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The Yukon Legislative Assembly

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Debates & Proceedings

Thursday, May 15, 1975

Speaker: The Honourable Donald Taylor

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Mr. Speaker Reads Daily Prayer

Mr. Speaker: Madam Clerk, is there a quorum present?

Madam Clerk: There is, Mr. Speaker.

Mr. Speaker: I'll now call the House to order.

Before proceeding with the order paper this morning, I would like to draw the attention of all members of the House to the presence in the public gallery of Miss Cathy Hyland who is today serving as mayor of the Municipality of Whitehorse and I'm sure that I expressed to Miss Hyland the best wishes of the House for a very rewarding day today in the duties that she will be performing.

(Applause)

ROUTINE PROCEEDINGS

We will proceed with the order paper. Are there any documents or correspondence for tabling this morning?

Hon. Mr. McKinnon: Mr. Speaker, I have for tabling today the agreements between the Government of the Yukon Territory, the Royal Canadian Mounted Police, and Parks Canada as requested by the Honourable Member from Klondike, in his Motion for the Production of Papers.

Mr. Speaker: I have for tabling today the Legislative Returns Number 7 to 13 inclusive.

Mr. Speaker: Are there any further documents or correspondence for tabling?

Are there any reports of Committees?

Introduction of Bills?

Are there any Notices of Motion or Resolution?

The Honourable Member from Olgivie?

Ms. Millard: Mr. Speaker, I'd like--I beg to give leave of Notice of Motion respecting Legislative Return Number one.

Mr. Speaker: The Honourable Member from Whitehorse Riverdale?

Mr. Phelps: Mr. Speaker, I'd like to give Notice of Motion respecting the Consumers Protection Ordinance.

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

Mr. Hibberd: Mr. Speaker, I'd like to give Notice of Motion respecting the Yukon nurses.

Mr. Speaker: Are there any further notices of motion or resolution?

Are there any notices of motion for the production of papers?

We will then proceed to orders of the day.

ORDERS OF THE DAY

Madam Clerk, could you ascertain if Mr. Commissioner would be available to the House this morning?

Madam Clerk leaves chamber

At this time I'll declare a brief Recess.

Recess

QUESTION PERIOD

Mr. Speaker: At this time I will call the House back to order. And we have with us this morning Mr. Commissioner to assist in the conduct of the question period. Mr. Commissioner?

Mr. Commissioner: Mr. Speaker, if I may, I have answers to two questions that are presenting outstanding. The first one was, a follow up question by Councillor Millard on the question of Regulations for the Transfer of Prisoners. And the follow up question was: When will regulations be issued? The answer, Mr. Speaker, the regulations will be signed Friday, that is tomorrow morning and may be seen in the Clerk's office. They will be distributed to all Councillors in the normal distribution routine, Mr. Speaker.

Second, Councillor Berger asked a question concerning Yukon Housing Corporation contracts. The question being: The Yukon Housing Corporation in awarding its recent contracts stated that all bids were from outside contractors. I am informed that some of the lowest bids were from Yukon contractors and were not considered. If this is true, why were they not considered.

Mr. Speaker, the answer, on May 12, tenders for housing projects in Haines Junction, Carmacks and Mayo were awarded by the Board of Directors of the Yukon Housing Corporation. The decisions were based on such factors as design, cost and floor layouts. All the houses will be conventional frame buildings, erected on site, rather than factory made double wide units.

All bidders were considered and although one bid was considered by a partnership of which there was a

Yukon member, all other bids were from outside contractors.

Mr. Speaker: Have you any questions?
The Honourable Member from Ogilvie?

Question Re: Delapidated Building At Dawson

Ms. Millard: Mr. Speaker, I have a question for Mr. Commissioner.

Sometime ago during the budget session, the question of an old delapidated building in the north end of Dawson came up, and it was suggested then that the government would look into it. Nothing's been done. This is the old Leduc sawmill building in Dawson City, which is a danger to children who play there all the time, and dangerous to anyone. And it's located on the corner of Front Street and the -- it has a sign on it saying, "Under the Protection of the Government of the Yukon Territory".

Could Mr. Commissioner mention to us whether or not anything's been done about this building and anything contemplated in the future?

Mr. Commissioner: Well, Mr. Speaker, I'm certainly not aware of the question being under any consideration at the present time. I'm certainly prepared to look into it. I would warn the Honourable Member that the answer is probably not going to be a very satisfactory one. The chances are it is going to be that nobody has even done anything at all about it, but I will certainly verify this one way or another, Mr. Speaker.

Mr. Speaker: Are there any further questions this morning?

Well, I would like to thank Mr. Commissioner for assisting us in the Question Period this morning, and proceed now to Public Bills.

PUBLIC BILLS

Mr. Speaker: The Honourable Member from Mayo?

Bill Number 10, Third Reading

Hon. Mr. McIntyre: Mr. Speaker, I move, seconded by the Honourable Member from Whitehorse North Centre, that Bill Number 10 be now read a third time.

Mr. Speaker: It has been moved by the Honourable Member from Mayo, seconded by the Honourable Member from Whitehorse North Centre, that Bill Number 10 be now read a third time. Are you prepared for the question?

Some Members: Question.

Mr. Speaker: Are you agreed?

Some Members: Agreed.

Mr. Speaker: I shall declare the Motion carried.

Motion Carried

Mr. Speaker: Are you prepared to adopt the title to the bill?

Hon. Mr. McIntyre: We are, Mr. Speaker. I move, seconded by the Honourable Member from Whitehorse North Centre, that Bill Number 10 do now pass and that the title be as on the Order Paper.

Mr. Speaker: It has been moved by the Honourable Member from Mayo, seconded by the Honourable Member from Whitehorse North Centre, that Bill Number 10 do now pass the title be as on the Order Paper. Are you prepared for the question?

Some Members: Question.

Mr. Speaker: Are you agreed?

Some Members: Agreed.

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

Motion Carried

Bill Number 11, Third Reading

Hon. Mr. McIntyre: Mr. Speaker, I move, seconded by the Honourable Member from Whitehorse North Centre, that Bill Number 11 be now read a third time.

Mr. Speaker: It has been moved by the Honourable Member from Mayo, seconded by the Honourable Member from Whitehorse North Centre, that Bill Number 11 be now read a third time. Are you prepared for the question?

Some Members: Question.

Mr. Speaker: Are you agreed?

Some Members: Agreed.

Mr. Speaker: I shall Declare the Motion carried, and when shall the -- or pardon me, are you prepared to adopt the title to the Bill?

Hon. Mr. McIntyre: We are, Mr. Speaker. I move, seconded by the Honourable Member from Whitehorse North Centre that Bill Number 11 do now pass, and that the title be as on the order paper.

Mr. Speaker: It has been moved by the Honourable Member from Mayo, seconded by the Honourable Member from Whitehorse North Centre, that Bill Number 11 do now pass and that the title be as on the Order Paper. Are you prepared for the question?

Some Members: Question.

Mr. Speaker: Are you agreed?

Some Members: Agreed.

Mr. Speaker: I shall declare that the Motion is carried and that Bill Number 11 has passed this House.

Motion Carried

Bill Number 19, Third Reading

Hon. Mr. McKinnon: Mr. Speaker, I move, seconded by the Honourable Member from Mayo that Bill Number 19 be now read a third time.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse North Centre, seconded by the Honourable Member from Mayo that Bill Number 19 be now read a third time. Are you prepared for the question?

Some Members: Question.

Mr. Speaker: Are you agreed?

Some Members: Agreed.

Mr. Speaker: I shall declare the motion is carried.

Motion Carried

Mr. Speaker: Are you prepared to adopt the title to the bill?

Hon. Mr. McKinnon: Yes, Mr. Speaker, I move, seconded by the Honourable Member from Mayo that Bill Number 19 be now passed and that the title be as on the Order Paper.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse North Centre, seconded by the Honourable Member from Mayo that Bill Number 19 do now pass and that the title be as on the Order Paper. Are you prepared for the question?

Some Members: Question.

Mr. Speaker: Are you agreed?

Some Members: Agreed.

Mr. Speaker: I shall declare that the motion is carried and that Bill Number 19 has passed this House.

Motion Carried**Bill Number 18, First Reading**

Hon. Mr. McKinnon: Mr. Speaker, I move, seconded by the Honourable Member from Whitehorse West that Bill Number 18 be now read a first time.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse North Centre, seconded by the Honourable Member from Whitehorse West that Bill Number 18 be now read a first time. Are you prepared for the question?

Some Members: Question.

Mr. Speaker: Are you agreed?

Some Members: Agreed.

Mr. Speaker: I shall declare the motion is carried.

Motion Carried

Mr. Speaker: When shall the Bill be read for the second time?

Bill Number 18, Second Reading

Hon. Mr. McKinnon: Now, Mr. Speaker. I move, seconded by the Honourable Member from Whitehorse West that Bill Number 18 be now read a second time.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse North Centre, seconded by the Honourable Member from Whitehorse West that Bill Number 18 be now read a second time. Are you prepared for the question?

Some Members: Question.

Mr. Speaker: Are you agreed?

Some Members: Agreed.

Mr. Speaker: I shall declare the motion is carried.

Motion Carried

Mr. Speaker: May I have your further pleasure?

Mr. Lang: Mr. Speaker, I move that Mr. Speaker do now leave the chair and the House resolve into Committee of the Whole for the purpose of considering Bills, Sessional Papers and Motions.

Mr. Speaker: Is there a seconder?

Mr. McCall: I will second that motion.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse Porter Creek, seconded by the Honourable Member from Pelly River that Mr. Speaker do now leave the chair and the House resolve into Committee of the Whole for the purpose of discussing Bills, Sessional Papers and Motions. Are you prepared for the question?

Some Members: Question.

Mr. Speaker: Are you agreed?

Some Members: Agreed.

Mr. Speaker: I shall declare the motion is carried.

Motion Carried

Mr. Speaker: The Honourable Member from Whitehorse Riverdale will take the Chair in Committee of the Whole.

Mr. Speaker leaves the chair

COMMITTEE OF THE WHOLE

Mr. Chairman: I now call the Committee to order, and declare a ten minute recess.

Recess

Mr. Chairman: I will call the Committee to order. Before proceeding with business I notice that in the gallery we have grade six students from the Christ the King High and I would like to welcome you here. It's very encouraging to see you take an interest in our legislative process.

The first item that we might deal with is Bill 17, we've gone through that bill in the clause by clause. I note that we've cleared the preamble and the title. Mr. Hibberd wanted to receive some background with respect to the standards that were going to be set by this society. I note that we've all received a pamphlet from the RIA people.

Is there any further discussion on this point?

Mr. Chairman: Mr. Hibberd?

Mr. Hibberd: Mr. Chairman, the only question that is remaining is why is an Ordinance required?

Mr. Legal Advisor:

Mr. Legal Advisor: Our advice is that this society is organized on a provincial basis, and that all the Provinces or Canada have an independent Ordinance similar to the other provinces, but independent of itself, whereby it constitutes the society within that particular province. And there are, some members have migrated to this province and are anxious that they get the same privileges within a practice within the Yukon, as they would have if they were practicing in B.C.

At present, I understand they're members of either the B.C. or the Alberta societies, but are anxious to be in a position similar to the other societies to constitute their own body.

Mr. Chairman: Thank you. Any further discussion?

Some Members: Clear.

Mr. Chairman: Mrs. Whyard?

Hon. Mrs. Whyard: Just for clarification, Mr. Chairman, this is a professional society enjoying professional status. I wonder if we have any information on the lack of any indication in this brochure about a university degree leading to a professional accountant's degree. This is an on the job evening course study at home, part time study program which is most commendable, and I know it's harder than going to university, but if it's a professional society, why is there no reference here to a professional accountant's degree, which I know can be attained?

I'm just a little confused about why they are stressing the professional standards of this society, without requiring a university degree?

Mr. Legal Advisor: I'm not in a position to answer that. Mr. Miller, who is due back today, might be in a position to answer it, but as I understand the position, the expression "accountant" covers a wide range of activities, and we're also given to understand that the people who are members of this particular society are, for the most part, not in private practice in a similar way to chartered accountants and incorporated ac-

countants, but are mostly employed by business firms and by government. There would be very, very few of them in private practice in the accepted meaning of those particular expressions.

Mr. Chairman: Thank you. Anything further? Mr. Lang?

Mr. Lang: Mr. Chairman, supplementary to the Minister of Health and Welfare, I'm kind of curious, are they going to have courses here once this society is put in, or is this going to be correspondence courses from outside?

Mr. Legal Advisor: I honestly don't know, Mr. Chairman. The people here are already qualified, and are members outside, I don't know what the arrangements with respect to students are, if any. The brochure does refer to uniform national examinations, so the requirements, or at least the exams that have to be passed, are of a calibre that's recognized throughout the Dominion.

Mr. Lang: Mr. Chairman, that goes even for high school, at least when I was going through the education system, we wrote B.C. examinations. I don't know if that's the case now. I'm just curious. I think it's very pertinent that the public know whether or not they are going to be having courses available.

Mr. Chairman: Mr. Lang, I thought that Canada was much larger than just the province of British Columbia. Anything arising?

Mr. Lang: I sometimes wonder.

Hon. McKinnon: Mr. Chairman, if there are more questions on this Ordinance, I would suggest that we could report progress and ask these questions to the Assistant Commissioner, Administrative, Mr. Miller, who will be back today. This is his baby, this Ordinance, as I understand it. He's been trying to get it through for about four years, and we have finally succumbed to his pressures.

Mr. Miller, of course, is an industrial accountant. I don't think that the Ordinance at this time has anything to do with the Minister's statement that the administrative Assistant Commissioner will be out of a job on the Executive Committee within the lifetime of this Council.

Mr. Chairman: Is that the wish of the members, that we--

A clause by clause of Bill Number 18.

One (1):

(Reads Clause 1(1))

Mr. Chairman: Two (1):

(Reads Clause 2(1))

Mr. Speaker: Mr. Taylor?

Hon. Mr. Taylor: Mr. Chairman, perhaps at this point we could have just a general outline from the Honourable Minister of Local Government as to the actual purposes of the Bill?

Hon. Mr. McKinnon: I thought you were going to ask for the actual outline of the lands and I was just going to say the Takhini subdivision and the Valleyview subdivision.

Mr. Chairman, this goes back in history to the time that the city boundaries were extended. At that time, one of the offers of the Government of Canada to the city increasing its boundaries was that lands in Valleyview and Takhini would be turned over to the control of the Municipality of the City of Whitehorse.

However, under the Lands Act and the Territorial Lands Act, there could not be a direct transfer between the city and the Government of Canada, but it has to go through an intermediary, that intermediary being the Government of the Yukon Territory.

There was some problems in the reading of what constituted the beneficial use of the land. Did it mean that if any of the land was, after being transferred to the City of Whitehorse, and if that land was sold, did it mean that the money under the Territorial Lands Act had to return to the Commissioner of the Yukon Territory. So there's been great legal arguments centred in Ottawa and in Whitehorse and in the city on these various legal points over the number of years that it has taken for this Ordinance to come into effect.

The other major point of consideration was that the Government of the Yukon Territory, I think, has probably the best land policy of any area in the Dominion of Canada. And it's one which we've received kudos from all sections of society, including the City of Whitehorse on.

That is, that the Government of the Yukon Territory does not sell land for profit.

The government of the Yukon Territory develops land at cost. When people look at the cost of building lots in any of the major areas across Canada, in the 10 to 20 to 30 thousand dollar range, it almost becomes impossible for a family on a middle income salary to ever think of owning and building their own home. Hopefully this isn't going to come to pass in the Yukon in the near future.

The Government of the Yukon Territory believes so strongly in this policy of developing land for cost that they wanted assurances that this policy would be followed by the city government in the development of residential land in the Valleyview and Takhini subdivision when the transfer came about. This assurance has been received by the Territorial Government from the City of Whitehorse. If there are zoning developments planned in the Takhini and Valleyview area which seems unlikely for industrial or commercial land development, the Government of the Yukon Territory has no problems at all and hopes that the city could make a buck or two on the development of that type of property.

Mr. Speaker: Thank you Mr. McKinnon. Anything further?

Clear.

Three (1):

(Reads Clause 3(1))

Mr. Chairman: Four(1):

(Reads Clause 4(1))

Is it the wish of the Committee that I read out the schedule?

Hon. Mr. McKinnon: Mr. Chairman, could we report progress on this Bill because officers of the City of Whitehorse have not had a chance to examine it to this point.

Mr. Speaker: Is that agreed?

Some Members: Agreed.

Mr. Chairman: Might I ask Mr. Legal Advisor what the situation is with respect to Bill Number 8; there were several areas of that Bill that you were going to take under advisement? Are we going to be ready to proceed with that today?

Mr. Legal Advisor: We would hope to have that resolved by tomorrow, Mr. Chairman. The particular member of the public service who handles the details of this Ordinance, is away until today. They are returning today, and then --

Mr. Chairman: I see.

Mr. Legal Advisor: -- at that point we can consult.

Mr. Chairman: That would seem to leave the Bill Number 16 for a clause by clause. As you know, we have agreed that members from the Law Society will be requested to attend as witnesses on Tuesday or Wednesday. Is it the wish of Members that we do a clause by clause at this time of that Bill? Or would you rather wait until Wednesday or Tuesday for the society to be present?

Mr. Taylor?

Hon. Mr. Taylor: Mr. Chairman, I think that we should consider the duplicity aspect of the situation. If it would appear that we are going to have to virtually go through the Bill a second time, perhaps we could have someone from the Law Society perhaps today, to avoid reading the Bill today and then virtually reading say 50 percent of the Bill again on -- next week.

Mr. Chairman: There is another aspect to this, Mr. Taylor. I have spoken with Mr. Legal Advisor about this Bill, and it was stated that if we had any serious objections that could be possibly cured, that I would speak to him prior to reading it, reading the Bill in Committee, just in case there were large areas that might have to be changed, by agreement without debate.

I would rather, personally, go through it once, at one time, on Wednesday next.

However, I will leave that up to the Members.

Mr. Legal Advisor: Mr. Chairman, it's a very long Bill and a very boring Bill to read, because it's full of highly technical expressions. It will take considerable time of this House to actually read it through. If this Bill isn't dealt with today, it means the House will adjourn, then on Tuesday it will be occupied with the municipal officers and that will put it back to Wednesday. On Wednesday it will be read through; if there are any amendments to be made, it will be very difficult to make them within the framework of the time allotted, especially having lost two days of this Council's time on this.

Mr. Chairman: Mr. McIntyre?

Hon. Mr. McIntyre: I think we should proceed with reading the Bill. In the meantime if the Legal Society of the Yukon Territory will have had a chance to study it, and we can take up the sections that they want to object to on Tuesday.

Some Members: Agreed.

Hon. Mr. McIntyre: In the meantime, there may -- you know, we can read it through and get some understanding of it ourselves.

Mr. Chairman: Very well. In that case, I will turn the chair over then to Mr. Lang.

(Mr. Lang Resumes Chair)

Mr. Chairman: Thank you, Mr. Phelps. I trust that you will not let your private life enter into this discussion.

Hon. Mr. McIntyre: Mr. Chairman? Mr. Chairman?

Mr. Chairman: Mr. McIntyre?

Hon. Mr. McIntyre: Perhaps while we are reading it through, if there are any really controversial sections that the Honourable Member, Mr. Phelps could point them out to us, and we could stand them over until next week.

Mr. Chairman: Agreed?

Some Members: Agreed.

Mr. Chairman: Number 1:
(Reads Clause 1)

Mr. Chairman: Clear?

Some Members: Clear.

Mr. Chairman: Section -- Number 2:
(Reads Clause 2)

Some Members: Clear.

Mr. Chairman: Number 3:
(Reads Clause 3)

Mr. Chairman: Clear?

Some Members: Clear.

Mr. Chairman: Four:
(Reads Clause 4)

Hon. Mr. McKinnon: Mr. Chairman?

Mr. Chairman: Mr. McKinnon?

Hon. Mr. McKinnon: Mr. Chairman, we don't see Mr. Commissioner in the House that often, and all of a sudden on legislative programming this Bill became a

priority where we had no indication that it was going to become a priority in the legislative session. Mr. Assistant Commissioner Gillespie was shepherding it through and I asked him at one time what was the big rush for this Bill at this time, and he said well it's Mr. Commissioner would like to see it come into effect as soon as possible, why don't you ask him?

And I haven't had the chance in--since that time of asking Mr. Commissioner. I wonder whether this wouldn't be an opportune time, Mr. Chairman.

Mr. Chairman: Mr. Commissioner? If you do so choose.

Mr. Commissioner: Well, Mr. Chairman, I appreciate the opportunity of having a word of explanation just before this Bill proceeds very much further. One of the real aggravations that I have within my administration that bothers me very, very much and I believe, and I have reason to believe that it bothers the people in my administration who are charged with their responsibilities under the present Legal Professions Ordinance, is the situation where one of my officers is charged in an Ordinance of being, in effect, the disciplining officer of those members of his profession, of which he himself is a member.

Now, I can well imagine that years ago when the Bar was very small here in the Yukon Territory, that the modus operandi of coping with this was looked upon as perfectly acceptable. I'm sure the Council of the day that passed this, and the Commissioner of the day that passed it, and likewise the members of the Bar themselves at that time, saw no real problems in putting this responsibility in the hands of an officer of the Territorial Government. Certainly, up to a certain point, I believe that these procedures have been quite satisfactory, but for the last several years, in my opinion, it has placed a burden upon what I consider to be -- or placed a responsibility in an area, which I consider to be, entirely inappropriate when it comes to disciplining the members of the Legal Profession, when this is being done by a public servant, and in effect, this public servant is required by the present Ordinance to be a policeman over the Bar.

And this, in my opinion, Mr. Chairman, is entirely wrong in the context of today in the Yukon Territory.

Now, the routing that is suggested to you in this paper, and I would like--in this Bill, and I would like to extract the matter of dealing with trust accounts, et cetera, I mean I think this is another matter entirely, but the suggestion of disciplining that is suggested to you here, is probably another half-way house. I'm quite confident that when the members of the Legal Profession have the opportunity of coming before you in your committee, that undoubtedly there will be suggestions that there should be a different kind of an Ordinance which would place the policing, or the policing function in the hands of the Bar entirely themselves. This would be the ultimate, as happens in provincial jurisdictions.

What we are suggesting to you at this time is a further half-way house that gets it out of the hands of the public servant but doesn't place it entirely in the hands of the Local Bar Association. Now whether this intermediate step is the one that meets with the approval of the Members of Council or whether they wish to go a further step, that is another question entirely.

I wouldn't want members to feel that there has not been requests made by the Bar themselves, both individually and collectively to see a change made, and likewise that there has not been requests from myself and my administration to the Bar to see that changes have been made. These requests have been flowing back and forth at various rates for a long number of years. I would suggest for at least the last four or five years.

I felt the matter had been brought to a head in June of 1974 when the president of the Canadian Bar visited, in my office, accompanied by the vice president of the British Columbia Bar and two members of the Yukon Bar. They asked at that time for a change in the Legal Professions Ordinance and the disciplining sections of it. I informed them that we were very much in favour of a change but that the proposal should come from the lawyers themselves and the question of the policy with regard to that change.

Now this policy in term would then go to the Executive Committee and would be translated into government policy brought forward here on the floor of this Legislature, but unfortunately, we have never had any formal proposal, notwithstanding many reminders that this was an outstanding matter.

Now, as far as I was concerned here a few months ago, it became abundantly clear to me that some kind of a move had to be made and that if the move was not going to be made by the Bar Association, as per the discussions that we had, what I considered to be fairly formal discussions in 1974, that a move would have to be made by the Government. That was why the matter was brought, as a priority matter, through the Executive Committee, to the legislative programming Committee, and found its place on the priority list of legislation here for this Council Session.

In my opinion, Mr. Chairman, the ultimate format that Council decides should be placed on the statute books concerning the disciplining procedures for the Bar. I am not going to pass any firm judgement as to whether the intermediate step, that we are suggesting here now was a proper one to proceed with, or whether the ultimate step should be proceeded with, but certainly this recommended stage, or the stage that we are recommending to you in this course of action now, I feel is the minimum step that has to be taken. It is a completely and totally untenable situation, as far as the Commissioner of the Day is concerned, to have his Legal Advisor placed or continue to be placed in the position of being the policeman of the legal profession within the Yukon Territory.

Thank you very much.

Mr. Chairman: Thank you Mr. Commissioner. Mr. Phelps.

Mr. Phelps: Thank you Mr. Chairman, and I appreciate the remarks of the Commissioner. I'd like to say a few things by way of background, not speaking for the Bar Association, though I am the president of that association. But just to give the members some idea of the concern that is felt by myself as a lawyer and now as a Member of this Honourable Assembly.

I agree that it is entirely untenable that a member of this government in the Yukon Territory ought to be the person who is responsible for disciplining lawyers. The main reason for this is the basic argument that

time and time again, the public comes to a member of our Bar, to sue or to seek redress against this very government. And what are these people to think when a member of the government whom they're asking, a lawyer, to act against, is in charge of disciplining each and every lawyer in the Yukon. It doesn't look right, to the public, that the Bar should be under this kind of control, and from this government.

And this is why we, and I speak for most of the members in the Yukon, and most of the lawyers across Canada, this is why we would like to see our Bar Association become entirely independent of this government. This is the case throughout Canada. In every province the lawyers are responsible for disciplining their own members. In the Northwest Territories, there's a Bill that is about to be passed or has been passed, which gives the lawyers independence from the government.

I'm saying at this time that I agree, basically, with the provisions that are in this Bill that we are now going through on a clause by clause reading, and when you look at the provisions in there, they're very, very strict.

In fact, the average person who would be charged by the government, the average person who is charged criminally, has far, far -- a far easier time proving his innocence than does a lawyer under provisions such as this.

Lawyers agree that they have got to come under very, very strict disciplinary measures. One reason, of course, is that lawyers know more about the law than anybody else, that's their profession, and of course it's easy for the odd unscrupulous member of the bar to get away with murder, with very unsavoury things, unless the disciplinary provisions are very, very stringent, and they are, believe me, in every province that I'm aware of.

What I would like to say to the Honourable Members at this time, is that I'm very pleased that the Commissioner has stated the reasons behind this sudden emergence of Bill 16. In the discussions I've had with some of the lawyers in the Territory, we're in agreement with the basic principles of this Bill, but we feel it doesn't go far enough. We agree that Members of the Yukon Bar, ought to be disciplined ultimately by lawyers from another province, preferably B.C. Lawyers of high standing amongst the legal community in B.C.; lawyers that may be appointed to a disciplinary board by the Chief Justice of the Supreme Court of B.C.; we agree with this.

We also agree that monies from trust accounts, held by lawyers, ought to be channelled into the government monies or the society's monies, so that the disciplinary body can be paid for so that investigations can be carried out against lawyers suspected of impropriety with their clients.

But my concern with this step is that it does not go far enough. I would like to see the government get together with a committee from the Yukon Bar Society, in order to go further than what this Bill is proposing, because I would like to see a Legal Profession Society created -- a statutory body wherein the lawyers have complete jurisdiction over their own affairs, where the disciplinary aspects, as set forth in Bill 16, are met; but where the public, when they seek redress against an improper action by this government, can go to a lawyer, knowing that that lawyer is

independent of the government, that that lawyer doesn't have to fear the government, that that lawyer will work for him, in order to try to obtain justice for him against this government or any government.

So Honourable Members, what I'm suggesting at this time, is that we consider setting this Bill aside in order that the Law Society of the Yukon can get together with the administration and do one job, do the whole thing and bring a proper Bill before this House in the fall.

Thank you.

Mr. Chairman: Thank you, Mr. Phelps. Do I take from what you've said that you would like to see this set aside as of now?

Mr. Phelps: Well, I was caught by surprise by the remarks of the Commissioner, and I would, I suppose, like to move at this time -- propose a Motion at this time, that --

Mr. Lang: Mr. Phelps, before you propose your Motion, could I ask you -- in order to get with the administration, would this Bill be ready to go through this coming week, or are you talking next Session?

Mr. Phelps: No, I think we are looking at the next session. The unfortunate thing about this particular Bill, that's before us right now, is that there would have to be an awful lot of amendments to get the final product. We could spend a lot of time on this particular Bill at this time, and then in the fall we would have to rewrite almost the whole thing anyway, in order to obtain an entirely independent Bar.

What I'm asking really is that from what I understand, the administration is in agreement; what I'm asking for really, is that the Yukon Bar end up in the same position as the Bar Associations across Canada.

This is why the president of the Canadian Bar Association and the vice president of the B.C. Bar Association came to the Yukon last June and met the Commissioner and met with the local members of the Bar. They're concerned as well. And their main concern is very simple. Justice must appear to be done. And this who have legitimate grievance against the government of the day have got to have somebody they can turn to, somebody who they are sure cannot be coerced by that government, somebody that they can go to who will fight the government and obtain justice for them.

Mr. Chairman: Thank you Mr. Phelps. Is there any questions relating to what Mr. Phelps has said?

Mrs. Whyard?

Hon. Mrs. Whyard: This has been a very interesting bit of background and the question that occurs to me, if we're approaching this matter from a philosophical point of view, it seems to me that this same situation could be extant in the Medical Profession, and I was going to ask the Honourable Member from Whitehorse South Centre if he could explain to the house how the medical profession handles the same situation. You have your own methods of policing your professional members, no?

Mr. Chairman: Mr. Hibberd?

Mr. Hibberd: Yes, we do, Mr. Chairman. But the Medical Ordinance also requires considerable review along this line.

And I would hope that that would be forthcoming shortly.

Mr. Chairman: Mr. Phelps, I have one question that, it is almost a year has gone by and I'm kind of curious of why there has not been any action taken up till this time. You said last June. Mr. Phelps?

Mr. Phelps: Mr. Chairman, I don't want to get into any recriminations against the government, the administration. I don't want to take that position with the Bar Association. There has been a lot of dialogue between members of the Administration and members of the Bar Association. There has been problems as you know, with the present Legal Aid scheme in the Yukon, and the Bar had given a very top priority to see we did get a proper legal aid scheme in the Yukon.

It's a situation simply where the two parties really haven't got together and sat down and gone -- given careful study to the kind of legislation that would be amenable to both sides. I see this as a breakthrough, I think it's an important step, I think that there's no reason why a committee from the Bar Association couldn't sit down with the administration and work out a final product, of which all Yukoners could be proud of. I think that there is certainly, a lot of give and take, in the attitude of the Bar. I'm sure that there will be a lot of give and take in the attitude of the administration. But what is of concern and what makes this particular kind of legislation so important, so urgent, is that everyday we have clients who come in, with grievances, real or imagined against this government, and they're coming in to see a lawyer, who is under the thumb of this government. Who can be disciplined by this government, who can be harrassed by this government, under the terms of our present Legal Profession Ordinance. And what I'm suggesting really is lets put this off until the fall, let's come forward with a complete end product, so we can solve the problem in the minds of the non governmental employees at least in the Yukon, that they can go to independent people and get justice.

Mr. Chairman: Mr. Taylor was next.

Hon. Mr. Taylor: Mr. Chairman, there's two things that concern me at this point. I also might say that the remarks that have gone on in this debate have been most informative and most interesting. One, my first concern of course, as a legislator would be that whatever legislation that we do provide, respecting anything, in this case, of course, the Legal Profession that we provide legislation which reflects justice, and reflects sound policy. The other is of course, a matter in how we deal with this legislation.

In other words, are we going to go through an Ordinance only to find when we've concluded the Ordinance that we're going to do it again or we're going to make major revisions which will come back in the fall. I'm concerned with both facets of the thing. I have learned from the debate that has gone on before, that up to this point there has been no real getting together between the Yukon Law Society and the administration, in the preparation of the Bill and the

philosophies of the Bill. And naturally it occurs to me that the process is about to begin assumably on Tuesday. I don't know, I have a feeling that there is enough responsibility and maturity in our bar society, certainly there must at this point, that they could conceivably with the consent of the administration, sit together, over any period of time that may be desirable, to work out legislation which would be in keeping with the demands of both the administration and the Law Society.

I personally would have no problems in supporting such a move if the administration felt that they could live with that. I think at this point in time we certainly must make a decision as to which way we're going to go. If we're going to proceed with the dealing of the Bill now, and talk it out. It just seems odd to me that from this point on that we discuss this without having the Law Society here and have that meeting right in this Chambers over the next number of days, or whether we take the alternate that has been suggested by Mr. Phelps and say, well maybe the society and the administration could get together on the question over the course of the summer and bring in a Bill in the fall.

These are simply observations that I'm making, Mr. Chairman, for the consideration of the Committee.

Mr. Chairman: Mr. Hibberd, if you could wait for a minute, I think Mr. Legal Advisor has something to say to us.

Mr. Legal Advisor: The first approach that was made requesting the bar to come forward with a proposal was made, to my knowledge, in November, 1967. And the approach has been made at regular intervals since then, at annual general meetings and at functions. The matter crystallized, as the Commissioner said, in a formal special visit to the Territory on behalf of the British Columbia Law Society and the Chairman of the Canadian Bar Association, in a formal meeting called specifically for the purpose, which was attended by the Chairman of the Canadian Bar Association, the Vice-President of the B.C. Law Society, the former Chairman of the Yukon Law Society, the then Chairman of the Yukon Law Society, myself and the then assistant Commissioner.

And the Commissioner stated perfectly accurately, the understanding at that time. It was the crystallization of a long series of approaches made on both sides to try and get some formalization, and some new deal, and the emphasis at that time was placed on the independence of the bar from the government.

It was pointed out that this independence is a very necessary facet of Canadian life, that a person must be able to go to a lawyer, to make his pitch and to act on his behalf against any government, and have the lawyer not be afraid that in some way he might be harassed or pressured through disciplinary proceedings. The government accepted that and went away, and confirmed by at least two, maybe three letters, that the understanding at the meeting was that the Bar would come forward with a definite policy proposal, which would be put to the government and would then see its way, in the normal course of events, into legislation.

There have been many meetings since June of last year. I got the drafting instructions from the Commissioner's office in the routine way. My drafting

instructions were to prepare a Bill which would crystallize the duties of the lawyer to the public, and the duties of the lawyer to each other, to the courts and the protection of the public, precisely in the same manner as that is done in every Province of Canada, and the hairline that I used for the purpose was the Province of Alberta, couple with the Province of B.C.

The way this Ordinance is set up, there is a Committee which will be a panel, which is equivalent to the Benchers of the Law Society of B.C. From that panel will be chosen, independently of the government, and all of these people will be appointed quite independently of the government, these people, which will consist of nine independent lawyers, hopefully resident all in either Vancouver or some other part of B.C. or Alberta, somewhere reasonably near at hand. They will choose the disciplinary committee of three, not the government. They themselves will be chosen on the recommendation of the Chief Justice of the Supreme Court of British Columbia, and there will be no input in regards to the appointments by this government. The design of the Ordinance is such that if at a future time, say in the fall, or say next spring, the Law Society is able to come forward with definite proposals for a policy, and if that policy is accepted, to create a statutory body which will govern itself, then these sections, with only a change in one sub-section, can be just a part 3 of a new Bill. And it's designed to save this House trouble and save the government House trouble. It's a code of conduct, first in relation to handling of trust accounts; second in relation to the discipline of the Bar and the ethics of the Bar, and it's designed to be a specific code which can be slotted in as a part 3 to any new Bill which is forthcoming in the fall or in the spring, and in that regard would not duplicate the work of this House.

Now, I do emphasize that it's intended to take the complete handling of the discipline of the profession out of the hands of government, and transferred, as Mr. Phelps said he would like to see it transferred, into the hands of an independent outside group of lawyers, far, far way.

Mr. Chairman: Mr. Hibberd?

Mr. Hibberd: Thank you, Mr. Chairman. I'm wondering from Mr. Phelps' remarks what he considers the end product to be which he wants. Does he want this end product to be that the Yukon Bar Society is going to function as its own disciplinary body, or are they going to function with the help of the B.C. Bar? Do you consider that the Yukon Bar is capable of disciplining itself? I mean, do you have enough members that you can do this?

Mr. Chairman: Mr. Phelps?

Mr. Phelps: In essence, Mr. Hibberd, we want something like what is proposed in this Bill. We would like to see Benchers from B.C. be the ultimate judges of the professional conduct of lawyers in the Yukon, because we are too small to have lawyers from firms, local firms, sitting in judgment on lawyers from other firms in Whitehorse.

So we are not really concerned about that part of Bill Number 16. What concerns us really is this: We want to be entirely independent of this government, we

want to have the same kind of society as they have in each and every province of Canada, and what bothers me about what Mr. Legal Advisor is saying is this: They have a situation right now where he is in charge of the disciplinary conduct on the part of the government towards lawyers in Yukon, and I suggest that one of the reasons that the administration wants to pass this Bill, is because the heat is too much for them.

I suggest that they are in the situation now where it's very difficult for them to carry on the functions as the disciplinary group over lawyers, and so I suspect, and I'll say it right here, that what the government is trying to do is get rid of the problem area, as far as they are concerned, and yet retain jurisdiction over the lawyers, in a manner which is not done and is untenable to lawyers throughout Canada. I suspect that what we're being asked to do in this Council at this time, is to allow the government to really have control over lawyers and let them get rid of that aspect of the control which is bothering them and is troublesome to them at this time.

What bothers me about us going ahead and passing Bill Number 16 is that the heat is off the government, the administration, and they will not allow lawyers in Yukon to have the same rights and to be as independent from this government as lawyers are throughout Canada, and as even in the Northwest Territories, a Bill is in the process of going through that House, allowing lawyers in the Northwest Territories to be entirely unfettered by that Territorial Government. What bothers me about us going ahead with this particular Bill is I'm just very suspicious at this time.

I know that disciplining lawyers is difficult for this government. I know that it may be politically unfeasible in certain instances. And what I'm worried about is that when this is overcome by the passage of something like Bill Number 16, and when the government has managed to grab the interest, which will come from all the trust accounts in the Yukon, and this is money in the bank which lawyers are not allowed to collect interest on, when they've got what they want, when they've got the heat off them, when they've got the revenue from those trust accounts, that will be it, full stop. And we'll be looking at a policy decision as to whether or not lawyers in the Yukon are going to be completely independent, as they are throughout Canada.

And so I object very strongly to the Honourable Members considering this Bill and passing this Bill at this time. For that very reason. Because it's a stop gap measure, allowing the government to retain control over lawyers, allowing them to grab the trust account interest, allowing them to get rid of the politically untenable part of their duties under the present Legal Professions Ordinance. And allowing them to say okay, we've got rid of the problem area, we've got the money we need, now the legal profession can just sit where it is. We aren't going to give them the same kind of independence that has been granted to lawyers throughout Canada.

Mr. Chairman: Mr. McCall?

Mr. McCall: Thank you Mr. Chairman.

I appreciate what the Honourable Member has just stated, but I'm still left with an area of confusion. I

believe, in Committee yesterday, the Honourable member read a statement about requiring witnesses from the law society to appear in front of us next week. Now a statement has been made, this morning in the House, that we do not go through this Bill until the fall session. Now I'd like some clarification.

Mr. Chairman: Mr. Phelps?

Mr. Phelps: It's with a good deal of pleasure that I rise to give you that clarification, Mr. McCall.

Really the situation boils down to this, that I was taking the position that the kind of representation that I'm making at this time might better come from the Law Society witnesses that would appear before this committee. What Mr. Commissioner had to say this morning caught me completely unaware. I was not aware that he was going to stand and speak to Bill Number 16. So I'm standing at this time really in reply. It seems to me that I can possibly save the Honourable Members a great deal of time and effort by putting forward the kinds of argument that I suspect will emanate from the Law Society as an Organization. I'm speaking as an individual at this time, and of course as a lawyer. And these are my personal feelings, I'm not speaking for the Bar Association. But I'm sure that the kind of representation they will make will fall in line with the kinds of things I've been saying today, to you, as a Member and not as a member of the Bar Association.

Mr. Chairman: Go ahead, Mr. McCall.

Mr. McCall: I appreciate what the Honourable Member has just stated, what I'm curious about is do you not wish witnesses to appear in this House next week on behalf of the Law Society?

Mr. Phelps: Well, Mr. McCall, not if we can agree that this Bill will be shelved and the administration can get together with the Committee from that Society and come forward with a complete package, that is similar in content to what they have in B.C., Alberta, Saskatchewan, Manitoba, Ontario, Newfoundland, what is about to come forward in the Northwest Territories.

Mr. Chairman: I'd like to ask one question, Mr. Legal Advisor. We talk about these trust funds and the revenue that will come from the interest of these trust funds. You make that -- it appears to me the way I interpret it, that there is a large amount of money coming from the interest of these trust funds. Am I not correct. I'd just like to know what area we're dealing in, as far as dollars and cents are concerned.

Mr. Phelps: Mr. Lang, this is an area that I can only guess at, but I suspect that if the banks were to pay interest on the trust funds that are held in the various law firms trust accounts, my guess is that there will be something in the order of \$15,000 per annum or more, that will be generated and could go towards a proper disciplining of the members up here, it could go towards Legal Aid, it could go towards things that are important to the judicial system in Yukon. We're talking in terms of something, I think, in excess of \$15,000 per year, which the banks will have to pay out.

What concerns me is I would hate to see this money grabbed by the government now and thrown into the old general revenues, and not be earmarked, or at least go either to a proper society, or go to the expenses that disciplinary measures will take, the expenses of having spot audits and trust accounts in the Yukon, the expenses of various kinds of legal programs that could be made available for the benefit of Yukoners. I hate to, at this time, allow the government to take that money and throw it into the general revenue and have it disappear, because I think there's a lot of very, very beneficial things that could be done with that money.

Mr. Lang: If I may, Mr. McCall, if I may ask one supplementary question. Is this your major objection to this Bill?

Mr. Phelps: No, my major objection to the Bill is that it's a, one small step towards a totally independent bar society, or bar association. It takes the pressure off the government as far as disciplinary measures go. It gives them the trust money to throw into the general revenues and not to be earmarked for legal purposes. I suspect that any attempt made by the Bar Association, if this Bill is passed, any attempt by them to attain the kind of independence that lawyers throughout the Dominion have, except in the Yukon, that they will say no. No, we don't have to now, we've got your money, we got rid of the hot potato, you know discipline, and we'll just let things ride.

Mr. Chairman: I believe Mr. McCall is next.

Mr. McCall: Thank you, Mr. Chairman. In view of the surprise I think the Members of the House have been moved into, I would like a further opinion of our Legal Advisor on the whole situation.

Mr. Legal Advisor: Mr. Chairman?

Mr. Chairman: Mr. Legal Advisor?

Mr. Legal Advisor: I'm somewhat taken by surprise at the suggestion that the government has any control over lawyers, because many people have tried to control lawyers in the last hundred years and nobody has yet succeeded in controlling any one of them.

But the main suggestion was, that we have a power of harassment as a government over lawyers, because we have the power to require them to answer for ethical conduct, and put them on a charge. We are trying to remove this, this was the main thrust of the suggestion of the President of the Canadian Bar Association. It's the step we can take now. It's up to the lawyers to come forward with the remaining steps and the policy they want followed and to satisfy this House. But this is the particular step that we wish to take.

Now, I can't understand how it can be suggested that any other section in the Legal Professions' Ordinance contains any power of the government to harass anybody. They are routine sections which require the lawyer to pay his business tax of \$200.00 a year and such like things. That's about all there is. We don't have a law school, we don't have law professors; anybody who comes from outside the Territory can, provided he is qualified in the Canadian Bar, can come here and practice, with a certificate of good standing.

We don't have the power to deal with lawyers or control their actions in any way whatsoever, so far as I know. It may be hidden somewhere in the Ordinance unknown to me, but Mr. Phelps is right, there is some urgency in getting rid of the discipline power that the government has, and there is some urgency, and I say this, there is some urgency in getting rid of this power right now.

Mr. McCall: Mr. Chairman?

Mr. Chairman: Mr. McCall?

Mr. McCall: To the Legal Advisor, are you saying that one of the reasons why the Bill has been brought out is because the lawyers in the Yukon Territory have been harassed?

Mr. Legal Advisor: No, Mr. Chairman. What I'm suggesting is that the government has reached a point in its constitutional development, where it considers that it should not be the policeman of lawyers, and no government official should be placed in the very, very awkward position. They want to hand this over to an independent body, and to be supervised by the courts in the carrying out of those duties. This is what they wish to do.

It is true, there is a section that allows money from trust accounts to flow in, but that money, although not

be definitely be earmarked, is one method of recouping the expenditures of the government in carrying out the provisions of this Ordinance. And as you know, you passed an estimate of \$7,000.00 right this morning for this purpose, and that's where it is expected that the contrary revenue will accrue from in order to meet this expenditure.

So it is hoped that the Ordinance can be carried out without any increase in taxation.

Mr. Chairman: Mrs. Whyard was next.

Hon. Mrs. Whyard: Mr. Chairman, it seems to me that we are already into the debate that we were looking forward to next week. I'm not a legal expert and I've had no more background on this Bill than any of the other Honourable Members, but it is before us. I can't see the logic in dumping it for six months and starting again.

I think if you have something to start with you can amend it as you go. We have already heard suggestions for amending what's before us, unofficially. If we are going to have witnesses here from the Law Society next week, they will be doing exactly what is happening here this morning. It seems to me that it is only common sense to continue working through this Bill, and hopefully arrive at some solution which is acceptable to both Members.

Mr. Chairman: Thank you Mrs. Whyard.
Mr. Phelps?

Mr. Phelps: Again, I'm simply saying that if this Bill is passed, even with amendments, that we will end up with a half-way step towards what is the goal of all members of the legal profession in Yukon, and really what was asked for by the Chairman, who is really the President of the Canadian Bar Association, and the

Vice-President of the B.C. Bar Association.

They really can't understand why we don't have a similar statute body, a similar society, to that in existence in each of the provinces across Canada.

Now, I wasn't present at the meeting they had with Mr. Commissioner, I'll admit that, but I talked to them in great detail and heard back about that meeting. I'm simply saying that I am very, very fearful that we might get something here that goes partway and have the administration say, "Well, we got what we want, we aren't going to give you the full package, the entire package".

Mr. Chairman: Mr. McKinnon is next.

Hon. Mr. McKinnon: Mr. Chairman, I might say what I thought was going to be an extremely dull morning has turned out to be a very interesting one.

If there's one thing that has crystallized is the belief that I've had for a long time that neither governments nor lawyers are really noted for their haste in resolving matters, Mr. Chairman, and -- but both sides, and this has been a common theme from the Honourable Member from Riverdale, and from Mr. Legal Advisor, that there is definite urgency and it is a priority item at this time, and that it should be treated on an urgent basis.

And I really, seeing the years that have gone by while this has been in hiatus, can't see that if we do work through the Bill, if we do have this halfway measure, that I just have this feeling, in the back of my mind, that we are finally going to be pressured and lobbied very ably by the members of the Legal Society to go the further step. That decision, no matter what the Honourable Member from Riverdale wants to tell you, is going to be made by the individuals in this House, not the administration. I think that every Member of Council realizes themselves responsible enough that if he feels that the members of the Yukon legal profession have the -- want to go further and want to go the whole step of disciplining themselves, that they will have the ability of bringing that case before this House. I think that is a step that they should go, that we should proceed with the Bill, we should go to the point of at least getting to this halfway step with the ultimate, and I'm sure that we'll be pressured into it in the very near future, of going the total route that both the members of the law society and the government wants to see take place.

Mr. Chairman: Mrs. Whyard, do you have something to say?

Hon. Mrs. Whyard: No that's fine, Mr. Chairman.

Mr. Chairman: Mr. McCall?

Mr. McCall: Yes, Mr. Chairman. In view of what the Honourable Member from Riverdale suspects, am I correct in assuming that you feel that this Bill that is now before us, is just a band aid job presented by the administration of this government. The question I'm asking is, directed to the Honourable Member from Riverdale, and the Legal Advisor is this a band aid job that we are now debating?

Mr. Chairman: Mr. Phelps?

Mr. Phelps: Well it is my submission to Council that it is a band aid job, that the administration did not get together with members from the Bar to discuss an Ordinance, that the Bar has taken the initiative and last June did go, with very senior lawyers, to see the Commissioner and his officers, and to make a pitch for a completely independent Bar in the Yukon and this is what we've got back.

We have not been encouraged to go to this administration with our own draft Ordinance. We put considerable pressure on the administration to have them discuss a complete job, a completely independent law society, and the kind of legislation that the lawyers of the Yukon want. We've put considerable pressure on them. I don't want to bring all this out, because it has been, some of it, in confidence.

But this Bill was not discussed with members of the legal fraternity in Yukon and it's an important Bill. And I suspect that we could quite conceivably have a committee sit down with the administration and come up with a Bill that might be quite different in form, from Bill 16.

I think myself that it's a waste of time to go through this Bill, and then try to amend and amend and amend and come up with something different. It's not true that we've been since 1967 trying to pass legislation that would give us the kind of independence that we're seeking. It's simply not true. This has been mentioned on various occasions, it was tied with pressure on the legal aid scheme, it was demanded on numerous occasions by members of the Bar and by the Bar Society.

The Bar Society has only been active since 1971 in the Yukon. It was formed in 1970. And our top priority was to try to convince this administration to invoke the same legal aid scheme that was invoked in 1970 or 71 in the Northwest Territories. And this was refused.

And it's been the feeling of some members of the Bar, I'm one of them, that this administration has really had an anti-lawyer outlook. There's been very, very poor communications between members of the Bar and this administration. I'm suggesting to you that surely, it would be of great benefit, if the society, if the committee struck by the society could sit down with the appropriate officials in the administration and come forward with a complete package. Why go through this, how many pages have we got here? 29 pages, and then have to amend and amend and amend until we get something that is similar to what they have in B.C. And that's what I'm really suggesting, that we end up with an end product very, very similar to what they now have in B.C.

So we can utilize their disciplinary functions, so we can utilize their spot auditing people when they come north in spring on lawyers in northern B.C. They could fly in here and do the same thing.

So we can have joint meetings with that Bar to improve the quality of legal representation in the Yukon. What I'm suggesting is, why go with this, which is something that has been sprung upon us, something that the members of the local bar have had almost no input into, aside from one or two private conversations I've had with Mr. O'Donahue without seeing what the legislation was going to be.

I'm suggesting why not insist that this administration put forward an entire package, for the fall. I just don't see what the delay, what harm can come from any delay, at this time. Except, of course,

that the government might have to do without interest on the trust accounts for four months for their general revenue.

Mr. Chairman: Mr. Taylor?

Hon. Mr. Taylor: Well, Mr. Chairman, as the debate continues, it becomes clearer to me that the request being made by the Honourable Member from Whitehorse Riverdale are not in my opinion, too unreasonable. And while it has been stated that there is some urgency on both sides, it may be, that a Committee could be struck to view the situation at this session, that is the first part of the week. A Committee of the, I would suggest, the Committee of the Bar Association and a Committee of government sit down and see if within this Ordinance, there is indeed common ground, where with some—I'm not saying minor amendment, but neither am I saying major amendment, that the whole question could be resolved at this Session. I think at that point in time, we would then be able to make a rational decision in this House, or in this Committee of this House, as to whether we proceed with the Bill at this session or whether it is desirable to have the Bill put over to the next session for further consideration.

I would suggest that as a more reasonable course of action, to follow at this point in time, because it seems to me it would be a great waste of Committee's time to be pouring through this thing over and over and over again. I know in other Bills, in my experience in the House, for instance, the Education Ordinance, which was a very important Bill, that was laid out early in the ball game, so that at a following session it could be discussed, but it was tabled in order that everybody could determine what was in it, and bring forth recommendations upon it.

So perhaps that may be the course to follow here, I don't know, but I would recommend, Mr. Chairman, for the consideration of committee, that we set aside and report progress on the Bill, and ask that the Administration and the Bar Association get together and determine whether or not there is a possibility of bringing in amendments to this Bill at this session which would satisfy the demands of both.

Mr. Legal Advisor: One point on the Administration getting together. It's the custom in this government, that the government produces its own policy. It may consult and what have you, with other people, but it produces its own policy and this is the crystallization of the government policy in relation to one particular aspect of handling the Legal Profession. It doesn't deal with any other aspects, they will be a separate policy.

Mr. Chairman: Mr. Phelps?

Mr. Phelps: I would just like to clarify one point and that's this, that presently the type of discipline that we have over the Bar is not satisfactory. I think the administration will agree that that's the case and certainly the lawyers do. I think that most of the lawyers in the Yukon want to see far more stringent laws, far more control over individual members. If you look at the kind of control that the B.C. Bar, for example, has over its members, it's amazingly tough. It's a very,

very, very stringent hard line group of people, that rule on discipline in B.C. And it was our suggestion—the Bar's suggestion that we invoke that kind of committee to sit over the actions of lawyers in the Yukon.

We're not trying to duck the discipline. We want it, and want more control, we want spot audits of trust accounts, we want to have the people of the Yukon know that lawyers are being watched. But we also want the people of the Yukon to know that we're independent of the government. The thrust of this Ordinance, or at least part of the Ordinance, in asking that the Chief Justice of the court of B.C., appoint members to discipline—members of the bar down there, to discipline members here, was our suggestion. This is what we wanted. We're not trying to duck discipline. We're trying to ensure that the people in the Territory will have a fair shake in the future. That they can feel assured that the Bar is independent, that lawyers are going to be cracked down on. But all we're saying is, let's have a proper bill, let's have some input from the bar, let's get something we can live with, let's not waste our time on something like this. Thank you.

Mr. Chairman: I think the question now is whether it's the wish of the Committee to carry on clause by clause reading of the proposed Bill here. I'd like to know what the Committee would like? Mr. Taylor?

Hon. Mr. Taylor: Mr. Chairman, I could propose a motion outlining the suggestion I have given that we report progress on this Bill, at this time, and ask that the Bar Association forthwith, at the very earliest convenience at least, get together with the legal people and administrative people and find out if there is an area of co-operation, or an area within this Bill, that they could resolve by amendment.

I would like to see that done because I think, I agree, from what I've heard this morning, that we're just going to be going over this, going over it again and again and again and getting nowhere and wasting time of the Committee.

I would think that if this could be done so that we would know very early in the coming week what the situation is, I think at that time we can make a decision whether we proceed with it or whether we don't.

Mr. Chairman: Mrs. Whyard is next.

Hon. Mrs. Whyard: Mr. Chairman, I can't understand that last statement of the Honourable Member. I don't want the Bar Association and the administration going off into a huddle to discuss what's going to happen to this Bill, I want to hear it at this table. It was my understanding that that was what was going to happen when members of the Bar Association came before us, to discuss this Bill. If they have objections, they say them to us, and I want to hear them. I can't possibly give an intelligent appraisal of what their comments are or anyone else's comments until I have gone through this Bill clause by clause.

And in the interests of all concerned, I would think it would be best to read it and get ready for the debate that obviously is going to be a very interesting one. But certainly that debate and that conference and that conference and that consultation should take place here, not in some private office somewhere.

Mr. Chairman: I have to agree with Mrs. Whyard.

Mr. McCall?

Mr. McCall: Mr. Chairman, thank you. I would like to concur my feelings with the Honourable Minister of Health and Welfare. I think it is only sensible that we progress and pursue the reading of this Bill at this time. It would also give the Law Society time, shall we say, get their heads together and present themselves as witnesses in this House.

I think this is what we are here for, and I think now is the time we should be doing this, and I also suggest at this particular time that we ask that the Members refrain from putting Motions forward, in order for us all, we are very ignorant in this particular field. The Honourable Member from Riverdale is a practicing lawyer, the rest of us are not.

He does know the consequences involved in this Bill. Let us hear the consequences of this Bill when we bring the witnesses here also, in order to debate this particular Bill.

Mr. Chairman: Mr. Fleming was next.

Mr. Fleming: Yes, Mr. Chairman. I would like to add in support of both Mr. McCall and Mrs. Whyard's statements, I feel the same way.

The government I don't trust. I must say I don't trust either party too much.

(Laughter)

Mr. Fleming: It seems as if the government wants to get some Bill on the table, and yet we don't get -- seem to get a complete clarification of it. I don't -- no, they won't say that it is a complete Bill, they say maybe it isn't, and Mr. Phelps says it definitely isn't. I would think that we should carry on with the Bill and get some clarification of it. I think they've had three or four years, apparently from some of the conversation, to get together, and so I wouldn't think this wouldn't be too hard in the next few days to bring up their proposal, the lawyers.

Mr. Chairman: Mr. Phelps was next.

Mr. Phelps: Far be it from me to act like the King who went down to the ocean and sat in the chair and commanded the tide to recede and not come forward, I can see what the feeling of the Members of this House is in respect to discussing Bill 16.

My point really is this, that whatever the Law Society and the Administration might come up with, it might be quite different in form than this Bill. No matter what it is, we are still going to have to debate that, in due course, if that was the route we take. To insist on going through this Bill at this time, to me, is really wasting the time of the Honourable Members and the money of the people of the Yukon. I'm not suggesting we don't do it because I'm afraid of what's in this Bill. I just don't want to see this Bill passed at this time, that's all.

(Laughter)

Mr. Chairman: Mr. Taylor?

Hon. Mr. Taylor: Mr. Chairman, I bow to the other members. I consider the function of the House, is that we're not here as a legislature to make good laws, that, as Mr. Legal Advisor pointed out is the duty of the

Administration. It is our duty to ensure that the laws that we do enact through this House are not bad laws. They're not unjust or unconstitutional or anything else. I am saying this, that in the past number of years I've been in the House, we've reached this situation and two things occur, well three things occur. The first thing that happens is you wind up in a procedural debate which we are now involved in. The second thing is you wind up reading the Bill which we will be reading again and again, we're going no place, but we might just as well do it and get everybody used to how it works so that we can avoid doing it the next time.

And the third thing is, you usually wind up in a situation like this with major amendments and the things get chalked off at the next session anyway. So I'm game to go with anything you want to do. But just be very watchful about what's going to happen.

Mr. Chairman: I see that it's nearing 12:00. Is it agreed by the Committee to carry on a clause by clause reading of this Bill this afternoon?

Some Members: Agreed.

Mr. Chairman: Could I have a show of hands for agreed?

Disagreed?

Okay, I'll call a recess until 2:00 this afternoon. Thank you.

Recess

Mr. Chairman: I will now call the Committee to order, and we'll begin once again with a clause by clause reading of Bill Number 16, I believe.

Accounting by Barristers and Solicitors, 27(1):

Mr. Phelps: Mr. Chairman, before --

Mr. Chairman: Mr. Phelps?

Mr. Phelps: -- before we proceed, I would like to say that I have discussed this matter with members of the Bar and they'll be prepared to appear as witnesses on Wednesday. I would propose as we go through is to try to point out the -- those sections which might be of concern to the bar as far as I can see, and let them carry the ball from there.

Mr. Chairman: Okay. Thank you, Mr. Phelps. Okay we will attempt to carry on again. 27(1):
(Reads Clause 27(1))

Mr. Chairman: (2):
(Reads Clause 27(2))

Mr. Chairman: (3):
(Reads Clause 27 (3))

Mr. Chairman: Clear?

Some Members: Clear.

Mr. Chairman: Seizure of Property. 28 (1):
(Reads Clause 28(1))

Mr. Chairman: (2):
(Reads Clause 28(2))

Mr. Chairman: (3):
(Reads Clause 28(3))

Mr. Chairman: (4):
(Reads Clause 28(4))

Mr. Chairman: Clear?

Some Members: Clear.

Mr. Chairman: Custodian. 29(1) (a):
(Reads Clause 29 (1) (a))

Mr. Chairman: (b):
(Reads Clause 29 (1) (b))

Mr. Chairman: Do we have a question?

Hon. Mrs. Whyard: Mr. Chairman, who rules on whether they are mentally incapacitated?

Mr. Legal Advisor: A judge of the court, Mr. Chairman, at the end of that section, it says that.

Mr. Chairman: (d):
(Reads Clause 29(1) (d))

Mr. Chairman: (e):
(Reads Clause 29 (1) (e))

Mr. Chairman: (f):
(Reads Clause 29(1) (f))

Mr. Chairman: (g):
(Reads Clause 29 (1) (g))

Mr. Chairman: Two:
(Reads Clause 29(2))

Mr. Chairman: Three:
Reads Clause 29 (3))

Mr. Chairman: Four:(Reads Clause 29 (4))

Mr. Chairman: Five:
(Reads Clause 29(5))

Mr. Chairman: Anything arising? Clear?

Some Members: Clear.

Mr. Chairman: 30(1):
Reads Clause 30 (1))

Mr. Chairman: Two:
(Reads Clause 30(2))

Mr. Chairman: Three:
(Reads Clause 30(3))

Mr. Chairman: Four:
(Reads Clause 30(4))

Mr. Chairman: Five:
(Reads Clause 30(5))

Mr. Chairman: Anything arising?
Clear?

Some Members: Clear.

Mr. Chairman: General. 31 (1):
(Reads Clause 31 (1))

Two:

(Reads Clause 31 (2))

Three:

(Reads Clause 31 (3))

Four:

(Reads Clause 31 (4))

Five:

(Reads Clause 31 (5))

Clear?

Part 3, Discipline.

32 (1):

(Reads Clause 32 (1))

Two:

(Reads Clause 32 (2))

Anything arising? Clear?

33 (1):

(Reads 33 (1))

Mr. Phelps?

Mr. Phelps: Possibly I could arise at this time. This is one of the areas of concern, namely what we're trying to do is establish a situation where the members of the bar are entirely independent from the government of the territory.

Now I suspect that the members from the Law Society would rather have the Discipline Committee appointed by the Executive of the Local Bar on the advice of the Chief Justice of the Supreme Court of B.C. the main reason for this is, our position, I'm sure will be , that we do not want the government to have any way of interfering with the rights of members of the Bar. And this same kind of concern is going to crop up when we start concerning ourselves with how complaints arising in the Yukon are brought before the Discipline Committee, the clearing house as it were. But I'll wait until we get to that area before I comment on it.

Mr. Chairman: Clear?

Some Members: Clear.

Mr. Chairman: Two:
(Reads Clause 33 (2))

Mr. Phelps: Mr. Chairman, again, it might be better that we have members from B.C. only rather than any province. The point I think that will be made is that we're very close to the Bar Society of British Columbia, we have the same rules of court, we're attempting to utilize the same Canons of Ethics as them, so I question that it should be so broad as members in good standing in the law society of a province.

Mr. Chairman: Mr. McIntyre?

Hon. Mr. McIntyre: Mr. Chairman, if we changed that to just British Columbia this would disqualify some members of the Yukon Bar from serving on the Committee.

Mr. Phelps: That's correct, Mr. McIntyre. It possibly could be law society of a province or of the Yukon Territory or both. All I'm attempting to say is that we ought to wherever possible, bring these sections into the situation where we will have to rely upon B.C. and not any province across Canada.

Mr. Chairman: Well I think we can bring this up again when we have the witnesses.

Mr. Phelps: Yes.

Mr. Chairman: Three:
(Reads Clause 33 (3))

Four:
(Reads Clause 33 (4))

Five:
(Reads Clause 33 (5))

Six:
(Reads Clause 33 (6))

Mr. Phelps: Again, Mr. Chairman, wherever there is reference made to a government official in these sections, I'm sure that there may be comment by the members of the Bar.

Mr. Chairman: Thank you, Mr. Phelps.
Seven:
(Reads Clause 33(7))

Mr. Chairman: Eight:
(Reads Clause 33(8))

Mr. Chairman: Nine:
(Reads Clause 33(9))

Mr. Chairman: Ten:
(Reads Clause 33(10))

Mr. Chairman: Eleven:
(Reads Clause 33(11))

Mr. Chairman: Twelve:
(Reads Clause 33(12))

Mr. Chairman: Thirteen:
(Reads Clause 33(13))

Mr. Chairman: Fourteen:
(Reads Clause 33(14))

Mr. Chairman: Fifteen:
(Reads Clause 33(15))

Mr. Chairman: Sixteen:
(Reads Clause 33(16))

Mr. Phelps: Mr. Chairman, possibly I should rise at this point, going back to sub-section (14), and (15). This concept of a Discipline Secretary is one that's of grave concern. I'm not sure what the solution may be, but I would strongly suggest that the person who is going to carry on or the body of people that's going to carry on the functions of the Discipline Secretary not be connected in any way with the government.

Now, one possible solution that I throw out would be, there could be a board which would carry on these

functions, consisting of the Executive, the Bar Association and possibly one or two people who are not legal, or not lawyers, who are not employed by the government, to be appointed by this body, the House.

But a very grave problem that's going to arise is this, that somebody complaining against a member of the Bar ought not to have to go to anybody that's a member of the government, or employed by the government. They should be able to go to either a senior lawyer in town, or, to some independent person who is acting in conjunction with the executive of the Bar, and lay this complaint.

Then what would happen is that the Committee that would take the place of a Discipline Secretary, could go through once a month, or whatever, go through the various complaints and any complaint that seemed to be valid, pass that on to the board down in B.C. I'm thinking of the cost involved, about one complaint in possibly nine might be worth looking into, and the cost of having the people in B.C., of course, looking into every complaint, would be tremendous.

But I would object very strongly to having one person employed by the government, and having people phone that person whenever they have a complaint, because right away we're back into the same situation we have now, where it appears that the Territorial Government, or a member of the Territorial Government staff, has these broad powers over lawyers and they are going to these lawyers for redress often against that government.

Mr. Legal Advisor: It's our intention to have this person, who is the Discipline Secretary either the Executive Secretary of the B.C. Law Society itself or a person -- a member of the staff in his office.

Mr. Phelps: Mr. Legal Advisor, the problem with this is that, the member of the public in the Yukon that is aggrieved has to go to B.C. to voice his complaint, is that not correct?

Mr. Legal Advisor: Not quite, Mr. Chairman.

What we would like to see is a compact body operating and have the use of the facilities of the B.C. Law Association, exactly, to a large extent, as if Whitehorse was in a similar relationship to Vancouver as Prince George itself is. And then the provisions of this Ordinance are not that the Commissioner hires this person, its the Committee hires a person, and that this person would have some local part time person to act as a receptionist for complaints, but maintain telephone and letter communication on a weekly day to day basis, or day to day basis as required with the main secretary in Vancouver who would come up here occasionally as necessity arose. There wouldn't be sufficient work to employ a full time person here. It's not really acceptable that a person who is making a complaint against firms in town, has to go to that firm to make the complaint, in relation to one of the partners, or go to firm B which is a rival firm, which might be alleged to foster a complaint which was rather needless against a rival firm. There's only three or four firms in town. And there's a certain amount of a shuffling, like playing a game of -- I wouldn't say poker, but a certain amount of shuffling goes on among the membership. It's hard to find out, except in my office, exactly who is living with who at any particular

time. So what we think is, there should be a permanent person appointed by the Discipline Committee and not by the government, paid by them but not by the government, who would be an independent person with a telephone number in the book, to which you can refer. This is what we're attempting to set up.

Mr. Chairman: Mr. Phelps?

Mr. Phelps: Well I think something like that might be workable.

Mr. Chairman: Seventeen:
(Reads Clause 33(17))

Eighteen:
(Reads Clause 33(18))
Anything arising? Clear?

Some Members: Clear.

Mr. Chairman: 34(1):
(Reads Clause 34(1))
Clear?

Some Members: Clear.

Mr. Chairman: 35(1):
(Reads Clause 35(1))

Two:
(Reads Clause 35(2))

Three:
(Reads Clause 35(3))
Anything arising? Clear?

Some Members: Clear.

Mr. Chairman: 36(1):
(Reads Clause 36(1))

Some Members: Clear

Mr. Chairman: 37(1):
(Reads Clause 37(1))
Clear?

Some Members: Clear.

Mr. Chairman: 38(1):
(Reads Clause 38(1))
Clear?

Some Members: Clear.

Mr. Chairman: 39(1):
(Reads Clause 39(1))

Two:
(Reads Clause 39(2))

Three:
(Reads Clause 39(3))
Clear?

Some Members: Clear.

Mr. Chairman: 40(1):
(Reads Clause 40(1))

Mr. Chairman: Two:
(Reads Clause 40(2))

Mr. Chairman: Three:
(Reads Clause 40(3))

Mr. Chairman: Four:
(Reads Clause 40(4))

Mr. Chairman: Five:
(Reads Clause 40(5))

Mr. Chairman: Six:
(Reads Clause 40(6))

Mr. Chairman: Seven:
(Reads Clause 40(7))

Mr. Chairman: Eight:
(Reads Clause 40(8))

Mr. Chairman: Anything arising?

Some Members: Clear.

Mr. Chairman: 41(1):
(Reads Clause 41(1))

Mr. Chairman: 41(2):
(Reads Clause 41(2))

Mr. Chairman: Three:
(Reads Clause 41(3))

Mr. Chairman: Clear?

Some Members: Clear.

Mr. Chairman: 42(1):
(Reads Clause 42(1))

Mr. Chairman: Two:
(Reads Clause 42(2))

Mr. Chairman: Three:
(Reads Clause 42(3))

Mr. Chairman: Anything arising? Clear?
43(1):
(Reads Clause 43(1))

Mr. Chairman: Two:
(Reads Clause 43(2))

Mr. Chairman: Clear?

Some Members: Clear.

Mr. Chairman: 44(1):
(Reads Clause 44(1))

Mr. Chairman: Clear?

Some Members: Clear.

Mr. Chairman: 45(1):
(Reads Clause 45(1))

Mr. Chairman: Clear?

Some Members: Clear.

Mr. Chairman: 46(1):
(Reads Clause 46(1))

Mr. Chairman: Two:
(Reads Clause 46(2))

Mr. Chairman: Mrs. Whyard?

Hon. Mrs. Whyard: If I were a barrister and/ or solicitor, I think I would ask for the inclusion of another word in that section. "The Committee may also investigate any other matter concerning the professional conduct".

Mr. Chairman: You may have a point there, Mrs. Whyard.

Hon. Mrs. Whyard: No, no? Is that not so?

Mr. Chairman: Mr. Legal Advisor?

Mr. Legal Advisor: Conduct is just a euphemism for misconduct, Mr. Chairman.

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

Mr. Phelps: Mr. Chairman, I think Mrs. Whyard's point is well taken.

Mr. Legal Advisor: What we're talking about actually is an allegation of misconduct, so when you are investigating conduct you're investigating misconduct.

Hon. Mrs. Whyard: Really, Mr. Chairman?

Mr. Legal Advisor: It's an allegation of misconduct, not his good conduct, so this runs, as a whole, they are investigating conduct and all the other sections and sub-sections talk about pending the investigation of matters concerning his conduct, his conduct, his conduct,

It runs into -- what we are talking about is what we talked about at the beginning of the Ordinance, and that is conduct unbecoming a barrister and solicitor, or professional misconduct. There are two separate things, there's conduct unbecoming and there's misconduct.

Mr. Chairman: Mrs. Whyard?

Mrs. Whyard: Mr. Chairman, am I to understand then that professional covers all conduct of a barrister and solicitor? There is no such thing as personal or private conduct of a barrister and solicitor?

Mr. Legal Advisor: Not in relation to this Ordinance, no Mr. Chairman. It's all in relation to his profession or his status as being a barrister and solicitor.

Mr. Phelps: Mr. Chairman, I must say that from time to time when reading these bills, that I get the impression I'm reading sections from Alice in Wonderland, by Lewis Carroll

Mr. Chairman: Clear?

Mr. Legal Advisor: Yes, Mr. Chairman.

Mr. Chairman: 47 (1):
(Reads Clause 47 (1)):
Clear?

Some Members: Clear.

Mr. Chairman: 48 (1):
(Reads Clause 48 (1))
Clear?

Some Members: Clear.

Mrs. Whyard: Unclear Mr. Chairman. That seems to me that--well you have to have some confidence in people who are going to abide by these sections of course. But you could get into a star chamber under that section, it's not bound by the rules of law concerning evidence applicable to any judicial proceeding. They can have any kind of evidence brought forth by any means, apparently.

Mr. Chairman: Mr. Phelps?

Mr. Phelps: Mrs. Whyard's point is well taken. The point is that the members of the profession are willing to subject themselves to this kind of stringent enforcement. Because I don't think the public is aware that in other jurisdictions, where we have the kind of independence that we're asking here, lawyers are subjected to Rules of Court and Rules of Evidence that no other citizen in the Commonwealth is subjected to.

Mr. Legal Advisor: It's not quite so severe as the cold reading to an unlettered person not familiar with the rules of evidence might think. With due respect.

What it says is the Rules of Law on Evidence are not applicable, and what it doesn't mean is any evidence is in, it means that for instance, if somebody wants to know what the date of an earthquake was in Alaska, they would say I read it in the paper the day after there was an earthquake in Alaska. You don't have to call a geologist to report to prove that date. It doesn't really mean any evidence goes. It doesn't mean that hearsay evidence goes, it has got to be proved directly, it is important, but it doesn't mean that the ordinary insistence on absolute strictness of proof, which is insisted upon in a criminal court, applies. There was a case recently downstairs in the magistrates court where a person was tried on a charge of speeding. They queried the accuracy of the meter which said their car was doing 40 miles an hour. The police then produced a tuning fork which was used to test the meter. The accused queried the accuracy of the tuning fork, so witness was produced in evidence to prove that he has personally tested the tuning fork but when he was asked how he got the tuning fork to Whitehorse he had posted it and there was no proof that the same tuning fork that he had tested was the tuning fork which arrived in the mail to Whitehorse and therefore the case was dismissed.

Now in this kind of a case, if a tuning fork arose in a case involving a lawyer, the lawyer would be asked, isn't this the tuning fork, and he would be expected to say, yes.

Mr. Chairman: Mr. Phelps?

Mr. Phelps: Mr. Chairman, I don't intend to get into a debate with the Legal Advisor, because the Rules of Committee don't allow him to enter into debate with a Member, but I think that Mrs. Whyard's point is well taken throughout this disciplinary part of the proposed legislation are all kinds of things that can be done to a lawyer before he is proven guilty which could never be done in criminal court in Canada.

Mr. Chairman: Thank you Mr. Phelps. Clear?

Some Members: Clear.

Mr. Chairman: 49 (1):
(Reads Clause 49 (1))
Clear?

Some Members: Clear.

Mr. Chairman: 50 (1):
(Reads Clause 50 (1))
Two:
(Reads Clause 50 (2))
Three:
(Reads Clause 50 (3))
Four:

Mr. Phelps: Mr. Chairman?

Mr. Chairman: Mr. Phelps, could you wait until we're finished this section then bring them up.

Mr. Phelps: Mr. Chairman, the Act or the section?

Mr. Chairman: Four:
(Reads Clause 50 (4))
Five:
(Reads Clause 50 (5))
Six:
(Reads Clause 50 (6))
Seven:
(Reads Clause 50 (7))
Mr. Phelps?

Mr. Phelps: Thank you, Mr. Chairman. This particular Section, and of course especially the sub-section (3) and in various other parts of this part of the Bill, there is going to be, I think, some concern expressed about the solicitor-client privilege. That privilege, of course, is the client's privilege, not the lawyer's. I think that the language ought to be framed in such a way as to protect, wherever possible the client's privilege, because this is a sacred privilege. This may infringe upon the client who comes and sees a lawyer and has all kinds of secretive documents in the file, and he doesn't wish -- not the lawyer, but the client may not wish this personal -- these personal papers, these personal conversations and notes of the conversations to be produced before any kind of tribunal.

Now, I understand, of course, that the intention here is that the barrister or solicitor can't say, "Well look, I can't produce this file because of privilege", but normally, I think it's clearly understood that this privilege is the client's privilege. Surely we ought to be very careful in our legislation to ensure that the client must freely allow his papers, his privileged com-

munications, to go before the tribunal.

Now, normally, it would seem to me, that when there is a complaint lodged against a barrister or a solicitor, the person laying the complaint will be the client, or the client involved, and of course, he would freely allow his file to be used. What I'm concerned about is that we don't trample on the rights of clients.

Mr. Legal Advisor: Mr. Chairman I'm prepared to discuss the matter with Mr. Phelps, and it might be met by a Section similar to the medical sections which require secrecy on the part of those administering the Ordinance, which would include the Committee. Some such section like any person engaged in the administration of this Ordinance shall preserve secrecy with regard to anything coming to his knowledge in respect of which, pursuant to Section 3, the client has claimed privilege. That might satisfy him, but it's a question for discussion.

If the House would pass on to the next Section, I might think up some additional protective section for the client.

Mr. Chairman: Clear? Mr. Fleming?

Mr. Fleming: Mr. Chairman, I'm not quite clear--
--I would like Mr. Legal Advisor to more or less clarify Section Number 2 for me. I find that "a witness may be examined on oath on all matters relevant to the investigation and shall not be excused from answering any questions on the ground that the answer", and I find in (c), "might tend to establish his liability", and "(i) to a civil proceeding at the instance of the Crown or of any person, or (ii) to prosecution under any statute". I don't quite understand that bottom one. It's not quite clear to me and it looks to me like maybe he could be incriminated very badly.

Mr. Legal Advisor: Yes, a witness can be, but the law in Canada, Mr. Chairman, is different from the law in the United States. In that in the United States and in Britain, a witness can refuse to answer questions, and just put forward as a ground, that he genuinely believes that if he answers the question, and tells the truth in the answer, that he would be prosecuted for something else, like a murder.

Now this privilege does not exist in Canada. To the contrary, every witness, in a moral proceeding, is required to answer every question that is put to him, but under Section 4 of the Evidence Ordinance of the Territory, and Under Section 7 of the Canada Evidence Act, a witness is entitled to say, "Yes, I am being forced to answer the question, but I claim one privilege, and that is that my answer should not be recorded and used against me to damn me in another proceedings in another case.

Now, it's a similar rewriting of the Canada Evidence Act, and the Evidence Act of the Territory was written into Section, sub-section (2).

Clear?

Some Members: Clear.

Mr. Chairman: 51(1):
(Reads Clause 51(1))
Two:
(Reads Clause 51(2))

Three:
(Reads Clause 51(3))
Mr. Phelps?

Mr. Phelps: Again, Mr. Chairman, the same problem arises. I can see that the intention of this is, that this be directed to the barrister and solicitor whose conduct is under investigation. But it says a witness. Now if it is the client again, surely this legislature doesn't want to force the client to come before the Committee and divulge privileged communications to any board or any person. If it's just the barrister and solicitor that can't hide behind his privilege fine. But surely the client, who is protected by that privilege, ought to be able to refuse to attend before any Board. Ought to be able to say no, I'm not going to answer any questions about what I said to my lawyer. I'm not going to allow you to look at this file because these are privileged communications.

Now it seems to me, Mr. Legal Advisor, that reading subsection 2 and 3, that what was in the minds of the drafters of the legislation was that the witness would in all cases be the barrister and solicitor under investigation. But my concern is that again, the innocent client should not have to expose his confidential communications.

Mr. Chairman: Mr. Legal Advisor?

Mr. Legal Advisor: Mr. Chairman, we're setting up a statutory body. We're setting it up in exactly the same way as the Discipline Committee of the B.C. Bar, the Alberta Bar, the Saskatchewan Bar and so on. We're merely giving it the same powers.

The power that is here is not saying to a witness, this is not the section that says he must answer. This says what happens to him if he fails to answer. He's a witness like any other witness is in a court and the remedies here are the same as what occur in the magistrate's court. He's got to answer or explain his reasons for not answering. It's as simple as that.

Mr. Phelps: Mr. Legal Advisor, surely isn't trying to tell this august body that solicitor client privilege is not recognized by courts of law.

Mr. Chairman: Mr. Legal Advisor?

Mr. Legal Advisor: Mr. Chairman, solicitor client privileges are recognized under certain circumstances, but if it's in the middle of a law case, and there's a crime being investigated, the witness cannot say, I refuse to say what I told my solicitor. What he is entitled to say is, "I am privileged from telling what advice my solicitor gave and what I told the solicitor in order to obtain that advice." Once it's narrowed down to solicitor and client privilege in that way, he can escape having to answer the question. Now, as I said to Mr. Phelps, I'm prepared to go a certain distance with him in attempting to draft a section which will protect that client from the consequences of disclosing something that happened. But we are dealing very intimately with the relationship here of a client and his solicitor. What this section sets out to do is to reproduce precisely what happens elsewhere in Canada, the same sections, virtually the same draftsmanship and with the same privilege to each person. I would like to go

further and protect a person that when he does disclose, that he will not be proceeded against as a result of his answer. But this tribunal is investigating the relationship of a client and a solicitor. It needs to know these answers.

Mr. Chairman: Mr. Hibberd?

Mr. Hibberd: I would submit, Mr. Legal Advisor, that there are terms of reference that can be used. I don't think we should permit it to go too far in such legislation, when you do destroy it, it becomes dangerous to a person's freedom. I think you have gone over the bounds in this area of legislation in this instance.

Mr. Chairman: Mr. McCall, did you have something to say?

Mr. McCall: Not at all, Mr. Chairman.

Mr. Chairman: I have one question, if I may, Mr. Legal Advisor. Could this be directed in the direction if say the client and the solicitor are in what I believe they term "collusion"? Is this -- maybe I am off the topic, but I'm kind of curious.

Mr. Legal Advisor: It could be, Mr. Chairman, but the particular thing we are trying to defend against, in the legislation, is that when the lawyer himself is being questioned in relation to the conduct of a particular client, that he can say, "I will not disclose the relationship or the conversations or the documents which passed between me and my client".

Now, it may be a conflict; it may be a question that client A is complaining about the lawyer's conduct because he is acting for client B, and he is stealing client A's money and paying it over to client B. And then the lawyer is able to say, "Oh, I can't tell you what happened, that's privileged between myself and Mr. B", and they ask Mr. B, and Mr. B says, "Oh, I can't tell you that because I was in my lawyer's office discussing something when that particular cheque was paid over. I won't tell you the amount of the cheque, I won't tell you anything about it". That's the situation that you are attempting to attack. You want the transaction out on the board, and nowhere in Canada, in this type of investigation, does a privileged solicitor/ client investigation allow a lawyer to rely on the solicitor/ client privilege.

There are areas where the solicitor and client privilege is about to be broken. In the area where a client is defrauding income tax or other people, a lawyer is entitled to say, "I invested that money on behalf of my client, and I will not disclose where he got it, and I will not show it on my books". The privilege attaches to that and he is not forced to disclose, and the client is not forced to disclose either what happens in the advice that he gets from the lawyer.

But in this particular form, it's rather like an officer in an army being questioned about something that happened. He has just got to tell all, or whatever they said in Watergate.

Mr. Chairman: Mr. Phelps?

Mr. Phelps: Well, Mr. Chairman, I'm, you know, quite satisfied that we've raised this problem. It's a

thorny problem and I think it's going to require some discussion between Mr. Legal Advisor and members of the bar.

Mr. Chairman: Thank you, Mr. Phelps. Clear?

Some Members: Clear.

Mr. Chairman: 52(1):
(Reads Clause 52(1))

Mr. Chairman: Two:
(Reads Clause 52(2))

Mr. Chairman: Three:
(Reads Clause 52(3))

Mr. Chairman: Four:
(Reads Clause 52(4))

Mr. Chairman: Five:
(Reads Clause 52(5))

Mr. Chairman: Six:
(Reads Clause 52(6))

Mr. Chairman: Seven:
(Reads Clause 52(7))

Mr. Chairman: Mr. Phelps?

Mr. Phelps: Mr. Chairman, again in a place such as British Columbia, where they do have a proper statutory body, whenever a Member is disciplined, not only is the Chairman of the Committee and the Discipline Secretary or his counterpart notified, but every member of the Bar is. I think it's important that once a decision has been made against a member of the Bar in the Yukon Territory, that all members of the Bar in the Territory be advised, because it -- there's obvious reasons for this, they'll have continuing files with the lawyer in question, they may have negotiations pending, they may have all kinds of things underway, and they ought to know what that person's status is immediately.

Mr. Legal Advisor: I agree with that, Mr. Chairman. It's a section that deals with the notice to be given in the event of a person being suspended. Perhaps the appropriate time to deal with that is to check that section whether the notices which are required to be given in that section are sufficiently wide to cover the point taken by the Honourable Member.

Mr. Chairman: Thank you. Clear?

Mr. Chairman: 53(1):
(Reads Clause 53(1))

Two:
(Reads Clause 53(2))

Three:
(Reads Clause 53(3))

Clear?

Some Members: Clear.

Mr. Chairman: I'd like to call a brief ten minute

recess.

Recess

Mr. Chairman: I'll call the Committee to order once again.

54(1):
(Reads Clause 54(1))

Two:
(Reads Clause 54(2))

Three:
(Reads Clause 54(3))

Four:
(Reads Clause 54(4))

Five:
(Reads Clause 54(5))

Clear?

Some Members: Clear.

Mr. Chairman: 55(1):

Mr. Phelps: Mr. Chairman?

Mr. Chairman: Mr. Phelps?

Mr. Phelps: I just wanted to get some clarification. As I read this, Mr. Legal Advisor, this concept of costs is entirely in the discretion of the Committee, is that correct?

Mr. Legal Advisor: Yes, Mr. Chairman. But as the Honourable Member knows, the costs are liable to be heavy.

Mr. Phelps: I didn't --

Mr. Chairman: He said --

Mr. Legal Advisor: The costs are liable to be heavy.

Mr. Phelps: Yes, this was a point, Mr. Legal Advisor, I was making earlier during the week on costs. Never have I seen costs like these, which in effect pay for the court, pay the salary of the judges, all travel expenses, everything. But of course, lawyers being such as they are, the servants of the people, I certainly won't object to it.

Mr. Chairman: Thank you Mr. Phelps. We'll keep this in mind.

55(1):
(Reads Clause 55(1))

Two:
(Reads Clause 55(2))

Clear?

Some Members: Clear.

Mr. Chairman: 56(1):
(Reads Clause 56(1))

Two:
(Reads Clause 56(2))

Clear?

Some Members: Clear.

Mr. Chairman: Appeal to Appellate Division. 57(1):
(Reads Clause 57(1))

Two:
(Reads Clause 57(2))

Three:
(Reads Clause 57(3))

Four:
(Reads Clause 57(4))

Clear?

Some Members: Clear.

Mr. Chairman: 58(1):
(Reads Clause 58(1))

Two:
(Reads Clause 58(2))

Three:
(Reads Clause 58(3))

Clear?

Some Members: Clear.

Mr. Chairman: 59(1):
Mrs. Whyard?

Mrs. Whyard: Just a matter of information. Why not exceeding 9, why not 10?

Mr. Chairman: Mr. Legal Advisor?

Mr. Legal Advisor: The Number of judges that are capable of sitting, and they each want their own copy, they dislike sharing Mr. Chairman.

Mr. Chairman: Clear?

Some Members: Clear.

Mr. Chairman: 59(1):
(Reads Clause 59(1))

Clear?
Mr. McCall?

Mr. McCall: Could we have some clarification on subsection a of Section 1.

Mr. Legal Advisor: Mr. Chairman, this is a very viable section and in my respectful opinion, this whole group of sections will be incomplete without this. This permits a court to have a second look, in a wide way, at what has happened and depart from the original order, and make what, in their opinion, is an appropriate order. It's sometimes necessary that this happen. Sometimes feelings get heated and an Appeal Court, sticking strictly to the law may apply a very heavy penalty for something which afterwards turned out to be lighter. And they can vary the order in any appropriate way. It's confirming the real power of the Court of Appeal to be a real Court of Appeal.

Mr. Chairman: Thank you. Mr. Phelps?

Mr. Phelps: I wonder if I might just comment, make a general comment about this disciplinary part of the Bill?

The main reason, one of the main reasons, that the Law Society wants to, again, have its own statutory

body and have control over setting standards in the Yukon, setting professional conduct, which is not set out in this Ordinance, is that the individual lawyers, of course, are being subjected to extraordinary disciplinary power. I think it's only reasonable that they ought to have input into, firstly, the code of ethics to be utilized in the Territory, because there's special problems here in this Territory that are unique because of the size, because of the relationship of the government to the people here. There's a lot more government than people, the ratio is much larger than most areas in the world. And having been subjected to this kind of extraordinary power, what the law profession is really saying, is that they ought to have some input as to what the ethical conduct must be. What the special problems are up here, the kind of people they want disciplining them, the kind of people they want at this end receiving complaints from the public.

I think the quid pro quo is really that they be allowed to have their own society, that they be allowed to have complete jurisdiction over setting the standards in the Yukon.

Mr. Legal Advisor: Mr. Chairman, I don't want to comment at this time on the Honourable Member's remarks, because they have some validity, but perhaps the best time to make them is in consideration of Section 65, when we come to it.

Some Members: Clear?

Some Members: Clear.

Mr. Chairman: General. 60 (1):
(Reads Clause 60 (1))

Mr. Chairman: Clear?

Some Members: Clear.

Mr. Chairman: 61 (1):
(Reads Clause 61 (1))

Mr. Chairman: Two:
(Reads Clause 61 (2))

Mr. Chairman: Three:
(Reads Clause 61 (3))

Mr. Legal Advisor: Mr. Chairman, this is the section which I mentioned earlier when the Honourable Member was suggesting that notice be sent to the bar at large. If, after reading that Section, he still wishes to put in a paragraph saying that every member of the Yukon Bar shall be informed of this, then I would be agreeable to put it in.

Mr. Chairman: Mr. Phelps?

Mr. Phelps: Thank you, Mr. Legal Advisor.

Mr. Chairman: 62 (1):
(Reads Clause 62 (1))

Mr. Chairman: Clear?

Some Members: Clear.

Mr. Legal Advisor: The Honourable Member hasn't said, you know, whether he wishes--it's the wish of the House really.

Mr. Chairman: Mr. Phelps?

Mr. Phelps: Mr. Chairman, I think that this is an area that will be explored in detail by the witnesses on Wednesday.

Mr. Chairman: Clear?

Some Members: Clear.

Mr. Chairman: 62 (1):
(Reads Clause 62 (1))

Mr. Chairman: Two:
(Reads Clause 62 (2))

Mr. Chairman: Three:
(Reads Clause 62 (3))

Mr. Chairman: Clear?

Some Members: Clear.

Mr. Chairman: 63 (1):
(Reads Clause 63 (1))

Mr. Chairman: Two:
(Reads Clause 63 (2))

Mr. Chairman: Three:
(Reads Clause 63 (3))

Mr. Chairman: Mr. Phelps?

Mr. Phelps: Mr. Chairman, this Section raises a whole area of problems. If we are going to have a proper statutory body, I think that it would be important that interest from trust accounts be funnelled into, either into that society or into a place where that money will be used to further justice in the Territory.

Now, I am sure that when the Committee appears before--the witnesses appear before this Committee, that they will be having quite a lot to say about this Section, and about the Sections in the present Legal Profession Ordinance where all lawyers are paying an annual fee, which is gobbled up by the government, and placed in the general bank account, or whatever it is called.

My concern is this, that if we were doing this properly, we'd be creating a proper statutory body, we'd be determining how they would be deriving revenue, to pay for discipline and so on, determining how the government could assist the statutory body in carrying out its function. This is backwards. We're creating certain arms of a body to be created. We're taking all the money that might be utilized by that body and throwing it into the general revenues of the territory. I'm just simply saying at this time that we're going at this in a backwards fashion.

Mr. Chairman: Mr. Hibberd?

Mr. Hibberd: Just to confirm what Mr. Phelps has said. The fees as far as the medical profession are concerned, are channeled into the Medical Library Fund and the monies are used to buy medical books for the use of the doctors of the Territory.

Mr. Chairman: Mr. Phelps, if I may ask a question, what would occur then if the government, which appears to have more money than anybody else, that I know, presently at this point. If you have the spot checks and what not, and it does come over the what I might term as a slush fund at the present time. If the amount is more than the say, the \$15,000 per annum that you happen to have at the beginning, after a year, who is going to pay for it. Wouldn't it be beneficial to have the government taking this money, and if you go over the prescribed \$15,000, the government would be liable for it, whereas if -- the way I see it, if the Bar Association says no, we want to take care of this, then they will be responsible for X amount of dollars over the money in the trust fund.

Isn't that correct?

Mr. Phelps: Mr. Chairman, that's a good point, of course. What I'm saying is, that this ought to be an area of negotiation. It may be that the lawyers will be willing to pay more, contribute more, if they have their own statutory body. It may that cost sharing programs could be worked out between the government and the new statutory body. There is a lot of things that could happen here. There's a lot of programs that we don't have in the Yukon that might evolve. What I'm concerned about is that money is now being taken and thrown into the general pot, and I suspect, very strongly, as I've already said before, that the government is going to be reluctant to proceed on towards creating a statutory body and arriving at some kind of an understanding about cost sharing on programs and earmarking money from certain areas to go to certain programs.

In other words, Mr. Chairman, say that in ten years, the income from trust accounts is \$100,000 a year. Do you think the government is going to be willing to give that up?

Mr. Chairman: You've got a point there, but then if the population goes down, it could go the other way.

Mr. Legal Advisor: Mr. Chairman, there's a point being forgotten here. And that is, who owns the money. Until about 15 years ago, when a client would deposit \$100,000 with his lawyer, as earnings for buying a piece of land or a house, the lawyer, or say most lawyers, would deposit into their own bank account, which would be apportioned personal account and a trust account. Then a continuous flow of money would be going into the account and out of it, but there would be a balance of perhaps \$50, or 100 thousand dollars continuously in that account. The bank would account to the lawyer who would personally take the interest and it would be part of his income.

As a result of a decision of the Supreme Court of Canada in one particular case, it was held that this interest was the client's money, not the lawyer's money, because it's the client's property that generated the interest.

It was found that because there was such a con-

tinuous flow in and out, especially in small sums, it was virtually impossible to organize your bookkeeping in such a way that each individual client was given each individual portion of interest on a day to day basis or a week to week basis. So because it was not the property of the lawyers, and could not be allocated fairly amongst the clients, it became dead money in the bank and the rule was insisted upon by law societies throughout Canada, that lawyers should not personally attempt to take any interest from monies which were deposited in their trust accounts. This left it idle and dead. So I would believe, myself, that the banks in fact would be able to lend that money out at interest and to gain a profit from the fact they would have three or four hundred dollars of trust monies in the various branches of the bank at any one time. And would probably be able to make a substantial profit.

What the government is attempting to do is, to make it permissible that the banks pay interest on this dead sum of three or four hundred thousand dollars, lying idle in the banks, and have it paid to the government. At the moment it cannot be paid to the lawyers; because of bookkeeping difficulties, it cannot be paid to the clients, therefore the government says, Pay the money to us.

But as it was explained to the House during debates in relation to the financial affairs of the territory. It is not the custom in this territory to debit or earmark particular funds to provide income for particular functions. The gasoline tax does not go directly to the roads and so on. But the government is funding some of the expenses that normally, if this place was a bigger place with more lawyers, would properly be paid by lawyers.

We provide a library to which the lawyers have got access, which cost about \$11,000 per annum and other things like that are paid for and in turn the lawyers pay a business tax of two or three hundred dollars a year to the government. This is merely another expense that the government is incurring and the government hopes to be able to recoup some of this expense by means of a tax on trust accounts which is actually a tax, not on the client, and not on the lawyer, but is a tax on the bank.

Mr. Chairman: Mr. Phelps?

Mr. Phelps: I appreciate all the comments of my learned friend, and I'm sure we are not in disagreement over the background he's given. The point is, that elsewhere what has happened is, that the banks are paying this interest to the separate foundations or to the Law Society, and those monies are being used for Legal Aid programs; they are being used for library programs; they are being used for scholarship programs and so on.

My concern is this, that it seems that in the Yukon, whenever there is a new source of revenue, and the government manages to glom onto it, and put it into its general bank account, we never see it again. I think this is borne out by what happened to the monies that were derived from liquor sales back in about 1960-61. I'm sure the Honourable Member from Watson Lake can bear me out on that, that these monies were to be used for sports programs, I believe, at one time, sports complexes and so on, and later as a compromise, each member was given a Slush Fund, and now we have

nothing.

Now, what I'm simply saying is I just hate to see this source of revenue, which could enable a statutory body to remain independent from the Yukon, gobbled up by the government, and that statutory body will have to come back on bended knees to the government when the whole reason for having it separate, is that it not have to kow-tow to government officials.

Mr. Chairman: If I may, with the consent of the Committee, I would like to ask one more question.

You talk about an independent body, but it's the first time that it's been brought up that you are going to negotiate with the government if things don't go right, if I heard you out right a little earlier in debate here, that--cost sharing arrangements with the government, on behalf of the so-called foundation that apparently the bar wants to set up, is that correct?

Mr. Phelps: Well, Mr. Chairman, we are talking about justice in the Yukon Territory, and you know, throughout Canada law societies don't pay the salaries of judges, you know. Law societies don't build court houses; law societies and lawyers don't pay policemen to go their rounds.

The issue is really trying to maintain a portion of our judicial system. It's trying to keep it independent from the government, so that people will feel they can go to these members and attack the government, without having the government put the thumb on the person acting for them, that's all. It seems to me that wherever possible, we ought to be insuring that to the public it appears that lawyers are independent from the government, that's all.

Mr. Chairman: Clear?

Some Members: Clear.

Mr. Chairman: 64 (1):
(Reads Clause 64 (1))

Mr. Chairman: Two:
(Reads Clause 64(2))

Mr. Chairman: Clear?

Some Members: Clear.

Mr. Chairman: 65(1):
(Reads Clause 65(1))

Mr. Chairman: I believe, Mr. Phelps, you had something to say on this Section?

Mr. Phelps: Yes, I personally feel most strongly that the words "the Commissioner" should be completely deleted from -- struck from this Section.

This is an area in which the local members of the bar should have input, and the area of setting the Canons of Ethics and so on. They are quite willing to subject themselves, as I have said before, to these police powers, as set up in this Act, and the quid pro quo is that they have input into conduct of professional members of the bar in the Territory.

Mr. Legal Advisor: Mr. Chairman--

Mr. Chairman: Mr. Legal Advisor?

Mr. Legal Advisor: -- there is great merit in what the Honourable Member says. It just so happens that it's not a real possibility at this time, but it will be possible in the future.

What the intention is, in regard to this Section, is to apply in the first instance, the Canadian Code of Ethics which has just been recommended for general adoption throughout Canada by the Canadian Bar Association, approximately two weeks ago, I think, a copy of this new code arrived in my office, but it's been approved by each Law Society in Canada for enactment or enforcement within their respective jurisdictions. So it's probable that the Committee would advise that.

Now, they would probably also advise, because they will mostly be coming from B.C., or all of them, that the Rules of Ethics in force in British Columbia in respect to barristers in practice there, would be brought into force here, paralleling any gaps left by the General Code of Ethics of the Canadian Bar.

Now, in addition to that, the Commissioner has to act on the recommendation of the Committee, and as the Honourable Members know from Section, I think it's 33, this group of people are an independent outside body, but presumably the local lawyers will have input to them, and will be able to make suggestions to them for the advice of the Commissioner. This Section is no different than the rules which apply in some of our other Ordinances, like the Labour Relations Ordinance or the sections dealing with teacher labour relations, when an outside body, that is, the Labour Relations Board of Canada has the power to make recommendations to the Commissioner and then the Commissioner must enact.

This is not a case of the Commissioner acting on his own, but we put the Commissioner in here because once the recommendation comes through, and the Commissioner is coerced to sign, and we can publish the rules and regulations in a convenient way and they are handy to have. Otherwise, we are in a little bit of a difficulty, but there's no question that the time must come when the local bar must have input and real input into the standard of Ethics to be enforced in the Territory.

Mr. Phelps: The point is, Mr. Chairman that nowhere in Canada, in any of the provinces at least, does the government make regulations with respect to the ethical conduct of lawyers.

Mr. Legal Advisor: Perhaps, Mr. Chairman, the government doesn't because the government is not in this situation. But where the government would do this, it would act on advice.

There was a resolution of the local bar, I think it was two years ago, that we have a Code of Ethics and they adopted the B.C. Code of Ethics, so I cannot think that they would object to a continuation of that position.

Mr. Chairman: Well I think we'll probably carry on this debate when we have our witnesses. Mr. Phelps?

Mr. Phelps: No doubt, Mr. Chairman.

Mr. Chairman: Clear?

Some Members: Clear.

Mr. Chairman: 66(1):
(Reads Clause 66(1))
Clear.

Some Members: Clear.

Mr. Phelps: Mr. Chairman, not clear but let's continue on.

Mr. Chairman: 67(1):
(Reads Clause 67(1))
Clear?

Some Members: Clear.

Hon. Mr. Taylor: Mr. Chairman, I would suggest that at this time we report progress on Bill Number 16.

Mr. Chairman: Is that agreed?

Some Members: Agreed.

Mr. Chairman: At this time I'd like to give the Chair back to the Honourable Member from Whitehorse Riverdale.

Mr. Phelps Resumes Chair.

Mr. Phelps: Thank you Mr. Lang. Is there any other business to be heard before this Committee today. I'll entertain a motion then.

Mr. Lang: Mr. Chairman, I move that Mr. Speaker do now resume the chair.

Mr. Phelps: Do we have a seconder.

Ms. Millard: I second it.

Mr. Chairman: It has been moved by Mr. Lang, seconded by Ms. Millard that Mr. Speaker now resume the chair. Question?

Some Members: Question.

Mr. Chairman: Are we agreed?

Some Members: Agreed.

Mr. Chairman: I declare the motion carried.

Motion Carried

Mr. Speaker Resumed Chair

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

Mr. Phelps: Yes, Mr. Speaker. Committee convened at 10:15 a.m. to consider Bills, Papers and Motions. I can report progress on Bill Number 17, progress on Bill Number 18.

Committee recessed at 12 noon and reconvened at 2:05 this afternoon. I can report, rather unwillingly, report progress on Bill 16.

Upon motion made by Mr. Lang, seconded by Miss Millard and duly carried, Mr. Speaker resumed the chair.

A Member: You are allowed editorial comment?

Mr. Speaker: Order. You have heard the report of the Chairman of Committees. Are you agreed?

Some Members: Agreed.

Mr. Speaker: At this time I would like to advise the House that Mr. Commissioner has requested an opportunity to speak to the House.

Mr. Commissioner?

Mr. Commissioner: Mr. Speaker, I have a regretful announcement to make at this time, but I appreciate the opportunity that you have to make this time available to me, Mr. Speaker.

Today I have received a letter of resignation from Mr. McIntyre as a Member of the Executive Committee and of the Advisory Committee on Finance. I'm very sorry that this has happened, but he has made a decision for personal reasons, with which I find myself in complete sympathy and agreement, and I respect the decisions that Gordon has made.

I personally want to thank him at this time for having contributed so much during his time on the Executive Committee. I'm sure that all Councillors are aware that Gordon has not only served on the Executive Committee during the time that he has been a member of the Council, but also during the period of September, 1972 until Mr. Fingland's appointment as the Assistant Commissioner, Executive, in May, 1973.

I'm sure that Gordon leaves with a personal feeling

of satisfaction that he has participated and made a significant contribution to the development of the Executive Committee and all that it stands for in our progress towards responsible government. I, along with the other Executive Committee members, join in wishing Gordon well in his continuing service as the councillor from the Mayo district.

Mr. Speaker: Thank you, Mr. Commissioner. May I have your further pleasure? The Honourable Member from Hootalinqua?

Mr. Fleming: Yes, Mr. Speaker, I move that we do now call it five o'clock.

Mr. Speaker: Is there a seconder?

Mr. McCall: I second it, Mr. Speaker.

Mr. Speaker: It has been moved by the Honourable Member from Hootalinqua, seconded by the Honourable Member from Pelly River, that we now call it five o'clock. Are you prepared for the question?

Some Members: Question.

Mr. Speaker: Are you agreed?

Some Members: Agreed.

Mr. Speaker: I will declare that the Motion carried.

Motion Carried

Mr. Speaker: This House now stands adjourned until 10:00 a.m. tomorrow morning.

Adjourned

LEGISLATIVE RETURN NO. 7

MAY 13th, 1975

**Mr. Speaker,
Members of Council**

On May 12th, 1975, Councillor Fleming asked the following question:

"Mr. Commissioner, does the Government of the Yukon Territory comply with existing building regulations in the construction of its own buildings."

The answer is as follows:

"The Yukon Territorial Government designs and constructs new buildings in accordance with the National Building Code which is in effect for construction of buildings in the Yukon. This is reflected in all building contracts issued by the Department of Highways and Public Works."

**Peter J. Gillespie,
Administrator.**

**LEGISLATIVE RETURN NO. 8
[1975 SECOND SESSION]**

May 13th, 1975

**Mr. Speaker
Members of Council**

On Friday, May 9th, 1975, Councillor McCall asked the following question:

"How much rent does the Department of Education pay per year to Cyprus Anvil for the use of their gymnasium?"

The answer is as follows:

The Department of Education pays no rent to Cyprus Anvil for the use of their gymnasium.

The following excerpt is paragraph 8 of a memorandum from Commissioner Smith dated October 21st, 1971 to A-4, with a copy to R. Thurmond, Anvil Mining Corporation:

8. The original understanding of Anvil supplying gym facilities for school purposes and YTG supplying the library and other school facilities for community purposes is to continue with no inter-charges for the use of these facilities, once YTG supplies its own heat to the school.

**G.A. McIntyre
Member, Executive Committee**

**LEGISLATIVE RETURN NO. 9
[1975 SECOND SESSION]
May 12th, 1975**

**Mr. Speaker,
Members of Council**

On Friday, May 9th, 1975, Councillor Fleming asked the following question:

"Presently it is the custom to send swimming instructors to outlying communities and have them live in the teacherage. As this imposes on and inconveniences the teachers, is it intended to continue this practice?"

The answer is as follows:

Swimming instructors assigned to rural communities are housed in teacherages only when there is no other available accommodation.

**G. A. McIntyre
Member, Executive Committee**

**LEGISLATIVE RETURN NO. 10
[1975 SECOND SESSION]
May 13th, 1975**

**Mr. Speaker
Members of Council**

On Tuesday, May 13th, 1975, Councillor Berger asked the following question:

"In the last budget we had some items of preparing school grounds and so on in the various schools in the Yukon Territory. But just recently there was a construction performed in Dawson and the school ground is a real mess. I was wondering if there was any money set aside for the repair to the school grounds and the playground facilities?"

The answer is as follows:

Establishment 2911 includes provision of \$12,600 to replace the wire mesh fence with a sturdy wooden fence similar to the front fence at the Federal Building in Dawson. This will be carried out in the summer of 1975.

The contractor has cleaned up construction debris, and the Territorial Government Maintenance Department will be requested to re-surface the yard with fine sand during the summer period.

The Department of Education is seeking to have the Welfare building which is located on school property moved, so as to facilitate development of a playground/ sports plan. When this is done, a backstop will be constructed and consideration given to the recommendations of the School Committee in the report to playground equipment.

**G.A. McIntyre
Member, Executive Committee**

**LEGISLATIVE RETURN NO. 11
1975 SECOND SESSION]**

May 13th, 1975

**Mr. Speaker
Members of Council**

On Tuesday, May 13, 1975, Councillor Millard asked the following question:

"Will the Minister detail for us the policy of the Department on boarding children away from home to attend school, especially the policy as to cost and how it is determined?"

The answer to the question is:

(1) Where a pupil is compelled to live away from his home in order to attend a designated Territorial school, the Commissioner may provide dormitory accommodation at the fees outlined below:

(a) for the first and only child of a family housed in a dormitory operated by the Commissioner, the monthly fee shall be \$55.00;

(b) for the second child of a family housed in a dormitory operated by the Commissioner, during the same school year as another sibling, the monthly fee shall be \$30.00;

(c) for the third and each subsequent child of a family housed in a dormitory operated by the Commissioner, during the same school year as other siblings, the monthly fee shall be \$25.00.

(2) Where a pupil is compelled to live away from his home in order to attend a designated Territorial school, the Commissioner may pay a boarding allowance, in lieu of providing dormitory accommodation, in accordance with the schedule outlined below:

(a) for an elementary school pupil, the monthly boarding allowance shall be \$65.00;

(b) for a secondary school pupil, the monthly boarding allowance shall be \$80.00.

(3) Dormitory facilities operated by the Commissioner shall be utilized to their maximum before consideration will be given to the payment of a boarding allowance.

In the case of children boarding away from home, allowances paid are in accordance with those paid to Foster Parents by the Department of Welfare.

G. A McIntyre
Member, Executive Committee

LEGISLATIVE RETURN NO. 12
[1975 SECOND SESSION]

MAY 14th, 1975

Mr. Speaker
Members of Council

On Monday, May 12th, 1975, Councillor Fleming asked the following question:

"Is there any possibility of us getting the capital costs of one or any one of the swimming pools in the Territory?"

The answer to the question is:

The Beaver Creek pool (1973-74) capital costs amount to \$17,614; \$12,614 for materials for the building and \$5,000 for the pool and liner. The building was constructed free of charge by students at the Vocational School.

G.A. McIntyre
Member, Executive Committee



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