

*Yukon and Territorial Lands Act*

Subclause 2 of clause 5 on page 3 reads in part as follows:

"The provisions of section 24 do not apply to this section."

So, Mr. Speaker, we are already in the middle of dealing with clause 24 of the act. Whether one calls that coming in via the backdoor or via the front door, the fact is that this House has been debating clause 24 of the act. I make it very clear from the outset that the amendments are in the alternative. If Your Honour rules any one of them in order, I have proposals with respect to the order in which they are called, because they have not been published in the Notice Paper in the order I had intended.

I have another argument with respect to the acceptability of these amendments. All these motions propose to amend section 24 of the Yukon Act. That section is not expressly amended by any provision in Bill C-212 as it was originally printed. However, my submission is that section 24 is amended, by necessary implication, through the amendment proposed in clause 5 of the bill. Section 24 of the Yukon Act is similar to section 54 of the BNA Act, which provides:

It shall not be lawful for the council to adopt or pass any vote, resolution, address, or bill for the appropriation of any part of the public revenue of the territory, or of any tax or impost, to any purpose that has not been first recommended to council by message of the commissioner, in the session which such vote, resolution, address or bill is proposed.

Section 23 of the Yukon Act provides that all public moneys and revenues over which the Commissioner in Council has the power of appropriation shall form a fund to be known as the Yukon consolidated revenue fund. Therefore, the public revenues referred to in section 24 are in the consolidated revenue fund. Looking at clause 5 of Bill C-212, we find that the proposed amendment therein contained relates to the consolidated revenue fund of the Yukon. The exact intent of that amendment is by way of exception to section 24 of the Yukon Act. The amendment provides for payment of indemnities and expenses, out of that fund, to members of the council and members of the advisory committee under the authority of the Commissioner in Council.

In other words, it is a statutory vote of indemnities and expenses out of the Yukon consolidated revenue fund and abolishes the requirement in section 24 of the act that such payment be conditional upon a message of the commissioner, to be followed by a vote. The

legal effect of clause 5, therefore, is to operate by way of amendment, by necessary implication, of section 24 of the act. This purpose of clause 5 is set out in the recommendation that accompanies Bill C-212. I would refer Your Honour to that recommendation once again because it is of the utmost importance. It reads:

His Excellency the Governor General has recommended to the House of Commons the present measure to amend the Yukon Act and the Northwest Territories Act respecting the payment of indemnities and expenses to the members of the Yukon Territory and of the Northwest Territories—

The rest is irrelevant. Pursuant to this purpose, and under the provisions of the amendment in clause 5, it will not be necessary to abide by section 24 of the Yukon Act with respect to such indemnities and expenses. In effect, section 24 is amended as effectively as it would be in the amendment proposed by me, in the alternative, on the Notice Paper. In fact, this amendment and the amendment proposed in clause 5 both relate to the message of the commissioner and to the method of appropriation. Clause 5 would abolish the necessity for the message, in certain circumstances, and the vote for an appropriation of the moneys recommended by that message. The amendment proposed by me would vary the method of the message only. There is that argument and there is also the argument that Parliament has seized itself already of section 24 and has dealt with it, albeit by way of deferred vote. Parliament has dealt with it as effectively as though the vote had been taken.

I have one more point to make, Mr. Speaker, and I should like to quote from an authority respected in the past as being an authority on legislative forms, precedents and constitutional law. Mr. E. A. Driedger, a former Deputy Minister of Justice and Deputy Attorney General of Canada, in 1963, in a pamphlet entitled "Legislative Forms and Precedents" dealt with the English, as compared with the Canadian practice, and the ability to bring amendments that were not confined precisely within the terminology of a bill. His argument was set out in part on page 1, as follows:

● (4:10 p.m.)

The title, therefore, must accurately define the scope of the bill, and an amendment is out of order unless it falls within the scope as defined in the title.

The title of this bill is "An act to amend the Yukon Act, the Northwest Territories Act