



# The Yukon Legislative Assembly

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24th Legislature

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## **HANSARD**

**Wednesday, October 24, 1979 — 1:30 p.m.**

Speaker: The Honourable Donald Taylor

# Yukon Legislative Assembly

SPEAKER — Honourable Donald Taylor, MLA, Watson Lake  
DEPUTY SPEAKER — Geoffrey Lattin, MLA, Whitehorse North Centre

## CABINET MINISTERS

NAME	CONSTITUENCY	PORTFOLIO
Hon. Chris Pearson	Whitehorse Riverdale North	Government House Leader — responsible for Executive, Council office, Public Service Commission, Finance and Pipeline.
Hon. Doug Graham	Whitehorse Porter Creek West	Minister responsible for Education, Justice, Information Resources, Government Services
Hon. Dan Lang	Whitehorse Porter Creek East	Minister responsible for Highways and Public Works, Municipal and Community Affairs, Yukon Housing Corporation, and Yukon Liquor Corporation.
Hon. Meg McCall	Klondike	Minister responsible for Health and Human Resources and Workers' Compensation Board.
Hon. Peter Hanson	Mayo	Minister responsible for Renewable Resources, Consumer & Corporate Affairs, Tourism & Economic Development.

## Government Members

### (Progressive Conservative)

Al Falle	Hootalinqua
Jack Hibberd	Whitehorse South Centre
Geoffrey Lattin	Whitehorse North Centre
Grafton Njootli	Old Crow
Donald Taylor	Watson Lake
Howard Tracey	Tatchun

## Opposition Members

### (Liberal)

Iain MacKay	Whitehorse Riverdale South
Alice P. McGuire	Kluane

### (New Democratic Party)

Tony Penikett	Whitehorse West
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### (Independent)

Maurice J. Byblow	Faro
Robert Fleming	Campbell

Clerk Of Assembly  
Clerk Assistant (Legislative)  
Clerk Assistant (Administrative)  
Sergeant-at-Arms  
Editor of Hansard

Patrick L. Michael  
Missy Parnell  
Jane Steele  
G.I. Cameron  
Lois Cameron

**Whitehorse, Yukon****Wednesday, October 24, 1979**

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

Prayers

**Mr. Speaker:** We will proceed at this time with the Order Paper, under Daily Routine.

**DAILY ROUTINE**

**Hon. Mr. Lang:** Yes, Mr. Speaker, I would like to take this opportunity to introduce to the House Mr. Glen Bagnell, who is originally from Nova Scotia, who is presently with Pacific Survey Corporation.

Glen has been in politics for some time. For ten years he served with the Government of Nova Scotia and, since that time, he has gone into private enterprise.

I would like to welcome him to Yukon. He was the Minister of Tourism at one time and made a trip up here. He saw the light and he is back again.

Welcome, Glen.

Applause

**Mr. Speaker:** Are there any Documents or Returns for Tabling?

**TABLING OF DOCUMENTS**

**Hon. Mr. Hanson:** I have a Document for Tabling in answer to a question by Mr. Byblow the other day.

**Mr. Speaker:** Are there any other Tabling of Documents or Returns?

Reports of Standing or Special Committees?

Before we proceed with presentation of Petitions, on Tuesday, October 23, during Daily Routine, two petitions were presented to the House.

The form of presentation at that time, has given the Chair an opportunity to clarify the correctness of procedures relative to presentation of Petitions.

Standing Order Number 49(3), provides that every Member offering a petition to the Assembly shall confine himself to the statement of the party from whom it comes, the number of signatures attached to it, and the material allegations it contains.

Upon reflection, the term "material allegations" would seem very broad, and so we must therefore seek further direction from parliamentary authorities.

Annotation 692(2) of Beauchesne, tells us that when a Member presents a petition he may not make a speech, nor present argument in support of the petition.

It would therefore appear to the Chair, that Honourable Members, when presenting petitions, must restrict their remarks to a concise statement as to the petitioners, the number of signatures contained therein, and a brief succinct description of the material allegation it contains.

Under no circumstances, should an Honourable Member make a speech of any kind, nor present an argument in any way, in support of the petition.

Perhaps then, these observations from the Chair may be of assistance to Honourable Members wishing to present Petitions to the House in the manner prescribed by the Standing Orders of this Assembly.

Should any Honourable Members have need of further direction in this matter the Chair would welcome private consultation with such Members at any time.

Are there any Petitions?

**Mr. Byblow:** If the Chair deems that I have taken advantage of the Rules of the House I would be the first to apologize for having unknowingly done so.

**Mr. Speaker:** I would thank the Honourable Member from Faro, but I would also say that I am sure the presentation of Petitions is not a normal event in the House and perhaps even the Chair welcomes the opportunity to review the procedures and that we all

may, in the future, follow the Standing Orders in the correct way. Are there any Petitions?

**PETITIONS**

**Mr. MacKay:** Thank you Mr. Speaker. I have a Petition to present. My remarks will be brief and succinct and to the point. This Petition relates to exactly the same subject matter that was presented yesterday, the contents of which, I am sure, we will be hearing later on today so I will not take up the time of the House, other than to indicate that there are over a hundred signatures on this Petition and I have duly endorsed the same.

**Mr. Speaker:** Are there any further Petitions?  
Reading and Receiving of Petitions.

**Mr. Clerk:** Mr. Speaker and Honourable Members of the Assembly, I have had the honour to review two Petitions, being Petition Number 1 and Petition Number 2 of the Second Session of the Twenty Fourth Legislative Assembly as presented by the Honourable Member from Faro on October 23, 1979.

Prior to submission of this Report, the Honourable Member approached me to state that he had been neglectful in not endorsing his name on these Petitions.

Having sought the guidance of the Standing Orders of this House and of Parliamentary Authorities, I have found no rule nor precedent which prevents an Honourable Member from correcting such an oversight between the interval between his presenting such petitions and the time of the Report of the Clerk of the Assembly on such Petition.

Accordingly, the Honourable Member for Faro has endorsed his name on Petition Number 1 and on Petition Number 2, and I would now report to the House that these Petitions do fulfill the provisions of Standing Order 49 of this Assembly.

**Mr. Speaker:** Is it the wish of the House that these petitions be received?

**Some Members:** Agreed.

**Mr. Speaker:** These petitions are accordingly received.

**Mr. Byblow:** May I request that the Petitions be read?

**Mr. Speaker:** Is it the wish of the House that the petitions be read?

**Some Members:** Agreed

**Some Members:** Disagreed.

**Mr. Speaker:** I will at this point call Division. All Members being present in the House at this time, Mr. Clerk, would you kindly poll the House.

**Hon. Mr. Lang:** Disagreed.

**Hon. Mrs. McCall:** Disagreed.

**Hon. Mr. Hanson:** Disagreed.

**Hon. Mr. Graham:** Disagreed.

**Mr. Lattin:** Disagreed.

**Dr. Hibberd:** Disagreed.

**Mr. Njootli:** Disagreed.

**Mr. Falle:** Disagreed.

**Mr. Tracey:** Disagreed.

**Mr. MacKay:** Agreed.

**Mrs. McGuire:** Agreed.

**Mr. Penikett:** Agreed.

**Mr. Fleming:** Agreed.

**Mr. Byblow:** Agreed, absolutely.

**Clerk:** Mr. Speaker, the results are five yea, nine nay.

**Mr. Speaker:** I must declare that the petition may not be read. Are there any Introduction of Bills?

Notices of Motion for the Production of Papers? Notices of Motion?

Are there any Statements by Ministers?

This then brings us to the Question Period. Are there any questions?

**QUESTION PERIOD****Question re: White Pass Inquiry**

**Mr. MacKay:** Thank you, Mr. Speaker. My question is to the Acting Government Leader. It is with respect to an official notice placed in the local newspaper respecting an inquiry into the operations of the White Pass and Yukon Route. That notice stated that the reason for the inquiry was due to an exchange of correspondence between the Government Leader and Mr. Fraser of White Pass, and at the request of Mr. Epp, an inquiry was being held. Can the Acting Government Leader confirm that there was no offer of financial assistance in these letters to White Pass?

**Hon. Mr. Lang:** Mr. Speaker, to my knowledge, there has been no discussion of financial aid one way or the other, directly between the Government Leader and Mr. Fraser.

**Question re: Freedom of Information Legislation**

**Mr. MacKay:** Thank you, Mr. Speaker.

In view of the introduction today of our senior Parliament of a Freedom of Information Bill, would the Acting Government Leader be prepared to table or make available to the public this correspondence, which is now going to the subject of an inquiry?

**Hon. Mr. Lang:** Mr. Speaker, I think it would be inappropriate for me to make a commitment on behalf of someone else's correspondence. I think, perhaps, Mr. Speaker, that the wise thing to do is to take the question under advisement and I will bring it to the Government Leader's attention, once he arrives back in Whitehorse.

**Question re: Transportation/Diversified Transportation**

**Mr. Penikett:** Thank you, Mr. Speaker. I have a question for the Minister of Education.

I would like to ask the Minister of Education if his department has, at present, a contract with Diversified Transportation Limited?

**Hon. Mr. Graham:** Yes, we do, Mr. Speaker.

**Mr. Penikett:** Thank you, Mr. Speaker.

I would like to ask the Minister if, as a matter of policy, his Department permits employees of his Departments to also have contracts or to perform work outside of their regular hours with Diversified Transportation?

**Hon. Mr. Graham:** We do not have any policy that I, personally, or this Government, has set, Mr. Speaker.

Perhaps I should take the question under advisement and answer it more fully, but, to my knowledge at this time, there is none.

**Mr. Penikett:** Thank you, Mr. Speaker.

In obtaining his advice, would the Minister establish if, at the moment, any employee of his department is, in fact, also employed by Diversified Transportation?

**Hon. Mr. Graham:** I will, Mr. Speaker.

**Question re: Brands Ordinance**

**Mrs. McGuire:** Thank you, Mr. Speaker, to the Minister responsible for Renewable Resources: in view of the number of livestock being transported through Yukon to Alaska, to which livestock owners on the Alaska Highway identify such animals as diseased or not branded, would the Minister consider amendments to the Brands Ordinance to include appointment of a Yukon brand inspector?

**Hon. Mr. Hanson:** I would have to take that under advisement, Mr. Speaker.

**Question re: Health Transfer Delay**

**Mr. MacKay:** Thank you, Mr. Speaker. Freedom of Information has not sunk into the House, I am afraid, today.

With respect to a question that was asked yesterday and an answer was not received from the Minister of Human Resources, it was with respect to the transfer of health responsibilities. I would like to address it to the Acting Government Leader.

As it appears that it is not being pressed by his Government at this time, is this a deliberate policy that the Government has now undertaken, not to press for this transfer?

**Hon. Mr. Lang:** Mr. Speaker, I cannot accept his statement that the question was not answered yesterday. My colleague made it very clear that this was a Federal decision and, therefore, we had

to wait for the Federal Government to make the final decision in respect to transfer.

The long-term objective, from our side of the House, and I am sure it is from the other side as well, is to eventually have that particular responsibility transferred to the Yukon Government so that decisions that affect the health of our constituents can be made here and we do not have to rely on telexes and that type of thing, Mr. Speaker.

**Mr. MacKay:** As this appears to be somewhat as a departure from previous policy and is, indeed, a welcome attitude of restraint, I will say, can the Acting Government Leader indicate if this restraint will be shown in other sensitive issues that are involved in the land claims issues, such as transfer of land and resources?

**Hon. Mr. Lang:** Mr. Speaker, I think it is fair to say, from this side of the House, we recognize that there is going to be a land claim settlement. At the same time, we recognize that we have a responsibility to all people in Yukon, regardless of race.

The Honourable Member, consistently in this House, since we have sat and since we have been elected, has insisted on separating the people of Yukon on an ethnic background basis.

Mr. Speaker, in respect to the development of land, this type of thing, it is available for anybody who wants to utilize the land, if this Government develops it.

Mr. Speaker, we have a responsibility and, as time goes on, we have to continue to develop in many areas. We will use constraint, but at the same time, we recognize our responsibility to all people in Yukon.

**Mr. MacKay:** Thank you, Mr. Speaker. I certainly would not like to leave the impression that this side of the House was not in favour of further development of all Yukon's resources on behalf of all Yukoners. However, in view of the repeated statements of the Government side that they would be unwilling to prejudice land claims, can the Minister confirm that it is going to be his Government's policy now to consult with interest groups before asking for transfers of the aforementioned items, land and resources.

**Hon. Mr. Lang:** Mr. Speaker, I can say right now in areas such as major steps as constitutional development, this type of thing, there will be a forum set up and we have made that very clear, such things as a referendum for provincial status, when and if it comes. In areas that we feel it is necessary to consult, we will. In areas where we do not feel it is necessary to consult, we will proceed accordingly.

**Question re: Renewable Resources Department Relocations**

**Mr. Penikett:** Thank you, Mr. Speaker. I have a question to the Minister responsible for Renewable Resources.

The Minister is aware of the deplorable working conditions of his employees in Building 265. I would like to ask the Minister if he has any plans to relocate or expand these offices.

**Hon. Mr. Hanson:** Mr. Speaker, I wish I could say at this time that I could build a brand new building for them and give them all the things they would like. I would like to see them have it but we are discussing and trying to do something there. We just do not have the money and we are all very much interested in putting up a building.

**Question re: Game/Moose Study**

**Mr. Penikett:** Since the Minister has assumed his portfolio, I would like to ask him if he has yet had the opportunity to make available to his officials the means to conduct the studies they wish to make into the most important Yukon game species, namely the moose.

**Hon. Mr. Hanson:** Not as yet, since I have been sworn in, Mr. Speaker, all the top officials of Renewable Resources have been out of town. But we will be talking about it as soon as they come back.

**Mr. Penikett:** I wonder then, in view of the officials' absence, if the Minister could then tell us yet, when we can expect the amendments to the Game Ordinance we have been promised?

**Hon. Mr. Hanson:** Mr. Speaker, we are reviewing them now and shortly we will have them here in the House.

**Hon. Mrs. McCall:** Mr. Speaker, I have an answer to a question raised by the Honourable Member from Riverdale South last week. It is on the question of withdrawal of hospital admission privileges and the possible dilatory effects on the health care of Yukon residents.

I would like to assure the Honourable Member that the full facilities of the Whitehorse General Hospital are available to all

residents of the Yukon, but as with any hospital, admission can only be made by a doctor who holds admission privileges. The Honourable Member will be aware that it is not the inalienable right of a doctor to have admission privileges to any or all hospitals.

It is a privilege and privileges require compliance with the rules and regulations governing them. Again, I would like to point out to the Honourable Member, as I understand it, withdrawal of the privilege was done on the recommendations of a peer group selected so that their impartiality would be unquestioned. The usual appeal mechanisms exist to question the decision. To the best of my knowledge, the doctor in question has not availed himself of this remedy in any way. Until this route has exhausted itself, it would not be the intention of this Government to interfere. It would seem to me that this House should be the court of last appeal and not the court of first appeal. It should not be used as a means to subvert or short-circuit the normal judicial process.

**Question re: Sharp Report**

**Mr. Penikett:** Yes, Mr. Speaker, I have a question for the Minister of Education concerning the Sharp Report. The report stated that forty-nine per cent of rural students dropped out of F. H. Collins in the last school year term. The Government has said that it would implement many of its recommendations to reduce this rate. I would like to ask the Minister, since the report also reveals that the normal rate is about twenty-five per cent and that some calculations for urban students are as high as twenty per cent, if the Department is considering any immediate plans to address the drop out rate of urban students as well as rural students?

**Hon. Mr. Graham:** Yes, Mr. Speaker, we are. We are attempting to, through a diversified course offering in the high schools, make the course selection more readily acceptable to students. The general objective is to keep students in school longer. It seems that the longer we keep them in there, through force of habit if nothing else, they are learning something. That is hard to disagree with. We are attempting also to coordinate the high school with the Vocational School in an attempt to give students something to go to once they feel that their education in high school is finished, in many cases at the grade nine or ten level. We are attempting to offer them something else to continue their education. It is a very high priority in the Department of Education.

**Mr. Penikett:** Thank you, Mr. Speaker. I guess if we sit here long enough, we might learn something, too.

I would like to ask the Minister if the Department is, at present, reviewing the regulations concerning school leaving age, in light of this problem of the high drop-out rate?

**Hon. Mr. Graham:** No, Mr. Speaker, at this time we have not considered it.

**Mr. Penikett:** Thank you, Mr. Speaker.

Since it is no longer necessary to have a late school leaving age in order to protect children from child labour, has the Minister considered adopting the European practice of allowing kids to leave school and go directly towards apprenticeship programs sponsored by the government?

**Hon. Mr. Graham:** Yes, Mr. Speaker, we not only have looked at that program, there are students currently involved in a program similar to this. It is kind of a work release program. These students do attend high school, but, during the day, they are also taken out of the school and put into a work situation in various businesses throughout the Whitehorse area.

**Question re: YTG - Alleged Theft**

**Mr. Penikett:** Just another question for the Minister of Justice, since he seems to be confusing his portfolios at the moment, Mr. Speaker.

On October 9th, I asked the Minister about the complaint of petty theft, made by a constituent of his against the Government.

I would like to ask the Minister if the money in question has yet been returned to the Minister's constituent?

**Hon. Mr. Graham:** Mr. Speaker, to the best of my knowledge, it has not yet been returned. Unfortunately, the Department in question, Consumer and Corporate Affairs, has passed from my portfolio, therefore, I am going to take it upon myself, Mr. Speaker, to ensure that the present Minister of Consumer and Corporate Affairs carries through on my promise to look into this situation and I am also making a commitment, on behalf of my constituent, to ensure that he does, in fact, receive the money coming to him in the next week or two.

**Mr. MacKay:** Supplementary to the Minister's final statement: does that mean that the promise he made of taking the money out of

his own pocket will be transferred to the new Minister, too, Mr. Speaker?

**Mr. Speaker:** Order, please. I would consider that question to be of a frivolous nature.

**Question re: Public Accounts Committee/Crown Corporations**

**Mr. Penikett:** Yes, Mr. Speaker. I have another question.

Given that the House has now established a Public Accounts Committee and in some jurisdictions, the books of such Crown corporations are not referred to the Public Accounts Committee or outside the purview of the Public Accounts Committee, can I ask the responsible Minister what will be the practice in this Legislature?

**Hon. Mr. Graham:** Mr. Speaker, I believe, in discussing the Public Accounts Committee and the Standing Committee on Rules, Elections and Privileges, it was our intention to have Crown corporations included as part of Public Accounts Committee's investigations.

I have done a certain amount of investigation. I find that the Yukon Liquor Corporation and the Yukon Housing Corporation do, in fact, form part of the Territorial accounts. As the Territorial accounts will be referred to the Public Accounts Committee, I believe that the Public Accounts Committee can therefore fulfill their function and investigate the Crown corporations as well.

**Mr. Speaker:** There being no further questions we will proceed on the Order Paper to Motions for the Production of Papers.

**MOTIONS FOR THE PRODUCTION OF PAPERS**

**Motion Number 1**

**Mr. Clerk:** Item Number 1, standing in the name of Mr. Penikett.

**Mr. Speaker:** Before proceeding with Item 1, on a Point of Order, the Chair notes that Sessional Paper 79-2-37 which was tabled by the Minister of Education on October 22, 1979 is a copy of an agreement between the Yukon Lottery Commission and Rampart Management Services. If this satisfies Part 1 of the Motion for the Production of Papers by the Honourable Member for Whitehorse West, the Chair would have the latitude to amend this Motion to include only Part 2.

Could the Member from Whitehorse West provide some direction in this matter?

**Mr. Penikett:** Mr. Speaker, if there is unanimous consent of the House I would ask that the whole Motion be withdrawn.

**Mr. Speaker:** Does the Honourable Member have unanimous consent?

**Some Members:** Agreed.

**Mr. Speaker:** The Motion then is withdrawn.

We will now proceed with Motions other than Government Motions.

**MOTIONS OTHER THAN GOVERNMENT MOTIONS**

**Mr. Clerk:** Item Number 1 standing in the name of Mr. Penikett.

**Mr. Speaker:** The Honourable Member from Whitehorse West, are you prepared to deal with Item 1?

**Mr. Penikett:** Next sitting day, Mr. Speaker.

**Mr. Speaker:** So ordered.

May I have your further pleasure.

**Hon. Mr. Graham:** Mr. Speaker, I move, seconded by the Honourable Member from Old Crow, that Mr. Speaker do now leave the Chair and the House resolve itself into Committee of the Whole.

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

Motion agreed to

**COMMITTEE OF THE WHOLE**

**Mr. Chairman:** I shall call the Committee of the Whole to order.

At this time we will take a very short recess.

Recess

**Mr. Chairman:** I shall call Committee of the Whole to order. This afternoon we are discussing An Ordinance Respecting Income Tax. We are starting with Clause 4.

I might mention at this time on this evening's sitting, the first thing that we will do will be the Taxation Ordinance. If we finish that, we will continue on with the Income Tax Ordinance. We have as our witness today, Mrs. Francis. Later on Mr. O'Donoghue will be joining us.

On Clause 4(1)

**Mr. MacKay:** Mr. Chairman, this section is germane to what I am going to ask the witness about, but I would probably range a little further on it.

I am concerned about the cut-off of the previous grants-in-lieu of tax that we are getting and the start up of the new system to see that we are not losing any ground on that cut-off. For example, Members opposite may recall when the Workmen's Compensation responsibility was assumed by this Government, all of the previous premiums that had been paid by employers throughout the Territory were lost, and the private insurance company that had carried the policy, at that point, had no future responsibility other than claims that had occurred during the time that the policy was in. As we know there are many reserves built up.

While I appreciate that a grant-in-lieu of income tax is an estimated amount it is based on some factual information, it does vary widely from year to year. For example, last year I think we got a little over twelve million, the previous year it was some seventeen million, according to the budget figures last year, that is what the case was.

So that, according to the latest figures last year, that was what the case was.

I am concerned about if we are running out of a good year or a bad year, or how is this whole cut-off going to be affected, so that we do not, perhaps, lose what has been a good year?

**Hon. Mr. Graham:** Mr. Chairman, perhaps I will ask the witness to answer.

**Mrs. Francis:** Mr. Chairman, I am not sure about that. I do not know what it was previous to last year, and I think, this year, our total grant is somewhere, grant-in-lieu is somewhere in the neighbourhood of \$13 million. I think it is. But I am not sure how that relates to 1977-78, or 1978-79. I was not aware, when the Honourable Mr. Graham said that we were going to be cut off at that point, that we were. So, this may be something that he knows about, and I do not. But, I know that this payment starts February, 1980, and it is, in effect, for January, 1980. So, if there is any estimate, or if the estimate is not correct, it will be adjusted in 1981. By December 31, 1981, we will get an adjustment on what the estimate was for 1980.

So, we will not be losing any taxes for the calendar year, 1980, but I am not sure about the grant-in-lieu. You may have more information on that.

**Hon. Mr. Graham:** Mr. Chairman, as I understand, and again, you must take this as a layman's advice, any money that we would normally have received from the Federal Government as a grant-in-lieu of taxes, from January 1st to April 1st, which is part of this Budget year, we will, I believe, receive that. If there are any adjustments to be made, if there is any difference in that amount that would have been received in the months of January, February and March, if the grant-in-lieu would have been less or greater than the income tax, that amount will either come to us in the form of additional revenue, or else we will have to pay it back.

If the grant that we normally received in that time is, in fact, higher than the income tax, as I understand it, we will not receive that amount of money.

**Mr. MacKay:** I would just like to pursue this a little further, if I may, before we get on to another subject. Let me give you a hypothetical example of what my concern might be. For example, Cyprus Anvil, the largest corporation in the Territory, is having a record year in 1979.

Perhaps its income taxes might amount to \$10 million, or something like that, that would have eventually, flowed through to Yukon, under the existing formulas, but, because we are now jumping out of that system into the new one, are we going to lose such a bumper year, shall we say?

In any event, had we received that bumper year, would that just have reduced the operating deficit, anyway? Or would we have been further ahead?

I am just concerned that, in the switch from one system to another, that we do not lose out, perhaps, in the large amount of taxes that we would otherwise be getting.

**Hon. Mr. Graham:** Mr. Chairman, this was a concern of ours, too. As I understand, and again, take my advice as a layman, we will

not lose out a great deal of money because the present grant we are receiving, and again, I have three different opinions and all three are different, expert opinions, I might add, chartered accountants.

One of them says that the income tax we receive under this Ordinance will remain roughly the same. One says that we will probably lose a tiny bit and the other says that we should make an additional 1.5 million a year. So I do not know what to expect. We expect that it will remain roughly the same.

**Mr. Penikett:** Mr. Chairman, I would just like to make an observation about this Ordinance.

One of the things that I think is very obvious about the employment patterns in the Yukon is that there is a far higher number of people working in the summer than there is in the winter. There is also a great amount of money earned in this Territory in the summer from our resources and from jobs provided by our resources, by people who then leave the Territory every Fall on the date for which they are made eligible for taxes, December 31. They are in fact living somewhere else so that we lose the benefits of the taxes on that income.

It was with regret that I heard the Legal Advisor warn me yesterday not to mess around with the Bill because if there was one section that I would like to see changed, it is the one that makes reference to an individual who resided in the Territory on the last day of the taxation year. If there was any possible way to make the amendment I would probably want it resided in the Territory, perhaps, June 30 or middle of July sometime.

I would just like to make that point. I do not suppose that it is a problem to which there is any kind of easy solution except ultimately stabilizing the economy such that we have more and more people coming from that residence here. It does seem to me a great pity though, when we have such high unemployment in the winter and such a high level of employment in the summer, so many people employed here in the summer who, in fact, are not living here in the winter, that we lose out on all those taxes.

**Hon. Mr. Graham:** Mr. Chairman, I must say that the Member Opposite has a great deal of wisdom and intelligence, because I, too, thought of the same thing so I know he does. I asked the exact same question and received much the same answer that I am going to give you. There is not a whole lot that we can do about it. I think that if we could establish the residency date as of June 30, our income tax would almost double. I feel that it is unfair in our particular instance, but as I understand it, no amount of negotiation with Ottawa will do any good.

**Mr. Penikett:** Mr. Chairman, could I just follow that up on one point. Is there anybody who has been able to make an accurate assessment of what we probably lose on that basis? It occurs to me that it might be a bargaining point with Ottawa if you were ever in a tight spot.

**Hon. Mr. Graham:** Mr. Chairman, we have not made any real assessments. I have here some employment numbers, and the employment figures as can well be imagined are much higher in June than they are even at the end of October. I think we both realize that there are more people employed in Yukon in June than there are in December. Unfortunately, that is something that we are going to have to live with.

**Mr. Fleming:** Yes, Mr. Chairman, I am very interested in this. It was one of my sore spots many years ago. I might ask the Legal Advisor and possibly the witness: is there not a section in the Income Tax forms that are being filed by individuals that designate where they worked and where the money was made, and would that not be the area that they were taking our taxation from entirely even if you were not here though you filed it in British Columbia or Alberta?

**Mrs. Francis:** Mr. Chairman, it depends on the province in which you are a resident on December 31 where you pay your taxes to. All of the provinces agree on this formula. There is nothing on the income tax return itself that indicates where you made your money. Your individual T-4 slip might say that but not the return; therefore, you do not pay your tax to where you earned it. The only saving grace you have is that income tax in Yukon is lower than anywhere else and possibly people will say that they are resident here whether or not they are and you will still get their taxes.

Clause 4(1) agreed to

On Clause 4(2)

Clause 4(2) agreed to

On Clause 4(3)

**Mr. MacKay:** I would thoroughly endorse (3) and hope that it will remain unchanged for many, many years to come, unless, of course, it can be endorsed downward.

**Mr. Penikett:** Before we go too far on subsection 4, Mr. MacKay has thoroughly endorsed the section. In preparation for this debate, it might surprise some Members to know that I read the debates in the Northwest Territories Council when they were doing exactly the same thing a couple of years ago.

One of the assurances that was given at that time was the assurance given in this House that, of course, nothing would change about people's taxes for one year. Unfortunately, what happened in the year following the Northwest Territories' adoption of the Act was that there were several changes in the Federal Act. I can recall that several local politicians got into an awful lot of trouble in Yellowknife, because people went back and dug out those Hansards and then looked at their tax returns for the year. If they were in certain income categories, their taxes had gone up.

They went to the Territorial councillors and wanted to know about this betrayal. What had happened, in fact, it went from the previous 30 per cent surtax in the Federal, up to 43. That confused people and, of course, the base rate for the Federal had changed, but also some people, because of inflation, had moved into a higher bracket in the meantime and, as a result, were paying more taxes.

**Hon. Mr. Graham:** I think, Mr. Chairman, too, one of the other things that must be considered is that even if our percentage does not change and possibly this could have been the cause of the wide fluctuations that we spoke of, if Federal income tax is reassessed and it goes up or down, our tax can stay the same, but the volume of tax monies, our 43 per cent of the total federal tax payable is changing, of course.

So, if the federal tax does go up next year, then, in fact, the total revenues that we receive may go up also.

**Mr. Penikett:** Mr. Chairman, so also would the votes of the Opposition, I have no doubt.

Clause 4(3) agreed to

On Clause 4(4)(a)

Clause 4(4)(a) agreed to

On Clause 4(4)(b)

**Mr. Penikett:** Mr. Chairman, I just wanted to know what it meant. Clause (2) says: "the tax payable under this Ordinance for a taxation year by an individual". (b) says: "who did not reside in the Yukon Territory on the last day..." On the surface that appears to contradict (1), but of course, there is an explanation which the Minister is about to give.

**Hon. Mr. Graham:** Could I direct the question to the witness?

**Mrs. Francis:** Mr. Chairman, I am not sure which section we are discussing.

**Mr. Chairman:** We are discussing Subsection (b) on page 11.

Are you on that one Mr. Penikett? The reference you gave me did not seem to coincide.

**Mr. Penikett:** I was briefly, Mr. Chairman, yes.

**Mr. O'Donoghue:** Mr. Chairman, that is just a legal expression to say that the Territorial tax is the portion outside the global tax for that year, because it is income earned in the taxation year outside the Territory, it is the total income less the income earned in the taxation year in the Territory.

Clause 4(4)(b) agreed to

On Clause 4(4)(c)

Clause 4(4)(c) agreed to

On Clause 4(4)(d)

Clause 4(4)(d) agreed to

On Clause 4(5)

**Mr. MacKay:** This appears to be talking about the preparation of tax tables for the purposes of employers deducting tax? Am I getting that right?

**Mrs. Francis:** Mr. Chairman, that section is the preparation of tax tables, but they are the ones that go along with your tax returns. If your taxable income is \$10,040 and \$10,050, you pay X number of dollars of provincial and federal. Okay?

Clause 4(5) agreed to

On Clause 4(6)

Clause 4(6) agreed to

On Clause 4(7)

**Mr. Penikett:** Mr. Chairman, we are whistling through some of these. In some of these, the language is a bit technical, I just wonder if we could pause at this moment and get an explanation

from Mr. O'Donoghue, Mrs. Francis or Mr. MacKay?

**Mr. Chairman:** Yes, if we have proceeded too rapidly on this Clause 4, if there is one that I have breezed over, I will allow you to go back. Is there any now, Mr. Penikett?

**Hon. Mr. Graham:** Maybe, Mr. Chairman, if I can suggest then that we request that either one of the witnesses give us a brief explanation of what each section, in essence, does, either Mr. O'Donoghue or Mrs. Francis or Mr. MacKay, if he feels that he is qualified to do so.

**Mr. MacKay:** I certainly do not feel qualified to do so at no charge. There are probably groups of clauses that are going to come up that are going to be interrelated. If there were a clump of clauses that come up you could explain them all at once, this would be an expeditious way of doing it.

**Mr. O'Donoghue:** There is also the difficulty, Mr. Chairman, some of these refer to sections of the Federal Income Tax Act so you would have difficulty in construing two books at the same time. Some of the explanations will be longer than a simple reading of the sections.

**Mr. Chairman:** I think perhaps that being the case, we will proceed as we are. If there are some questions that you especially wanted and we have passed over, I will definitely go back to them. It would seem to be the most expeditious way to go on.

**Mr. O'Donoghue:** If the witness could choose when to offer an explanation herself, if the House would so permit, then she would be able from her knowledge to group sections and say, "This and the next sections are intended to do this to achieve this result, and that is what they do." It would be the quickest way although it would seem, and I say this with respect, as though the witness was lecturing the House.

**Mr. Chairman:** The Chair would take the position that if the witness would signify that she would like to speak, the Chair would so recognize her.

Clause 4(7) agreed to

**Mrs. Francis:** Mr. Chairman, subsection (7) indicates what type of tax paid to a foreign country will be allowed as a foreign tax credit.

On Clause 4(8)

**Mrs. Francis:** Mr. Chairman, subsection (8) simply indicates that the portion for pre-1980 will not come to this Territory. They will not be allowed to tax against our taxes. Anything that is claimed as a foreign tax credit after 1980 will come against Yukon income tax.

Clause 4(8) agreed to

On Clause 5(1)

**Mr. MacKay:** Time for a political statement: I also endorse this clause, Mr. Chairman, strongly. This represents one of the lowest corporate tax rates in the country. It is a great inducement for people to do business in the Territory and provide more employment, even to my friends on my left. We should have a clear statement, I believe it was stated before, but perhaps for the record, it was an indication that these rates will remain the same for the fiscal year 1980-81. That is until March 31, 1981. Is that the correct interpretation?

**Hon. Mr. Graham:** Again, I must refer to the witness, but, as I understand it, any changes that we wish to make in a tax rate, we must advise Ottawa by October 15th of the preceding year.

Since that date has now passed, we are in no position to change the tax for the next fiscal year. Is that not correct?

**Mrs. Francis:** Yes, that is correct, to a point. You can change it the following year by March 15th, I believe it is, for a year, but I do not think you will be allowed to, under the agreement in this Act for next year. 1980 will remain intact, as it is here.

I am not sure that that is necessarily true up to March 31st, 1981, for a corporation. It might be true to March 31st, 1980, for a corporation whose fiscal year ends in that year.

**Mr. Penikett:** So, just so I can get clear on this point, Mr. Chairman, so the hardworking, ordinary taxpayers of the Territory are not going to be suffering at the hands of the friends of the corporate in the Territory, by having these guys reduce the 10 per cent tax rate to nothing in the near future?

I am glad to have that assurance, Mr. Chairman.

Clause 5(1) agreed to

On Clause 5(2)

Clause 5(2) agreed to

On Clause 5(3)

**Mr. Fleming:** I wonder if we could have a little explanation as to a "permanent establishment" in the Yukon Territory by a corporation. That is a permanent establishment and I know they come up and they set up a little office and so forth, but if I could just get an explanation of what they mean by that term "permanent establishment".

**Mrs. Francis:** Mr. Chairman, a permanent establishment means not only an office, it could mean an office in the Territory through which sales or business is conducted. It could also mean location of machinery or equipment.

For example, a fair, an exhibition that comes up, brings up their machinery and rides, et cetera. That is considered a permanent establishment for the period of time that they are actually in a province. So, whatever business they are doing in the province, that income or that profit flows back through to the province in which it is earned or the jurisdiction in which it is earned.

**Mr. MacKay:** It is an interesting point because, as far as I am aware, for this section to work it requires voluntary compliance on behalf of the taxpayer in order to report that income because the Federal tax inspectors who go around doing re-assessments, looking for additional income, are usual fairly neutral as to where the income is raised. It is no concern of theirs. I have never actually experienced a situation where they have re-assessed income because it was earned in a different jurisdiction.

I am wondering if this Government is going to establish any lines of communication with the Federal taxing authorities to try to supply them with details of transient type businesses. I am thinking of perhaps people who come up and build a bridge in Tagish and stay for a construction season but never have anything more than a trailer parked on a lot somewhere. Is there some mechanism that you are setting up that will help police that and make sure that we get our fair share?

**Mrs. Francis:** Mr. Chairman, the Tax Department does watch that sort of thing. I know from experience in having worked there for many years that they do police the income earned in various provinces when they are doing audits.

There are other methods that you can go to to ensure that Yukon, in this case, would be getting its fair share. We will be having auditors going down and auditing returns that have been an assessed Yukon tax, and would therefore be able to determine whether or not we are getting our fair share. We could also send to the Revenue Department, statements and ask them to check various companies to make sure that they have reported income in the Yukon. I think that area will be fully covered. I do not see any problems there.

Any individual taxes, incidentally, or any individual in the country can also write Revenue Canada or inform Revenue Canada that they know a company has been operating in Yukon and are not paying their taxes and the Revenue Department will check it out. They check out every one of those.

**Mrs. Francis:** Mr. Chairman, this section (a) and (b) of subsection (3) here simply indicates that foreign investment will be allowed on business income earned and on non-business income earned. There are two separate calculations for the foreign tax credits. That is what these sections do.

Clause 5(3) agreed to

On Clause 5(4)

**Mrs. Francis:** Mr. Chairman, 5(4) simply indicates that there must be a separate calculation for foreign tax paid to each foreign country. You do not want them all together.

Clause 5(4) agreed to

On Clause 5(5)

Clause 5(5) agreed to

On Clause 6(1)

**Mrs. Francis:** Clause 6, of the Ordinance here, is the method used that is the same as the Federal Act or in any other province for averaging farmer and fishermen's income and calculating their tax.

**Mr. Penikett:** Are these the only people who are permitted this kind of averaging, farmers and fishermen?

**Mrs. Francis:** Mr. Chairman, yes, they are, except for the general averaging, which is covered under another section of the Ordinance.

Farmers and fishermen are allowed to average their income, whether it goes up or down. General averaging for ordinary taxpayers only occurs when your income on an on-going, usually an upward climb.

**Mr. Penikett:** Mr. Chairman, my reason for asking is that I seem to recall some debate in the House of Commons that talked about extending this provision to people who are, for example, writers and artists who may have extreme fluctuations in their income over a period of years. Perhaps they are covered in another section of the Act, I do not know.

**Mrs. Francis:** Mr. Chairman, that is covered under the general averaging provisions. They are not allowed this as yet.

Clause 6(1) agreed to

On Clause 6(2)

Clause 6(2) agreed to

On Clause 6(3)

**Mr. MacKay:** I have a question on the applicability of penalty provisions. Perhaps the witness can help me on that. It has been my understanding, maybe a faulty understanding, it has been some time since I have been in a province, that when penalties were assessed by the Federal Tax Inspector they would normally only assess penalties in the Federal portion of the tax, or there were circumstances where this would occur.

Can you perhaps enlighten me, is this going to mean that this practice is going to continue, then, when we have our own income tax act because I know that the penalties that were certainly exigible go on all the tax in the Yukon up until this point.

**Mrs. Francis:** Mr. Chairman, it has been the practice and it still is in existence, that penalties are charged throughout Canada on federal tax and provincial tax, not just on federal tax and it will be the same here. I am not sure, I think under the agreement, we do not get the penalties per se, they keep those for collecting the taxes. We get the tax but not the penalties. But they still do assess penalty on the omitted tax, Yukon and Federal.

Clause 6(3) agreed to

On Clause 6(4)

Clause 6(4) agreed to

On Clause 7

Clause 7 agreed to

On Clause 8(1)

**Mrs. Francis:** Mr. Chairman, I do not know if they want an explanation of this section or not. What it does is just refund taxes to certain mutual fund trusts on their capital gains.

This is the same as under the Federal Act.

Clause 8(1) agreed to

On Clause 8(2)

Clause 8(2) agreed to

On Clause 8(3)

Clause 8(3) agreed to

On Clause 8(4)

Clause 8(4) agreed to

On Clause 9(1)

**Mrs. Francis:** Mr. Chairman, Clause 9 simply indicates capital gains refunds to mutual funds, corporations, other than, like the other, Clause 8 was mutual fund trusts, but this goes through the same procedure with corporations and Clause 8 did with trusts. It is the same as under the Federal Act.

Clause 9(1) agreed to

On Clause 9(2)

**Mrs. Francis:** Mr. Chairman, subsection (2) means that the refund, as far as Yukon goes, can only be in proportion to the income earned in Yukon; therefore, they could not apply more of the refund against Yukon taxes than they would against other provinces. It is in relation.

Clause 9(2) agreed to

On Clause 9(3)

**Mr. Penikett:** We are missing Page 29.

**Hon. Mr. Graham:** We received that yesterday.

**Mr. Penikett:** No, I received Page 84 which I already had.

**Hon. Mr. Graham:** Mr. Chairman, the pages that I tabled yesterday were Pages 29 and 84.

**Mr. Fleming:** I received one yesterday. It was Page 84; however, it will not make any difference.

**Mr. Chairman:** On Bill No. 20 An Ordinance Respecting Income Tax I have an amendment to Clause 9 on Page 28 adding after 9(3) the



following: "as attached" which is Page 29. Do you agree?

Clause 9(3) agreed to

On Clause 9(4)

Clause 9(4) agreed to

On Clause 10(1)

**Mrs. Francis:** Mr. Chairman, Section 10 simply indicates the dates for filing of returns, corporations within six months after the end of their year end; individuals by April 31. They are all the same dates as in the Federal Act, the same length of time.

Clause 10(1) agreed to

On Clause 10(2)

Clause 10(2) agreed to

On Clause 10(3)

Clause 10(3) agreed to

On Clause 10(4)

Clause 10(4) agreed to

On Clause 11

**Mrs. Francis:** Clause 11 just indicates, Mr. Chairman, that everybody who files a return should complete it to the best of their knowledge in returning what tax they owe.

Clause 11 agreed to

On Clause 12(1)

**Mrs. Francis:** Mr. Chairman, Clause 12(1) indicates that the Commissioner will assess returns or determine whether or not the taxpayer has filed the right return. In this case, of course, it would be the Receiver General who would do that.

Clause 12(1) agreed to

On Clause 12(2)

Clause 12(2) agreed to

On Clause 12(3)

Clause 12(3) agreed to

On Clause 12(4)

Clause 12(4) agreed to

On Clause 12(5)

Clause 12(5) agreed to

On Clause 12(6)

**Mrs. Francis:** Mr. Chairman, 12(6), indicates that reassessments may be made to returns by the Commissioner or gained by, I said before the Receiver General, but it is actually the Department of National Revenue that do the reassessing or assessments.

This just indicates the time limit for doing such reassessments on returns or sending out notices of assessment. There are certain time limits of a four-year period, depending on whether it is a refund or whether you owe the tax department money. This is just a copy of what is in the Federal Act.

Clause 12(6) agreed to

On Clause 12(7)

**Mrs. Francis:** Mr. Chairman, Subsection (7) goes along with Subsection (6) and indicates that there is a certain time limit on reassessing or making assessments, the same as in the Federal Act.

Clause 12(7) agreed to

On Clause 12(8)

Clause 12(8) agreed to

On Clause 12(9)

**Mrs. Francis:** Clause (9) simply indicates that there is a limitation on carrying losses back and unless the taxpayer files and requests that the loss be carried back, it will not be.

Clause 12(9) agreed to

On Clause 12(10)

**Mrs. Francis:** Mr. Chairman, Subsection (10) indicates that if a taxpayer does not file a return then the Commissioner has the right to assess tax on the basis of information that we might have.

Clause 12(10) agreed to

On Clause 12(11)

Clause 12(11) agreed to

On Clause 13(1)

**Mrs. Francis:** Clause 13 indicates that certain persons paying out money to other individuals for wages, salary or other type of fees

and benefits, et cetera, must withhold tax deductions and this is the same as in the Federal Act too. They would withhold both portions, the Yukon portion and the federal portion.

**Mr. MacKay:** It is perhaps a little off the topic, but, it is not really, but, when you deduct these amounts you usually have a table to refer to that is printed up. I am just wondering, are all the costs relating to all those kind of forms and printings and tables and so forth borne by the Federal Government as part of their collection agreement?

**Mrs. Francis:** Mr. Chairman, they will be. There will be no charge for collecting our income taxes or preparing the tables or anything.

Mr. Chairman, I think the only charge is that they will keep penalties. That was, I think, the agreement, if they collect any penalties.

Clause 13(1) agreed to

On Clause 13(2)

Clause 13(2) agreed to

On Clause 13(3)

Clause 13(3) agreed to

On Clause 13(4)

Clause 13(4) agreed to

On Clause 13(5)

Clause 13(5) agreed to

On Clause 14(1)

**Mrs. Francis:** Mr. Chairman, Clause 14 indicates that farmers and fishermen must pay their tax, two-thirds by December 31st and the balance when they file a return on April 30th, whereas employees have theirs deducted monthly.

Clause 14(1) agreed to

On Clause 14(2)

Clause 14(2) agreed to

On Clause 15(1)

**Mrs. Francis:** Mr. Chairman, Clause 15 indicates that individuals who are not farmers and fisherman and who are not employees and earning their income from other sources, investments, businesses or whatever, must make quarterly installments with the Government on an estimate of their tax payable.

**Mr. Fleming:** This means that this is based on their last year's income tax report, is that right?

**Mrs. Francis:** Mr. Chairman, it is based on an estimate on the actual of last year's, or an estimate of what they think will be earned this year, whichever is lesser.

Clause 15(1) agreed to

On Clause 15(2)

Clause 15(2) agreed to

On Clause 16

Clause 16 agreed to

On Clause 17(1)

**Mrs. Francis:** Mr. Chairman, Clause 17 indicates that corporations must pay their installments on a monthly basis, estimated on their tax for the last year, or this year, whichever is the lesser, again.

Clause 17(1) agreed to

On Clause 17(2)

Clause 17(2) agreed to

On Clause 17(3)

Clause 17(3) agreed to

On Clause 18(1)

Clause 18(1) agreed to

On Clause 18(2)

**Hon. Mr. Graham:** Mr. Chairman, I would just like to ask the witness, is this the same as it is in the Federal Act?

**Mrs. Francis:** Yes, it is, Mr. Chairman, 30 days for payment of tax.

**Mr. MacKay:** While we are on the delightful subject of penalties, assessments, arrears and all these nasty things, I am wondering if the Government has had any discussions with respect to National Revenue about them re-establishing an office in Whitehorse which we had up until 1970 or 1971.

The reason for that is that quite a number of Yukoners have a

great deal of difficulty trying to communicate, particularly recently, with the Department of National Revenue in Vancouver, where there is a toll-free line. But you are not allowed to transfer calls, it seems, from that number to whatever local it is that you want to talk to. Furthermore, with the splitting of the Department down there between the Collections and the Assessments, collections are now in Surrey along with a large computer, this communication gap is increasing and it is becoming very difficult for many taxpayers in the Yukon to be able to communicate effectively.

It is in this particular area where you get into trouble. There is collection of outstanding assessments and there is mail not being answered for five or six weeks and that kind of concurrence.

I know that the Tax Department has had a lot of internal difficulties with the reorganization that might emphasize it. I do think that the remoteness of this area as well as its future importance, as well as present importance, would perhaps mean that this Government should undertake to request the re-establishment of such an office here.

**Hon. Mr. Graham:** Mr. Chairman, I can understand that this screw-up in communications is something that a former Liberal Government would do and whereas we have not held any negotiations up to this point, I will definitely take the advice of the Member opposite and express that very real concern to our leader and I hope that we will get some action out of a very sympathetic Federal Government.

**Mr. MacKay:** Just to perhaps give you a little more ammunition to that, you might even sell it on the basis that the tax department might have a greater success in collecting money up here if they had a representative on the ground who was familiar with the whereabouts of local characters. That in a point of fact can be a selling point to the tax department because I know that they have had quite a bit more difficulty collecting money when they are in Vancouver, not knowing the local scene. So you could, in fact, point out the advantages of re-establishing an office here.

**Hon. Mr. Graham:** Yes, I will, Mr. Chairman.

Clause 18 agreed to

On Clause 19

Clause 19 agreed to

On Clause 20

Clause 20 agreed to

On Clause 21

**Mr. Chairman:** The Chair proposes to clear all of 21 and then we will take a short break, for those people who are asking me.

On Clause 21(1)

**Mrs. Francis:** Mr. Chairman, section 21 is similar to section 162 of the Federal Act. It imposes penalties for Yukon the same as they do for Federal, only at different percentages.

**Hon. Mr. Graham:** Mr. Chairman, are the percentages lower or higher?

**Mrs. Francis:** Mr. Chairman, I may retract that statement. The percentages are the same as the Federal Act. Twenty-five per cent for omissions and fifty per cent for frauds.

Clause 21(1) agreed to

On Clause 21(2)

Clause 21(2) agreed to

On Clause 21(3)

Clause 21(3) agreed to

On Clause 21(4)

**Mrs. Francis:** Mr. Chairman, I should clarify that. Section 21 refers to penalties for not filing returns. In many cases, as far as the provinces go, the provincial penalty is relinquished or not levied. Section 22 is the section I was talking about for omissions in a return with the twenty-five per cent assessment.

Clause 21(4) agreed to

**Mr. Chairman:** At this time we shall have a short recess.

Recess

**Mr. Chairman:** I shall call Committee of the Whole to order.

Continuing on from where we left off before Recess, on page 52, we are considering now Clause 22.

On Clause 22(1)(2)(3)

Clause 22(1)(2)(3) agreed to

On Clause 23(1)

**Mr. Nijootli:** I would like to know, maybe from the witness, where the four years come in in subsection (1). Is that from the Federal Act or is that taken from provincial Acts?

**Mrs. Francis:** Mr. Chairman, that comes from the Federal Act, the four years. A refund of overpayment can only be made four years from the end of the taxation year which is being assessed. That is a Federal law.

In the Federal Act that is Section 164(1), 23(1).

Clause 23(1) agreed to

On Clause 23(2)

Clause 23(2) agreed to

On Clause 23(3)

Clause 23(3) agreed to

On Clause 23(4)

Clause 23(4) agreed to

On Clause 23(5)

Clause 23(5) agreed to

On Clause 23(6)

Clause 23(6) agreed to

On Clause 23(7)

**Mrs. Francis:** Mr. Chairman, subsection (7) simply indicates that there will be no interest payable if the overpayment of the tax results from a loss carry-back.

Clause 23(7) agreed to

On Clause 23(8)

Clause 23(8) agreed to

On Clause 24(1)

**Mrs. Francis:** Mr. Chairman, Clause 24 is the period that is allowed the taxpayer for objecting to any notice that he may receive on assessments or reassessments. The time limits assessed are the same as in the Federal Act.

Clause 24(1) agreed to

On Clause 24(2)

**Mr. Fleming:** Subsection (2) reads: "addressed to the deputy head." In this case, it would still be the Taxation Department, would it not?

**Mrs. Francis:** Mr. Chairman, yes it would.

Clause 24(2) agreed to

On Clause 24(3)

Clause 24(3) agreed to

On Clause 24(4)

Clause 24(4) agreed to

On Clause 24(5)

Clause 24(5) agreed to

On Clause 24(6)

Clause 24(6) agreed to

On Clause 25(1)

**Mrs. Francis:** Mr. Chairman, Section 25 simply goes through the Appeal procedure. If it is turned down by the Taxation Office, then the appeal then goes to the various courts in the land, and there is procedure for that. This, again, is the same as stated in the Federal Act.

**Mr. Penikett:** Mr. Chairman, there is a question here I would love to hear from Mr. McKay, or Mr. O'Donoghue, or Mrs. Francis, because I have had some personal experience with the Tax Department, a couple of years ago, which I found quite revealing. They sent me an assessment notice which said that I owed them a bunch more money than I had payed them. I was quite angered by this. I had had money deducted by each of my employers that year, so I scratched on the notice, I cannot possibly see how I can owe you more money, I paid for taxes on everything I earned this year, and sent it back in the mail, which I did in a fit of anger of the moment. Shortly after that I had a telephone call from an anonymous person in Vancouver saying, yes, I was quite right, if I filled out form 43E-17(ii) I could get the money back. I said that I had never heard of whatever this form was and they said, well, it was something to do with some pension money that you got, and so forth, ahead of time. I said, "Well, where do I get one of these forms?" "He said, Well, you write me." "Well, what form do I ask for, give me that again." He said, "Well, I will dictate the letter for you." So he

dictated the letter for me over the phone, I signed the letter, sent it and they sent me this form, I signed it and I got the money back. What amazed me about this whole thing was that, had I not written the rude and abusive remarks on the assessment notice and sent it back to them, I would never have known that I could have escaped this penalty they were about to force on me. I do not suppose there is anything we can do about it going through this Ordinance, but it occurs to me that there are probably a lot of taxpayers who may not be able to take advantage of, what shall I call them, for the sake of the Honourable Member from Riverdale South, legitimate loopholes in this kind of thing.

**Hon. Mr. Graham:** Mr. Chairman, that reminds me of an argument put forth by a very learned professor whom I once listened to in university and his general opinion was that in all cases when you are dealing with the tax department, in his opinion, it was illegal not to claim everything you were entitled to and, therefore, anything that you did not claim, you should be charged for, and following that through to its logical conclusion, you should claim everything you can possibly imagine. They will decide then what you do not claim. So, following that reasoning through in my own tax returns over the years, it works.

**Mr. Penikett:** What bothers me, seriously, about this, is that the Government has a vested interest, this Government as well as the Federal, in not making the people fully aware of all the possible exemptions. I hope that kind of, if you like, profiteering on the ignorance of the ordinary public will not continue, and if we have an opportunity to advise the ordinary taxpayer of all the advantages, the ordinary taxpayer who cannot afford expensive chartered accountants to advise them of all tax loopholes, I just hope this government will take it upon itself, when it becomes responsible for this, to make sure that the ordinary citizen is aware of all the legal exemptions.

**Mr. MacKay:** I am sure I am treading very close to a line called "conflict of interest", but I would just underline that all the previous amusing discussion only underlines a need for having a local tax office here, with a local taxation representative who can have a supply of these forms, who is available for consultation, who can be sitting in the Post Office Building or wherever, there, during regular business hours and be available to the members of the public.

Clause 25(1) agreed to

On Clause 25(2)(3)(4)(5)(6)

Clause 25(2)(3)(4)(5)(6) agreed to

On Clause 26(1)

**Mr. MacKay:** I am just not sure, perhaps this section we already passed, but is the only line of appeal in Yukon going to be to the Supreme Court? Is that what this Ordinance now means, because it seems to me that appeals could have perhaps gone through a Taxation Review Board before.

**Mrs. Francis:** Mr. Chairman, I believe that this Ordinance will basically take the same route as any other province and it goes through the Federal courts, not necessarily the Supreme Court.

**Mr. O'Donoghue:** Mr. Chairman, technically speaking, if we did not sign an agreement with Canada, this would be decided by our own court. The court would be the Supreme Court and an appeal would go to the court of appeal. But, in point of fact, when Canada is doing the collection and they use their own sections to start up the system, the decisions would be the same so they use the Federal court.

Clause 26(1) agreed to

On Clause 26(2)(3)

Clause 26(2)(3) agreed to

On Clause 26(4)

Clause 26(4) agreed to

On Clause 26(5)

Clause 26(5) agreed to

On Clause 27(1)

Clause 27(1) agreed to

On Clause 27(2)

Clause 27(2) agreed to

On Clause 27(3)

**Mr. Penikett:** Mr. Chairman, what does vacating the assessment mean?

**Mr. O'Donoghue:** Throwing it out, Mr. Chairman.

Clause 27(3) agreed to

On Clause 27(4)

Clause 27(4) agreed to

On Clause 28

Clause 28 agreed to

On Clause 29

Clause 29 agreed to

On Clause 30

Clause 30 agreed to

On Clause 31(1)

**Mrs. Francis:** Mr. Chairman, I do not think that there is any explanation needed under this Section. I think it is fairly self-explanatory, but what it does is allow the Commissioner to change the time for filing a return.

By the same token, the Department of National Revenue, as has happened in certain cases when there are Postal strikes, et cetera, and other than that, that is all that encompasses.

**Mr. MacKay:** I just wanted to clarify that, in fact, this kind of administration is going to be governed by the collection agreement anyway, so that the Commissioner is not going to be bearing any dates of returns, in fact, as long as it is operating under the collection agreement with the Federal Acts, because they will be the ones who make that decision. This just enables them to make that decision on behalf of Yukon, is that right?

**Mr. O'Donoghue:** Yes, Mr. Chairman.

**Mr. Njootli:** Before the introduction of Part II of the Administration and Enforcement, I just would like to know what would happen, under this Ordinance, where it says the Commissioner shall administer and enforce this Ordinance and control and supervise all persons employed under it. If they do have a third party in assessing a personal income tax, for instance H & R Block, assessing your income tax and forwarding it for reimbursement for paying your taxes and then comes time where you are reassessed and you do not get your cheque, so you appeal your assessment to the Commissioner and the tax department would say, "Well, we do not give out information on tax assessment to third parties, like H & R Block."

Do these people, do you enforce any type of laws on that? For instance, in my case, I have not got a cheque yet from my 1978-79 assessment. So, I got H & R Block to look into it for me and the taxation department said, "We are sorry, we do not give out information. We do not deal with third parties."

Now, the policy that H & R Block has is that they will look into everything and help you as much as possible in receiving your money as it was assessed by them. Now, is there anything controlling these people, by law?

**Mrs. Francis:** Mr. Chairman, there is nothing that controls them by law, but if you wanted H & R Block to look into your return, then you could give a letter of authorization to H & R Block. All they have to do is send the letter of authorization with your signature to the tax department and the tax department will release that information to H & R Block, or to whomever you may delegate.

**Mr. Njootli:** Mr. Chairman, I am still confused. It still does not answer my question. I know this thing has not yet been passed through the House, but as it stands now, what is the present situation when the tax department says, "Well, we are sorry, we do not deal with a third party."?

There should be, under some policy, that these people be restricted from assessing taxes for people if they cannot follow up on it.

**Mr. O'Donoghue:** Mr. Chairman, it is essential for the secrecy of the operation of the financial administration of income tax that no third party information is given, except in certain cases. One of those is where an authorized agent, acting on behalf of the taxpayer, shows to the tax department that he has authority to receive the information, then it will be given.

I presume that the Honourable Member did not give a formal letter to H & R Block for transmission to the income tax department, or send a letter on his own. If he had, then they will give the income information back, if it is available at that time.

**Mr. Fleming:** I would like to ask that question only turn it around. If, for instance, H & R Block or Mr. MacKay's department or whatever, did an individual income tax return and I wish to have my income tax return, some information on that, and I phoned the tax department in Vancouver, which many times I have on behalf of certain people and you cannot get too much information, but in this case would I be allowed to get that information?

**Mr. O'Donoghue:** Yes, Mr. Chairman.

Clause 31(1) agreed to

On Clause 31(2)

Clause 31(2) agreed to

On Clause 31(3)

Clause 31(3) agreed to

On Clause 31(4)

**Mr. Penikett:** Presumably the people in Ottawa in this business have to make some fairly serious oaths, that they will be struck down dead by lightning or something if they betray any confidences. I would be interested in knowing if these are similar to oaths that perhaps finance officers in this Government may now have to sign or whether they would need something much more serious, or whether there is any bonding involved or any kind of established requirements in the Government which are similar to ones which would be required of income tax people whose secrecy and integrity has ever been challenged until recently.

I think someone in Toronto found that they could phone a certain number in Toronto or dial into some computer thing and get people's personal tax information. I assume that loophole was recently closed up. Somebody had figured out how to get access.

My question is: We have a tradition of this stuff being the most confidential of all kind of information which the Government has access to, and I would like to know what means this Government will employ to ensure that that remains so in such a small community as regards the tax information about our citizens.

**Mr. O'Donoghue:** Mr. Chairman, our tax department will not normally have access to any of this information because the collection and handling will be done by the Federal Government. What we will have access to is for the purpose of checking the accuracy of the collection figures and the totality. We can send our auditors in. Our offices will not be handling it. They will be bound by their normal oath of office and oath of secrecy, and they will be committing an offence if they breach any information that does in any way accidentally come into their hands.

But, I think that, other than the RCMP league, in the Department of Finance's records, was through a person misusing the custom of accepting the word of a person whom they might know was, in fact, acting as the agent or accountant for another. So that a person walking into the tax office and saying, "I act for Joe, so may I have a look at the returns", and the officer then, acting routinely, gives him the file. The guy is not the person he claims to be, goes away and uses it on a TV show. That is a breach of ethics and it is something that is very difficult to handle in your staff, if they are to be reasonably courteous to the people they deal with.

Clause 31(4) agreed to

On Clause 32(1)

**Mr. Chairman:** The Chair would ask Mr. O'Donoghue, I notice that subsection (1) of 32 is omitted. Is that considered a typographical error?

**Mr. O'Donoghue:** Yes, Mr. Chairman, it is a typing error. It should be in the margin.

**Mr. Chairman:** I draw the attention of the Members to this correction.

Clause 32(1) agreed to

On Clause 32(2)

**Mr. MacKay:** As I read 32(2), it seems to me that the Territorial regulations will supersede the Federal?

Is that the way that, if there is a conflict?

**Mr. O'Donoghue:** The reverse, Mr. Chairman.

**Mr. MacKay:** The reverse.

**Mr. O'Donoghue:** Otherwise, the Honourable Member is correct.

**Mr. Penikett:** Yes, Mr. Chairman, just for the record, who is the mutatis mutandis guy?

**Mr. O'Donoghue:** Yes, Mr. Chairman, we talk about it our office everyday. It is a Latin expression for "changing as necessary", making necessary changes.

Clause 32(2) agreed to

On Clause 32(3)(4)(5)

Clause 32(3)(4)(5) agreed to

**Mr. Penikett:** Just a comment on Clause 32 before we leave it altogether. I am an admirer of foreign languages as much as anybody, and especially dead languages, a great lover of tradition,

and I know the love of the legal and medical professions for Latin, but I just wonder if, as a rule, it is completely necessary to continue doing it in our Ordinances.

This fellow, "mutatis mutandis," sounds like the owner of a Greek restaurant I used to know. It seems to me it would not be too hard, in cases like that, to simply put, "changes as necessary," instead of that kind of phrase.

I say this because I just want to say something on the principle. One of the things that concerns me about legislation, as a rule, is that there is an awful lot of it which cannot be easily read and understood by the ordinary person. My ideal of good legislation would be, if at all possible, stuff that can be picked up by any reasonably intelligent grade 6 student, who would be able to understand what it is the Government is talking about in these laws.

I think that is too often not the case, and I think it ought to be, and I think using an archaic language in legislation does not contribute to people's understanding of legislation.

**Mr. O'Donoghue:** A former Speaker of this House carried on a consistent policy of drawing attention, as the Honourable Member did, to "Latinism," used in legislation, and gradually he won most of the battles, and they were taken out.

This one is a difficult one, because the replacement phrase is a long one, and so it survives. But I am prepared to make an effort, in future Bills, but not this one, to eliminate the necessity for "mutatis mutandis." It is a handy, understood phrase, which is really directed at the judge to make any necessary change in a certain type of order and in a certain way. It is a highly technical phrase, and I would ask the Honourable Member not to criticise it overly in this particular piece of legislation.

On Clause 33

Clause 33 agreed to

On Clause (34)(1)

Clause 34(1) agreed to

On Clause 34(2)

Clause 34(2) agreed to

On Clause 34(3)

Clause 34(3) agreed to

On Clause 35

Clause 35 agreed to

On Clause 36(1)(2)(3)(4)(5)(6)

Clause 36(1)(2)(3)(4)(5)(6) agreed to

On Clause 37(1)(2)(3)(4)

Clause 37(1)(2)(3)(4) agreed to

On Clause 37(5)

**Mr. Njootli:** I have one question here in relation to a default and seizure of goods. Should a person, for instance from Old Crow, have problems paying up his taxes and all of his goods have been seized and the nearest newspaper is Whitehorse and the freight rate is a very high cost, only one particular airline flying in there, there is no way of controlling, it could put the individual in far more jeopardy than a person in Whitehorse.

Is there any way the Ordinance could read so that you could avoid that type of thing in the Yukon, especially in the North? It seems to me that the Taxation Ordinance is based on a very metropolitan type of taxation.

**Mr. O'Donoghue:** I would just ask the Honourable Member, is it a practical matter to attempt to change this, having regard to the fact that we have never heard of a seizure in his jurisdiction?

I do not think that it would ever be contemplated, for a number of reasons in that jurisdiction. Is it really worth attempting to protect a mythical, spiritual situation?

Clause 37(5) agreed to

On Clause 38(1)

Clause 38(1) agreed to

On Clause 38(2)

**Mr. Fleming:** I am just wondering, I guess this is pretty well under the Federal Act, but in some instances where a person, of course, owes the tax and he does escape and get out of the Territory before he has made the payment and, under the Federal Act I presume that he can be caught anywhere in Canada and held responsible for it. Is this so or not?

**Mr. O'Donoghue:** You are asking a very difficult question. If you ask me specifically under this, no. If you are asking me under the

Canada Act, yes. If you are asking me outside Canada, for either the Canada Act or our Act, the answer is no.

Clause 38(2) agreed to

On Clause 39(1)(2)(3)(4)(5)

Clause 39(1)(2)(3)(4)(5)

On Clause 39(6)

**Mr. Fleming:** I just have a question in general on subsection 6, as to the native peoples in the Territory, or, I suppose in Canada anywhere, in the case where an employer like myself would hire a native person and they say, in this case I may be on certain lands that were reserve lands and so forth and so on, where it is deductible or there is no income tax to be deducted, is it the responsibility of the employer to deduct income tax anyway, and the person could get it back? Or could he say, no, I am exempt and you do not have to deduct them?

**Mr. O'Donoghue:** Could I say, Mr. Chairman, without disrespect to the Honourable Member, that a man who is his own lawyer has a fool for a client, and if an employer takes his opinions from the Act without legal advice from an independent lawyer, and decides he will not obey the law, and he will not make a deduction, then he is liable to be hit very hard, because he may have to pay the amounts himself, and not have anyone he can get it back from.

**Mr. Fleming:** Mr. Chairman, would the Legal Advisor, with all due respect, clarify that for me. He should, then, make the deductions?

**Mr. O'Donoghue:** It would be a foolish employer who fails to deduct in a case of doubt, unless the employee has his argument directly with the tax department.

Clause 39(6) agreed to

On Clause 39(7) to Clause 39(11)

Clause 39(7) to Clause 39(11) agreed to

On Clause 40(1)

Clause 40(1) agreed to

On Clause 40(2)

Clause 40(2) agreed to

On Clause 40(3)

**Mr. Fleming:** Just a general question, again, on subsection (3), I wonder if the witness or the Legal Advisor could tell me how many years are you, actually, supposed to keep these records? Possibly it is further on in the Ordinance.

**Mrs. Francis:** Mr. Chairman, you are required to keep all of your income tax records until you have permission from the Tax Department to destroy them all. And that goes for individual returns if you are only a salaried employee as well.

Clause 40(3) agreed to

On Clause 41(1)

**Mr. O'Donoghue:** In the second line of Clause 41(1) the word "for" should be "or".

Clause 41(1) agreed to

On Clause 41(2)

**Mr. O'Donoghue:** At this point, the new page goes in.

**Mr. Chairman:** I have a motion in front of me moved by the Honourable Mr. Graham that Bill No. 20, entitled An Ordinance Respecting Income Tax be amended in Clause 41 at page 82 by adding, after the words "on application made by" in subclause 41(2) the following as attached. And you will note that the following is Page 83. You have all heard the amendment. Do you agree?.

Amendment agreed to

**Mr. Chairman:** If everyone has Page 83, we shall continue on considering Clause 41(2) which you will note does go over to the top of Page 83 which also is divided into (a) and (b).

Clause 41(2) agreed to

On Clause 41(3)

Clause 41(3) agreed to

On Clause 41(4)

**Mr. Tracey:** Can we have an explanation of what the word "ex parte" means.

**Mr. O'Donoghue:** Mr. Chairman, it means "alone, without notice to the other party", without the other party.

Clause 41(4) agreed to

On Clause 41(5)(6)(7)(8)(9)(10)(11)(12)(13)(14)(15)

Clause 41(5)(6)(7)(8)(9)(10)(11)(12)(13)(14)(15)

On Clause 42

On Clause 42

Clause 42 agreed to

On Clause 43

Clause 43 agreed to

On Clause 44

Clause 44 agreed to

On Clause 45

Clause 45 agreed to

On Clause 46(1)

**Mr. Tracey:** Mr. Chairman, do I read this correctly when I see that, say, a person did not file an income tax return for the year 1979, and a couple of years from now some inspector finds out that he has not filed a return, he is liable to \$25 for every day that he has not filed?

**Mr. O'Donoghue:** That is the law, Mr. Chairman, but may I say that, in practise, when it comes into the Magistrate's Court, where it usually does come, they only make a charge for one or two days.

**Mr. Tracey:** Mr. Chairman, this section says a person is liable, on a summary conviction, to a fine of not less than \$25 per day. It does not leave any discretion there.

**Mr. O'Donoghue:** I agree, Mr. Chairman, but what happens is that they only charge him with a day's default, or two days' default.

Clause 46(1) agreed to

On Clause 46(2)(3)

Clause 46(2)(3) agreed to

On Clause 47

Clause 47 agreed to

On Clause 48

**Mr. MacKay:** This collection agreement, it is just going to be a standard agreement, I presume. Will it be tabled at some point?

**Mr. O'Donoghue:** Yes, Mr. Chairman. I am not sure whether or not it has been already tabled or that it will be tabled as such. It is only a question of the number of copies. I think it is a 60 page document, Mr. Chairman, equally complex with this Ordinance.

**Mr. MacKay:** What I am concerned about, it says: "the Minister may take or refrain from any action against such person contemplated by section 46 or 47 of this Ordinance, as the case may be." Does it say anywhere that there is not going to be a duplication of penalties. I have seen it in prior sections, but I do not see it here unless it is further on.

**Mr. O'Donoghue:** Mr. Chairman, there are two parallels, the Ordinance and the Act. There will be nothing improper in charging a person who is failing to pay his Yukon portion and his Canada portion of income tax due by him. These sections all contemplate that he will only be struck once, and using the Federal Act.

Clause 48 agreed to

**Mr. MacKay:** Mr. Chairman, may I suggest that we adjourn until 7:30?

**Mr. Chairman:** The Chair was thinking we would get down as far as Clause 52 which will only take a couple of minutes.

On Clause 49(1)

**Mr. Tracey:** Mr. Chairman, it seems strange to me that somebody who, maybe, evades income tax of \$25, or whatever, is subject to a gigantic fine, and yet somebody that is supposed to be in the trust of the people has a maximum fine of \$200 for divulging information.

**Mr. O'Donoghue:** It is just the way it is, Mr. Chairman. I guess he loses his job, as well.

**Hon. Mr. Graham:** Mr. Chairman, maybe I could ask the witness if this is the same as in the Federal Act?

**Mrs. Francis:** Yes, it is, Mr. Chairman.

**Mr. MacKay:** I think it would be legitimate to point out that \$200, in comparison to the salaries earned by civil servants, is a gigantic amount.

**Mrs. Francis:** Mr. Chairman, you will note in Section 49 it does say "not exceeding \$200", but the other section is really for voluntary compliance. If people know they are not going to be penalized, they are not going to file their returns, and you will not get your tax.

Clause 49(1) agreed to

On Clause 49(2)

Clause 49(2) agreed to

On Clause 50

Clause 50 agreed to

On Clause 51

**Mr. Fleming:** Mr. Chairman, just to carry on what the Honourable Member, Mr. Tracey, was speaking about a little while ago, on the \$25 a day fine. This Clause here looks like it may supersede that, and the court has no right, in other words, to charge a lessor fine.

**Mr. O'Donoghue:** Mr. Chairman, unless a minimum is fixed, the court has got a scale in front of it from zero to the maximum amount fixed by the Statute.

But, judges, magistrates and courts consistently resent being told precisely what fine to impose or being told to impose a minimum fine and they use every trick in the book to avoid doing just that. So, in order to force a judge to do what he does not want to do, it has to be written in very strict terms, making it clear that it is a minimum and must be treated as such.

Clause 51 agreed to

**Mr. Chairman:** At this time, I would like to remind the Members that, at 7:30 tonight, we will start with the Taxation Ordinance. After we have concluded that, we will go back to the Income Tax Ordinance.

At this time, I would like to recess until 7:30. I thank the witnesses and ask if they can be with us this evening.

**Mr. O'Donoghue:** Yes, Mr. Chairman.

**Mr. Chairman:** We now stand recessed until 7:30.

Recess

**The following Legislative Return was tabled October 24, 1979:**

79-2-29

Availability of data on volume of retail trade in Yukon  
(Oral Question - October 15, 1979 - Page 388)

**The following Petitions were received October 24, 1979:**

79-2-1

Petition regarding Matrimonial Property Ordinance - "family" and "business" assets

79-2-2

Petition regarding Matrimonial Property Ordinance - common law marriage