the programme a joint report between the Yukon Native Brotherhood and the Department of Education? Can the Territory expect funding for this programme next year, and will that funding, if available, be under the Special Education vote? From whom will the funding come? Who will administer the funding?
3. Is there a native curriculum development programme to come in 1977-78, and by whom will this be funded and administered? Does the Territorial Government intend to integrate this curriculum development work and its recommendations into the Department of Education's general curriculum development in the Territory?
4. Are programmes in native education and Yukon teacher training viewed by the Executive Committee as related to each other and complementary to each other? Are these programmes viewed by the Executive Committee as being essential steps in the integration of native people into our education system, or are they viewed as steps promoting a separate school system for natives? Is there an Executive Committee position detailing progress towards including native concerns in the education system within the next two years before a land claims settlement (which includes elements concerned with native education) is reached? May we have details of that position? If the position is considered confidential because of the land claims settlement process, may we have assurance that progress is being made towards integrating native people into our education system?

The answer to the question above is:

1. The questions asked concerning the teacher-training programme were tentatively answered by Dr. Thomas on Thursday, March 17 when he appeared before the Committee of the Whole to provide information on the proposed programme. The objectives of the programme were outlined and it was suggested that if the necessary approvals, i.e. from this government and the Senate of U.B.C., were forthcoming, the programme could be underway by September, 1977.
2. a) The evaluation of the Remedial Tutor Programme is presently underway and it is expected that it will be completed by June 15, 1977.  
b) The evaluation will be made public upon completion.  
c) The evaluation is a joint effort between the Department of Education and the Yukon Native Brotherhood.  
d) Future funding of the programme depends upon the results of the evaluation. If the evaluation indicates that the programme is educationally sound, efforts will be made to obtain the funds required to continue the programme.  
e) Funding for the programme during the current year has come from the Department of Indian Affairs and Northern Development. It is anticipated that funding might be forthcoming from the same source if the evaluation is positive.  
f) Currently, the funding is being administered by the Yukon Native Brotherhood and once the evaluation has been completed a decision will have to be made on whether or not the programme will be continued. If the programme is to continue, a decision will have to be made about the administration of the programme.
3. a) At the present time, the Department of Education is revising the 1974 position paper which was developed to implement changes and/or modifications in our school system to meet the concerns of our native people. We are awaiting comments from the Yukon Native Brotherhood on the proposal and when these are received an updated position paper will be completed.
4. a) A Yukon teacher training programme and programmes in native education are indeed related to and complementary to each other.  
b) The programmes are viewed as means whereby the native people can fully utilize the educational system in Yukon to their advantage. The proposed programmes are intended to meet the special needs of native students and not to promote a separate school system for natives.

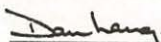


The Department of Education has made some effort to include curricular materials and/or programmes which are relevant to the native student in the programme of studies. The social studies unit "Early Yukon Cultures", which was developed locally, has been prescribed as a mandatory unit in the Grade IV Social Studies curriculum. This unit replaces one which dealt with a number of the native cultures of British Columbia.

The locally developed unit deals with the way of life of the native people of Yukon prior to and shortly after the Gold Rush. It shows how the native people had to solve their problems in an environment which was difficult to predict and which often worked against their efforts. In addition, the unit permits students to compare how people solve the same kind of problems today.

In addition to this mandatory social studies unit, the Department of Education has approved courses in native language instruction, native crafts programmes and outdoor education programmes, e.g. trapping, when requested by particular school committees. At the present time, native language instruction is offered in 6 schools and the other programmes are offered in 4 schools. It is anticipated that the programmes will be extended as the demand increases.

March 31, 1977

  
Member, Executive Committee

LEGISLATIVE RETURN #21  
(1977 First Session)

March 29, 1977

Mr. Speaker

Members of the Assembly

On March 28 Mr. Lengerke asked the following question:

The Game Department recently introduced new regulations respecting Wellesley Lake, the Government has designated the area as a trophy lake. The regulations mean you can only fish with hooks that have barbs removed and that the daily limit is two fish only, one of which can be over twenty pounds. The question is, did the Game department look at trophy lake regulations in other jurisdictions and are they the same as others and if not, how do they differ?

The answer to the above question is as follows:

Yes, the Game department did look at other jurisdictions containing trophy lakes, and yes their regulations are somewhat different. For example Alberta regulations require a separate trophy lake licence over and above the regular angling licence; bait fish cannot be used in a trophy lake; a typical catch limit is as follows:

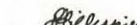
Gods Lake: 2 pike, 6 walleye

Namur Lake: 3 lake trout, 5 pike

Maximum possession limit is one days catch limit; spear fishing by scuba divers and commercial fishing is not allowed.

Yukon trophy lake regulations stipulate a daily catch of 2 lake trout of which only one may be over twenty pounds and 5 pike of which only 2 may be over twenty pounds. Maximum possession limit is 4 lake trout of which only one may be over twenty pounds and 10 pike of which only 2 may be over twenty pounds. A second licence is not required and commercial fishing is also prohibited. The barbless hook regulation applies only to trophy lakes and is set forth to enable anglers who are catching large quantities of fish to release their catch unharmed, thereby producing a much lower mortality rate among these released fish.

There are minor variations in trophy lake regulations between jurisdictions, however the basic concept of management to preserve a valuable trophy class fish for sport angling is the same as in Yukon.

  
Signature

LEGISLATIVE RETURN #22  
1977 (First) Session

MR. SPEAKER:

MEMBERS OF THE ASSEMBLY

On March 30, 1977, Mr. Lengerke asked the following question:

"I understand that payments made to Yukon by the Federal Government under the terms of the Financial Agreement with respect to Corporate Tax Revenues are usually done so on the basis of estimates.

I also understand that Corporate Tax Revenues are much higher than estimated for Yukon and I am led to believe that the Financial Agreement contains no formula for adjustment in this respect.

If this is the case does Yukon get "short-changed"? What is the difference between the estimated and actual figures? If in fact this is happening will its Administration undertake to correct this situation?"

The answer to the above question is as follows:

In our negotiations with Ottawa for funding we arrive at a total funding requirement. After the total has been agreed to the grant is split into two components: one component is an estimate of what the Yukon would receive if it levied its own income tax and the second component is the difference between the total funding requirement and the first component. The figures for 1977/78 are as follows:

Total funding requirement	\$ 29,312,000
Grant in Lieu of Income Tax	13,361,000
Operating Requirement	\$ 15,951,000

In summary, then, because we are negotiating the total grant not the individual components no adjustments, upward or downward, are made to the negotiated amount.

For your further information the Grant in Lieu of Income Tax is comprised of two components--corporate and personal.

The calculation formula is as follows:

$$G = BT \times YP \times R$$

where G = the amount of the Grant in Lieu of Income Tax

BT = the estimated federal basic tax for the whole country for 1977

YP = the proportion of the B.T. which is projected to be derived from Yukon. (Based on the 1974 actual figure of 0.125% for personal and 0.140% for corporate)

R = the implied tax rate of 10% for corporations and 30% (plus adjustment for new tax sharing agreement) for individuals.

April 4, 1977

  
P. J. Gillespie, Assistant Commissioner



LEGISLATIVE RETURN # 2  
(1977 First Session)

March 30, 1977.

Mr. Speaker  
Members of the Assembly

At the March 29th sitting of the Yukon Legislative Assembly, Mr. Fleming asked the following oral question:

Is there any truth to the rumour that fishing quotas in Yukon have been changed?

The answer to the above question is as follows:

There have been a few changes regarding angling quotas in Yukon. Federal Fisheries advise that the daily limits for Arctic char and Arctic grayling have been reduced to two and seven respectively. Also the total possession limit for fish caught by angling has been reduced from three to a two day catch limit. These changes are basically for conservation purposes and in general are to protect dwindling fish populations.

Federal Fisheries further advise that there have been no quota changes for commercial fishermen.

*P. Gillespie*

Peter J. Gillespie,  
Member,  
Executive Committee.

LEGISLATIVE RETURN # 4  
1977 (First) Session

Mr. Speaker  
Members of the Assembly

On March 7, 1977 the Honourable Member for Watson Lake asked the following question:

"The Administration is respectfully requested to provide to the House the following information relating to the recent enquiry into Dr. Stephen Whyard under the Medical Profession Ordinance of the Yukon Territory:

1. The rate per day paid to members of the board.
2. The rate per day paid to Lawyer John Steeves.
3. The rate per day paid to Investigator Purdy.
4. The total cost, paid or owing to members of the board, including transportation and expenses.
5. The total cost, paid or owing to Lawyer John Steeves.
6. The total cost, paid or owing to Investigator Purdy.
7. The total cost, paid or owing respecting the attendance of witnesses.
8. The total cost, paid or owing in respect of recording and printing of transcript of proceedings.
9. The total cost, paid or owing in respect to the appeal as heard by the Judge of the Court.
10. The total cost, paid or owing in respect of the entire enquiry including the appeal.

The answer to the above question is as follows:

1. \$378.60/day per member
2. \$1000.00/day
3. Mr. Purdy is a salaried member of the staff of Mr. Steeve's office and charges for his work which involve 127 hours are included in the account.
4. \$4106.40
5. \$23,504.08
6. As per 3 included in 5
7. \$3702.30
8. \$1675.10
9. \$4893.00
10. \$31,996.93

March 28, 1977

*St. Whyard*  
St. Whyard, Executive Committee Member