

*Yukon and Territorial Lands Act*

finance consisting of three members who were selected from among the seven elected members of council. The commissioner was required to consult those three members who composed the advisory committee on finance, and this consultation is made mandatory by subsection (3) of section 12.

I submit that the only way in which the minister or this Parliament can set up an executive committee to intrude upon other sections of the Yukon Act is by altering the Yukon Act itself. Section 9 of the Yukon Act sets forth that there shall be a council of the Yukon territory consisting of seven members. It sets forth certain powers the council has under section 16. Those powers are legislative powers. The commissioner in council has all of those powers that are enumerated in section 16.

What the minister is purporting to do here by ministerial power is to create a committee that is neither fish nor fowl, one dominated by civil servants and which clothes two elected members of the council with a legislative function. It may be a direct legislative function in the sense that they can pass laws; they still have to be passed by the commissioner in council pursuant to the Yukon Act.

The first intention is as the minister expressed it on the record on May 13 and May 14 last, namely that they are going to be asked to accept ministerial responsibility. That means the drafting of legislation and the introduction of legislation in the council. Here I think is where the minister and his advisers are constitutionally incorrect. Quite apart from the undesirability of the whole design and structure of what he is trying to do—which, as I have said, is to smuggle civil servants into the legislative process, rather than the other way around—I submit it is simply unconstitutional for the minister to attempt to usurp the power of the Parliament of Canada, which is the only authority that can set up any such bodies as an executive committee and an advisory committee on finance, which it set up in 1960 under section 12. The Parliament of Canada is the only authority that can clothe such committees with any kind of power whatever.

If that not be so, and if that not be the proper constitutional approach, what we have here are two elected members who are elected under the provisions of an Act of Parliament, the Yukon Act, and the minister is going to direct them as to what they are to do on the executive committee. This seems to me to be absolutely inconsistent with any constitutional position or development.

I do not know what Your Honour's specific doubts were in respect to the acceptability of this amendment. I assume that, simply because the bill was silent as to the setting up of the committee mentioned by the minister, Your Honour has concluded that it goes beyond the purpose of the bill. However, I think I have clearly demonstrated that, notwithstanding the fact that the bill does not include provision for the setting up of the executive committee, the intention of the minister is to give a direction to the civil service to set up a committee, which involves half of the legislative function set up by an Act of Parliament. I say that only Parliament has the right to alter the structure of council in any way, shape of form and that the minister has no power whatever to give any direction in this regard.

**Mr. Chrétien:** Mr. Speaker, on the question of procedure, may I point out to the hon. member that he is not debating the procedural aspects of the question, but rather the question itself. I could enter into a debate right now—

**Mr. Nielsen:** Mr. Speaker, I rise on a point of privilege.

**Mr. Deputy Speaker:** Order. The hon. member for Yukon is rising on a question of privilege.

**Mr. Nielsen:** Mr. Speaker, I rise to take advantage of the courtesy that is normally extended to members of the House to correct the minister's interpretation of my intention. I rose to explain a procedural point, and my objection to the doubt that Your Honour has is one of procedure only. The point that I am making is that it is not within the constitutional power of the minister but only within the constitutional power of this Parliament to set up the kind of committee of which he speaks.

• (3:30 p.m.)

**Mr. Chrétien:** In any event, Mr. Speaker, on the question of procedure I think amendments Nos. 4 and 5 put forward by the hon. member are far beyond the scope of the bill. The hon. member would like to introduce something new into the bill. There will be an executive council. We have said that many times. I should like to point out to the hon. member for Yukon (Mr. Nielsen) that we even received a telegram from the Speaker, speaking on behalf of the members of the Yukon council, congratulating the government for its