

Property of  
M. L. A. Lounge



# The Yukon Legislative Assembly

Number 20

8th Session

23rd Legislature

Debates & Proceedings

**Wednesday, April 13, 1977**

Speaker: The Honourable Donald Taylor

Property of  
Mr. A. Lewis



# The Yukon Legislative Assembly

1971

1971

1971

## Orders & Proceedings

Volume 10, Part 1, 1971

Whitehorse,  
Yukon Territory  
April 13, 1977

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

*(Prayers)*

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

#### ROUTINE PROCEEDINGS

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

#### TABLING OF DOCUMENTS

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

**Hon. Mr. Lang:** Mr. Speaker, I have for tabling a White Paper on School Grounds Improvement Program.

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

Reports of Committees? Introduction of Bills?  
Any Notices of Motion for the Production of Papers?  
Notices of Motion for Resolution?  
Statements by Ministers?  
This then brings us to the question period.

#### QUESTION PERIOD

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

**Hon. Mr. Lang:** Mr. Speaker, on March 29th, MLA Berger asked the following question on the Korbo Apartments: What repairs have taken place and at what cost?

The answer is as follows: Work recently commenced on the John Korbo addition to raise the structure which has been slowly settling for some time. The process of raising the addition was temporarily postponed until new support timbers arrived on site. The preliminary estimate for the work is \$11,500.00; however, further complications could increase the final cost.

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

#### Question re: Surveying in Tagish Area

**Mr. Fleming:** Yes, Mr. Speaker. A question for the Minister of Local Government.

In the Tagish area, there have been some rumours going around, whether they are rumours or not, I don't know, that there's going to be some survey or some surveying of properties this summer in the neighbourhood of \$5,000.00, is the figure I heard. Is there any such thing in the offing?

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

**Hon. Mr. McKinnon:** Mr. Speaker, as the Honourable Member knows, that is not my land, but I will certainly try to attempt to find out from the federal government if they have any plans for the area this summer.

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

#### Question re: Sewer Maintenance Recovery

**Mr. Fleming:** Yes, Mr. Speaker. Another question for the Minister of Local Government.

In the Capital Assistance Program, recovery frontage rate in 1974 - maximum 905 for sewer maintenance. Does the Government now have a figure for 1977 that would be the recovery rates, for instance the Teslin sewage if it goes in?

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

**Hon. Mr. McKinnon:** Yes, Mr. Speaker, the rate has to be established by Commissioner's order yearly and it was signed by Mr. Commissioner last week and if the Honourable Member has not received his copy of those charges levied for this fiscal year, then I'd be happy to provide him with the information. It probably got caught in the mail from Teslin to Whitehorse.

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

**Mr. Fleming:** Supplementary, Mr. Speaker, on the same subject, only the services to the mains and the recoveries of the frontage rate - is there going to be any difference in a lot that is a hundred feet across the front, say, on two sides of the road, is there going to be any difference in the price that a person will pay if he is on this side of the road or that side of the road, depending on where the main line runs?

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

**Hon. Mr. McKinnon:** Mr. Speaker, there is no relief or cost-sharing at all for the service connection to the mains. That is totally the responsibility of the person who is hooking up to the sewer main. There is a formula which is established in all municipalities and I can't give you the details of it, which works out to a portion of a lot that abuts on two sides, but there is a cost-sharing formula that is worked out which is in either the Community Assistance Ordinance or Taxation Ordinance or regulations. But all that information is presently available.

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

#### Question re: Policy Regarding Building Lots

**Mr. Lengerke:** Mr. Speaker, I have a question this morning for the Honourable Minister of Local Government. Earlier this session we had, in response to some questions about the number of building lots to be avail-



ble in Whitehorse, we have the answers, I'm just wondering if the government has given any thought in making those lots available for sale at an earlier date than some of the dates the Minister had previously expressed and if any thought had been given to making these available for sale and allowing people to build on them.

In view of the fact that servicing is not possibly progressing as fast as it should and also the fact that we have an excellent building season, it looks like this year and people are very anxious to be able to commence construction. Has any thought been given to changing that policy?

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

**Hon. Mr. McKinnon:** Mr. Speaker, I changed that policy when I was green and naive in my first month as Minister of Local Government. I had pressure from the Home Builders' Association, individuals, every lobby group and media in the Territory was saying this should happen. It happened and I live to this day to regret the day because it turned into a complete schmozzle and the pressures and the problems that arose because we allowed the lots to go prior to servicing, were just monumental and I will never make the same mistake again, Mr. Speaker.

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

#### Question re: Increase in Minimum Taxation

**Mr. Hibberd:** Mr. Speaker, again for the Minister of Local Government, there was considerable discussion in this House regarding the increase in the minimum taxation from 25 to \$100.00 and I have recently come across information that this minimum taxation in certain areas has been increased approximately a further third beyond that \$100.00. Does the Minister have an explanation for this?

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

**Hon. Mr. McKinnon:** The only place it can be, Mr. Speaker, is in municipalities that set their own taxation rate because you set the rate in this House by the Taxation Ordinance and there is no way that we can do anything about it unless we come to this House and have a full public debate and go through the hassle that we did with raising it from 25 to \$100.00. No way.

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

**Mr. Hibberd:** Supplementary, Mr. Speaker, this was a cottage lot that is not in a municipality. In this situation, the taxation went from the minimum of 25 to the \$100.00 and then in the next year has gone up in the range to \$140.00

**Mr. Speaker:** What is the question?

**Mr. Hibberd:** I am asking for an explanation.

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

**Hon. Mr. McKinnon:** Mr. Speaker, I think improvements of some 23 or \$2,500.00 constitute the minimum of \$100.00. If the person has improvements in the area of 5, 10, \$20,000.00 then he is not taxed or assessed on the minimum tax any longer. He is assessed on the normal improvements as all property is assessed in the Yukon. It is only if the improvements are under a certain amount that he qualifies for the minimum tax. When he is over, the normal assessment charges and the normal assessment techniques are taken into consideration. He is charged on the value of the improvements, so obviously the only explanation that I can have without knowing the property is that the person has put substantial improvements to the property which come over the minimum tax level.

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

We will then proceed to Orders of the Day, under Motions.

#### ORDERS OF THE DAY

##### MOTIONS

##### Item No. 1

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

**Mr. Speaker:** I believe from the Chair that I've spoken with the Honourable Member and we've agreed to stand over Item Number 1 for this morning.

##### Item No. 2

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

**Mr. Speaker:** Would the Honourable Member be prepared to discuss Item Number 2?

**Mr. Fleming:** Yes, Mr. Speaker.

The Second Report of the Standing Committee on Statutory Instruments was in fact given yesterday and the Committee feels that they wish to study some regulations that are not actually in effect, but are proposed regulations and we are not too sure just how to go about this and I think that is why the Motion Number 1 is stood over this morning too.

**Mr. Speaker:** Perhaps I might suggest from the Chair that the Motion, or that Item Number 2 might be also deferred until next sitting day.

**Mr. Fleming:** Yes, Mr. Speaker, if that would be allowed, I would appreciate it.

**Some Members:** Agreed.

##### Item No. 3

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



**Mr. Speaker:** Would the Honourable Member be prepared to discuss Item 3 today?

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

**Mr. Speaker:** It has been moved by the Honourable Member from Kluane, seconded by the Honourable Member from Klondike, that in the opinion of this House 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 residents thereon:

Klondike, near Dawson, ½ mile; Rock Creek, 1½ miles; Mile 926 - 928 Alaska Highway (Whitehorse), 2 miles; Mile 1054 (Silver Creek) Alaska Highway, 2 miles and that any future section of arterial highway which is bypassed by a relocation be also maintained for the use of residents who resided thereon prior to the relocation.

The Honourable Member from Kluane?

**Mrs. Watson:** Yes, Mr. Speaker, this motion is a result of questions I asked when we were discussing the budget under the Engineering Section and at that time I inquired how many abandoned roads we were looking at and the total amount of mileage. I had a reply to my questions and I was informed that these were the only four roads, a total of six and a half to seven miles of roads, that would require maintenance.

People lived along these roads before the highway was relocated and as a result of the relocation, the maintenance of the roads was discontinued and it's become a very controversial subject with the people who live along those roads and also with the pressures that they put upon the Engineering department.

A lot of them phone and feel that the Engineering department should be able to maintain their roads. So I have taken the liberty to bring it into this House to give some direction to the Government and I hope that we can get support from the Members of this House.

We're only looking at six and one half to seven miles of road and in the reply that I got from the Minister of Local Government, the estimates of the minimum maintenance total per year would be \$1,035.00. I'm sure that for the difference that it makes to the people who live along that road, \$1,035.00 isn't a great sum for this Government to commit itself.

I've also taken the opportunity in the Motion to try to give some direction for the future, and I'm referring to arterial highways only, not just roads under the Highways Ordinance and when an arterial highway is relocated, the area that is bypassed, that highway should continue - that area should be continued to be maintained if there are people who live along that road, at the time that it's relocated. If people move there after the relocation, well they know then that the road isn't maintained.

I'm hoping very much that Mr. Berger and I can get concurrence of this House to give some direction for the Government in providing this service, and it's a minimal service that means a great deal to people who live along those roads.

**Mr. Speaker:** Is there any further debate?  
The Honourable Member from Hootalinqua?

**Mr. Fleming:** Yes, Mr. Speaker. I'm going to be rising in support of this motion, because I can see problems on the Alaska Highway in many cases. In the years to come when they do start to pave the whole highway and possibly some very well established business places could be off of the highway, maybe a half a mile, quarter of a mile, I don't think there's any large area or large mileage that would be involved, but there will be a certain amount. These people have probably been in business for twenty or thirty years by then, maybe forty years, and they will have paid their taxes and they're still paying the taxes and will pay them for the rest of their life and the fact that the road was there and is now being taken away, I think they should have something done for them in this respect, if they were there prior to the moving of the highway when they pave it.

Therefore, I will definitely be supporting the Motion.

**Mr. Speaker:** Is there any further debate?  
The Honourable Minister of Local Government?

**Hon. Mr. McKinnon:** Mr. Speaker, this Motion is an opinion and the government will have no problems at all in looking whether there are any further ramifications in maintaining, on a year round basis, these abandoned roads.

Since we had our debate on these abandoned roads and on the recreational roads, a lot of information has come by people to me, by foremen in the areas, by people living on these roads, and through other methods. One of them is the half mile that has been abandoned from Klondike. It was pointed out to the person that the grader going by that area contracted for a third party arrangement with the Y.T.G. The cost would be \$18.00 a pass, which is extremely reasonable to that person.

There were other people on recreational roads who pointed out to me that they had gotten together with their neighbours to get their party services from the territorial government to clear the roads for winter use. It was the huge sum of \$9.00 per recreational lot to allow winter and summer access. I'm on a recreational road too, but we buy a bottle of whisky for a loader operator to get a bucket of gravel and spend a healthy afternoon shovelling gravel, so there are ways and means that these things can be done so the roads can be kept up to snuff, without the total involvement in government.

I just wanted to say that the expenses which are outlined in the answers that were given by the Department of Highways and Public Works, if we're looking at year round maintenance of recreational roads, I think we're in the area of some hundreds of thousands of dollars, and I don't know whether this government should even think of becoming committed to that kind of road maintenance on recreational roads.

Whether abandoned roads apply to a completely different category, I would tend to agree with some of the Honourable Members who have spoken, and if the costs are correct, I would hope that we could plan that in our budget to be able to perform these maintenance functions.

I just want to say that the pressure is going to continue and I know that the debate next year, just like it's been for every one of the years that I've been in this Assembly, will be for the pressure for the year round maintenance of recreational roads. I just would like to advise



the Committee that there are ways and means open at a very minimal cost to people on these recreational roads to provide year round access to their establishments without getting involved in the hundreds of thousands of taxpayers dollars that it would entail, if we are to go to year round maintenance of all the recreational roads in the Yukon.

Just a warning before we have the famous debate in next year's budget, that once again, that the pressures on all of you and upon the Department of Highways and Public Works will be intensified every time that we start maintaining more and more roads, whether they be abandoned or recreational in Yukon, so we'll all look forward to a good debate on the subject next budget session, Mr. Speaker.

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

**Mr. Lengerke:** Yes, Mr. Speaker, I fully support the motion. I am well aware of the fact that this kind of problem is going to be coming before this House and many other Houses to come - the same thing. This is the cost of progress, Mr. Speaker, when we have people to look after we're going to have to shoulder that responsibility, there's no doubt about it.

Also, I can certainly appreciate the comments made by the Minister of Local Government when he says that there are ways and means that people can do this. They can certainly fend for themselves in many ways and get together in a co-operative manner to try to hire equipment and what-have-you, at a reasonable rate. And certainly I'm sure there are many people that are doing this. I would just say, Mr. Speaker, that I would hope that the Minister gave a bottle of whiskey to a private operator of equipment and not some Y.T.G. employee that ...

Thank you.

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

**Mr. Berger:** Yes, Mr. Speaker. In seconding the motion, I think there's no use in holding up the proceedings and explaining it any further, but I would like to point out to the Minister, especially the half a mile of road he mentioned in the Dawson area, that a government grader goes by there high-blading out to the airport and it only would take fifteen minutes by lowering the blade to satisfy the needs of three people living on that highway, living on there before the highway was moved.

I further would like to point out to the Minister that we are not talking about recreation roads, we're only talking, with this motion, of abandoned highways and future abandoned highways, which I can see coming especially here in the Whitehorse area, which is going to create a lot of hardship to a lot of people who moved on to a particular section of highway because there was highway access there and they're going to be faced with the problem of having no access at all any more because nobody maintains that highway.

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

**Mrs. Watson:** Yes, Mr. Speaker, these are aban-

doned roads we're talking about and I know that the pressure is on for recreational roads and I do have people living along recreational roads in my constituency. I wasn't going to go into the inequality of some of the situations, but I know I have many people who have their prime residence at Lake Laberge and that road is not maintained on a year-round basis and yet at Marsh Lake where people have recreational property that road is maintained on a year-round basis. So it makes it very difficult for me to justify to my constituents at Lake Laberge that they are just a little different than the people who live at Marsh Lake.

However, I would also like to point out that the people at Lake Laberge were looking for maintenance on a twelve-month basis but, through the Boundary Association, who have committed themselves to living in this area outside of the normally developed areas, they do this and have stated that they're not looking for extra services. Through the Boundary Association they have requested people who live on recreational roads not to make special requests for special concessions. So they are disciplining themselves and they are, themselves, paying for the maintenance of that road.

However, one other thing that should be brought out. When we have areas such as the area that is sort of represented by the Boundary Association, I think that if in the near future we have some type of local government structure then their taxes can be used and they can determine what roads they in fact want to maintain on a twelve-month basis.

Thank you, Mr. Speaker.

**Mr. Speaker:** 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 Number 4

**Madam Clerk:** Item Number 4, standing in the name of the Honourable Member, Mr. Lengerke.

**Mr. Speaker:** Is the Honourable Member prepared to proceed with Item Number 4 this morning?

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

**Mr. Speaker:** It has been moved by the Honourable Member from Whitehorse Riverdale, seconded by the Honourable Member from Kluane, THAT, 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 should 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 the public be fully informed prior to the completion and opening of the Dempster Highway.

The Honourable Member from Whitehorse Riverdale.

**Mr. Lengerke:** Yes, Mr. Speaker. The motion is in response again to discussions that we had during budget. As you recall, we were told that I believe there is a person that is to be designated to carry out some study along the Dempster Highway with respect to the caribou herd and other problems, environmental problems, that could occur. We were also told that there probably isn't enough manpower and there isn't enough money to be able to do that in the time frame to coincide with the opening of the Dempster, if in fact the Dempster is to open, Mr. Speaker.

I'm concerned that if the study is completed it is done fairly, because we do have a lot of questions; a lot of interest groups have raised the matter that the Dempster Highway should not be built because of the problems with the caribou herd.

I am suggesting by this motion, Mr. Speaker, that we should provide the facilities and the manpower required to get that job done in a first-rate fashion. When I said in the motion, I say make arrangements for, I'm thinking in terms of the money, the availability that might be had through the General Development Agreement, Mr. Speaker, and this is all I'm saying. It's the opinion that we should move ahead, try to reinforce the manpower that we've already got in place, provide a few other people to help out and make other arrangements, if we have to, with the Federal Government to complete the study.

**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 the motion as carried.

*(Motion carried)*

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

The Honourable Member from Pelly River?

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

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

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

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 leaves Chair)*

## COMMITTEE OF THE WHOLE

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

*(Recess)*

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

We will continue with Real Estate Agents' Licensing Ordinance, page 23. Clause 33(1).

*(Reads Clause 33)*

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

**Mr. McIntyre:** Yes, Mr. Chairman. Thirty-three appears to deal with both licensed and unlicensed salesmen and agents and if neither the salesmen or the agents are licensed how would they be registered in the records of the superintendent?

**Mr. Spray:** Mr. Chairman, we're dealing here primarily with licensed salesmen. This is our reference. The licensed salesman must deal only through his licensed agent.

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

**Mr. McIntyre:** In all the other sections we are specifically dealing with licensed people, you refer to them as licensed agents and licensed salesmen, but wherever you refer to a salesman or an agent without 'licensed' preceding it, you must be inferring that it applies to everyone who puts himself out as a salesman, whether he's licensed or unlicensed. If he's not licensed, you wouldn't have any record of who he's employed by. All I'm pointing out is that, 33, you wouldn't have the records in your office of an unlicensed salesman who was acting on behalf of an unlicensed agent, and that unlicensed agent could be a lawyer.

**Mr. Spray:** Mr. Chairman, no person may act as a salesman unless they are licensed. There are other provisions in the Ordinance which restrict them from selling or acting on real estate trades unless they are licensed. A lawyer is not classified as an agent. His trade must be a solicitor's trade. When we're saying salesman here, we are inferring that it is a licensed salesman. We would not, quite correctly, have the records of unlicensed salesmen or unlicensed agents.

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

**Mr. McIntyre:** Mr. Chairman, if your interpretation then is that salesmen, wherever it's used in this Ordinance, refers to licensed salesmen, then in Section 31



what you are saying is a licensed agent. You're using one terminology in certain sections and a different terminology in others.

If all salesmen in this Ordinance are licensed, then why do you refer to, in 31, a licensed salesman? There must be some special reason for saying a licensed agent, and a licensed salesman. Then, in 32, you just say agent or salesman.

**Mr. Spray:** Well taken, Mr. Chairman, and I would, rather than put licensed salesman into 33, I would drop the terms 'licensed' in 31. But I would like the opportunity to look at that, if I may?

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

**Mrs. Watson:** Further to that point, when you refer to agent in 30(1) and if you look at your definition section, agent does not mean a licensed agent and you might be able to correct that by making your definition of agent refer only to a licensed agent under this Ordinance, and a licensed salesman under this Ordinance.

**Mr. Legal Advisor:** Mr. Chairman, you couldn't do that because there are things which cover a person who is not licensed and he's not permitted to do something. It's also a person who is holding himself out to be an agent who is covered in other sections.

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

**Hon. Mrs. Whyard:** Mr. Chairman, I think it might be helpful if the Honourable Member from Mayo would raise his question again now that the Legal Advisor is with us. I think he missed the first few chances.

**Mr. McIntyre:** Thank you, Mr. Legal Advisor; what I was pointing out, in 33, really — I appreciate that there are going to be unlicensed and licensed salesmen and this Ordinance applies to both, but in 33, if the salesmen were not licensed and particularly if the agent was not licensed, then there wouldn't be any records in the office of the Superintendent.

**Mr. Spray:** Correct, Mr. Chairman.

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

**Hon. Mrs. Whyard:** Mr. Chairman, could I suggest that this is another area that we will look at when amending?

**Mr. Legal Advisor:** Yes, Mr. Chairman, except that the word license is not necessary to make Section 33 mean what it intends to mean. We're saying that a salesman cannot trade in real estate on behalf of an agent other than the agent who is on the records. The word license doesn't help that sense.

**Mrs. Watson:** But it certainly does in Section 30.

**Mr. Spray:** Mr. Chairman, we will be looking at Section 30. I've already discovered a slight problem with it over and above and it does require amendment.

**Mr. Chairman:** We'll stand Clause 33.

Thirty-four (1):

(*Reads Clause 34*)

**Some Members:** Clear.

**Mr. Chairman:** Thirty-five (1):

(*Reads Clause 35*)

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

**Mrs. Watson:** Mr. Chairman, am I assuming that, in 35, there isn't a requirement that the agreement to list real estate with an agent be in writing at all times? There isn't that requirement there?

**Mr. Legal Advisor:** No, Mr. Chairman, the agreement under this Section does not have to be in writing, but if it is in writing, then certain things occur.

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

**Mrs. Watson:** Mr. Chairman, could I ask then, either of the witnesses, would there be merit to having a requirement to have the agreement in writing?

**Mr. Legal Advisor:** Mr. Chairman, that can go either way. You are in a difficult situation with oral contracts and written contracts right through the whole commercial world. There are very few contracts which are required by law to be in writing. Some of them are very ancient, such as the Statute of Frauds in around about 1200-1300, which is still in force, but it may have the effect of blocking off normal commercial transactions if you require every transaction to be, every agreement to be, in writing. There are merits either way. For certainty in writing, yes, but perhaps it might block up the average person in their business too much to require that every contract be in writing on a specific form. It's dicey one way or the other.

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

**Mr. Fleming:** Yes, Mr. Chairman. I ask the Legal Advisor, then, that, before the deal is finalized though, there must be an agreement in writing, right?

**Mr. Legal Advisor:** No, Mr. Chairman. It's not required that the relationship in contract between the agent and his client is in writing. And it's normal, so far as I know in any profession, that these things must be in writing. But, there are certain rules if it is in writing.

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

**Mr. Fleming:** Mr. Chairman, I might ask Mr. Legal Advisor then, what happens to the income tax if this is not recorded somewhere in the books on a sale of a home or anything else?

**Mr. Legal Advisor:** Nothing happens so far as income tax is concerned, Mr. Chairman, unless there is a transaction which involves money or the payment of money. In a high proportion of these transactions, no money passes from one person to another because the



contract is a type of contract which is unsuccessful in achieving its end results so there's no commission becomes payable. This is a high proportion of them. It's not every bid to a real estate agent that generates money, but where money is generated then there presumably would be a written receipt to be entered on the books in the normal way and the income tax would catch it.

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

**Mr. Lengerke:** Mr. Chairman, maybe, could I ask if this would be interpreted as an exclusive listing?

**Mr. Legal Advisor:** No, Mr. Chairman, unless it says so, it wouldn't be an exclusive listing.

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

**Hon. Mrs. Whyard:** Well, Mr. Chairman, whether it's required to be in writing or not, I think this is an excellent section and I think it gives the average person who is not familiar with financing in mortgaging in real estate matters a beautiful pattern for an agreement which will protect him, and it spells it out, "shall not have more than one date for expiring" and "must provide for the amount or the rate of commission payable", and so on. It's a nice, basic agreement which is very helpful to the average person who is not involved in these matters daily.

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

**Mr. Spray:** Mr. Chairman, while this section does not specifically state that it's for exclusive listing, this is one of the main reasons that we have it in, that if there is an exclusive listing there must be a termination date on that listing. It must be in writing and there must be a statement as to what the commission will be. But for the -- and most of the agents I think the larger agents would if they are having an exclusive listing, put their agreements in writing. But I think it would be rather onerous on the agents and on the individuals to force them to put every listing in writing.

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

**Mrs. Watson:** Mr. Chairman, isn't that the source of a lot of problems that people run into because it is the verbal agreement. They don't know, especially expiry date, if you're putting up your home, listing it, and you don't have anything in writing and you don't know whether that listing carries for thirty days or sixty days and if you try to change and go with another real estate company, you're in trouble. Or if you sell it on your own ninety days later and you haven't got anything, then the real estate company can come back to you and say, "well look you listed with us, it's ninety days but we still want our commission. You sold it yourself." And this is where most of the problems arise, because it isn't in writing, people don't know of these things.

**Mr. Legal Advisor:** Mr. Chairman, we're talking about a very narrow segment of the business of a real estate agent when we are talking about an agreement by an agent to list somebody's property. It's a narrow

segment.

There is quite a wide element within the trade, not necessarily in Whitehorse, but other places, who actively seek out things to purchase on behalf of people who are looking to purchase, and they very often telephone a person and they do a lot of this as an oral transaction and then come in and try to get a commission later.

This is an agreement to list real estate with an agent whereby the agent undertakes to do something, which is to provide the publicity for the listing and supply it to clients when he comes in.

Now this is only covering this particular segment.

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

**Mr. Lengerke:** Mr. Chairman, I'm a little confused with this, because to me this is an exclusive listing. In real estate, as I am aware, there is exclusive listings, there's multiple listings, and I guess then there is the kind of listing the Legal Advisor is saying is okay - fine, buddy, I'll advertise your house and we'll take the chances. I might get a commission, I might not if you sell it, I don't know. That seems pretty haphazard.

To me, this is an exclusive listing. I was just looking through, again, and I have a couple of ordinances here and this is rather an interesting one here.

It says an "agreement purporting to be an exclusive listing of real estate for sale, exchange, lease or rental is not valid" - is not valid, "unless it is in writing and the true copy is delivered to each party thereof" and so on, and it contains a provision. I think it must be in writing, especially if, you know, maybe we should interpret this then as an exclusive listing, because we're going to run into some difficulty here if we don't.

What's the sense of an agent saying, fine I'll list the thing and we'll take our chances, you know, if you sell it, I sell it or whatever. What's the basis of the agreement? I think it's very weak.

**Mr. Legal Advisor:** Mr. Chairman, that's a new ball game.

The Honourable Member is dealing with an agreement for an exclusive listing. We could have a section where we say an agreement for an exclusive listing must be in writing, but that's not what we have said here. This is dealing with an agreement to list and it's clearly, on its face, not an agreement for an exclusive listing.

If we want that section, then it's another matter to put that section in.

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

**Mr. Lengerke:** Mr. Chairman, then you are saying to me that this agreement, if it's not an exclusive listing, you can list your house with one realtor and ten other realtors can make the same agreement.

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

**Mr. Lengerke:** Would that not be then a multiple listing, and there are some other terms for that?

**Mr. Legal Advisor:** There's not term given to it in this Ordinance. It would be what would be commonly



called a multiple listing if the person did that.

**Mr. Lengerke:** And there are agreements for a commission and everything else.

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

**Mrs. Watson:** Mr. Chairman, even in multiple listing, isn't it very important to have the terms of the agreement specified for the person who is listing their property? Isn't it important? Particularly, when it's a multiple listing.

**Mr. Legal Advisor:** Perhaps, Mr. Chairman, but this section is just dealing with a single thing. Where an agreement is in writing, it must contain certain clauses. It's not trying to control what happens in the varied field of multiple listings, or the specialized field of specialized listings and single listings, and so forth. This is a new ball game. This section should be considered on the basis of what it is attempting to do.

If the Honourable Members wish the Ordinance to go beyond that point and set out a series of sections to control multiple listings, or exclusive listings, then that's a new field which this Ordinance does not attempt to do in this area.

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

**Mrs. Watson:** Well, Mr. Chairman, it appears that this section then is lifted out from another where, if a listing is in writing, and maybe in the other jurisdictions they may list the type of listings where the agreement is required in writing and then you go on to say that when it is in writing, then you must have this specific information in the agreement.

**Mr. Legal Advisor:** The term 'lifted' is pejorative, Mr. Chairman, it implies a certain form of theft but there's no copyright in legislation.

It's a policy matter what to do and the Bill that is before us does one thing. It's a question for consideration whether it should do more.

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

**Mr. Spray:** Mr. Chairman, there are two ways of attacking this problem. One is to specify the conditions for multiple listing, exclusive listing and any other contracts for listing.

What we are saying is that if you do enter into a contract for multiple, exclusive or other, if it is in writing, you must have these very basic points in it.

We are covering multiple listing, we are covering exclusive listing if they are contracts in writing which most agents would prefer, of course. Rather than go into a very complex series of sections dealing with each individual one, taking into consideration the real estate market situation here in the Yukon.

This is a system used by some jurisdictions. Other jurisdictions go into the more complex listing of sections for multiple, exclusive, et cetera.

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

**Mr. Berger:** Yes, Mr. Chairman, I find it quite in-

teresting, the witness telling us that most agents would prefer an agreement in writing. I was wondering why we don't have procedure in this legislation, to come up with a "must" agreement in writing like an exclusive listing and so on.

I mean, if the agents prefer this then I think -- this is also legislation to help real estate agents in the Territory, why don't we come up with a special section on this like they have in other legislatures?

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

**Mr. Spray:** Mr. Chairman, the options are open to the agent and the vendor if they wish to have an oral agreement, they may do so. We are not -- we have not considered it necessary to restrict them to agreements in writing.

They have the right to have an oral agreement if they wish.

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

**Mr. Lengerke:** Mr. Chairman, maybe the witness can tell me, are the majority of listings, with a realtor, exclusive listings? Is this common practice?

**Mr. Spray:** Mr. Chairman, I would consider it more common to have exclusive listings, than any other type, yes.

**Mr. Lengerke:** Yes.

**Mr. Chairman:** It is the only type that they are using in the Yukon at the present time, isn't it?

**Mr. Spray:** At the present time, Mr. Chairman.

**Mr. Lengerke:** Mr. Chairman, I am going to make a suggestion and I suggest that we have an exclusive listing section and the ones that I take a look at are a heck of a lot shorter than what we have got here and more clearly understood.

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

**Mr. Spray:** Mr. Chairman, we will look at a section for exclusive listing. My concern, you know, the government's concern is the listing of property in some of the outlying communities where if you have to enter into an agreement, where it is giving an agent in Whitehorse an exclusive listing for that property, the vendor then is cutting himself out of the possibility of selling that property himself.

He may enter into an agreement with an agent whereby the agent in Whitehorse will attempt to sell that property, if he does sell it he will receive the commission, but the vendor wants to reserve the right to himself, since he is on site and the agent is not, to be able to sell that property to somebody locally or somebody that he happens to come across in the vicinity that the property is situated in.

**Mr. Lengerke:** Mr. Chairman, that would be the case where there isn't an agreement in writing.

**Mr. Spray:** Or, Mr. Chairman, where there's an ag-



reement in writing but it is not an exclusive listing.

**Mr. Lengerke:** Okay well then it's nothing to preclude that.

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

**Mrs. Watson:** Mr. Chairman, I think that a lot of people, Members, assume that once they are listed with a real estate agent, it goes on and on and on and on. And there is a time limit to an exclusive listing and this is one of the things that concerns me and I would support the suggestion by the Honourable Member from Riverdale that at least when the section is being reviewed, that the government look at the possibilities of putting in sections defining the requirements for a written agreement in exclusive listings and also to look into the possibility of doing that with multiple listing.

I know that the ramifications are a lot deeper than what are being brought up this morning, but I think it certainly deserves some very in-depth work on it and look at it -- or even come back with alternatives for it. But I would not like to just leave it with no requirements until some work is done on it.

**Mr. Chairman:** Is it the Committee's wish that this be looked into further and brought back?

**Mr. Fleming:**

Yes, Mr. Chairman, I had a question but I think I had that answered, however, I'm going to go on record as saying that I don't care to see all agreements in real estate in writing. Hopefully that this won't happen because it does give the person the opportunity to list his property wherever he wants. It belongs to him and if the real estate salesman wants to have it listed in his window that's fine with me, I might want to sell my own property somewhere, so therefore I hope they wouldn't go to the extent of bringing it back where it would all be in writing.

**Hon. Mrs. Whyard:** I'd rather it because it's been dinned into me from my mother's knee, you know, get it in writing. It's my old WASP upbringing to get it in writing and to make sure that the details are there and that you both sign it and I'm sure that any reputable real estate agent wants to have it in writing as well.

**Mr. Chairman:** We'll stand Clause 35.  
36(1).

*(Reads Clause 36)*

**Mrs. Watson:** Well Mr. Chairman, in 36(1), I think there's a shining example where a licensed person - doesn't an unlicensed person have to do that?

**Mr. Legal Advisor:** At least not in that question, Mr. Chairman.

**Mrs. Watson:** You've got it, put it in writing.

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

**Hon. Mrs. Whyard:** Mr. Chairman, before you move

on to the next section, we've been provided with copies of an article which may be of interest to Members of Committee on the subject of property user's licence and joint property, which I would ask to have distributed, to be read at your leisure.

**Mr. Chairman:** Trading in Subdivision Lots Outside Yukon.

**Mrs. Watson?**

**Mrs. Watson:** Mr. Chairman, again, going back to that licensed person and that brought back that property user's licence. Would a licensed person also then be the property -- person who has a property user's licence?

**Mr. Legal Advisor:** No, Mr. Chairman. The reason that licensed person is used, as shorthand, it could be an agent or salesman, but it's just a -- maybe the draftsman got tired of the same word.

**Mr. Spray:** Mr. Chairman, may I comment?

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

**Mr. Spray:** The licensed person in 36(1) differentiates between the agent or salesman and the person who is exempted from the provisions of this Ordinance being a barrister, solicitor or an executor of an estate. We're attempting to control the real estate, the normal real estate trades, not the exceptions which were made in the Ordinance.

**Mr. Chairman:** 37(1).

*(Reads Clause 37)*

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

**Mr. Lengerke:** Mr. Chairman, are we really talking of a promoter in this instance?

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

**Mr. Lengerke:** Mr. Chairman, I'd just like to comment that I don't know if we really allow that kind of thing to happen in Yukon anymore. I don't think we've got any land that any promoter can do anything with.

**Mr. Legal Advisor:** It's promoting Hawaii, Arizona, Florida, and California, Mr. Chairman.

**Mr. Lengerke:** Yes, I realize it is outside of Yukon, Mr. Chairman.

**Mr. Legal Advisor:** The sun hasn't shone here yet, Mr. Chairman.

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

**Hon. Mrs. Whyard:** May I ask Mr. Spray whether the recommendations from the Real Estate Association regarding lots outside the Yukon were taken into consideration? Since they pointed out that, they asked that all sections regarding trading in lots outside the Yukon be stated to not apply to properties in Atlin, Lower Post



or along the Northern B.C. portion of the Alaska Highway, because Whitehorse has been traditionally a place where many of these properties are listed for sale, and they believed that this would not be in contravention of the true spirit of this restriction. Is there any legal way, Mr. Chairman, that we could do such a thing and include areas outside the Yukon in our Ordinance, or is this impossible?

**Mr. Spray:** Under section 38, Mr. Chairman, there is provision for the Superintendent to give written authorization to trade in lots outside of Yukon without a prospectus being issued. When we discussed this point with the Association, this was pointed out to them, that we would find it difficult to recommend that we exclude Atlin, Lower Post and those areas from the application of this section in order that they may deal with them.

We would prefer that they get written authorization to deal with individual properties out there, because it is quite possible that someone would create a development in the Atlin area and try and promote it in the Yukon, and we would want to control it. Whereas within, I would say, twenty-four hours they could get written authorization to deal in individual properties without issuing a prospectus, and they seem to be satisfied with this explanation.

**Hon. Mrs. Whyard:** Thank you, Mr. Chairman, I didn't intend to anticipate the section. I'm sorry.

**Mr. Chairman:** Section 37, clear?

**Some Members:** Clear.

**Mr. Chairman:** Section 38(1).

*(Reads Section 38)*

**Mr. Chairman:** Clear?

**Some Members:** Clear.

**Mr. Chairman:** Section 39(1).

*(Reads Section 39)*

**Mr. Chairman:** Clear?

**Some Members:** Clear.

**Mr. Chairman:** Section 40(1).

*(Reads Section 40)*

**Mr. Legal Advisor:** There's a typo in line 34, the "and" should be "any". On page 27.

**Mr. Chairman:** Clear?

**Some Members:** Clear.

**Mr. Chairman:** Forty-one (1).

*(Reads Clause 41)*

**Some Members:** Clear.

**Mr. Chairman:** Forty-two (1).

*(Reads Clause 42)*

**Some Members:** Clear.

**Mr. Chairman:** Forty-three (1).

*(Reads Clause 43)*

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

**Hon. Mrs. Whyard:** Mr. Chairman, I hope the superintendent will enjoy his inspections of real estate in Hawaii and the islands, which I'm sure are going to be the ones that will require most investigation.

**Mr. Spray:** I'll leave that to the developer, Mr. Spray, yes.

**Mr. Chairman:** Clear?

**Some Members:** Clear.

**Mr. Chairman:** Forty-four (1).

*(Reads Clause 44)*

**Some Members:** Clear.

**Mr. Chairman:** Forty-five (1).

*(Reads Clause 45)*

**Mr. Chairman:** Clear?

**Some Members:** Clear.

**Mr. Chairman:** Clause Forty-five, clear?

**Some Members:** Clear.

**Mr. Chairman:** Forty-six (1).

*(Reads Clause 46)*

**Mr. Chairman:** Forty-seven (1).

*(Reads Clause 47)*

**Mr. Chairman:** Clear?

**Some Members:** Clear.

**Mr. Chairman:** Forty-eight (1).

*(Reads Clause 48)*

**Mr. Chairman:** Clear?

**Some Members:** Clear.

**Mr. Chairman:** Forty-nine (1).

*(Reads Clause 49)*



**Mr. Chairman:** Clear?

**Some Members:** Clear.

**Mr. Chairman:** Offences, Fifty (1).

*(Reads Clause 40)*

**Mr. Chairman:** Clear?

**Some Members:** Clear.

**Mr. Chairman:** Fifty-one (1).

*(Reads Clause 51)*

**Mr. Chairman:** Clear? Clause 51 clear?

**Some Members:** Clear.

**Mr. Chairman:** Fifty-two (1).

*(Reads Clause 52)*

**Some Members:** Clear.

**Mr. Chairman:** Fifty-three (1).

*(Reads Clause 53)*

**Some Members:** Clear.

**Mr. Chairman:** Fifty-four (1).

*(Reads Clause 54)*

**Some Members:** Clear.

**Mr. Chairman:** Fifty-five (1).

*(Reads Clause 55)*

**Mr. Chairman:** Regulations, Fifty-six (1).

*(Reads Clause 56)*

**Mr. Chairman:** Clear?

**Some Members:** Clear.

**Mr. Chairman:** Fifty-seven (1).

*(Reads Clause 57)*

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

**Hon. Mrs. Whyard:** Mr. Chairman, there is available an outline of the proposed regulations and I wonder if Mr. Spray wishes to comment on them before we move the Bill?

**Mr. Spray:** Mr. Chairman, this is simply an outline. I'm not necessarily sure that the facts and the forms in this outline will end up in the regulations because we are discussing them, or will be discussing them with the Association. But I've attempted to put down some of the

more important points in here regarding prospectus, application for licences and some of the information that we will be asking agents and salesmen to provide before they are provided with a licence.

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

**Hon. Mrs. Whyard:** Mr. Chairman, if there are no questions on that particular point, I wonder if I could ask, I may have missed it somewhere in the Ordinance, I know that we have laid down requirements for being licensed and the procedures for suspending or cancelling a licence and for appealing. Is there some section in this Ordinance which spells out how the public will know whether someone has had their licence cancelled or suspended? Is there some way that this gets back to the consumer? Can it be assumed that they will no longer be using some form of advertising to the public that they are available in the business whether or not they stay licensed or not? Have we buttoned that one down tightly enough?

**Mr. Spray:** Mr. Chairman, we've made no provision requiring the superintendent to advertise the fact that a licence has been suspended, cancelled or not renewed. What we have stated in here is that a person, if they are advertising real estate, must state that they are licensed under the Ordinance or that they are salesmen of a licensed agent. This is the only area we've covered. And then it would be up to us to, in the government, to make sure that we watch all advertisements and if they state that they are licensed in the advertisement when we indeed know that they are not, we would take action to stop it. But in this Ordinance, as in all our other Ordinances, we have made no provision for advertising the fact that we have suspended or cancelled a licence.

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

**Mr. Lengerke:** Yes, Mr. Chairman, the Honourable Minister brings up an excellent point and the public cannot always just rely on the advertising to be able to identify who is a bona fide salesman or a licensed agent, or whatever, and I wonder, I know that this prevails in some of the states where licensed real estate salesmen have an identification card. They actually carry a little bona fide licence around with them. I'm wondering if any thought has been given to this.

This is something -- I'm thinking in terms of a salesman who may wander away from Whitehorse and go into the Haines Junction area, or even as far as that goes be in Whitehorse, and we have a lot of transient type people who don't know if the guy is a bona fide salesman or not. This would certainly identify them.

I know in other jurisdictions it is being done.

**Mr. Spray:** We hadn't considered this point, Mr. Chairman, but there is certainly no reason why we couldn't, as part of the licensing, provide some form of card such as we do for some of our own government people when they have particular appointments under an Ordinance.

**Mr. Lengerke:** It's just for consideration.

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



**Hon. Mrs. Whyard:** I think that would be worth pursuing, Mr. Chairman, and probably through the Real Estate Association who might wish to have their own official card for their members. It's not everyone, of course, who's going to say "are you licensed" when they are approached by someone, but it would be a step in that direction.

**Mr. Chairman:** Clause 57, clear?

**Some Members:** Clear.

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

**Mr. McCall:** I'd like to go back for a second, if I may, to Section 56, section (f). I'm a little concerned about section (f). It gives a considerable amount of latitude when you are making regulations where it says: "generally for any matters necessary for carrying out the intent and purposes of this Ordinance." I think it should be a lot tighter than that. I can't really sit with that language.

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

**Hon. Mrs. Whyard:** I would ask for further indication from the Legal Advisor, but it's my understanding that's a routine section for nearly all of our Ordinances.

**Mr. Legal Advisor:** It's a routine section, Mr. Chairman, it's the standard form.

**Mr. Chairman:** I don't really think that answers Mr. McCall's query.

**Mr. Legal Advisor:** We could make it stronger, Mr. Chairman. We could use the medicare section which says that the Commissioner may make any regulations necessary with the carrying out of this Ordinance and may amend this Ordinance or define anything, or fill out anything which was forgotten about in the Ordinance. That's a very good section.

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

**Mr. McCall:** We talk about regulations, Mr. Chairman, not the Ordinance itself, and I'm not satisfied with that language. If this is normal language, maybe we should be putting stronger language in here. There's too much latitude going on with regulations.

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

**Mr. Lengerke:** Yes, Mr. Chairman. I think I know what the Honourable Member from Pelly is getting at. Again, we go back, we can look at other Ordinances throughout other jurisdictions where they do give the Lieutenant-Governor or the Commissioner -- not the Commissioner, but certainly the Director of various departments -- powers to make regulations and to do certain things, but they do give them a limit. In other words, just for an example, prescribing the fees payable, we could very well prescribe a range of fees where we could, to govern this. In other words, we as elected members, would say fine, we don't think an insurance person should have to pay more than \$50.00 for a licence,

or less than \$10.00 or whatever the case may be. I'm using this as an example, Mr. Chairman. But I think this is what the Honourable Member is getting at. He can, I'm sure, comment; maybe I'm wrong, but I think this is what he would like.

It is the prerogative of this House to stand a section like this over and require some work to put this kind of thought into words.

**Mr. Chairman:** We might as well take it -- we do need a specific direction if we wish this to be amended. Mr. McCall?

**Mr. McCall:** Yes, Mr. Chairman, I would suggest that this particular section, 56, be taken back to Committee so that they can tighten up this particular area. If they wish some direction, they can get it from the Statutory Regulations Committee.

**Hon. Mrs. Whyard:** Mr. Chairman; with respect, Mr. Chairman, I advise the Honourable Member to take a look at the rest of his Ordinances, because that section is in there.

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

**Hon. Mr. Lang:** Mr. Chairman, I thought this was the reason for the statutory committee being formed, was that if an Ordinance passed this House and the regulations subsequently were sent to Members, they would have the ability of looking at these regulations and see if they were with the intent of the Ordinance. If they were not, they would raise it in the House that the regulations had gone too far in relation to what was the intent of the Ordinance.

I can't see anything wrong with this at all because I would suggest that the statutory committee would, after the regulations come into effect, would review them and raise the particular issue if there is a problem with the regulation. This was my understanding of the whole concept in relation to the committee being formed.

**Mr. Chairman:** That may be true, Mr. Lang, but it still doesn't answer the query of Mr. McCall that this particular clause gives too much latitude.

**Hon. Mrs. Whyard:** Mr. Chairman, this particular clause says "for any matters necessary for carrying out the intent and purposes of this Ordinance". Now, is the Honourable Member implying that he does not wish the intent and purpose of this Ordinance to be carried out?

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

**Mr. McCall:** We, as usual, we seem to be misunderstanding one another again. If the Honourable Minister would look at subsection one without going any further, it says "without restricting the generality of the foregoing". That means one heck of a lot, as far as I'm concerned, and I'm not satisfied with that line.

As I suggested, the statutory regulations committee may be able to be of assistance to the Ministers. We would gladly advise you of what language to put in as far as governing and what is allowable as far as regulations under an Ordinance such as this. We're not suggesting



for one moment that we're going to play around after the fact. We're suggesting that the language in reference to regulations and how they are made under this particular piece of legislation should be a lot tighter so that there is a very minimal amount of latitude to allow the Commissioner to make just whatever regulations he so wishes. We want it in legislation, not in regulations, and we can see again that we're going to have a nice big pile of regulations and very little in the Ordinance itself. And if the Ministers want the proposed language to tighten up this particular Section 56, fine, we can oblige.

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

**Mrs. Watson:** Mr. Chairman, it's because of this specific section, or sections like this, that the Minister of Health was referring to, is the fact that the committee was set up. It is so easy for the administration when they have to deal with a piece of legislation to interpret their intent of the legislation. What the Member from Pelly River is saying, if we see there is a need for regulations but we want to be more specific in what areas the regulations can be made. And it is not up to Mr. Spray's interpretation of the intent of the legislation; it should be the intent of the legislation and should be spelled out very specifically in what powers for regulations you have. And I agree with the Honourable Members very much. I would say the committee that works. Why should they come in afterwards and say, well, you didn't, just because that section is in there, you can put in the kitchen sink; you can justify putting that in.

So I agree with him very much and if he says that they have some wording, if they've come across some wording that is more -- you don't want to be restrictive and not let the administration do what they need to do, but you don't want to give them the authority to do more than the intent of the legislation and the generality of the foregoing, you know, it's pretty broad.

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

**Hon. Mr. Lang:** Mr. Chairman, I may stand to be corrected here, but it's my understanding that you have a rough copy of the proposed regulations that would be coming into effect in relation to this Ordinance. If Members have a problem in relation to what is being tentatively proposed, they should be raising it, but it was my understanding in relation to this statutory committee that after regulations had come into effect they would be looking at them and if it was beyond the intent and purposes of an ordinance as outlined in Section 56 that they would be bringing it to the Administration's attention.

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

**Mr. Lengerke:** I think that the concern is that the day after this House prorogues the new regulations can be brought in and the House has no control over it. That is the concern.

**Hon. Mr. Lang:** Well, Mr. Chairman, I would like to think that maybe Members would have confidence in some of the Members who are on the Executive Committee.

**Mr. Chairman:** I'm sorry, you're not permitted to think that.

*(Laughter)*

**Mr. Legal Advisor:** The fact of the matter, from the drafting point of view, is it's impossible to foresee all the myriad minor little points that arise that perhaps would be better dealt with in the legislation. It's impossible. You need to be an almighty being to be able to foresee in that generation, so this is intended merely to allow us to pick up errors and there is no regular correspondence with my office from the new committee that is set up, which is pointed out to us where any department ever exceeded as a routine matter of the powers. Occasionally there's a gray area of doubt, but the track record is pretty good over the ten years that I'm familiar with the legislation. And our regulations have been pretty good and I don't see why they shouldn't continue; just because this committee has been set up doesn't suddenly make us bad and these people wearing white hats.

*(Laughter)*

**Mr. Chairman:** Mr. Legal Advisor, what does appear to make you look bad is that I think Members have been exposed to legislation from the provinces where they have specified how regulations can be drawn up. They are quite different than what we're facing here now.

**Mr. Legal Advisor:** Oh, of course, Mr. Chairman, because we're a modern state here. We're a new area and we do things better, Mr. Chairman, and we do things simply and we don't want to burden these people by sitting day after day, poring over regulations. That's the business of the administration and the government to make regulations and the business of the House to make the law.

**Mr. Chairman:** Is it the business of the House to prescribe what the regulations shall and shall not do?

**Mr. Legal Advisor:** Of course Mr. Chairman, and it does it very well and I think it's been doing it very well for many years.

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

**Mr. Berger:** Yes, Mr. Chairman. I am in full agreement with the Honourable Member from Pelly. I think we had a good example in this legislation in front of us. There are so many grey areas in this legislation where a person who is real handy with a pen and a typewriter could get really out of hand in regulations.

We have a good example and a certain piece of legislation and regulation. The legislation has 58 pages, the regulation has 120 pages. I ask you, there has to be something wrong with the legislation, if you have to have 120 pages of regulations to straighten out the legislation, and this is exactly what could happen with this thing here, too.

I think what the Honourable Member from Pelly's intent is to show -- the Legal Advisor was saying yesterday he doesn't want to burden us with sitting us too long here coming up with legislation too explicit, because it



may take the time of all the Members of this House. I think this is our duty to take the time, to look into those matters and to avoid to come up with unnecessary regulations. I think this is exactly what the Honourable Member from Pelly is stating, and this is my wish, and I think it is the wish of this House. I think it's high time we go this way.

There's so many examples, we have the Alberta Real Estate Act, the B.C. Real Estate Act, they all spell it out in their acts, not in the regulations.

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

**Mr. Lengerke:** Thank you Mr. Chairman. No, I won't say anymore. I think it's been well said.

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

**Mrs. Watson:** Mr. Chairman, I'd just like to say the Committee likely hasn't seen where they've exceeded their powers under the legislation, because it gave you so much power there's no way you can exceed, look at the power you were given there.

**Mr. Legal Advisor:** Mr. Chairman, sometimes this is the design of the House. This House passed a Building Standards Ordinance a couple of years ago, which contained only one section, which said the Commissioner may make regulations establishing building standards throughout the territory. The House was apprised of what was happening, the building standards came out, and if you put together the codes and everything, it could be maybe 1500 or 2000 pages. It's the intention of the House not to burden itself with endless debate over fiddley little things which should be debated in Mr. Spray's office, and are relatively unimportant. They can always be raised, and are always notified to Members.

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

**Mr. Berger:** Mr. Chairman, I would like to go back to the proposed legislation. I have a question actually. If the real estate agent accepts a listing from, say his head office is in Whitehorse, and he accepts a listing say from Dawson City or Faro, is this real estate agent required to purchase a city licence in Dawson or in Faro?

**Mr. Legal Advisor:** The Honourable Member is asking for a legal opinion. I would not think so. Not the way the legislation is normally interpreted. A person pays a business licence which is a form of local taxation, within the area where he does business, and hitherto this has not been enforced in that way. If he maintains a business office in Dawson, yes, but not if the business office is in Whitehorse.

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

**Mr. Berger:** Well, further to that, then, Mr. Chairman, this was brought to my attention in the past that, especially in the City of Dawson, when a lawyer comes into the City of Dawson to come up with a legal case, and he has no office in Dawson, he's been hired by a client to represent him in the court, and this lawyer was requested and asked by the City of Dawson to purchase a

city licence, and I could see the same thing happening in this real estate legislation. I was just wondering here, because in B.C. they spell it out, that the real estate agent does not have to purchase a city licence in any other municipalities where he has no head office.

**Mr. Legal Advisor:** Well, Mr. Chairman, the Member is only correct in part in relation to the lawyer who has to get a business licence. A particular lawyer, like most lawyers, is very vocal in objecting violently in having to take out a business licence, as did all the lawyers in Whitehorse. An amicable arrangement was come to whereby the lawyers jointly would take out a business licence for the court days on which they went to Dawson, but they were not required to take out a licence in respect of doing business in Whitehorse for a client who would get on the telephone to Whitehorse and phone them up. But, it's purely a matter for the House to decide whether they should or should not interfere with the capacity of Dawson to impose its own licences as wished.

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

**Hon. Mrs. Whyard:** To tie that one down, this Ordinance provides for licensing someone to deal in real estate whether or not they are doing business here or elsewhere, they would still have to buy a local business licence, as anyone else does. If they're doing business in Dawson they pay it there and here, it's the same. I believe Mr. Spray is trying to break through the sound barrier.

**Mr. Chairman:** Yes, I think we're wandering off our subject.

Mr. Spray.

**Mr. Spray:** Mr. Chairman, on licensing, it is not uncommon in the provinces to put into an ordinance or an act such as real estate or insurance that the agents and salesmen are not subject, they may not have to buy municipal licences. But it is also very common in the other jurisdictions to make licences regulatory only, not a form of revenue such as we do in the Yukon. A city in Alberta or B.C. may charge a very minimum licence fee for a business licence because they also have a business tax and if the agent is regulated by the province, they are not concerned about regulating it in the municipality. This is why we have, although we are aware of this provision in other legislation, we've avoided it here. In the Territorial Business Licence Ordinance, if you have a licence under another Ordinance, you need not buy a Territorial Business Licence to operate outside the Cities of Whitehorse, Dawson, Faro, because we have them regulated and we have the revenue coming in through one ordinance.

**Mr. Chairman:** I don't think we should persist in this line of debate any further. We can come back to the regulations in general.

Mr. McCall?

**Mr. McCall:** Yes, Mr. Chairman, to just complete my remarks on section 56. I don't want to accuse the Minister of Education of being naive, but he made a reference to the Statutory Regulations Committee and I



was hoping that the Chairman would get up and throw a rebuttal at him.

He made reference to proposed regulations. Now, when you make reference to proposed regulations, they mean nothing because once a piece of legislation has been passed, those regulations can change on a daily basis and this is what the Committee is running into now and I'm hoping, from the Minister's remarks, that he would support our motions when they do come up in front of the House to allow us more latitude to look into regulations. The example I would like to give where we're having problems because of language in legislation which we're discussing right now, or debating right now, it has been shown that regulations that have supposed to have been adopted at a certain period of time have not been adopted.

They have been put forward to be amended, been put out to various areas of the Yukon, I'm talking about industry, et cetera. They've been brought back and then re-amended again and what we have is an ongoing situation where regulations are being constantly amended and the Committee is finding itself with an horrendous problem trying to keep up because no sooner are we looking at one set of regulations, and we may give a recommendation for acceptability by this House, the following day they are changed, they are re-amended. And this is the problem that the Committee is having right now with one set of regulations and this is the situation why the motions were presented yesterday in the House, the Notice of Motions.

So, we're finding that the legislation, which governs regulations or the language within regulation is not tight enough, it's not good enough, it's not acceptable. And as Mr. Berger pointed out, I don't want to see 300 pages of regulations and only 20 pages of legislation. This doesn't make sense. That is not what legislation is all about. We should not be concentrating, and no department in this government should be concentrating on masterminding regulations on a daily basis just to keep somebody in a job. We should have legislation before we have regulations. Regulations are secondary and they should always be considered secondary. But what's been going on in the last few years is regulations are more important than the legislation and that's why we're very backward in our legislation and very forward in your regulations.

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

**Hon. Mrs. Whyard:** Mr. Chairman, due to the time I will not enter into debate with the Honourable Member. I look forward to the debate which will result from the introduction of the Motion from this subject, but I would just ask one thing, Mr. Chairman, and that is that the Honourable Members should never lose track of the truth that legislation is a living, growing, viable thing which changes with changes in the world we live in and it must not be carved on stone. It must be malleable and available to change at the wish of the people who are governed by it.

**Mr. Chairman:** The Chair will require specific direction. I hope you can come up with that in the noon hour.

We'll recess until 1:30.

(Recess)

**Mr. Chairman:** I call this Committee to order.  
Mr. McCall?

**Mr. McCall:** Yes, Mr. Chairman. The Statutory Committee met through lunch period. I believe the Chair was seeking some sort of direction and we have come back with a recommendation in the form of a Motion for the Members of the Committee. I would like to read the Motion, if I may, at this time.

It has been moved by myself, seconded by Mr. Berger, that Bill Number 14, entitled, "Real Estate Agents' Licensing Ordinance" be amended in Clause 56 on Page 33 by deleting the lines one to five inclusive and inserting the following therefor: "for the purpose of carrying into effect the provisions of this part according to the true intent and meaning thereof, or of supplying any deficiency therein, the Commissioner may make such regulations done inconsistent with the spirit of this Ordinance as may be considered necessary, by..." and it goes on by adding the word "and" at the end of line 19 and deleting sub-paragraph 56.(1)(f).

**Mr. Chairman:** Thank you, Mr. McCall.  
Mr. McKinnon?

**Hon. Mr. McKinnon:** Mr. Chairman, I realize the problem that all Members are having with the regulation-making powers of the administration and the Commissioner, in particular, and it's something that I share with Honourable Members and in fact, I've done quite a lot of research in my day in time on the parliamentary control of the administration and how that best can be affected.

I have no problem at all with attempting in every method that we can to make sure that the legislature actually has control of the government and of the regulation-making authority under the administration. That's what we're all elected to do, whether we be elected Members of the Committee or the other Members of the Legislative Assembly.

I just would ask before the question is put, I don't think it's absolutely essential that it be done at the moment, that we have the ability to look at what the actual meaning of the amendment as proposed by the Honourable Member from Pelly actually entails and whether this is the wording that we are all looking for and that this is in effect, the best method of making sure that the regulation-making power under ordinances, which is necessary in a lot of instances I think we all admit, in no way takes away from the powers of this Legislature.

I think it's an important decision and it's just one that I would ask Committee's time to have the ability to look at, so that we can enter into a good debate on the subject. I'm just not capable of making a decision at the moment with the amendment which has just been proposed by the Honourable Member from Pelly. I think that all sides of this question, so we come out with the proper solution to a problem which is plaguing all Members and indeed I am in agreement with, that we come up with the proper solution to all bills in the future, Mr. Chairman.

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

**Mr. McCall:** Thank you, Mr. Chairman. I thank the



Honourable Minister for his remarks, but I do not concur with sitting around wondering and waiting as to what type of language we should be considering to be formulated for any regulations to be enacted under legislation. This particular piece of language being proposed as a recommendation in the form of a motion by the Committee has been well thought out because this present legislation is the language in legislation in British Columbia. I feel it is a good step in the right direction, it is not totally the best language we should have, but I think it is a good step in the right direction and I think we should go ahead, otherwise I'm not prepared to pass this particular Bill.

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

**Mr. Fleming:** Yes, Mr. Chairman. As Chairman of the Committee, of course, I'm supporting this motion very much. The wording is to the true intent and meaning thereof, which covers a big percentage of it. When you read the other fifty-six (1), where the generality of the foregoing, you know, so forth, is nothing. The true intent of the regulations and I think that if you just look at that and the Commissioner may make such regulations not inconsistent with the spirit of this Ordinance.

Now in the last ten years, as Mr. Legal Advisor informed us, there has been very good regulations and I have to differ with that in that there has been some terrible regulations just because they have not been inconsistent with the Ordinance they were for. In fact, they were far out as far as the Ordinance that they were actually meant to be for. I think that's—I'm not going to belabour the subject at all. That is the idea of regulations, I think they should be definitely for the true intended meaning of the Ordinance and not just written up whenever and whatever.

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

**Hon. Mr. Lang:** Mr. Chairman, I can, I fully respect Members' concern in relation to the legislation as opposed to regulations and I just want to echo what my colleague Mr. McKinnon has said is that we're prepared to look at it. I think it was common agreement around here that, around the Chambers, that we would go through the Ordinance, have various recommendations put to the Administration, give the Administration the opportunity of looking at the recommendations and subsequently, bring in proper amendments or bring in reasons why amendments shouldn't be brought in and then it would be discussed at that time. And I think that rather than vote on this Motion at the present time, Mr. Chairman, I think we should just take it as a recommendation.

My colleague has assured the Honourable Member from Pelly that we're prepared to look at it to see whether it fits into the language of the Bill and that way we'll get two perspectives; one from the Committee, from the Statutory Committee; one from the Legislative Programming Committee, and, subsequently from there we can have a good debate. I think that it would be irresponsible to vote on this amendment at the present time without giving us the opportunity of going through it and analyzing just what effect it is going to have.

I want to reiterate what I said a little earlier, Mr. Chairman, is the fact that, you know, I thought we had

agreed around the Chambers, that recommendations be put forth to the government. The Administration gets a chance to look at it, we bring in the proper amendments and then we debate them at that time and we are going away from the common agreement that was reached around these Chambers yesterday.

**Mr. Chairman:** No, we are not, Mr. Lang. Mr. McIntyre?

**Mr. McIntyre:** Mr. Chairman, I think that the people that made this motion are giving the Commissioner even more power than he already has in the sections in this Ordinance because it permits the Commissioner to supply any deficiency therein.

What we are objecting to in this Ordinance doesn't give him that power so in addition to the powers that he already has in Section 56, we are giving him additional powers so I think the motion is a stupid one.

**Mr. Chairman:** Mr. Gillespie?

**Mr. Gillespie:** Mr. Chairman, just glancing at this, there are three areas that I think we want to look at. The Honourable Member has just raised the one that hit me first and hardest, but in addition to that, it says in the second line, "of this part". I am not sure without going back through the Ordinance whether it should say "of this part" or whether it should say "of this Ordinance".

In addition to that, the third item, it says in the second line, "according to the true intent and meaning thereof" and then later on it says "not inconsistent with the spirit of the Ordinance." There seems to be a redundancy there and I would suggest, Mr. Chairman, that while this may be good wording, we could only really determine that after we have had a chance to look at it more closely.

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

**Hon. Mr. McKinnon:** Mr. Chairman, I don't want any mistakes in this House. I am on the side of any Member of this House that wants to curb the powers of the administration and put them on the rightful hands of the elected Members and the Legislative Assembly. I think we can all work together to come out to that end for the people of the Yukon, whether we happen to be Members on the Executive Committee or elected Members of the Assembly because we are all elected Members of the Assembly, looking for the same thing.

All that I am saying is when it is the other side of the coin and Honourable Members are looking for more time to study amendments and to find out whether this is the best way of going, it is a rule of all the elected Members of the Executive Committee that we give that time and help to all Honourable Members.

Now, we are looking at it from the other side. We are saying "We agree with you but this may not be the best way to go." For crying out loud, let's all have a look at it and debate it but don't put the question now. Don't force us into the position of not knowing whether this is the best method of curtailing the administration's powers and force us not to vote for the issue. Give us until Monday to be able to have time to examine the motion and say, "look, we think this is better wording, that more effectively curbs the powers of the administration



and the Commissioner and does what we all want to do."

I just don't think that we should be forced into the position of not knowing whether this is the best method of doing it and voting on the issue immediately because then we vote, not for the motion and we really want to do the same thing as the Motion intends to do. So, all it takes is just a motion that we don't proceed with the amendment at this time and the question be put on Monday. Mr. Chairman, a motion of that kind which I would be prepared to move, if the Honourable Members would agree with the situation as I see it.

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

**Mrs. Watson:** Mr. Chairman, I'd certainly like to commend the members of the Committee who accepted the challenge that was thrown to them this morning in the debates and the Honourable Minister of Local Government wasn't present when this was brought up and at that time I believe the Minister of Health said to the Members of the Committee, alright, if you don't like the section that's written, come forward with something of your own. And this Committee did then sit down and have a meeting at noon hour in order to try to meet the challenge thrown to them. And my sympathies certainly are with the Committee and I think they've faced the problem, but as the Honourable Member from Mayo said, they left in one section there that does in fact--I have great concern with and I think they all, they themselves do of supplying any deficiencies therein. So that if the legislation is deficient in something, the administration is able to make up that deficiency in regulations and I don't think we want that.

But I think that I, myself, support the Committee in their efforts to make sure that we get a section in our regulatory section which does give the power to make the regulations that are intended to be made. Because of the section in here, possibly it would be better and we could throw back the challenge to the Administration and say to them, alright, we don't like this you can bring us something that we will look at on Monday. I'm quite prepared to wait until then, but I certainly side with the Committee, that I am not prepared to let these wide open sections remain in our regulation section in our Ordinances.

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

**Mr. McCall:** Thank you, Mr. Chairman. In respect of what the Honourable Member from Mayo has said, I don't think he read it properly and I don't think he was thinking in the right direction. Because, if you look at the original suggested regulation under Section (f) which was deleted under the proposed motion, the particular language "or of supplying any deficiency therein", covers section (f), which was deleted. And further, covered in this part, we're dealing with the principles of regulations, that is Section 56 and that's what we're making reference to, as to one witness said it was not. Maybe that's why regulations have been botched up in the past, because we can't see for looking.

In respect of what the Minister of Education was saying about irresponsibility, this is the second time we've had to look at this real estate legislation. I'm still not satisfied. When you deal with regulations and you bring forward the language which we have in front of us right

now, it is no wonder we people cannot agree amongst ourselves as to the way it should be defined. And we can give you all the time in the world to come up with some more amendments to this particular legislation, just like yesterday when a particular legislation, just like yesterday when a particular bill was proposed and it was scuttled until the Fall Session, whereas it should have been brought in two years ago. It's nice to say that you need time to look at legislation when something is glaring you in the face that is wrong. It's nice to come out in support or disagree with motions to amend certain pieces of legislation, but stop representing the administration of this government and start representing people, because that's what the motion is all about.

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

**Hon. Mr. Lang:** Mr. Chairman, I just want to clarify what I said earlier. I just said that it would be irresponsible to vote on the Motion at the present time. Quite obviously from what the Member has said, there is at least two Members here that disagree with the interpretation of this particular amendment proposed. I'm saying give the Members individually an opportunity to look at it for two or three days, as the Minister of Local Government has said, and give the administration an opportunity to look at it, and subsequently we can debate it at that time.

**Mr. Chairman:** The situation before the Chair now is that a suggestion has been made that this amendment be stood over until the administration has an opportunity to look through it.

Is Committee in favour of this?

**Some Members:** Agreed.

**Mr. Chairman:** Disagreement? Okay, we'll stand that over and we'll proceed with Bill Number 8, Insurance Ordinance.

We previously embarked on consideration of the Insurance Ordinance about a month ago, on March 8th, and since that time we have some amendments that have been brought forward, and I think Committee Members have those amendments now.

Do Members have these amendments before them now?

We'll recess until these are available.

(*Recess*)

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

Bill Number 8, Insurance Ordinance. What I would like to do in going through this, I'll just call out the Clauses without actually reading it, and where an amendment is available, I'll call your attention to it as we go through it.

Mr. Berger?

**Mr. Berger:** Yes, Mr. Chairman. We received legislation about three weeks ahead of time in a large brown paper envelope marked "confidential". Are we not supposed to consult anybody? I would like to refer the Committee to Tuesday, March 8th, 1977 when Mr. Stanhope said, "yes it's quite true, we were given the opportunity to review the Ordinance in July 1976". This



is about three months before the legislators received that legislation and we are told we can't consult anybody.

My question is, why can't the Government on one hand take the privilege, consult business interests on one hand only, when we can't be given that opportunity ourselves. I was wondering if there's an answer to this?

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

**Mr. Legal Advisor:** Mr. Chairman, the privilege of keeping legislation confidential is the privilege of the House and the Government has always observed this principle of only producing legislation to the House on the first occasion of its publication. The privilege is confined to legislation, not to draft White Papers and such like things which may eventually resolve themselves into legislation so perhaps Mr. Stanhope was using a technical word in the wrong context. What he would have been consulted with was some form of a draft which was in the process of being put together by the public service, and which had not yet reached the stages of passing through the sub-committee on legislation and becoming the final sacred copy which would be presented to the House.

This so far as I know, Mr. Chairman, has been the custom of this House for a very long time.

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

**Mr. Lengerke:** So, Mr. Chairman, it must follow then from what the Legal Advisor said, that when we receive a copy of an Ordinance in an envelope marked 'confidential' and we open it up and it says draft two or three or whatever, it means then that we certainly could go and discuss that particular draft with anybody we so choose. Is that correct?

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

**Hon. Mr. Lang:** Mr. Chairman, it's my understanding that when the final piece of legislation has been drafted and sent to Members, it's been sent, and we have made provisions to send it out a month ahead of time for Members to study it and review pending legislation. That, in the final analysis, is the final copy that will be presented during the sitting of the Legislature. I think it's very important that we preserve the confidentiality of legislation until which time it's discussed and debated in the house.

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

**Mr. Berger:** Well, Mr. Chairman, I would again -- the same Debates and Proceedings refer to the Honourable Mr. Lang and it says, "Mr. Chairman, for the record, I think it should be pointed out in relation to this particular Ordinance..." This Ordinance was sent out, no draft or nothing else; this Ordinance was sent out.

**Mr. Legal Advisor:** Mr. Chairman, many of these emanate from my office and from the office of the Clerk of Council and great care is taken to make sure that the copies which are sent out to anybody except the group which is sent to this House are marked or handled as such so that they are not final copies and are always

subject to change. But the privilege is not primarily the privilege of the government, Mr. Chairman, and I'd like not, as a public servant, to be commenting on it, but it's the privilege of this House for it to choose to do with the documents which are submitted to it in accordance to the customs of this House.

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

**Hon. Mr. McKinnon:** Mr. Chairman, any of the words that we are using, "ordinance", are probably not being used properly because everything that goes out that I know of since I've been a Member of the Executive Committee to any lobby group or interested group has been a draft copy only, asking that the Y.T.G. is thinking of this type of legislation and are proposing along these lines and do they have any comments to it? This involves, as far as legislation which is under my jurisdiction and control, consultation with as many lobby groups and as many vested interest groups, as many members of the public and as many members of the legislature, as I can possibly do to mould it into maybe one, two, three, four, five, sometimes up to as many as eight or nine drafts before the final copy, which is the one which Members receive as soon as we can get it to them prior to the legislation. Now, unless there are major changes that are proposed by Members after that final draft goes out, or there are obvious flaws in it according to legal or constitutional points that are pointed out, you'll find that that legislation changes very, very little from the final draft that Members receive to the Bill that is presented in the House.

But I think that it's a good concept and a good idea to be bouncing ideas off lobby groups and off interest groups, off people in general and off Members on a continuing and a constant basis to get the feedback of what the people of the Yukon are thinking, so that when legislation is produced, at least it knows it has a reasonable chance of meeting the wishes of the majority of the people of the Yukon.

If any legislation under any department is not going out saying that it is a draft and it's a proposal and it's for comments only, then that department isn't abiding by the rules of the game because that's exactly the way that it should happen and I know that that's the way that it happens as far as the Local Government is concerned. I think that that's a valid and a good concept of trying to get as much input into legislation as you possibly can.

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

**Mr. Lengerke:** Mr. Chairman, I certainly agree with the Honourable Minister of Local Government. I think that it's music to my ears when I hear that we can go out and discuss some of these "Ordinances or drafts only" with other people, because certainly that's what we have to do, is bounce the ideas. The thing is that I've received many and as I'm sure other Members here have, we receive copies of certain Bills and it says, "draft only". We do receive those, however, in -- and it might be just for sake of formality -- in an envelope marked "confidential only". This, I wonder. There's certainly no need to mark an envelope "confidential only" if we are indeed receiving draft copies then.

I ran into the same difficulty, I recall, with the Liquor Ordinance. I kind of guarded the thing pretty secret and



wasn't going to betray any confidences and everything else and yet I was trying my best to discuss it with as many interest groups as I could without showing them the actual Ordinance and I arrived on the scene at a particular organization and they had the latest copy. It surprised me to no end. They already had a good position formed on certain clauses within that, and as I say, it's rather embarrassing. Maybe I have not been exercising my own authority properly, but, however, I am real glad to hear that the Member from Klondike bring the point up because it's valid.

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

**Hon. Mr. McKinnon:** Mr. Chairman, we have to make sure that we might not be mistaking the word "draft" and "confidential" and I think probably, on the last piece of legislation, when it goes out as it will be presented to this House that it probably is a piece of legislation and not a "draft only".

That's something that is going to have to be decided probably amongst the Members of the Executive Committee or the Rules and Privileges Committee just as to what those final drafts should be marked, because if you think that you're in an embarrassing position, just imagine if they are all final drafts, which they generally are, and there are no word changes that prior to it being introduced in this House and the rights and prerogatives of all Members of the Assembly having first seen the legislation as being introduced in the House which is common practice in every jurisdiction except Yukon, that we would be put in an embarrassing position having had a public debate on a final Ordinance in its final form a month prior to coming to this Assembly. So it's six of one and half a dozen of the other. We're going to have to decide whether that is the final document and is the legislation, then remove "draft" off it and leave "confidential".

I have no problems, on a first draft basis, of that kind of a document also being sent to Members for their ideas that the Government is proposing this type of legislation and what do you think of it.

I personally am going more and more to the Green Paper type of concept which I think, depending on the timing, is really the proper way to go, because then you bring out a public document for everyone with the elements of the legislation contained in it wide open in the public, where we can debate it and every group and organization is allowed to have that input into it.

I already know that I've received input back from the Green Paper on the L.I.D.s from Haines Junction; Teslin has commented on it, and Watson Lake have already commented on it. So, depending on the timing, I think that's the most appropriate way of getting public input and no problem of a confidentiality before the legislation is introduced. Sometimes you get into the bind of having an immediate problem that you have to bring legislation in on an immediate basis and don't have the time to go the Green Paper route.

I'm going to make one other comment, and I know for a fact, and I say this -- and I know that I can't be contradicted -- that, for openness on legislation and involvement of all peoples and groups in the making of legislation and in the accessibility to documents, that there is no other Government presently constituted of any of the Provincial or the Federal Government that is

more open and more accessible than the Government of the Yukon Territory.

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

**Mrs. Watson:** Mr. Chairman, a question. Green Papers, are they first made available to the public when they're tabled in this House or are Green Papers submitted to organizations and interest groups before they're tabled in this House?

**Hon. Mr. McKinnon:** Mr. Chairman, I think that all Members of the Executive Committee would have to speak for themselves, but the actual Green Paper, some ideas constituted in it may have been bounced off of an individual member's or different group's, but the Green Paper, as far as the departments that I have portfolio responsibility for, the Members of the Legislative Assembly are the first to see that Paper when it is introduced in this House.

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

**Mrs. Watson:** Mr. Chairman, we still didn't have the question answered that Mr. Berger brought up. A piece of legislation that we get, about a month before the Assembly, is marked draft -- are we allowed to discuss this openly with our constituents?

You see, the thing that bothers Mr. Berger, and it certainly bothers me, is the Government is at liberty to circulate any number of drafts to interest groups, whatever interest groups that they feel should have the copies of the drafts of the legislation. Interest groups who make up our own constituents, yet we are not permitted to circulate a draft to interest groups within our own constituency and I think sometimes a person feels as though you're almost being undermined in your own home backyard, and I think that we do have to clarify this, whether, when that legislation comes, whether we do have the ability to discuss it with our constituents before we come in here.

We must remember that, when we receive the legislation and we come into the House, people from the outlying areas don't get home that often. Once you're in here, you don't get an opportunity to get back and to discuss it, so that month would be a wonderful time where you could get some ideas on the legislation.

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

**Mr. McIntyre:** Mr. Chairman, may I suggest that the Executive Committee have a rubber stamp made which says, "Discussion Draft" and drafts which are available for discussion, apply the rubber stamp. If they're not available for discussion, put "confidential" on it. It's very simple.

**Hon. Mr. McKinnon:** One more rubber stamp.

**Mr. Chairman:** That, if in doubt, mark it confidential.

One (1). This Ordinance may be cited as the Insurance Ordinance.

**Hon. Mr. Lang:** I'd just like to comment that nobody can say they haven't had a chance to discuss this par-



ticular Ordinance.

**Mr. Chairman:** Any general debate?  
Mrs. Watson?

**Mrs. Watson:** Mr. Chairman, it might be, at this time, now that Mr. Gillespie is here as a witness, that during the last Session when we were discussing the Insurance Bill and we had a representative here from the Insurance Association, he undertook to look into some of the questions that were disturbing us here in the Yukon regarding the inability of some people to get insurance, particularly fire insurance. I think the automobile insurance had been taken care of by the Motor Vehicles Branch, so I wonder if Mr. Gillespie has any comments whether the witness, I've forgotten his name, Mr. Kennedy, did correspond and follow-up on some of the commitments that he made during that discussion?

**Mr. Gillespie:** Mr. Chairman.

**Mr. Chairman:** Mr. Gillespie.

**Mr. Gillespie:** In that regard, the -- you, yourself, raised a question about this very point at the last, or early in March, and at that time I indicated wrongly that we had dealt with all of his comments regarding this Ordinance and for that I apologize. We did receive further suggestions from him and it is the result of these suggestions that we have certain of these amendments. These amendments that you have before you are the product of his suggestions, together with some suggestions made by Mr. Stanhope and some that are the product of our own staff work. So, some of these, and as we come to them I could point those out, have -- actually, I think there's only one or two, Clauses 2 and 24 are the product of some suggestions made by Mr. Kennedy.

He made other suggestions which, on review by the Administration and the Executive Committee, we decided not to go along with because we felt that they had adequately been dealt with elsewhere, but for those two changes we did follow his recommendations to it.

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

**Mrs. Watson:** Mr. Chairman, one other question then of Mr. Gillespie. Did Mr. Kennedy indicate whether he'd been successful in getting, convincing, other insurance companies to enter the insurance field in the Yukon so that some of the people who weren't able to get insurance would in fact be able to?

**Mr. Gillespie:** Mr. Kennedy approached Mr. Malthouse in British Columbia, of the Insurance Bureau of Canada, and Mr. Malthouse has been working quite strenuously to try and get some additional companies to provide business for us here. I gather he has been successful in placing insurance on behalf of Yukon insurers in some instances, but I can't say that he's had any broad success up to this point, although we are in continuing dialogue with Mr. Malthouse to try and broaden the base of our insurance coverage here, but, as I say, we haven't had any great or broad success up to this point.

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

**Mr. Berger:** Yes, Mr. Chairman. Also on March 8th, Mr. Gillespie stated that it's my interpretation that he also tried to get involved with ICBC, to seek some help through ICBC, and I was wondering if there was any follow-up done with ICBC or if he received any more correspondence from ICBC to cover some of the people who are unable to get insurance in the Territory right now?

**Mr. Gillespie:** I think the point was fairly different from that, Mr. Chairman, and it was included in the White Paper on the availability of insurance coverage in the Yukon which was tabled at the beginning of this Session, and it states here that we have further been advised that the Insurance Bureau of British Columbia is considering reducing their involvement in the provision of general insurance. If ICBC does move out of general insurance in British Columbia, private insurers have indicated their intention to expand their British Columbia operations to make general insurance coverage more readily available to Yukon residents.

The Royal Group of Insurers is also, at present, increasing their general insurance coverage available in the Yukon. So the effect of ICBC reducing their general insurance coverage and restricting it more particularly to automobile insurance will have the effect of enticing other insurance agencies or insurers to move into B.C. and to expand their coverage into the Yukon, which would benefit us.

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

**Mr. Berger:** Yes, Mr. Chairman, was there ever any feelers extended from I.C.B.C. or from this Government to ICBC to see if the possibility exists so I.C.B.C. could cover some of the people in the Yukon?

**Mr. Gillespie:** I'm informed Mr. Chairman, that I.C.B.C. is looking at their own legislation, their own governing legislation to see if it is possible for them to extend their coverage beyond British Columbia. We have been discussing this with them and they hadn't yet determined whether this is legally possible for them to do so. That's where the matter stands at this point in time.

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

**Hon. Mr. Lang:** Mr. Chairman, I'd just like to raise one question. What is worrying many of my constituents, and I think a lot of people throughout the Territory, is the costs of fire insurance especially for people in small business. I'm just wondering, is the Insurance Bureau of Canada looking at, has any ability to put some guidelines in relation to the costs incurred by small business entrepreneurs for fire insurance. I have a couple of incidents in my riding where one particular individual is paying \$5,000.00 and it went up to \$15,000.00 and he never put any more renovations or buildings on his particular property.

I'd like to hear the witness comment on that Mr. Chairman.

**Mr. Gillespie:** It's a market operation, Mr. Chair-



man. We don't have any regulatory ability, nor does the Insurance Bureau of Canada, which is a collection, a bureau comprised of participants in the insurance business. They do not regulate their own premiums and haven't the ability to do so, and nor does the Government at this point in time.

We can extend pressures as we have been attempting to do through this Legislature, but we cannot force I.C.B.C. or its membership to reduce premiums. They have explanations that are either good or bad but nevertheless, they'll give us explanations as to why the insurance rates are going up so dramatically. We have no ability and nor does ICBC to control its membership.

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

**Mrs. Watson:** Mr. Chairman, a question for the Territorial Government, the elected people, or Mr. Gillespie, has the Territorial Government, because of this situation of fire insurance cost in the Yukon, given any thought or had any work research done into the possibility of the Yukon Government providing a basic insurance coverage, much less our compensation fund where you have a basic block, say \$5,000.00 or \$10,000.00 of coverage so that people could get some basic coverage. If they wanted to extend beyond that, they would go to private enterprise and to private insurance companies. But, the businesses in the Yukon, and many, many homes, a lot of trailers, are just not being covered and it seems to me that this might be one area where our Government might want to step in. Not to go into the insurance business, but at least provide some type of compensation fund, much as compensation for injury, as we have our own now in the Yukon.

Any Members of the Government able to comment on that, whether you've done any work in that regard?

**Mr. Legal Advisor:** There's a basic difficulty in law with attempting a basic scheme of that nature. Under the insurance laws, when you insure a building which is worth say \$50,000.00 and you only insure it for \$10,000.00 and the building goes on fire, unless it is totally destroyed, you will not get the \$10,000.00. If it's 50 per cent destroyed, you get \$5,000.00. If it's 25 per cent destroyed, you get \$2,500.00. You cannot work out a scheme whereby the basic cost can give the person the \$10,000.00. It's just impossible in law to do this.

**Mr. Gillespie:** I think the Honourable Member's question was just a little broader than that. Also, Mr. Chairman, when the problems that people are having in obtaining insurance in the Yukon was brought to our attention, and it really became a matter of considerable pressure starting last fall, even earlier than that we did consider that possibility as raised by the Member. We didn't examine it in depth and we still haven't examined it in depth. Our first approach has been to attempt to get, through ICBC, other avenues available to Yukon people and businesses to alleviate insurance burden and difficulties that they have been having in getting insurance.

I must admit that we have not achieved any great success in these endeavors up to this point and maybe we will have to examine seriously and in depth the possibility of a Yukon insurance scheme, but I would hope that there is some way that we can avoid doing that

because these schemes tend to be very costly. Somehow or other they have to be paid for and one way or another, it's going to be the taxpayer that will bear those costs. If we can find some other equitable means of meeting the problem that is before us now, I think we should. We haven't yet given up.

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

**Mrs. Watson:** Mr. Chairman, the compensation fund is not costing the taxpayer money and it was in that type of thing that I was looking at that it might be that type of thing that we could be using. I'm glad to hear that some work has been done on it and I would hope that the government pursues and maybe even steps it up to do more in-depth work on this because I think the situation is going to get worse, it's not going to get better because the cost of replacing materials increase. It certainly isn't going to decrease, and the cost of money increases that we could be looking at even higher rates still. I just don't--I know that people are going without insurance at the present time. I think eventually the government's going to be faced with the situation, what do you do with these people who have lost everything and have had no insurance? So I think it might be better to get at it a little more vigorously than what we have now, rather than wait and try and patch up and suffer the consequences later.

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

**Mr. Fleming:** Yes, Mr. Chairman, I would say almost the exact words. I think that it's time that we sat down and decided that the taxpayers could pay for something that belongs to him and get his money back. And as for the taxpayer paying for it, he is paying for it now. He's paying for it through the nose now. However, I don't see why he should pay for it to make a big profit for some large corporation that's possibly worldwide when he could possibly pay for it in a different manner and still get exactly the same results for probably less.

I would be interested in knowing if the government has looked into the loan situation where they are loaning money now. I think I asked this question in the House and just got the answer they might look into it awhile ago, whether they are looking into that situation and somehow, when the loans are given out, charge possibly an extra percentage on the loan to cover those loans in case of an accident. Because, if you borrow \$50,000.00 and build something, naturally they want security. So you will have possibly your home and everything else, they will have the loan secured, there's no problem, but there is also no, apparently nobody forcing them to get insurance, they loan out the money.

I can give you an example. I am standing here as one today, owing \$35,000.00 or something like that. And if I burn down tomorrow, this government here is the one who's going to lose, possibly, even though they have the security of possibly my trailer or my house or my whatever, but don't forget that when the object we built with the loan burns down, maybe the other part can burn down and they'd be sitting looking at absolutely nothing whatsoever in this case. I would like to know if they've looked into that situation at all?

**Mr. Gillespie:** Mr. Chairman, I don't think that we



have an answer, at least I know I don't have an answer right at this point in time. It's something that has been brought to our attention, I'm aware of in fairly recent time, but I haven't yet obtained the answer to that question.

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

**Hon. Mr. McKinnon:** Mr. Chairman, I just hope that after the statement the Honourable Member from Hootalinqua made that his business, his house and his trailer don't all burn down at the same time. I think there would be quite an investigation going on.

The other point that I'd like to make is that when we started into the business of looking at the Workmen's Compensation Fund and we got some pretty good information as to the amount of money the one underwriter for Workmen's Compensation was making on behalf of the people of the Yukon, that we realized that we should set up our own Workmen's Compensation Fund and we could keep the profits that were going to a major insurance company with headquarters outside of Yukon, in the Yukon for the protection of the workmen in Yukon.

We did a lot of research on it and found out that it would be a viable and a good operation on behalf of the people of the Yukon and we knew that we really were going to have a successful operation because the underwriter just fought like hell to prevent, to go into that business of not wanting--and reasonably and justifiably so, because he was making a handsome profit on it, of it going to a government funding.

We don't get the same reaction at all when we start talking about fire insurance. In fact, Mr. Chairman, I think there'd be one collective sigh of relief from the insurance underwriters in Yukon if the YTG were to go into the business of underwriting fire insurance. I, from any of the figures that I can see, and from any of the statements and I think they're relatively accurate from the people that I get them from and the research that the government has done, is that they are not making money off that element of insurance in Yukon, fire insurance and would just as well wish the government had the headache. Believe you me, it would be a very real headache and a large part of the government's problem in organization and taxpayer's money if we were to go into that area of the insurance business.

I'm as perplexed as all Members are, what the answer is, and where we go from here, I don't want to see the Government moving into the direction of underwriting fire insurance in Yukon, but what any other solutions are, I haven't got the answer at this time and I don't think that any member of this Government or any Member of this Assembly has at the present time.

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

**Mr. Berger:** Yes, Mr. Chairman. The Honourable Minister said that the Government's going to end up with a headache going into underwriting fire insurance. At the present time there's dozens of people having a much bigger head ache because they cannot receive fire insurance and their life savings are at stake. I think this Government should have a certain amount of responsibility for those people for the well being of those people. I think if it causes just one Government a

headache, it's much better than to have dozens of people running around with much bigger headaches.

**Mr. Chairman:** Is there any further general debate? Clause 1, shall Clause 1 carry.

**Some Members:** Agreed.

**Mr. Chairman:** Clause 2, and I refer you to page 3, near the bottom "Automobile Insurance Exchange" is amended to read "Automobile Insurance Plan".

**Mr. Gillespie:** The explanation for that, Mr. Chairman, is that discussions are currently going on which may result in an expansion of services provided by the Insurance Exchange. The results of those discussions may be a change in the word "exchange" and so we wanted to find a generic word like "plan" which would still enable us to use the term in the Ordinance and have effect. So, it's a general term plan simply being exchanged for the use of the word "exchange".

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

**Mrs. Watson:** Mr. Chairman, may I ask where you are reading your amendments from, I'm a little confused?

**Mr. Chairman:** I'm reading the amendments from the--they're not given to us in the right order so you have to sort them out again. That's why I'm reading them out to you.

Any further consideration of the interpretation section.

**Mr. Berger?**

**Mr. Berger:** Yes, Mr. Chairman, what changes, if there is any at all, are coming into effect now by changing the word "exchange" to "plan"? All we are doing is changing a word.

**Mr. Legal Advisor:** That's all, Mr. Chairman, just a word.

**Mr. Berger:** In other words--

**Mr. Legal Advisor:** It's not intended to make a change.

**Mr. Berger:** In other words, there's no intent of changing the actual exchange procedures the way it was.

**Mr. Gillespie:** Not at this point, Mr. Chairman. There are discussions going on about changing the effects of, in the way that the exchange operates among those who are operating it now and as a result of those discussions, they changed the title to something other than exchange. The way we had it here would prevent us from entering into an agreement with the exchange so we simply used the word "plan" to enable us to do that.

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

**Mr. Berger:** In other words to make it sound a little better?



**Mr. Chairman:** Shall Clause 2 carry with the amendment?

**Some Members:** Agreed.

**Mr. Chairman:** Page 11, Clauses 3 through 18, is there any discussion on that?

Shall Clauses 3 through 18 carry?

**Some Members:** Agreed.

**Mr. Chairman:** Part II, Clauses 19 to 45.

**Mr. Legal Advisor:** Mr Chairman, there are changes suggested by an amendment which is put in at Clause 24 exchanging the word "exchange" for "plan", which appears in that subsection.

**Mr. Chairman:** In subs 2 and 3 it appears four times.

A further amendment, Clause 38--it is actually page 33, not 34. 38, sub 1 deleted and replaced with:

"Notwithstanding anything in this Ordinance any person may insure property situated in the Territory against fire with an unlicensed insurer, if such insurance is effected outside the Territory and without any solicitation whatsoever directly or indirectly on the part of the insurer, and any property insured or to be insured under this section may be inspected and any loss incurred in respect thereof adjusted."

**Mr. Legal Advisor:** Mr. Chairman, it's complementary to the one which will be coming up in Section 220, which was referred to by Mr. Stanhope when he was here before the Council.

**Mr. Chairman:** Consideration of Part II, Clauses 19 through 45. Do these Clauses carry?

**Some Members:** Agreed.

**Mr. Chairman:** Mr. Gillespie?

**Mr. Gillespie:** Are they being carried as amended?

**Mr. Chairman:** As amended. Part III, Clauses 46 through 64. Shall these Clauses carry?

**Some Members:** Agreed.

**Mr. Chairman:** There are no amendments, but they have not been carried previously.

Part IV, Clauses 65 through 73. There are no amendments.

The clauses 65 through 73, Fire Insurance, Part Four, shall these clauses carry?

**Some Members:** Agreed.

**Mr. Chairman:** Part Five, clauses 74 through 127 on Page 89.

Shall these clauses carry?

**Some Members:** Agreed.

**Mr. Chairman:** Pages 89 through 134, clause 128

through 170. No amendments.

**Mrs. Watson:** Mr. Chairman, do we have an amendment to section 145(1)? According to the White Paper --

**Mr. Chairman:** What section?

**Mrs. Watson:** 145(1). The White Paper suggested --

**Mr. Legal Advisor:** No, Mr. Chairman, the recommendation that we change it back again was not accepted. We changed it the first time.

**Mrs. Watson:** Well, Mr. Chairman, I wonder if we could have read 145, it will be left in the legislation then. I don't know how old my Bill is.

145(1) refers to negligence and gross negligence. Now my section 145 has nothing to do with negligence. There's an implication of negligence, maybe I don't know how to read the terminology of the Insurance Bill.

**Mr. Legal Advisor:** Mr. Chairman, as I understand the position in the original Ordinance, the insurer was permitted by an endorsement to exempt himself for liability for negligence other than gross negligence to passengers in the automobile. That provision was removed. What's left is that he may provide by endorsement only a different thing which is that while an automobile is attached or being used together with machinery, the insurance company can be exempted from liability. It's in the Motor Vehicles Ordinance we provide that an owner is liable for negligence in respect of the operation of that vehicle. This provides an exemption for him.

**Mrs. Watson:** Mr. Chairman, could you explain what this is supposed to do?

**Mr. Legal Advisor:** I'm trying to explain a negative, Mr. Chairman. In the original draft of this, the original preparation, one of the group of exemptions from liability which would be found along by the head note, which an insurer, an insurance company could put in as an exemption from liability, in its policy, was exemption from liability under certain circumstances. One of those was that he could free himself from the obligation to pay money where a passenger was injured, unless the passenger was injured by the gross negligence of the driver. We removed the subsection so it's not there, he cannot exempt himself now from responsibility.

**Mrs. Watson:** For negligence.

**Mr. Legal Advisor:** For negligence.

**Mrs. Watson:** Then you said that there would be something in this regard under the Motor Vehicles Ordinance, that the driver of a vehicle is responsible for the passengers in the vehicle.

**Mr. Legal Advisor:** Under the Motor Vehicles Ordinance, the driver is responsible for the negligence of himself or his agent in operating a motor vehicle and that's the common law provision. It's a statutory exemption to permit him to escape liability to passengers



under certain circumstances. By removing the privilege, the common law recommences to operate in the Territory.

**Mrs. Watson:** Mr. Chairman, may I pursue 146 a little further then. Just for clarification, 146 makes provision for the insurer, provision in the policy that they will not be responsible and I was worried about 146(1)(c) and I was wondering whether that also covered people who were carrying children in an automobile and driving them to school and they receive so much per mile, is that my -?

**Mr. Legal Advisor:** No, Mr. Chairman, that can be exempted from liability. The lifting of exemptions which are possible in those circumstances are listed in (a), (b) and (c) in section 146. It doesn't appear to be fair that when a person pays a premium for a private automobile for himself and his friends, that he should be able to take money and use his automobile as a jitney or a taxi cab and take money for it and not have to take out the extra policy with an insurance company.

**Mrs. Watson:** Mr. Chairman, it doesn't seem fair that a person has to buy an automobile to drive his children to school. Now I would like to know if you are hauling your neighbours' children to school, are you responsible? Does the insurance policy that you have that covers your automobile, would that cover also those children that are being carried or does he have to have extra insurance or will the insurance company write on it that they are not responsible for those children.

**Mr. Legal Advisor:** Mr. Chairman, each case is an individual case. A person who is taking his neighbours' children and getting money for it would be well advised to study his policy to make sure they're covered because there are occasions when they will not be covered and properly so because he paid a premium of \$100.00 for a certain purpose and that's the value he gets. If he takes money for it, then he may be personally liable and he may not be able to pass on the liability to his insurance company. So it's incumbent on each person to read his policy and talk to his insurance agent and see what he's covered for.

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

**Mr. Fleming:** Yes, Mr. Chairman, this has concerned me for a good many years, this same problem. I think I've asked the question many times and I think we got the same answer. It is not only the school children but the people who are bringing people, for instance, into a hospital with their own car, in other words, and of course we sit here in this House and we make regulations and we pass ordinances and give people \$.25 a mile to do this and that and the other thing, or whatever, and while we're doing this, we're actually putting the people where they could jeopardize themselves by the fact that they're going to help somebody that is in trouble. I would just like to clarify that, too, if, for instance, one of us, in our private car, brought somebody in from the outlying districts to the hospital and on the way in we had an accident and caused that person more harm or whatever, they would, in other words, not be covered

under just a general insurance, would they?

**Mr. Legal Advisor:** In the precise circumstance that is mentioned, they probably would be covered.

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

**Mr. Fleming:** Mr. Chairman, could the Legal Advisor tell me why and how.

**Mr. Legal Advisor:** Because it fits within the normal terms of a policy. If a person who gives a passenger a ride and he's not getting paid for it and he's driving him to some other place, just like a guest, he's an invitee in the car and the insurance, the normal passenger, the normal policy would cover it from now on. It may not cover it in the past but when this comes into force, put it that way, it normally will cover it.

But if he does it for hire, if a person in a village has a car and I go to him, whether I'm sick or well, and I say, here is \$50.00, drive me somewhere, then he may not be covered, because then it becomes a commercial transaction. But there's nothing we can do about this in the Ordinance.

**Mr. Fleming:** Then, Mr. Chairman, would it not be the same thing if he was paid so much a mile by the government to bring that person in, as if he was paid by the individual to bring him in.

**Mr. Legal Advisor:** I don't know, Mr. Chairman, each case has got to be taken on its own merits. I would prefer to take the cases one at a time, but not exhaustively every five minutes, Mr. Chairman.

**Hon. Mrs. Whyard:** Mr. Chairman, I agree with the Legal Advisor, you have the option of looking at your insurance policy and consulting your own insurance agent and the Honourable Member should know that it depends on whether you're insured as a private vehicle or you're insured as a business or commercial vehicle and what the purpose is of the trip and who is in the car with you. All this information is available only from the guy who carries your insurance.

I know that in my case if I accept money to take somebody, my insurance is null and void because it's a private vehicle. And it's very clear-cut, so I certainly would endorse the suggestion that all Members read the insurance policy.

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

**Hon. Mr. McKinnon:** Mr. Chairman, there is absolutely no way, and no way that I think Honourable Members would even expect or think that this government could handle every individual circumstance that comes up with the business of insurance in any circumstance.

You know, I've already signed about six waivers on different things that my kid is going to do to exempt government, school, organizations, from responsibility because somebody out there has got enough courage, enough sense to try and do something different, that's not a part of the government curriculum and education system. Parents face that all the time, every time they send the kids out with a neighbour on a Sunday after-



noon drive, every time he goes to a gymnasium program, what do you do? You know, that's an individual circumstance, there's no way, shape or form that in every form of insurance that a government can take care of every individual circumstance. It's up to the parent, it's up to the individual, it's up to the guy who's providing the insurance to make sure of the circumstances under which he is driving or under which he is carrying passengers.

I don't know however in the world we could come up with a comprehensive policy or afford a comprehensive policy to take care of every individual instance.

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

**Mrs. Watson:** Mr. Chairman, I've stood up and asked if I could ask questions on this section, I wasn't asking the government to do a darn thing. All I wanted was information and yet I find it so beautiful for people to stand up and say I don't expect to be paid when I take my friends, normal people don't, usually. But when someone comes to you and there is someone sick in these outlying communities and you drive them, and I know that Mr. Fleming has done this time, after time, after time and I know that Mr. Fleming has driven children time after time, after time. We are asking, what are the ramifications of insurance policies which apply to situations such as this?

The same thing applies with driving children to school. You live ten miles from school, you're driving too, but what do you do, you take the neighbour's child along. How does it affect your insurance, and that is what we were asking. We weren't expecting the cotton-picking government to do a thing.

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

**Mr. Fleming:** It's all been said. I'd like to thank the government for informing me, which I already knew, these circumstances. However, I wanted to be sure that this is the way it is, and I merely asked the Legal Advisor too, the same thing. I like to be sure so that I can go to my constituents and make sure that they know in case they may get into this hassle.

I'm not -- I have no problem with my insurance agent, if I have one at all. But I merely want to know the facts and I don't think we need a big lesson in insurance.

**Mr. Legal Advisor:** I'm prepared to tell the Honourable Member, Mr. Chairman, if he brings his policy in a small brown paper bag after five o'clock.

**Mr. Chairman:** Mr. Gillespie?

**Mr. Gillespie:** Mr. Chairman, maybe the question is redundant, I thought that the question Mr. Fleming was asking could be boiled down to, is an allowance paid by the government an expense, or is it compensation as indicated in section 146(c). If it is compensation as it is indicated there, then it is one thing, the insurance company is not liable unless a special provision is put in his clause. If it is an expense, my interpretation is that the insurance company is not exempted.

**Mrs. Watson:** I want an answer to the question.

**Mr. Legal Advisor:** Mr. Chairman, it's impossible, and I don't think I should give an answer, because my understanding is that insurance companies do in fact treat these cases as normal insurance cases and they don't get into the fine print and the result of this debate may be to bring a lot of things out from the fine print into the public forum which may work a disadvantage to people in Teslin and everywhere else. Basically the interpretation is what is it normally used for and is cash being exchanged for the journey. Not what happens afterwards and as to whether an allowance can be drawn and shared or the cost of gas paid for by the passenger.

Under normal circumstances, it is not for hire if the passenger pays his share of the gas or pays for a meal for an operator when he's going to and from on a normal journey. That's what normally happens in these cases and those cases are usually covered by an ordinary policy which a private person takes out on a private car.

**Mr. Chairman:** Part VI, Automobile Insurance, clauses 128 through 170, shall these clauses carry?

**Some Members:** Agreed.

**Mr. Chairman:** Part VII, Accident and Sickness insurance, clauses 171 through 210.

**Mrs. Watson?**

**Mrs. Watson:** Mr. Chairman, section 147 again, that is where the government is recommending that the limit be set not at \$50,000.00 but at half a million, they're going to be putting that in the Motor Vehicles Ordinance. Is that correct?

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

**Mrs. Watson:** Mandatory?

**Mr. Legal Advisor:** When that Ordinance comes up for amendment, yes, Mr. Chairman.

**Mrs. Watson:** But, Mr. -- I'm a little concerned and I don't understand insurance that well, so I'm not asking the government to do a thing but maybe give me some information.

A \$50,000.00 requirement, and you say that it's a major car rental firm, how would this affect some of the smaller self-drive unit rental operations in the Yukon if you set the liability limit at half a million.

**Mr. Legal Advisor:** They have insurance, Mr. Chairman. If they haven't already got it, they have to pay an increased premium. How much that premium is, I don't know. Perhaps Mr. Spray might know.

**Mr. Spray:** Mr. Chairman, I don't have a premium rate at this time, but there's no doubt that it would be quite an increase for them.

**Mrs. Watson:** Mr. Chairman, I think that's quite important. Why are they so anxious to increase the limit to half a million dollars then?

**Mr. Spray:** Mr. Chairman, the car rental agencies have brought to our attention that they automatically,



the major ones do carry one million dollars. They suggest to us that other people who are renting their vehicles should have more than the basic \$50,000.00. The car rental -- the major agencies are recommending something between \$50,000.00 and one million dollars. We are talking in terms of half a million dollars as being a bare minimum without having too much hardship placed on the smaller firms, but it is a matter that we will be reviewing before the Motor Vehicles Ordinance is amended.

**Mrs. Watson:** Mr. Chairman, would that be changed by regulation or will the legislation be changed?

**Mr. Chairman:** We got the air brakes by a regulation.

**Hon. Mrs. Whyard:** It's coffee time.

**Mr. Chairman:** I hope we're through debating the clauses that we've already cleared so that we can go on to Part Seven.

Clause 171 through 210, Part Seven. Shall these clauses carry?

**Some Members:** Agreed.

**Mr. Chairman:** Part Eight, Livestock Insurance. Clauses 211 through 214. Shall these clauses carry?

Nine, Fraternal Societies, Clause 215. Shall this clause carry?

**Some Members:** Agreed.

**Mr. Chairman:** Part Ten, Agents, Brokers and Adjusters. Licences of Insurance Agents, Clause 216 through 230. We do have amendments here.

Two sixteen, (19) (g)

Two sixteen (19) (g) is deleted and the following substituted:

"216(19) (g) requiring an agent to furnish professional liability policy and a bond or other security and fixing the amounts, forms, requirements and terms thereof."

Shall this amendment carry?

On Page 179, the new clause to be inserted 220.1. Everyone has a copy of this clause, shall this clause carry?

I'll read it out.

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

**Mr. Chairman:** Twenty.1. (1) The Superintendent may upon the payment of the prescribed fee, issue to any suitable person resident in or outside of the Territory a licence to act as a special insurance broker to negotiate, continue or renew contracts of insurance in Yukon, other than contracts of life insurance with insurers not authorized to transact such business in Yukon. (2) The applicant for such a licence shall file with the Superintendent a written application under oath as prescribed by section 281(2). (3) If the Superintendent is satisfied with the statement and information required, he shall issue the licence applied for subject to suspension or revocation in the discretion of the Superintendent, which licence expires at such time as the regulations provide unless sooner suspended or revoked. (4) The licence may, in the discretion of the

Superintendent, be renewed for each succeeding year upon payment of the prescribed fee without requiring anew the detailed information specified by section 218. (5) A person shall, before receiving such licence, execute and deliver to the Superintendent security to the satisfaction of the Superintendent in the sum of not less than \$5,000.00 that the licensee will faithfully comply with this Ordinance. (6) Where sufficient insurance in Yukon cannot be obtained at reasonable rates or on the form of contract required by the insured from insurers licensed to do business in Yukon, the person named in such licence may effect insurance with unlicensed insurers, but shall in the case of every insurance effected under this section obtain from the insured a signed and dated statement describing the risk to be insured and the amount of insurance required and stating that the insurance cannot be obtained in licensed companies and that the application for such insurance at licensed companies and that the application for such insurance at the stated rate of premium was previously made to and refused by named companies licensed in Yukon, and the person named in such licence shall, within ten days after the placing of such insurance with unlicensed insurers, submit to the Superintendent a statement setting forth the name of the insured, a description of the risk insured, the full names of the unlicensed insurers, and the amount of the insurance placed with each and the rate and amount of premium paid to each. (7) Such a licensee shall keep a separate account of insurance effected by him under his licence in books in the form prescribed by the Superintendent, which shall be open to inspection by the Superintendent or any officer appointed by him. (8) Within ten days after the end of each month every such licensee shall make to the Superintendent a return under oath in the form and manner by him prescribed, containing particulars of all insurances effected under the section by the licensee during such month. (9) In respect of all premiums on insurance effected under a licence, the licensee shall pay to the Commissioner such taxes as would be payable if such premiums had been received by a licensed insurer, and payment thereof shall accompany the monthly return provided for in subsection 8. (10) On it being shown to the satisfaction of the Superintendent that all insurances effected under this section are no longer in force or have been reinsured, the licensee is entitled to a release or cancellation of his security. (11) A licensee under this section shall accept applications for insurance with unlicensed insurers only from the insured or another licensee under this section and shall not receive any such application from, or pay or allow compensation or anything of value in respect of such applications to, an agent or broker not licensed under this section and any contract of insurance with an unlicensed insurer made by or through any agent or broker not licensed under this section shall be deemed to be unlawfully made within the meaning of section 222(1). (12) A person licensed under this section who contravenes any of its provisions, is guilty of an offense and in addition to any other penalty shall forfeit his licence."

**Mr. Legal Advisor:** Mr. Chairman, there is a typo on the last one, 'license' should be spelled with a 'c' at the end.

**Mr. Chairman:** Yes.



Does this amendment carry?  
Mr. Lengerke?

**Mr. Lengerke:** Just a question, the forum prescribed by the Superintendent - has that already been designed or is that available?

**Mr. Chairman:** The answer is no, Mr. Lengerke.

**Mr. Lengerke:** When will that be done?

**Mr. Gillespie:** That will be done during the coming months, probably by the fall when the regulations pursuant to this Ordinance will be developed with the advice and assistance of Mr. Kennedy.

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

**Mrs. Watson:** Mr. Chairman, may we have a coffee break to go over this so that we don't have to vote on it now.

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

(Recess)

**Mr. Chairman:** I call Committee to order.  
Clause 220 (1).  
Mrs. Watson?

**Mrs. Watson:** Mr. Chairman, 220.(1) sub 1 "issue to any suitable person" - is that a person who is interested in the public good?

**Mr. Legal Advisor:** Mr. Chairman, there's no guidelines laid down, but it would be a person who's already in the industry and has this business for offer and who is otherwise a reputable person, within the Ordinance. These are the guidelines I would expect.

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

**Mr. Lengerke:** Yes, in 220.1 (6) it says: "Where sufficient insurance in Yukon cannot be obtained at reasonable rates or on the form of contract required...." As I understand this Section, this is where, for instance, we can use the example if some highway lodges, in Yukon, where people were trying to obtain insurance, and the companies based in Yukon operating in Yukon, couldn't provide that and I think we do have an example of that - the agent or the insurance company here--insurance agent could go outside to an American company or wherever and obtain that insurance coverage for them. What is the interpretation of a reasonable rate? Where in fact, would you allow, or what is the differential you would allow in having the company here be able to place that insurance with an outside of Canada firm? How is that decision going to be made?

**Mr. Spray:** Mr. Chairman, reasonable rates refer to those rates which one would normally expect to pay for that type of property in that type of location considering the protection available for fire in that area.

Some companies will say - you know - we would normally charge you so much per thousand on insurance if you insist that we cover you we will, but the rates will be

far beyond what you would normally expect to pay. At that point you say they are not reasonable rates and you're allowed to go beyond licensed insurers.

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

**Mr. Lengerke:** Yes, this section is more than being based on the rights. If you can place insurance in the Yukon at a rate somewhat higher than say through a company in California, you would probably make the decision that that insurance would have to be placed with a Yukon company?

**Mr. Legal Advisor:** Mr. Chairman, the balance of this section describes the mechanism whereby it works, which is that the person must make a statement saying that it's not obtainable at this rate within the Territory and what he's prepared to insure and then on submitting that statement, it would be considered.

First he must offer it to companies which are covered by this Ordinance. The whole mechanism in Section VI.

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

**Mr. Lengerke:** The person applying for the insurance has to make that statement, then he has to supply that statement, not any of the agents. Is that correct?

**Mr. Legal Advisor:** I presume it's an agent, Mr. Chairman. The person named in the licence, Mr. Chairman.

**Mrs. Watson:** Mr. Chairman, how are you putting this qualification on it?

**Mr. Legal Advisor:** Mr. Chairman, this is the section we were asked to bring in and this qualification was in the section already, because we are attempting to control the business of insurance within the Territory under Canadian law of Canada which has acts which cover the whole of Canada. This type of section is a similar section to the sections used in the other jurisdictions as a common forum section.

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

**Mr. Berger:** Mr. Chairman, I have troubles the same as the Honourable Member from Riverdale with what is reasonable, because we ran into that under the Liquor Ordinance, what's a reasonable distance? What's a reasonable rate? I think there could become all sorts of wrong interpretations, to one person reasonable is such and such a figure, to another person, it is something different again.

I'm wondering if it wouldn't be possible to nail that down with set percentage figures or something like that.

**Mr. Gillespie:** Mr. Chairman, either Ontario or New Brunswick have some guidelines on this. They are the other two jurisdictions in Canada that have adopted this precise wording. We don't know at this point in time whether they have any such thing. In the meantime, it is up to the Superintendent of Insurance to determine what is a reasonable rate, but I am sure that if the Superintendent can be assisted by some guidelines in existence elsewhere, it would make his job a lot easier



and I'm sure this is what he would do.

At this point in time, as I say, we don't have it.

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

**Mr. Lengerke:** Just another question, and again I may be reading it wrong - it says here: "and the person named in such licence shall, within ten days after the placing of such insurance with unlicensed insurers, submit to the Superintendent a statement setting forth the name of the insured..." and I would hope then as I asked earlier, before the break, that there will be a forum in order for somebody to do this in a much more concise and ready fashion. What happens if the Superintendent takes a look at that and he says he's not happy with the rates, he's not happy with the coverage, he's just not happy with it, period. The guy's already placed the insurance. What happens?

**Mr. Legal Advisor:** He can do nothing, Mr. Chairman. All he can do is deal with it when the licence comes up for renewal the following year of the person who is doing this thing.

**Mr. Lengerke:** Very good, thank you.

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

**Mrs. Watson:** I have some concern on the wording, "the suitable person". I just don't like to see something like this in legislation where it is at the discretion of someone to determine who is a suitable person. I also don't like the discretion that's given to the Superintendent, both in sections 3 and 4. I do note that in the Insurance Act and I do believe it is New Brunswick, the licence, may, in the discretion of the Superintendent be renewed for each succeeding year. However, there is nothing in their legislation that states in, as we have in 3, "that if the Superintendent is satisfied with the statements and information, he shall issue a licence applied for, subject to suspension or revocation in the discretion of the Superintendent, which licence expires at such time as the regulations provide unless sooner suspended or revoked." And in the New Brunswick section, it states "for cause similar to that shown that for the same cause that you revoke or suspend any other licence."

What you're doing in that section is leaving that completely to the discretion of the Superintendent.

**Mr. Legal Advisor:** The language of this whole section follows closely the type of language which is used elsewhere in the Ordinance, and other people who are deemed to be a suitable person are allowed to act as an adjuster and so on. It follows closely the rest of the Ordinance and it's recommended to the government by the people who would be effected, and they have agreed to this language.

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

**Mr. Lengerke:** Mr. Chairman, just following that, has this particular 220 section been discussed with the insurance industry in Yukon? The way it is worded today.

**Mr. Legal Advisor:** I don't think this precise wording, Mr. Chairman, but certainly the main person who is interested is aware of this section and recommended it.

**Mrs. Watson:** Well, Mr. Chairman, number 4 is very much like New Brunswick's section, "...the licence in the discretion of the Superintendent may be renewed." I don't even like that, but I don't like the fact that "the Superintendent can suspend or revoke in the discretion..." and the New Brunswick section says, "...the Superintendent, for cause shown similar to any of those entitling him to revoke the licence of any agent may suspend or revoke." And I'm sure that this is the type of thing that we would want. If we have an unlicensed agent or broker, insurance broker, we would want him to have his licence suspended or revoked for the same cause as anyone else. But I don't think that we should leave it just at the discretion of the Superintendent.

**Mr. Legal Advisor:** We use the expression "cause" in other portions of this Ordinance. Mr. Chairman.

**Mrs. Watson:** But you could use it here, couldn't you?

**Mr. Legal Advisor:** But the person here will be a person who already has a licence within the Territory to operate as an agent, so it would be reasonable to assume that if he loses one licence, he will lose two if he's dishonest.

**Mr. Gillespie:** The section in the New Brunswick Ordinance that we referred to in developing this section of the New Brunswick Act, I should say section 254(3) and not 354(6). I'm just trying to see what the difference is.

The section in New Brunswick says that "...if the Superintendent is satisfied with the statements and information required, he shall issue the licence and it shall expire at such time as the regulations provide unless sooner suspended or revoked." No mention of cause and in Ontario, "...if the Superintendent is satisfied with the statements and information required, he shall issue the licence applied," pardon me, "...he shall issue the licence applied for, subject to suspension or revocation in the discretion of the Superintendent, which licence expires on the 30th day of June in each year unless sooner suspended or revoked." So it's substantially the same as in both New Brunswick and Ontario, the wording that we have here.

**Mrs. Watson:** Mr. Chairman, it's both, that's what you've done and I am saying you are using the New Brunswick one to provide for the renewal of a licence and all I'm asking is that a licence that is suspended or revoked, should be suspended or revoked similar to those entitling other licences to be suspended or revoked, referring back to that section and that would be quite fair.

**Mr. Gillespie:** Mr. Chairman, is it possible to move on to give us an opportunity to examine the points raised here.

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



**Mr. Chairman:** On page 187, clauses 231 through 235 and there is an amendment here.

Clause 236 is deleted. Subsequent clauses are renumbered. 236, 237.

Part Eleven, Unfair and Deceptive Practices in the Business of Insurance, Clause 231 through 235. Shall these clauses carry?

Mrs. Watson?

**Mrs. Watson:** Mr. Chairman, is it customary to use definitions in the regulations?

**Mr. Chairman:** Shall these clauses carry?  
Mr. Lengerke?

**Mr. Lengerke:** Mr. Chairman, when will the -- as we pass this Ordinance, when will this come into effect? Is it the plan to bring it into effect immediately or is it going to be down the road awhile or just exactly what?

**Mr. Chairman:** We haven't got to 237 yet, but okay.  
Mr. Gillespie?

**Mr. Gillespie:** Mr. Chairman, we don't anticipate being in a position to bring this into effect before the fall at the earliest. It will take us that long to prepare the regulations.

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

**Mr. Berger:** Just a question, Mr. Chairman. I was wondering whether the witnesses could possibly tell us if this legislation is so air-tight that the Commissioner does not need to make any more regulations on it?

**Mr. Gillespie:** He doesn't have any --

**Mr. Legal Advisor:** There has not been any yet, Mr. Chairman, but there will be regulations.

**Mr. Chairman:** Are you ready to proceed with clause 220(1)?

220(1), we just went on, but I --

220(1), are you ready to proceed with that now?

**Mr. Gillespie:** Mr. Chairman, with your permission, I think we would be ready tomorrow morning, after we've had a chance to look at the legal implications of such terms as for cause.

**Mr. Chairman:** Is it Committee's desire that we defer the consideration of this?

**Mr. Legal Advisor:** I just want to bring to your attention, the fact that the special broker's licence is designed to be given to people outside of the Territory or inside the Territory, which could be the United States or anywhere else. So, it may not be appropriate to have exactly the same form which we're hearing for cause and everything else in respect of that licence. It would be the other licence. And the Honourable Member might like to consider this and if so, we could completely deal with this Ordinance now.

**Mr. Lengerke:** Mr. Chairman, I just want to make this statement that my questioning on this particular

section is not -- well, my concern is that it's a bit cumbersome and I know how -- it's almost mandatory that people in Yukon can place insurance with unlicensed insurers and I just didn't want to cloud the issue any further. This is the problem that is why I was questioning as I did, because, certainly we've got to make this available. It has to be done in such a manner that you are not going to discourage the agents, the companies in Yukon, from taking a look at the availability. On the other hand they are alternative, because otherwise, if we make it too cumbersome, they're going to say, well, we've got one source of insurance and that's it and we don't care to look anywhere else.

That was really my concern and I'm satisfied, I'm very pleased with this section. I'm very pleased that we've decided that we're going to make this available. I think the Honourable Member from Klwane is just wanting to make sure that we're not going to get into a conflict where you've written it from two sources of legislation or regulations and I think that's the only concern she has.

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

**Mrs. Watson:** Mr. Chairman, I think that the Honourable Member from Riverdale made a good point. Are we going to make it so complicated that they're just going to say to heck with the Yukon Territory? But by the same token, I'd like to make sure that people are protected under the legislation, people who are buying insurance.

But when you have a section such as section 3, you already are saying that you can suspend or revoke licences and so we should be able to but we should never, I don't think, say that we can suspend or revoke a guy's licence just at the discretion of the Superintendent. Surely, the reason that is sufficient to revoke or suspend a licence of a licensed insurance company in the Yukon should be sufficient to provide for the suspension of another one.

**Mr. Legal Advisor:** Mr. Chairman, in the general issue, yes. But this is a special licence for special cases, which may be granted to insurance people in Calgary or Vancouver, who are not normally subject to our control and we're relying on their word in placing insurance with South American companies or English companies and it may be necessary within Whitehorse to exercise a discretion and say, "this person has not been straight with us and we'll have to revoke his licence."

It may not be normal cause when you're dealing with an outsider that you cannot effectively deal with in any other way. And the only person who is dealing in this type of insurance in the Territory has been satisfied with the precise wording and we shouldn't stretch too far to protect people from Outside who may not ever require this protection.

**Mr. Gillespie:** Mr. Chairman, the Superintendent would never suspend or revoke a licence of this nature without some cause. If we start to move into wording, using the terms for cause, we start to get into legalistic terminology which may cause some additional difficulty and it may be that it does belong in here and that it could be usefully put in. Personally, I have little concern



about providing this discretion to the Superintendent in a matter of this particular sort because I am quite confident that any Superintendent of Insurance would never revoke or suspend a licence without cause.

**Mr. Chairman:** Are Members satisfied with 220.1 now?

**Mrs. Watson:** Mr. Chairman, I would prefer that they looked at 354.6 in the New Brunswick and just that one section. I know that they are very anxious to get the Bill passed through this House, but by the same token what's our hurry? We're looking at September, but I'd hate to have to sit down and go through this Bill again. Heaven forbid. But I do have a little problem. I'm prepared to leave the discretion in for the renewing of the licence — fine. I'm prepared to leave the suitable person in, although it really tugs at something, but when you can revoke or suspend at the discretion of someone, it does seem a little strong.

**Mr. Gillespie:** Mr. Chairman, we would be prepared to look at it and come back with an answer tomorrow morning.

**Mr. Chairman:** Then we will sleep on your little problem then.

Shall we continue? We will defer further consideration of the Insurance Ordinance at this time and we will proceed to the Recreation Ordinance.

**Mrs. Watson:**

**Mrs. Watson:** While Mr. Gillespie is here, I wonder if I could ask a question regarding the Insurance Ordinance and the Real Estate Ordinance? Now, they are quite detailed and comprehensive pieces of legislation and the functions and duties and responsibilities of the Superintendent of Insurance and the Superintendent of Real Estate are going to be quite onerous and I'm wondering whether the Government is considering hiring people to fulfill these functions, or are you going to try and combine them all together under one hat with many titles? It seems that these things are really quite sophisticated and need a lot of supervision almost on a day-to-day basis, and if we're going to be going into this thing, should we not be going into it properly and have the -- be prepared to fund the administration of the legislation by hiring in fact a Superintendent of Insurance and a Superintendent of Real Estate?

**Mr. Gillespie:** Mr. Chairman, in our budget for this year we have reclassified or redefined one of the positions — that of the former Assistant Territorial Secretary, to that of, I don't know what the title would be, but it will be a position whose duties will be to look after this Ordinance -- Insurance Ordinance, the Real Estate Ordinance and the Credit Union Ordinance. So there's going to be one person assigned to look after the details of those three Ordinances.

**Mr. Chairman:** The witnesses are excused, thank you.

Recreation Development Ordinance.

(Reads Clause 1)

**Hon. Mr. Lang:** Mr. Chairman, I'd like to make a few comments in relation to the Ordinance.

As all Members know, during the winter, in the months of January and February, myself and the Recreation Director went throughout the Territory discussing the Green Paper that was presented here last fall to all Members and I can say quite safely that the policy paper was accepted in its philosophy very well, by almost all the communities in the Territory.

I should like to point out that the only change that we're making in the area for the Recreation Department is the making of monies available to the communities which we have referred to in the draft regulations presented to you as recreation assistance. You'll notice that we have changed it from the Community Recreation Assistance Program because it was inaccurate and we did not see, and I don't believe it's fitting of the program, that we would like to initiate for recreation throughout the Territory.

At the same time, Mr. Chairman, this Ordinance will be the first step to establishing a legal basis for recreation within the Territory. At the present time, the regulations for recreation are under the Financial Administration Ordinance and subsequently do not have any legislative base. Also, at the same time, I think all Members are aware, but they should look once again possibly at the White Paper I gave out earlier during the Budget Session on the financial ramifications of the proposed new program in relation to the regulations.

I, personally, believe it's a move in the right direction; I think it's going to take approximately one or two years to assess the concept of the new program and at that time there may have to be some modifications or whatever made. I think that it's an honest attempt by this Government to put a strong commitment in the area of recreation and at the same time leave the onus partially on the people participating in recreation because the money would be available on a sixty/forty split.

Also, at the same time, I think you'll recognize the transition period that the various communities in the outlying areas are going through in relation to local improvement districts versus the community club, and we have made special provisions in there as well.

At the same time, in relation to some of the municipalities, we have made it possible for them to put the responsibility of recreation into a private organization, which is the case, for an example, in Faro. So we've tried to accommodate the changes, the wishes of all the communities as best we can and I think that we've come up with a pretty fair piece of legislation that outlines what the people of the Yukon want.

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

**Ms. Millard:** Mr. Chairman, just as a matter of procedure. The Yukon Native Brotherhood is very interested in this Ordinance and they have their own recreation person and they've been asking that one, either the recreation gentleman or the acting president of the Yukon Native Brotherhood, come as a witness and since we've been hanging on to this thing for so long, I haven't kept them in touch, with being able to phone them up and just say 'come as a witness in the next five minutes', would I be able to have consent of Committee to have him come tomorrow morning as a witness?



**Mr. Chairman:** What is Committee's desire?

**Some Members:** Agreed.

**Mr. Chairman:** Very well.

**Ms. Millard:** That is, if he is available.

**Mr. Chairman:** Yes.

Is there any further general debate on the Recreation Development Ordinance?

**Mrs. Watson:** Mr. Chairman, I'm not specifically objecting to the general philosophy of the Bill, but it is a variance from the philosophy of the method of funding recreation that has been used in the Territory now for the last five years. This method, this piece of legislation, is proposing to go to municipalities and communities, be they L.I.D.s or community organizations, for the funding, who will arrange the recreation programs.

I have some misgivings for the simple reason that about five years ago we put almost the administration of the sports and recreation programs through the sports governing bodies through the Sports Federation, and people applied, the various organizations applied to their sports governing body and the sports governing body made their application to the Sports Advisory Committee for funding. These methods of going about getting through -- and let's face it, it is sort of a government red tape, you know, the application forms, how you fill them out, where you send them, takes some time for people to get accustomed to and people are not getting accustomed to the procedure and the route you go to get your funding for sports programs.

I realize the first two years it was just a terrible schmozzle and no-one seemed to know just exactly how to go about it and the Sports Advisory Body did a tremendous job in trying to get this straightened around and lined up. Now we're going to a different concept where people apply through their municipal or their local government agency and I'm very much afraid that it's going to take a couple of years again for people to get used to the administrative structure and the procedures that they have to go through in order to get their funding.

I sometimes wonder whether it's worth it, to change, you know, change men in midstream or whether to continue it the other way. The Minister seems to feel that if we go with this piece of legislation we'll be getting more money into the smaller communities. I can't completely agree with him on that, but it's certainly worthy of a try. But I think that that's going to be one of the biggest deficiencies of changing the method, is the mess, the administration mess, that we have at the local level for a couple of years at least before people get used to it.

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

**Ms. Millard:** I'd just like to support that comment briefly, that we've had experience already with discussing the Green Paper in the Dawson Recreation Board and it was very confusing for the local people to try to figure out; it's very confusing for me to figure out as well, and I've been working with it a lot longer than they have, the various applications and whether they're going to have to sit there in judgement on a small group

in the municipality that has come to them with an application.

Now that the regulations are here, it's a little clearer, but it's still very confusing and a lot of responsibility on a small group of people who will be spending an awful lot of time in making decisions that formerly were made by someone else. I really agree with local input, there's no question about that, but I also disagree with pushing administrative duties on to volunteer people who otherwise would not be having to make those decisions at the local level. I think there could be a better combination of aspects and we'll be getting to those things, I presume, as we go along. I hope, as well, we'll be discussing the regulations because it certainly makes a lot of difference to the whole Ordinance.

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

**Mr. Fleming:** Yes, Mr. Chairman, I have practically the same remarks to make myself. I feel that the Minister has done a very good job in coming forth with the Green Paper and also with the regulations and so forth. I have no hang-up in it other than the fact that I think we are starting to use the people, like in the LID's, and places like this who are really not being paid to have too much authority and using them as more or less a go between to take the brunt of the attack from the people, if there is any, so the government can just sit back and say it's on your shoulders. Go ahead - you've got it.

I'm wondering why we couldn't have come up with something before to help the communities in the sense of taxes or something like this rather than doing it this way. I've always felt that the Committee we had on this type of thing was very good, the twelve Members that we have now, and I think -- and perhaps see that they are not being phased out in the same sense, but I'm a little worried in the next few years that we're going to take all the initiative away, actually, from those communities doing anything, because this is actually going to be government again. I's dropping right down to the government level. Even though you say you're going to give it out, the community is going to have more say, that's fine - I'd like them to have this say, but I'd like it to come finally here and I don't think that's going to happen. I think you're going to find that the people are going to say, "Forget it - the government's running it, let them run it." Their actual input will not be the same as it used to be in the old days when you volunteered lots of your time and everything to these community projects.

This is of course, I must say, this is -- in my constituency, I think I should say, that it is a personal opinion that most of the people in my community have looked at the Green Paper and they have accepted it, and feel that it will be better, so I want that to be well known. This is more or less my personal opinion that I'm giving on it right today.

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

**Mr. Lengerke:** Mr. Chairman, can we ask some questions with respect to the regulations at this point?

**Mr. Chairman:** Yes.

**Mr. Lengerke:** I'd like to ask the --



**Mr. Chairman:** Are you going into specific regulations or --

**Mr. Lengerke:** Yes.

**Mr. Chairman:** Well, perhaps we had better defer that for the present.

**Mr. McKinnon?**

**Hon. Mr. McKinnon:** Mr. Chairman, sometimes when it gets around 4:30 or 5 o'clock and we're all getting a little punchy, I really can't believe some of the arguments that I've heard in the course of a day in a House which just seems to be completely and absolutely diametrically opposed, coming from the same mouth at nine o'clock that is coming from the same mouth at 4:30.

There were three main points, and I worked quite closely with the Minister of Education on this program because of a long standing interest in recreation and recreation pursuits in the Yukon. I've received a lot of static from local people in my travels throughout the Yukon and I agree with them and I hope that this Ordinance is a reflection of the things that I've heard, and I'm sure that the Minister of Education has heard and that is that they wanted to have the ability of having more money at the local level and more say at the local level over how that money was used.

I got it over and over again from every community that I visited, that the money was going to elitist Whitehorse athletic groups who were using it as professional jocks to travel the length and breadth of the North American Continent, leaving the smaller communities barren of monies to be able to get the kids in those communities competing against kids of like talents throughout the Yukon.

This Ordinance does exactly that and I commend the Minister of Education for listening to the people of the Yukon and listening to the complaints that we have heard and all Members have raised at this table on various occasions, about the lack of recreational money under the control of recreational authorities -- of local authorities in the smaller communities. The other one is and I am strong on this principle in Legislative Programming and Sub-Committee on Legislation and in Executive Committee, that here was a program that had no more authority than under the regulations and for goodness sakes, let's give the program which was under regulations the credibility and the authority of an Ordinance and not just straight regulation-making authority which the administration can change on a day to day basis.

Those were three elements which we hear over and over again at this table, three elements which were paramount in the creation of the Ordinance as you now see it and three elements which I think are satisfied very well by the terms of the Recreation Development Ordinance.

Now we can hear in the same day, the arguments against too much regulation in one aspect, and in the same day hear, "let's leave the program as it was, let's not change anything, it's working well. Let's leave it under the old standard" seems to me to be just a bit inconsistent. Also I think that the listening by the government to the people at the local level, that they didn't want the Committee on Physical Fitness and Amateur Sport making decisions to the detriment that they felt at

the local level, but to elitist Yukon athlete groups, that those decisions could far better be made at the local level with more monies available to people at the local level.

Mr. Chairman, certainly nothing in legislation is perfect, but with those three principles in mind that we started off with, certainly this Ordinance is better than the program that we presently have constituted under nothing but a set of regulations which can be changed by the administration at their any whim.

Mr. Chairman, I think that the Minister of Education deserves a lot of support for the manner in which he has consulted with the people of the Yukon and the manner in which he has listened to the people of the Yukon. I think that when you go through the Ordinance and the regulations, that one can see that the best interests of all of the people of the Yukon are at heart in the development of the Ordinance and the regulations. I hope with some changes, as we go through them, that Members will, as a majority, support the concept and the principles which I have espoused, that are contained in the Recreation Development Ordinance which is presently before this Committee.

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

**Hon. Mr. Lang:** Mr. Chairman, there's just another point that I'd like to raise here, while we're discussing the general policy of the proposed ordinance is that the members of the Fitness and Amateur Sports Advisory Board, which comprises twelve members, each member here appoints a member to that particular Board, were fundamental in the developing of this policy and they do agree with it.

They realize that a lot of the small communities just do not have the capabilities or whatever to get involved in the area of recreation the way it is at the present time. This is the major reason for the change.

At the same time, I think it should be pointed out, Mr. Chairman, that we are maintaining the Fitness and Amateur Sport Advisory Board. They will be taking care of external travel, leadership development and this kind of thing, in relation to the Yukon Territorial sports governing body. But at the same time, the recreation assistance that will be made available to communities, will be there on a cost-shared basis so that those people can carry on with their programs within the communities at the same time provide monies for internal travel. So that's the only difference that's happening at the present time.

I think it's definitely worth a try as I said earlier that if, two years down the road, we find that there are some areas that there's problems then there's going to have to be changes to be made. I think that we have to make a commitment, and this is a commitment that I would like to see being made by this House in relation to recreation.

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

**Mr. Berger:** Yes, Mr. Chairman, I just would like to go on record, it seems to be that in my half of Dawson City, the people are quite happy with that Ordinance.

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



**Mr. Fleming:** This may be not the right time, Mr. Chairman. I would like to ask a question about the approved community organizations. Who are they? Okay, it will have to wait.

**Mr. Chairman:** Mr. Lang, what do you envisage -- the Sports and Recreation Advisory Committee is going to assume a lesser role? They're going to be dealing with the governing bodies as usual, in the external travel, is that correct?

**Hon. Mr. Lang:** That's correct.

**Mr. Chairman:** What do you envisage as the role of the Sports Federation?

**Hon. Mr. Lang:** Mr. Chairman, the Sports Federation at the present time has decided not to participate in the organizing of any games any longer. As you know, they took that responsibility for quite a few years, on behalf of this government, and incidentally did a very good job. At the present time, they intend to, the way I understand it, play an administrative role with the Sports Governing bodies in relation to helping the Territory-wide Sports Governing bodies become organized and participating more within the Territory as well as externally.

This is the role they see happening at the present time. How major a role they play in the area of recreation is going to depend on the Sports Federation itself. As you know, we've given them the lottery and how they're going to carry on in the future remains to be seen.

**Mr. Chairman:** What happened to the lottery money, then? Do they continue to get the lottery money?

**Hon. Mr. Lang:** At the present time, Mr. Chairman, we made the decision to give them the running of the lottery and apparently they are making profits in relation to this. Possibly I could bring you some more information in relation to the Sports Federation tomorrow. I don't have it all with me.

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

**Mrs. Watson:** Mr. Chairman, I can't help but stand up as a bit of a challenge to some of the remarks that the Minister of Local Government made. I don't think this is going to be the answer and the end of all our recreational needs by any means. I'm not kidding myself, that the program in the past was in regulations under the Financial Administration Ordinance, and if you recall, many of our programs were under that at that time.

I do, I think that this government does owe some--should give some credit to the Sports Federation, whether they're going to play an active role, as active a role as they did before or not. They did assist us in straightening out an awful lot of the administrative problems that we had in trying to sort out who should be getting money for sports programmes and who should not.

I can recall in 1969 and 1970 the -- it was just one gosh awful mess, whoever made the most noise and whoever somebody in the government liked got the most money,

and that was basically how the sports grants were operated at that time. Because sports governing bodies were established, because the Sports Federation was established, and worked with those sports governing bodies, and we were able to work with the Sports Advisory, Fitness and Amateur Sports Advisory Board, that we got the administrative structure that we have today.

It may not be working perfectly, and it's not getting the money out to the smaller communities, this is true, however, it's certainly a tremendous change from what we had in 1970. I think a lot of the credit has to go to the Sports Federation and to the sports governing body. They assisted the Yukon in that regard.

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

**Hon. Mr. Lang:** Mr. Chairman, to clarify the position of the government, nobody is trying to belittle the Sports Federation. I think I said a little earlier, I gave them credit in relation to the way they ran the Games and the way they ran the sports governing bodies, but as I said earlier, in the future here, how active a part they're going to play in relation to recreation is going to be up to them. We're prepared to work with them as we have in the past.

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

**Mr. McCall:** Yes, Mr. Chairman, I would move that Mr. Speaker now resume the Chair.

**Mr. Chairman:** I knew you'd have something to say today Mr. McCall.

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

**Mr. Chairman:** It's 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:** Motion is carried.

*(Motion Carried)*

*(Mr. Speaker resumes the Chair)*

**Mr. Speaker:** I now call the House to order. May we have a report from the Chairman of Committees?

**Mr. Hibberd:** Mr. Speaker, the Committee of the Whole have considered Bill Number 8, Insurance Ordinance, Bill Number 12, Recreation Development Ordinance and Bill Number 14, Real Estate Agents Licensing Ordinance, and directed me to report progress on same.

The Committee have also directed me to ask leave to sit again, to further consider Recreation Development Ordinance and the Credit Union Ordinance.

**Mr. Speaker:** You have heard the report of the



Chairman of Committees. Are you agreed?

**Some Members:** Agreed.

**Mr. Speaker:** Leave is so granted. May I have your further pleasure? The Honourable Member from Whitehorse Riverdale.

**Mr. Lengerke:** Yes, Mr. Speaker, I move that we do now call it 5 o'clock.

**Ms. Millard:** I second that.

**Mr. Speaker:** It has been moved by the Honourable Member from Whitehorse Riverdale, seconded by the Honourable Members from Ogilvie, that we do now call it 5 o'clock. 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:** This House now stands adjourned until 10:00 a.m. tomorrow morning.

*(ADJOURNED)*