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The Yukon Legislative Assembly

Number 3

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Debates & Proceedings

Thursday, November 27, 1975

Speaker: The Honourable Donald Taylor



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Mr. Speaker reads morning prayer

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

Madam Clerk: There is, Mr. Speaker.

Mr. Speaker: I will now call the House to order.

ROUTINE PROCEEDINGS.

Mr. Speaker: Prior to Orders of the Day, I would like to draw to the attention of the House, that the Deputy Speaker in the former House, unfortunately has resigned this position, and according to Standing Order 52 or our Rules and Standing Orders, Sub-section 2: "The member so elected as Deputy Speaker and Chairman of Committees, shall continue to act in that capacity until the end of the assembly for which he is elected, and in the case of a vacancy by death, resignation or otherwise, the assembly shall proceed forthwith to elect a successor".

May I have your direction in this regard? The Honourable Member from Whitehorse Riverdale?

Mr. Lengerke: Mr. Speaker, moved by myself, seconded by the Honourable Member from Kluane, that Jack Hibberd, the Honourable Member from Whitehorse South Centre, be appointed Deputy Speaker of this House.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse Riverdale, seconded by the Honourable Member from Kluane, that Jack Hibberd, the Honourable Member from Whitehorse South Centre, be appointed Deputy Speaker of this House.

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, and welcome the Honourable Member from Whitehorse South Centre and wish him well in his new and important duties.

(Applause)

Motion Carried

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

Are there any Documents or Correspondence for tabling this morning? The Honourable Member from Whitehorse Porter Creek.

Hon. Mr. Lang: Yes, Mr. Speaker. Mr. Speaker, I have for tabling today, Sessional Paper Number 6, Arctic Winter Games. I also have for tabling, the Yukon Territorial Government Position Paper on the Indian Land Claims.

Mr. Speaker: Are there any further Documents or Correspondence for tabling this morning?

Are there any Reports of Committees? Introduction of Bills? Are there any Notices of Motion or Resolution? The Honourable Member from Kluane.

Mrs. Watson: Mr. Speaker, I would like to give Notice of Motion, seconded by the Honourable Member from Mayo, that Sessional Papers Numbers 1 to 6 inclusive, be moved into Committee for further discussion.

Mr. Speaker: Are there any further Notices of Motion? The Honourable Member from Mayo?

Mr. McIntyre: Mr. Speaker, I would like to move — give Notice of Motion, seconded by the Honourable Member from Kluane, that Standing Order number 3 (1) be amended to read as follows: The presence of a majority of the assembly, including Mr. Speaker, shall be necessary to constitute a meeting of the assembly for the exercise of its powers.

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

Mr. Speaker: Madam Clerk, could you ascertain if Mr. Commissioner would be available to the House this morning for the Question Period?

Madam Clerk Leaves Room

Mr. Speaker: At this point we will just declare a brief recess.

Recess

Madam Clerk Returns To Room Followed By Commissioner

Mr. Speaker: At this time, I will call the House to order, and have you, this morning, any questions for the Question Period?

QUESTION PERIOD

Mr. Speaker: Mr. Commissioner?

Mr. Commissioner: Mr. Speaker, I had concurrence of Councillor Fleming yesterday with regard to a question that he had on the signs, the highway closed signs, and he submitted a press release with regard to it, and questioned some of the wording on it. I would like to refer the Honourable Member to the fact that this is an item in the Hotel and Tourist Establishments Ordinance. It is Section 15 of that Ordinance, and I think that gives a very clear instruction as to what is expected of the operator, if indeed he is going to close his establishment.

On top of that, we have road side signs that are put up as part of the highway signing program, and these signs are government signs and it is the government that will look after putting the necessary changes to those signs. The answer to Mr. Fleming's question, as I understand it, is that lodge owners who are closing for the winter are responsible for putting a closed sign over the roadside advertisements that they themselves own. The Territorial Government is responsible for doing so on the signs that it owns, so I trust Mr. Speaker, that that satisfactorily answers the question raised by Councillor Fleming.

Something in the same vein was raised by Councillor Watson, with regard to mileposts versus metric signs. The question being has the government considered replacing any of the mileposts along the Alaska Highway, either at significant locations or at ten mile intervals, as an aid to lodge owners and travellers. Our answer, Mr. Speaker, is that this has been discussed at all levels of government on a number of occasions in the past year and at the present time, we have no plan for the replacing of any of the mileposts, but we would certainly be quite pleased to entertain any reasonable thoughts or suggestions that Council had that would be aimed at overcoming the inconvenience to the travelling public, that is undoubtedly inherent in this change-over program.

Mr. Speaker: The Honourable member from Whitehorse Riverdale.

Question Re: Sharing Resource Revenues

Mr. Lengerke: Mr. Speaker I have a written question for Mr. Commissioner. In the negotiations to date with the Federal Government regarding the sharing of resource revenues have any numbers or percentages been discussed and also what is the schedule for continuing these discussions.

Mr. Speaker: The Honourable member from

Hootalinqua.

Question Re: Yukon Health Services

Mr. Fleming: Yes sire I have a question for Mr. Commissioner. Under the heading of the Federal Government involvement in the Yukon Health Services. And I'll read you a paragraph "National Health and Welfare Department provides as following: and it goes on to say, Operation and Maintenance, Whitehorse General Hospital. Operation and Maintenance of other costs shared facilities throughout the Yukon. Provision of Public Health Programs for all residents of the Yukon via Public Health Nurses in various Health Centres."

Now we have had a small problem at Teslin. I've been called to a meeting of Native Village and therefore I have some, not complaints but wishes that they would like to clarify their positions as to what is paid for and what is not paid for at their Health Centres.

I'll read you one more paragraph.

"Provision of financial support for supplementary medical assistance to Status Indians including drugs, air transport, both regular and charter, vehicle transportation, boarding accounts, dental care, optometrist treatment and hospitalization for mental sickness." They are very concerned because they don't really know just how much they are allowed to have and so forth so I would — the question is could you clarify provision of financial support. How much financial support. Whole or part.

The other part is would you clear up optometrist treatment. Does this consist of glasses, treatments to the eyes, glass eyes, etc. etc. or just pouring some Murine into your eyes. That's my question.

Mr. Speaker: Mr. Commissioner.

Mr. Commissioner: Mr. Speaker this rightfully a question that will have to be referred to the Indian Affairs Branch and if the Honourable Member would give us a little notice on this I will consult with the Member for Health, Welfare and Rehabilitation and Indian Affairs Branch and we will get an answer.

Mr. Fleming: I'm sorry Mr. Speaker, I meant to say, ask for an answer in writing, I'm sorry.

Mr. Speaker: The Honourable Member from Ogilvie.

Question Re: National Museum of Canada

Ms. Millard: This is a verbal question to Mr. Commissioner. I notice that the National Museums of Canada have a tour that's been going on about the North. There's two big vans apparently running around showing things about the North but we don't know anything about it here. Is it planning to come up here.

Mr. Speaker: Mr. Commissioner.

Mr. Commissioner: Is this, is this Museum pieces

that are coming around the country or those things which you would anticipate being put in a museum at some future date. Which was it that was going on.

Mr. Speaker: The Honourable Member from Ogilvie.

Mrs. Millard: Yes Mr. Commissioner. The news release says that a museum mobile, caravan called Canada North of the National Museums of Canada and this notice says it would be visiting Dryden which of course is Northern Ontario.

I don't know whether Canada feels that that's the only part of the North or not, that was in September the theme of the first exhibit is the North, the pre-history and then the second exhibit is the history up to the gold rush.

Mr. Commissioner: Completely and totally new to me Mr. Speaker. We'll be very pleased to see if we can find out something more affirmative.

Mr. Speaker: The Honourable Member from Kluane.

Question Re: Wage and Price Control

Mrs. Watson: Yes Mr. Speaker I have a question for the Commissioner.

Will the Federal Legislation enacting the Wage and Price Control apply directly to the Yukon Territory or will it be necessary for the Yukon to have special legislation to enact certain features of these controls and guidelines.

Mr. Speaker: Mr. Commissioner.

Mr. Commissioner: Mr. Speaker with, with finality the question cannot be answered at this time until the legislation is completely through the Parliament of Canada. I will say this, Mr. Speaker that Yukon was very unhappy to see that we were named in the legislation. The — if this stays when Parliament is finally completed the legislation. If the naming of the Yukon stays in that legislation, very obviously the Yukon — the legislation in its entirety will apply directly here in the Yukon Territory. We have requested that Yukon not be named in the legislation, and if indeed it is removed, then we will have the same privileges in this regard as other Provincial jurisdictions have in Canada to either pass complimentary legislation or not depending on the wishes of the legislature. That is where the matter stands at this time Mr. Speaker.

Mr. Speaker: The Honourable Member from Kluane.

Mrs. Watson: Mr. Speaker supplementary question to that then. It's been quite evident that the Minister of Finance has been meeting with the various jurisdictions to get their ideas and their recommendations on the guidelines. Has the Yukon been asked to either

meet with these representatives from the other jurisdictions or even asked to submit our comments on the guidelines.

Mr. Commissioner: Mr. Speaker I am very sorry to report that we have not been asked or consulted in any of these matters directly or indirectly.

Mr. Speaker: The Honourable Member from Hootalinqua.

Question Re: T.V. at Carcross

Mr. Fleming: A written answer. I have a question for Mr. Commissioner.

At last Spring Session I made some attempt to have the T.V. at Carcross improved and I ask a question of Mr. Commissioner if there was a possibility of this being — something being done about it and at that time, I think I will remember that he replied that there was a possibility that the transmitter and receiver at Gray Mountain may be moved. And of course this may cause possibly not be able to receive it at Carcross if they did move it in the summer.

What I would like to ask is that tower being moved or is there anything in particular.

The Commissioner: Mr. Speaker, I would have to make inquiries of that. I'm afraid that I just don't have that knowledge, but I would be pleased to make the inquiry.

Mr. Speaker: The Honourable Member from Ogilvie?

Question Re: Indoor Sports Facilities for Old Crow

Ms. Millard: I have a verbal question for the Minister of Education. When can the people of Old Crow expect some kind of indoor sports facilities?

Mr. Speaker: The Honourable Member from Whitehorse Porter Creek?

Hon. Mr. Lang: Mr. Speaker, at this time we are looking into it. As you know, we are going through an era of so-called economic restraints but I am looking into it and once I have an answer, I'll give you the answer.

Mr. Speaker: Are there any further questions? The Honourable Member from Whitehorse Riverdale?

Question re: Maggie's Museum

Mr. Lengerke: Mr. Speaker, I direct this question to either Mr. Commissioner or the Ministers, I just really don't know who is going to answer this one. I understand that in the City of Whitehorse, we have a museum I think known as "Maggie's Museum", and I understand it's being closed. She's trying to sell out, and I'm just wondering if any approaches have been made to the Territorial Government with respect to

acquiring any of the artifacts and pieces within that museum for preservation here?

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

Hon. Mr. McKinnon: Mr. Speaker, under present legislation there is money in museum grants to build a physical plant for museum; there is nothing in that legislation for the acquiring of collections. It will be up to this Assembly in next year's budget to decide whether that legislation and that budget will be changed to allow for money to be in there for the acquiring of collections such as Maggie's.

Mr. Speaker: Are there any further questions this morning? The Honourable Member from Ogilvie.

Question Re: Consumer Protection Ordinance

Ms. Millard: I have a verbal question for any member of the Legislative Committee. Last spring a motion was passed in this House to revamp the Consumer Protection Ordinance. I'm wondering how far this has progressed so far.

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

Hon. Mr. McKinnon: All the direction of the Executive Committee to this point has been in providing a vehicle so we will no longer have cosmetic legislation which it is, but legislation that can be enforced. That is going to come to pass at this point with the introduction of a civil legal aid program so people, when they have complaints, under the Consumer Protection, or under Landlord and Tenants, finally have a place to go. We felt that that was the priority following the introduction of a civil legal aid program so people could have access to the courts and to a lawyer if they had been hard done by under either of these legislative pieces, then we could start looking at the revamping of the Ordinance.

I am just not here to provide more cosmetic legislation with no enforcing ability to it; if that's the type of legislation you're interested in passing, I think we are just fooling the public and fooling ourselves.

Mr. Speaker: Have you any further question?

I would like to thank Mr. Commissioner for assisting the House in the Question Period today. We will proceed now to Public Bills and Orders.

PUBLIC BILLS

Mr. Speaker: May I have your pleasure? The Honourable Member from Whitehorse North Centre?

Bill No. 3, First Reading

Hon. Mr. McKinnon: Mr. Speaker, I move, seconded by the Honourable Member from Porter Creek, that Bill Number 3, "An Ordinance to Amend the Area Development Ordinance", be now read a first time.

Mr. Speaker: It has been moved — that is seconded by the Honourable Member from Whitehorse West?

Hon. Mr. McKinnon: Porter Creek.

Mr. Speaker: Porter Creek. It has been moved by the Honourable Member from Whitehorse North Centre, seconded by the Honourable Member from Porter Creek, that Bill Number 3, "An Ordinance to Amend the Area Development Ordinance" be 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 carried.

Motion Carried

Mr. Speaker: When are you prepared to give second reading to this Bill?

Bill Number 3, Second Reading

Hon. Mr. McKinnon: Now, Mr. Speaker. I move, seconded by the Honourable Member from Porter Creek that Bill Number 3 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 Porter Creek, that Bill Number 3 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

Bill Number 9, First Reading

Hon. Mr. McKinnon: Mr. Speaker, I move, seconded by the Honourable Member from Porter Creek, that Bill Number 9 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 Porter Creek, that Bill Number 9 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 as carried.

Motion Carried

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

Bill Number 9, Second Reading

Hon. Mr. McKinnon: Now, Mr. Speaker. I move, seconded by the Honourable Member from Porter Creek, that Bill Number 9 be now read a second time.

Mr. Speaker: It's been moved by the Honourable Member from Whitehorse North Centre, seconded by the Honourable Member from Whitehorse Porter Creek, that Bill Number 9 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 as carried.

Motion Carried

Bill Number 11, First Reading

Hon. Mr. McKinnon: Mr. Speaker, I move, seconded by the Honourable Member from Porter Creek, that Bill Number 11 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 Porter Creek, that Bill Number 11 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 as carried.

Motion Carried

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

Bill Number 11, Second Reading

Hon. Mr. McKinnon: Mr. Speaker, I move, seconded by the Honourable Member from Porter Creek, that Bill Number 11 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 Porter Creek, that Bill Number 11 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 as carried.

Motion Carried

Mr. Speaker: The Honourable Member from Whitehorse Porter Creek.

Bill Number 2, First Reading

Hon. Mr. Lang: Mr. Speaker, I move, seconded by the Honourable Member from Whitehorse West, that Bill Number 2 be read a first time.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse Porter Creek, seconded by the Honourable Member from Whitehorse West, that Bill Number 2 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 as carried.

Motion Carried

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

Bill Number 2, Second Reading

Hon. Mr. Lang: Now, Mr. Speaker. I move, seconded by the Honourable Member from Whitehorse West, that Bill Number 2 be read a second time.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse Porter Creek, seconded by the Honourable Member from Whitehorse West, that Bill Number 2 be now read a second time. Are you prepared for the question?

Some Members: Question.

Mrs. Watson: Mr. Speaker, I would like to speak on the principle of the Bill before we give it the question.

Mr. Speaker: Proceed.

Mrs. Watson: Mr. Speaker, I'm going to speak very briefly on the principle of this Bill, but I would like to convey to the rest of the Council, my own personal misgivings on this type of legislation. I haven't even determined for sure whether I am going to oppose the

Bill in the final analysis or not, but the actual principle of the Bill is the thing that concerns me.

This Bill, Bills of a similar nature and programs of a similar nature which have been very common over the past decade or so, have increased across the country, in the Yukon government. The more programs, the more assistance, the more state handouts that we have, the bigger your government and the bigger your bureaucracy becomes. While there are some very good features about this Bill, the legal aid, particularly criminal legal aid which we have at the present time, but I am concerned about the civil legal aid, and I am concerned the fact that you have a committee, and a person goes to apply for legal aid, you are going to have to give all the details of your income and this type of thing, and this I agree with. Because if you leave it wide open, the costs get too large but again, you are infringing upon a person's individual, possibly not right, but individual information, and this type of legislation I would either like to see it available to everyone, where everyone can get it, or to no one. I know this is very difficult, and I think often of the Unemployment Insurance legislation that we have in our country today.

It was an insurance, and basically the principle behind it was good, it was an insurance towards unemployment, but look at what this legislation has become, and look what this legislation has done to the attitude to work in our country today.

Another misgiving that I have is the financial aspects of the Bill. We have no idea what the costs of legal aid could possibly become, and there could well be extensive abuses. There always are, you can't plug all of the loopholes and I see that people who have worked on the legislation have endeavoured to plug the loopholes, but there are always loopholes and there are always abuses to this type of legislation.

So, Mr. Speaker, as I say, I have misgivings about it, and one other point that I would like to bring up, it is cost shared with the federal government. So was Medicare cost shared with the federal government, but we understand now that the federal government is going to change the rules of the game for cost sharing. I'm very much afraid that we are going to get stuck paying a little bit more than we had anticipated when we brought in Medicare, and this could well be the same situation now. We are going into legal aid, it's cost shared with the federal government; their cost sharing terms could change next year and the year after, and we would be responsible for picking up the extra costs.

But as I say, Mr. Speaker, I have great misgivings, but I haven't completely determined whether I am going to oppose the Bill, but I thought it necessary to express my opposition to this rolling on of the state providing more and more services, that we are paying for them, and every time we provide services like this, we are leaving the gate open for abuses of public funds, and we are also having to structure, in order to administer this type of thing, another branch, another arm, another committee with the expenses that go with it.

Thank you, Mr. Speaker.

Mr. Speaker: Any further debate?

It has been moved by the Honourable Member from Whitehorse Porter Creek, seconded by the Honourable Member from Whitehorse West, that Bill Number 2 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 that the Motion is carried.

Motion Carried

Hon. Mr. Lang: Mr. Speaker I move seconded by the Honourable Member from Whitehorse West that Bill number 4 be read a first time.

Bill No. 4, First Reading

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse Porter Creek, seconded by the Honourable Member from Whitehorse West that Bill number 4 be read a first time. Are you prepared for the question.

Members: Question.

Mr. Speaker: Are you agreed.

Members: Agreed.

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

Motion Carried

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

Hon. Mr. Lang: Now Mr. Speaker. I move, seconded by the Honourable Member from Whitehorse West that Bill number 4 be read a second time.

Bill No. 4, Second Reading

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse Porter Creek, seconded by the Honourable Member from Whitehorse West that Bill number 4 be now read a second time. Are you prepared for the question.

Members: Question.

Mr. Speaker: Are you agreed.

Members: Agreed.

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

Motion Carried

Mr. Speaker: The Honourable Member from

Whitehorse Porter Creek.

Hon. Mr. Lang: Mr. Speaker I move, seconded by the Honourable Member from Whitehorse West that Bill number 7 be read a first time.

Bill No. 7, First Reading

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse Porter Creek, seconded by the Honourable Member from Whitehorse West that Bill number 7 be read a first time. Are you prepared for the question.

Members: Question.

Mr. Speaker: Are you agreed.

Members: Agreed.

Mr. Speaker: The Motion is carried and when shall the Bill be read for the second time.

Motion Carried

Hon. Mr. Lang: Now Mr. Speaker. I move seconded by the Honourable Member from Whitehorse West that Bill number 7 be read a second time.

Bill No. 7, Second Reading

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse Porter Creek, seconded by the Honourable Member from Whitehorse West that Bill number 7 be now read a second time. Are you prepared for the question.

Members: Question.

Mr. Speaker: Are you agreed.

Members: Agreed.

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

Motion Carried.

Mr. Speaker: Honourable Member from Whitehorse West.

Hon. Mrs. Whyard: Mr. Speaker I move, seconded by the Honourable Member for Pelly River that Bill number 6 be read first time.

Bill No. 6, First Reading

Mr. Speaker: It has been moved by the Honourable — is that the Honourable Member from Whitehorse Porter Creek as seconder?

Hon. Mrs. Whyard: No, Mr. Speaker, the Honourable Member for Pelly River.

Mr. Speaker: Pelly River.

It has been moved by the Honourable Member from

Whitehorse West, seconded by the Honourable Member from Whitehorse West, seconded by the Honourable Member from Pelly River that Bill number 6 be now read a first time. Are you prepared for the question.

Members: Question.

Mr. Speaker: Are you agreed.

Members: Agreed.

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

Motion Carried

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

Hon. Mrs. Whyard: Now Mr. Speaker. I move seconded by the Honourable Member from Pelly River that Bill number 6 be read a second time. Bill No. 6, Second Reading.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse West, seconded by the Honourable Member from Pelly River that Bill number 6 be now read a second time. Are you prepared for the question.

Members: Question.

Mr. Speaker: Are you agreed?

Members: Agreed.

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

Motion Carried

Hon. Mrs. Whyard: Mr. Speaker I move seconded by the Honourable Member for Pelly River that Bill number 8 be read a first time.

Bill No. 8, First Reading

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse West, seconded by the Honourable Member from Pelly River that Bill number 8 be now read a first time. Are you prepared for the question.

Members: Question.

Mr. Speaker: Are you agreed?

Members: Agreed.

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

Motion Carried

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

Hon. Mrs. Whyard: Now Mr. Speaker. I move

seconded by the Honourable Member for Pelly River that Bill number 8 be read a second time..

Bill No. 8, Second Reading

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse West, seconded by the Honourable Member from Pelly River that Bill number 8 be now read a second time. Are you prepared for the question?

Members: Question.

Mr. Speaker: Are you agreed?

Members: Agreed.

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

Motion Carried

Hon. Mrs. Whyard: Mr. Speaker I move seconded by the Honourable Member for Pelly River that Bill number 10 be read a first time.

Bill No. 10, First Reading

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse West seconded by the Honourable Member from Pelly River that Bill number 10 be read a first time. Are you prepared for the question?

Members: Question.

Mr. Speaker: Are you agreed?

Members: Agreed.

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

Motion Carried

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

Hon. Mrs. Whyard: Now Mr. Speaker. I move seconded by the Honourable Member for Pelly River that Bill number 10 be read a second time.

Bill No. 10, Second Reading

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse West, seconded by the Honourable Member from Pelly River that Bill number 10 be read a second time. Are you prepared for the question?

Members: Question.

Mr. Speaker: Are you agreed?

Members: Agreed.

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

Motion Carried

Hon. Mrs. Whyard: Mr. Speaker I move seconded by the Honourable Member for Pelly River that Bill Number 12 be read a first time.

Bill No. 12, First Reading

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse West seconded by the Honourable Member from Pelly River that Bill number 12 be read a first time. Are you prepared for the question?

Members: Question.

Mr. Speaker: Are you agreed?

Members: Agreed.

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

Motion Carried

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

Hon. Mrs. Whyard: Now Mr. Speaker. I move seconded by the Honourable Member for Pelly River that Bill number 10 be read a second time. 12?

Mr. Speaker: 12.

Bill No. 12, Second Reading

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse West, seconded by the Honourable Member from Pelly River that Bill number 12 be read a second time. Are you prepared for the question?

Members: Question.

Mr. Speaker: Are you agreed?

Members: Agreed.

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

Motion Carried

Mr. Speaker: What is your pleasure at this time? not be necessary but is your wish —

Hon. Mr. McKinnon: Mr. Speaker I move that Mr. Speaker do now leave the chair and Council resolve itself to discuss Bills and Sessional Papers.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse North Centre, seconded by the Honourable Member from Hootalinqua that Mr. Speaker do now leave the Chair and the House resolve in the Committee of the Whole for the purpose of discussing Bills and Sessional Papers. Are you prepared for the question.

Members: Question.

Mr. Speaker: Are you agreed?

Members: Agreed.

Mr. Speaker: I shall declare the Motion as carried and the Honourable Member from Whitehorse South Centre will take the Chair in Committee of the Whole.

Motion Carried

Mr. Speaker Leaves The Chair

COMMITTEE OF THE WHOLE

Mr. Chairman: I will now call the Committee to order and declare five minute recess.

Recess

Mr. Chairman: I will now call the Committee to Order, and we will proceed with the reading of Bill Number 1, entitled the Highways Ordinance.

Yes, Mr. Lengerke?

Mr. Lengerke: I would just like to make the comment that I was really pleased to see the Highways Ordinance Bill before us. I consider it a major piece of legislation, a major Bill, one of the major ones that have been presented to us. It is just really another positive step in the Yukon's goal to achieve independence. I think in the north, and particularly the Yukon, where transportation plays a prime role in development and the movement of goods, it is essential that we do have control over our roads and highways on all public lands.

Again, I believe that this legislation will serve as a major factor in other certainly, resource and social legislation to follow.

Mr. Chairman: Thank you.

Hon. Mr. McKinnon: Mr. Chairman, I think the Honourable Member from Riverdale has hit a very important point, and I wonder if perhaps Committee would allow Mr. Commissioner to speak on the background of some of the more important features of the Highways Ordinance, because as the Honourable Member from Riverdale has caught, there is much more to it than meets the eye. I think Mr. Commissioner has been involved in the background and working towards this type of legislation for quite a few years, could enlighten the Committee to some degree as to how it all came about, if that's agreeable to the Committee.

Some Members: Agreed.

Mr. Commissioner: Mr. Chairman, I appreciate the opportunity of speaking to this and in the first instance, I would like to direct Committee's attention to the authority that exists in the Yukon Act for Council to pass this kind of control legislation, and that is basically what it is.

I would refer you to the legislative powers of the Commissioner in Council, which is Section 16 of the Act, and Section S of that, paragraph S of that section, indicates that the Commissioner in Council has, in relation to the following classes of subjects, namely the closing up, burying, opening, establishing, building, management or control of any roads, streets, lanes or trails on public lands.

Now, I think that all members are aware of the fact that the basic source of funding for the building of roads in the Yukon Territory has traditionally come from the federal government, or from private industry where it was in their best interests to build a road. The authority to build this road has been those authorities which the Minister of Indian and Northern Affairs saw fit to exercise under such federal statutes as he has that apparent authority.

The Council of the Yukon Territory has, for varying reasons, not the least of which has been a certain amount of moral dissuasion from the Department of Indian Affairs and Northern Development over the years, has never enacted an Ordinance which exercised the powers that is given to them under the Yukon Act.

Now, up until recent years, this was not too great an impediment as far as the day to day conduct of the Territorial Government's activities were concerned, because for the most part, roads were built in response to a very visible public or visible private need. The visible private needs, I think, has to do with the development of our tourist industry, or the development of our mining industry and the very obvious public need has been the trunk road system that now exists throughout the Yukon.

However, the secondary effects of some of these things are beginning to hit home very badly as far as the government of the Yukon is concerned, and that is that when a road is now built, it automatically involves servicing of the things that happen as a consequence of that road building. The servicing of those things that happen, is becoming a very, very costly and in some instances, a totally uneconomic exercise as far as this government is concerned. Also, it happens after the fact, the road is built and all of a sudden a demand is before this government to exercise those responsibilities it has in the provision of public services in the fields of education, health, welfare, policing, you name it. Likewise, it then spreads to other agencies of the government, and their order of priorities have to change in order to service the requirements that are brought about by the construction of these roads.

Another very obvious program that has had a lot of good in it over the years, as far as our mining industry is concerned, is the tote trails program that was instituted as part of the mineral or development incentives of the federal government, and was agreed to by this Council in years gone by, and there is a Committee that is called the Tote Trails Committee on which the Territorial Government exercises an advisory role, as to whether or not applications for these tote trails will indeed be granted.

Now, we are talking about, not necessarily the permission to build the tote trail, and I think I would like to draw this distinction here, we are really talking

about whether or not government funds will be allotted to the applicant, based on a percentage of the money that he expends for this tote trail. However, as a consequence of not really exercising the authority as to whether the trail can be built, and I may say that most of these, the terminology "trail" is really a pretty poor terminology, most of these roads are built to standards that are pretty good. As a consequence of not having the ability to exercise the authority as to where this so-called tote trail will be built, we have dozens of these roads all over the Yukon, built without any prior planning, the benefit of prior survey, and in many instances, we find that they are—there are maybe three roads leading to effectively the same general mineralized area, coming from three different directions, all three of which have been basically funded to a very large extent, by public funds, and public funds to a degree, while not necessarily actually being used to maintain them, public funds are in essence, not being expended in the most efficient manner in order to get from point A to point B.

The end result being a country torn up completely and totally unnecessarily. I'm sure that all of you are aware of the fact that we have some areas of the Territory that we just have them laced with these roads, and no one is exerting any authority as to whether or not this is the finish of them, or whether more even indeed are going to be built, the end result being that we maybe, as I say, are back to having three roads coming from three different areas, effectively leading to the same point or within a mile of two of the same point.

Now, the combination of these events is what has brought this Ordinance before you at the present time. I am of the opinion that it will give us a control mechanism, which has been very sadly lacking up until now, for the construction of roads in the future, that when we know that they are going to be constructed, or the permission is given for them to be constructed, we are going to have some assessment of what the consequences of that construction is going to do, as it applies to the responsibilities that are not only exercised by this government, but many other agencies of government in general, both federal and territorial, who are going to be affected by these road construction projects.

The idea of the Ordinance is not to make it difficult for roads to be constructed, providing a need can be shown for the road, but it is going to very, very clearly give the dominant authority as to whether or not that road is to be built, to the government of the Yukon Territory, who ultimately has to carry the can, responsibility-wise, as to what is going to happen to supply those things which result from these roads being built.

Thank you very much, Mr. Chairman.

Mr. Chairman: Section 1, sub-section 1:

(Reads Section 1, sub-section 1)

Mr. Chairman: 2(1):
(Reads Part of 2(1))

Mrs. Watson: I wonder if I could have a better explanation of controlled access highway. I'm afraid that I, if we had a drawing it would help. I don't understand what you mean by the controlled access highway. In the rest of the legislation, I thought I had it clear in my mind, but it conflicts with some of the rest of the legislation, so maybe if I could have an explanation of it.

Hon. Mr. McKinnon: Mr. Chairman, I wonder if — whether Committee would see fit to ask Assistant Commissioner Mr. Miller before Committee, this is his Ordinance.

Some Members: Agreed.

Mr. Chairman: I will declare a short recess.

Recess

Mr. Chairman: Mr. Miller, could you supply us with a definition regarding controlled access highway?

Mr. Miller: An explanation, we will try that.

Basically what we are referring to there is there are areas on highways, or there are highways where you want access limited to certain points. For example, and I think we are all familiar with this, the highway running through Watson Lake where we have frontage roads to the main highway.

Mrs. Watson: Does the controlled access highway just apply then when you have a frontage road?

Mr. Miller: Normally that's where it would apply. You could have other cases where you would limit access to the highway to certain areas, certain sections, so that you don't have a proliferation of side accesses all coming in at one point, or various points.

Mrs. Watson: One more question then. Could a private driveway become a controlled access highway?

Mr. Legal Advisor: No, Mr. Chairman, we are talking about public roads here.

Mrs. Watson: No you are not, you are talking about roads on public and private lands, aren't you?

Mr. Legal Advisor: Yes, Mr. Chairman, which will be public roads.

Mr. Chairman: I shall proceed.
(Reads rest of 2(1))

Ms. Millard: I have a question, perhaps Mr. Miller could answer it. The definition "bridge", does that include ice bridge and ferries?

Mr. Miller: Well it would include an ice bridge where it is provided as part of a highway.

Ms. Millard: Mr. Chairman, so that this definition

means that the ferries and ice are under — subject to the regulations which govern the other parts of the highway also? Say for instance in insurance problems and things like that?

Mr. Miller: Mr. Chairman, the ice bridge is subject to the same rules and conditions of a highway. A ferry is an entirely different thing, and it operates under a different authority, it operates under licence.

Mr. McIntyre: Mr. Chairman, I would just like to query the definition of highway as being on public or privately owned land. I would like to have an example of what a highway on privately owned land would be.

Mr. Miller: It is permissible to have roadways, if you like, rather than highway. You can call it a roadway on privately owned land, which is open for normal public use. That's what we are trying to include. For example, as I recall the mine access road from Faro up to the mine is on basically privately owned land, privately controlled land, if I can put it that way. It's still open to the public.

Mr. McIntyre: It's not on privately controlled land -

Mr. Miller: It's on a mineral lease, control of the mine company.

Mr. McIntyre: The only privately owned road that I know of is the mine road at New Imperial in the Territory.

Mr. Miller: Okay.

Mr. McIntyre: That is a road leased by New Imperial Mines to the Crown.

Mr. Miller: Where that is normally open to the public, we want that included as a highway.

Mr. Chairman: Mrs. Watson?

Mrs. Watson: Mr. Chairman, are tote trails or tote roads normally open to the public? Are they ordinarily entitled or permitted to use them? They are private roads, are they not?

Mr. Miller: No, they are not private roads and they are open to the public.

Mr. Chairman: Mr. Fleming?

Mr. Fleming: In other words, in the Yukon Territories and many other places when you first start, you have roads that go through the woods here, there and everywhere. Now, they are now controlled maybe say by the government, but in the meantime somebody has land and it takes in that road, and yet I think you will find you can't close that road. Legally you can't close a road that has been open for many years, just because you get some property on it, am I right on this?

Now --

Mr. Legal Advisor: In general terms.

Mr. Fleming: Yes, in general -- and then, now under this Ordinance they say privately owned road. Now, in other words, that insurance and everything is still good and it is publicly owned and that is what you mean by privately owned, is it not?

Mr. Miller: People may consider the highway to be privately owned when in fact in may not be. If they allow normal public use of that road, regardless of who owns the land, it is a highway. That's really all we are saying.

Mr. Chairman: Mr. McCall?

Mr. McCall: Mr. Miller, in your explanations, am I to assume that this is another way of saying that we are going to give this government the right to expropriate private property in order to put highways through?

Mr. Miller: No, Mr. Chairman. Under the Expropriation Ordinance of the Territory, that is the only place that there is that authority, if it's for the public use. This Ordinance will not cover that.

Mr. Chairman: Mr. Taylor?

Hon. Mr. Taylor: Mr. Chairman, it's been my understanding in the past that any road which -- into which public monies had been expended in any way, shape or form, for instance as in tote trail assistance, as in maintenance assistance and this type of thing, was deemed to be, to my mind, a public road, having had public money put into its construction or maintenance, but am I to understand that now that the government can indeed take any private road and bring it under the purview of this Ordinance?

I'm a little disturbed about this, because there are people in the Territory who in fact have roads which were capitally funded by themselves and maintained by themselves, and which through their good graces, they permitted the general public to use. In some cases, once a year these people will shut that road down for a day, they will put a barrier across it or drop a tree across it, to make clear their ownership of that road as being something separate from anything which would come under the control of government.

Now, I am wondering if I could have this point clarified, in light of the remark made by the Honourable Member from Pelly River? Is it indeed intended in this Ordinance to take over private roads which government may perhaps have no right to take over?

Mr. Legal Advisor: Mr. Chairman, there's some confusion arising because the discussion is centred on a definition section instead of waiting until the substance is read. This is a definition of a highway. It has to be broad enough to include public highways and private highways, and every other kind of highway, because a highway is a highway, but it is taken from the Motor Vehicles Ordinance. But it must be that in general terms to control the conduct of people on high-

ways, this House and the Commissioner must have authority.

In dealing with highways on public lands, this establishes for the first time, the power to construct and maintain a highway, and to regulate the conduct of people going onto the highway or coming off the highway and a number of other things. It does not have anything to do with the right to acquire land from private people who have to deal with it, except in relation to, in some of the later sections, what people do when they are on a highway, no matter whose highway it is.

Mr. Chairman: Thank you, Mr. Legal Advisor. Mr. Taylor?

Hon. Mr. Taylor: Mr. Chairman, perhaps I could put it in another way. What safeguards are or could be provided in this Ordinance to protect people who have indeed private roads, from coming under the purview of this Ordinance?

Mr. Legal Advisor: We are not attempting, Mr. Chairman, to prevent them from coming under the purview of this Ordinance. We are not changing the law in relation to private highways at all.

Hon. Mr. Taylor: Mr. Chairman, I'm not talking about private highways, I'm talking about private roads.

Mr. Legal Advisor: Well, private roads, Mr. Chairman. The law isn't being changed in relation to private roads, except in one particular, and that is that in certain cases, it may be possible to limit the point of access for a person along his own private road, from his house or farm, the point at which he gets to the highway.

Mr. Chairman: Ms. Millard?

Ms. Millard: My interest is how much the government would be liable in cases of private roads or whatever we are wanting to call them, if it comes under this definition, is the government liable for suits?

Mr. Miller: No, Mr. Chairman, we are not liable because this is a definition. It's not law, it's only a definition, which will be used in the main part of the Ordinance. I think that's the point the Legal Advisor was trying to get across. This is only a definition of what a highway is. You have got to read the context of the Ordinance to determine what controls or authorities the government wants over those highways.

Mr. Chairman: Shall we continue?
Reads part of 2 (1) :

Hon. Mr. Taylor: Just in this particular reference of municipal boundaries, is this intended to include Local Improvement Districts as municipalities?

Mr. Legal Advisor: No, Mr. Chairman.

Hon. Mr. Taylor: Okay, thank you.

Mr. Chairman: Clear?
(Reads part of 2 (1)):

Hon. Mr. Taylor: Mr. Chairman?

Mr. Chairman: Mr. Taylor?

Hon. Mr. Taylor: Just one small point, but perhaps an interesting point. Is there any problems here, further in the Ordinance with a vehicle which is parked and yet which is out of service for one reason or another?

Mr. Legal Advisor: There may be, Mr. Chairman, but the Sections dealing with parking have been transferred, for the most part, from the existing Motor Vehicles Ordinance.

Hon. Mr. Taylor: Mr. Chairman, I don't necessarily agree that the existing Motor Vehicles Act Ordinance is all that good either, I just asked the general question as to consideration being given to a vehicle being parked and yet out of service for one reason or another.

Mr. Legal Advisor: It could be dealt with, Mr. Chairman, but parking has always been a problem to members of this House.

Mrs. Watson: Mr. Chairman, that Section is dealt with in a latter part of the Bill under the general section.

Mr. Chairman:
(Reads 2 (1) (ii)):

Mr. Chairman: Clear?

Some Members: Clear.

Mr. Chairman: Part 1, Classification and Improvement of Highways, Section 3(1):
Reads Section 3 (1) :

Mr. Chairman: Ms. Millard?

Ms. Millard: I'm afraid I have a real problem with this definition under private land, at least not just the definition, but it's not very clearly defined to me, and especially when we are facing things like land claim settlements, it seems to me that it's giving the Commissioner very broad authority over what's happening on my little ranch up near Pelly somewhere, where if I decide to put in a road to the creek so I can get my water, he can come along and close it or open it, or decide who's going to drive on it? Is this what's intended?

Mr. Miller: No, Mr. Chairman, that is not what is intended. Basically, what we intend here, is to attempt to get some control over the construction and maintenance of highways on public land; what a person does on their private land, unless that road is open for public use, we don't want to have any control over it; if it's for his own personal use, we won't control it.

Mr. Chairman: Ms. Millard?

Ms. Millard: Mr. Chairman, it doesn't seem to be clear in here that that's the case. I mean, are we relying on the Commissioner's good graces? It just says simply, "whether on public or private land", it doesn't define whether the private land is under what you just said.

Mr. Legal Advisor: There is no question that this House through legislation can control what people do in relation to land, whether it is public or private. This Ordinance establishes that principle, but then all of the rest of the Ordinance is dealing with only highways on public lands, but the necessity needs to be made clear, the legislative fact of life.

Mr. Chairman: Thank you, Mr. Legal Advisor. Any questions?

Mr. McIntyre: Mr. Chairman, I have just a question on the general principle of this particular Bill, because one of the things we have before us is the proposed revisions to the Territorial Land Use Regulations, which indicates that the Crown in the right of Canada, the federal government has control of public lands in the Yukon Territory, and they are detailing in these regulations that you have to go to the federal government for authority to build a road, and they tell you how you can build it.

Mr. Chairman: Mr. Miller?

Mr. Miller: We would love to take those Land Use Regulations and chew them to pieces, if I may suggest it.

Hon. Mr. McKinnon: Mr. Chairman, I think that the simple fact of the matter is, you know, nobody's trying to fool anybody, but under the terms of the Yukon Act, that we have the authority to do what we are proposing in this Ordinance, because of the pressures of other sources, and mainly the federal interests, we have never taken the authority and taken that authority which is our responsibility if we want it, under the Yukon Act, so that this Legislative Assembly finally has the authority over those lands in the Yukon on which highways are built.

You know, we could do all the talking that we want around the Ordinance, and perhaps the Commissioner may have a little too much power, but at least we have it in the Territorial hands for the first time, and the control of this Legislative Assembly through the Commissioner.

Now, that's the whole basis of this Ordinance, and we can either take the opportunity that hasn't been refused, because constitutionally the federal government knew that we had them and we finally said that we wanted to exercise that authority, that we haven't taken the opportunity of exercising before. I think that it's just one more step in the slow, but evolutionary processes of responsible government in the Yukon.

We have had the authority under the Yukon Act, because of the pressures of the powers that be, we haven't exercised that authority up to this time; we are

now saying the Yukon is responsible enough, is mature enough, and the members of the Legislative Assembly agree with the Executive Committee that we should take every aspect of control over Yukon lands that is possibly afforded us under the terms and conditions of the Yukon Act.

Mr. McIntyre: Mr. Chairman.

Mr. Chairman: Mr. McIntyre.

Mr. McIntyre: I wasn't objecting to the, this particular ordinance, I'm partly in agreement with it. I'm just pointing out that when we deal with the proposed revisions to the Territorial Land Use Regulations if we pass this Bill we're going to make a lot of changes in these regulations.

Mr. Chairman: Four, one.
(Reads Section 4 (1))

Mrs. Watson: I'd like to ask the Honourable Member in charge of Local Government, is it the plan for the Commissioner to designate roads within that L.I.D.'s as Territorial Highways and prescribe a route number and name for the highways so designated. I think you've given that authority in the L.I.D. Ordinance to the Board of Trustees, have you not to name streets and highways.

Mr. McKinnon: We are presently working in conjunction with the local Improvement Districts on designating these roads. We have done it in Municipalities, the City of Whitehorse, we have now done it in the Watson Lake L.I.D. and will be doing it in all of the L.I.D.'s and Municipalities as we go on. In conjunction with the members of the Committee.

Mrs. Watson: Mr. Chairman, I, it just occurred to me and I haven't checked it out but isn't there a conflict with this, are you not giving the authority to the L.I.D.'s to name their streets and designate them. I think this should be checked out.

Mr. Miller: Mr. Chairman this is not referring to local roads or streets. This is referring only to Territorial Highways.

Mrs. Watson: Well Mr. Chairman that was my question. Will roads and streets in L.I.D.'s or communities be designated Territorial Highways. Now your frontage roads definitely are not you state that. But will streets and roads be Territorial Highways.

Hon. Mr. McKinnon: No, Mr. Chairman.

Mrs. Watson: They won't be designated.

Hon. Mr. McKinnon: Just arterial and collector under the terms of the capital assistance programs. Highways I should say.

Mrs. Watson: Oh good. Arterial and collector.

Mr. Lengerke: I might just say there is quite a

difference between designation and naming. I believe the authority lies with the Municipalities to name the streets if they want to do so. It lies there.

Mr. Chairman: Mrs. Watson.

Mrs. Watson: Excuse me.

Mr. Chairman: Did you have anything to ask.

Mrs. Watson: Mr. Chairman, no I'm sorry.

Mr. Chairman: Two,
(Reads Section 4 (2) - 4(3))
(Reads Section 5 (1))
(Reads Section 6 (1))

Mr. Fleming: Mr. Chairman under this section do — can I take it that possibly now, I guess now, now the highways the main highway is partially paid for by the Federal Government in all seriousness, cost sharing and so forth. Do I take it from here now that it could be a possibility in the future that it may be immediately turned over and it would be the responsibility of the Yukon Territorial Government to handle all costs of highways.

Mr. Chairman: Mr. Miller.

Mr. Miller: Mr. Chairman as you get into the Bill you'll find where there is permission for the Commissioner to enter into agreements with Canada or other parties for cost sharing of those things.

Mr. Chairman: Thank you.
(Reads Sections 6 (2) - (3))
(Reads Section 7 (1))

Mrs. Watson: Mr. Chairman, are we supposed to make provisions for the Commissioner to enter into agreements with other jurisdictions? Now, I'm thinking of Northern B.C. and Alaska or does the Federal Government have to do that on our behalf?

Mr. Chairman: Mr. Miller.

Mr. Miller: Yes, Mr. Chairman, that would normally be the case. It's a Federal, if you like, funded road and we would enter into the agreement with Canada who would in turn enter into subsequent agreements with the Province if they were necessary.

Mr. Chairman: Mrs. Watson.

Mrs. Watson: Would it not be wise to put in provisions so that if we ever have enough money so we can decide where we, you know, build our own roads that we may want to enter into agreements with other jurisdictions.

Mr. Miller: I suppose that's a reasonable suggestion that we've overlooked mainly because we only deal with Canada in getting money. I would have no objection to that.

Mr. Lengerke: I think it is a significant point and should be altered.

Mr. Chairman: 8 (1).
(Reads Section 8 (1))

Mr. Chairman: Mr. Taylor?

Hon. Mr. Taylor: Yes, I just wondered in any way Mr. Chairman would this come in conflict with the Yukon Quartz Mining Act in so much as underground mining is concerned. In any road that may be construed as being a highway.

Mr. Miller: Mr. Chairman I would hope that if any quartz miner wants to dig up a road at least he would come and ask for a permit to do so. That's all we're asking. Is that before anybody tears up a Territorial Highway.

Hon. Mr. Taylor: No Mr. Chairman to the contrary you are not asking you are saying shall here and I'm just wondering if it comes in any way in conflict with Quartz Mining Act. Perhaps the Honourable Member from Mayo may have some thoughts on that subject.

Mr. McIntyre: I know it's been tried and they have stopped them from doing it.

Mr. Chairman: Mrs. Watson.

Mrs. Watson: Mr. Chairman, section, sub section C, place your deposit or any sign, erection, obstruction you have to get the consent of the Commissioner. Now what about the police putting up a road block. Do they have to get consent to put up a road block?

Mr. Legal Advisor: There is a special section in dealing with that particular item Mr. Chairman.

Mrs. Watson: And one more question. Signs on right of ways. Now we went through a schmozzle this past summer and now we have legislation here, place or deposit any sign, erection, except with the consent of the Commissioner getting a permit for it and they have to, certain conditions have to be met such as the size of the sign, where it can be placed and so on. Now I think we're going to have to have some clarification on this because we went through a very, very bad experience this summer where people were instructed by the Government to remove their sign or in thirty days the Government would remove them for them and charge them at — Some people complied, removed their own signs others didn't thirty days later the others were still there and then they low and behold they got another letter saying it's okay we changed our minds you don't have to remove them. Now what is going to happen to the signs that are on the highways now if they don't meet the specifications that will be in the regulations. I think we have to know that now.

Mr. Legal Advisor: The way this section is drafted, it's repetitious to a large part of what exists now. It's not intended, so far as I know, to make any drastic change, but it is necessary that the existing legislation

stay in force in relation to roads which are not territorial highways, because we are only dealing with territorial highways, and then we have got to take this extra power here. So exactly what that policy is, I couldn't say, it's just that the legislation in this enables something to be done, what will be done, I don't know.

Mrs. Watson: But Mr. Chairman, that is what I want to know. This is Territorial highways, and I want to know what the regulations are going to be, and what is going to be the decision, whether it's spelled out in the legislation or in the regulations, so that the people who have signs on the highways or who plan on putting signs on the right-of-way will know.

Mr. Miller: Mr. Chairman, I'm not an expert on advertising, commercial advertising signs, but as I understand it, there are currently regulations in effect governing the placing of commercial advertising on highways, highway right-of-ways. It would not be my intention under this Ordinance, to change those regulations. They would just be transferred from the Motor Vehicle Ordinance where they now are, to come under this Ordinance without any change at all.

Mr. Chairman: Mr. Fleming?

Mr. Fleming: Mr. Chairman, yes, I sympathize with Mrs. Watson in this case. I want to know too what is going to happen to the existing ones now is our problem, because if the legislation comes into effect that you will place signs at the right distance — I have read some, it says you will stay away from corners and you will do this and do that, but there is nothing I know of in the regulations today that says that they will police what has already been done.

In other words, there are old signs, there are signs all over, they were to be taken down last spring; some of them, some of them aren't. These are the ones we are really worried about, we know when we read the new regulations that says you will put up an eight by ten sign, simple, but we don't know what happens and there don't seem to be anything happening to the old stuff that's on the highway, the existing signs.

Hon. Mr. McKinnon: Mr. Chairman, under the Motor Vehicles Ordinance, I think all members know that there's highway signs regulations. If the Highway Signs Regulations are not being enforced, because all those aspects that you mentioned are in the regulations, then there should be a motion by members of this Council — of this Assembly, pardon me, Mr. Speaker —

Mrs. Watson: House.

Hon. Mr. McKinnon: — this House, that the regulation under the — the Highway Signs Regulations under the Motor Vehicles Ordinance be enforced if instances can be shown where these are not being enforced.

The other aspect, of course, is the members do not like the regulations as they presently are in effect, that that should be a topic of discussion also before the

Assembly, and the regulations are in the Highway Signs Regulations under the Motor Vehicles Ordinance. It's up to any member's prerogative, in fact I have been surprised in the last year, that more of the regulations haven't come up before Assembly for discussion, because when I was one of you, I used to always go through the regulations and always bring the ones that I didn't understand, and didn't like, before the next session of the Assembly. I know that highway signs has been a contentious one.

I will say though, that it was the elected members getting wind of what was happening in the highway signs, that at least brought the program which was being undertaken this summer to a complete and abrupt halt, once when we learned about the situation that was happening.

Mr. Chairman: I would suggest to the Committee that we adjourn until 2 o'clock, and if you wish to review those regulations in the meantime.

We will recess until 2:00.

Recess

Mr. Chairman: I will now call the Committee to order. At the conclusion of this morning's session, there was some question raised regarding the review of regulations of signs, and to give the members opportunity to review these signs, we will come back to this session, this portion of the Ordinance. I will carry on for the present time.

We are now on page 6, 8(2):
(Reads Section 8(2))

The Chairman: Three
(Reads Section 8(3))

Mr. Chairman: Clear?
Mr. Taylor?

Hon. Mr. Taylor: Just one quick question I would direct to the legal Advisor in the wording of sub (3) of Section 8, you're stating that the Court, or the convicted person can be instructed by the court to remove any obstruction or material deposited on the highway, and to desist from further obstruction, but should you not make it clear in this section that this isn't an endless thing. It may be that at some point following those proceedings, it may be possible for this person to get authority to put something on the road. Is this covered in the section?

Mr. Legal Advisor: It's not intended to be covered, Mr. Chairman. The situation arises when a person puts something on a highway, as a matter of routine, like he deposits his garbage, and the judge at the end says you have got to stop doing this, the person knows what the judge means, and he's got to stop, but he could apply for a permit, in which case the judge's order would fall to the ground, if he got permission to do this.

What we have in mind in some cases is sewage coming under ground from a person's house to the highway, because he has a pipe, but he has no septic tank and he refuses to stop it. He says I have always done it and I am not going to stop. He is told to stop and

he stops.

That's what we have in mind, it's not an endless thing.

Hon. Mr. Taylor: Well, Mr. Chairman, respectfully I was thinking more particularly in signs where a person is ordered by the court to remove a sign, and I was just hoping that this section would not be construed as to prohibit him from going and getting the proper authority and then going back with the authority of the Commissioner and putting up the signs. That's what I'm getting at.

Mr. Legal Advisor: Could I take the matter under advisement? It might be fixed by putting in the words "further illegal obstruction" —

Hon. Mr. Taylor: Yes, this would do it.

Mr. Legal Advisor: But I wouldn't like to commit myself without discussing it with the member in charge.

Hon. Mr. Taylor: I would be pleased, Mr. Chairman, if this could be looked at.

Mr. Chairman: 4:
(Reads sub-section (4))

Mr. Chairman: 5:
(Reads Sub-section (5))

Mr. Chairman: 6:
(Reads sub-section (6))

Mr. Chairman: 9(1):
(Reads Clause 9(1))

Mr. Chairman: Clear? Part II, Control of Access and Adjacent Development, 10(1):
(Reads Clause 10(1))

Mr. Chairman: (2):
(Reads Clause 10(2))

Hon. Mr. Taylor: Mr. Chairman, perhaps Mr. Legal Advisor could enlighten me a little bit about this "or view to, light, air, or view to, from or over a Territorial Highway", that being the context of sub (b) of Part I.

Mr. Legal Advisor: Mr. Chairman, action for light, air and other forms of easement are the stuff of which the courts deal with every day and they are technical matters. This is just to prevent an easement being created by the action of construction of a highway. It's a highly technical legal matter.

Hon. Mr. Taylor: Perhaps, Mr. Chairman, Mr. Legal Advisor could take that a little further and explain. I really don't understand this section in its entirety.

Mr. Legal Advisor: It's not intended to establish rights to individuals merely by construction of a high-

way, and this is the method which is chosen to reproduce this thought.

Hon. Mr. Taylor: I am still not clear on it.

Mr. Legal Advisor: If I go into it in more detail, it would be boring and technical. It would be talking about dominant tenements, and servient tenements and how the common law deals with the relationship between two pieces of land.

We are trying to create the situation that this relationship in law is not created, which would normally be created by two contiguous tenements being put together and buildings being erected on one or the other of them.

Hon. Mr. Taylor: I would like to think on this a little, Chairman, Mr. Chairman and perhaps before the end of the Bill, Why we'll --

Mr. Chairman: Three., (Reads section 10 (3))

Mrs. Watson: Mr. Chairman, this is one section that I have a great deal of concern with. I can understand the need for this section in here, but, and I'm thinking of businesses along highways, and communities that go through a highway. Now if a Territorial Highway is relocated the livelihood, the business is just gone and the community suffers a great deal. I would like to see something in there so that there is -- so that the Government can't just unilaterally walk in and decide to relocate a portion of a Territorial Highway without consulting or drawing it to the attention of people who would be effected by the relocation. I think I -- it would be very nice to have people who lose the value of their business receive some compensation, but I realize this is not done in any other jurisdiction. I do think we should be very, very careful before relocation is embarked upon that could adversely effect the community or business.

I think the reasons for relocation have to be very, very great. Is there anything we can put in here to sort of, you know, stop it so that you can't just walk in and do it and after it's done it's there. People realize they are relocating the highway. It's not going by their community anymore.

Mr. Legal Advisor: The next sub-section deals with it at some marginal extent.

Hon. Mr. McKinnon: Mr. Chairman I agree wholeheartedly with the Honourable Member from Kluane and we discussed this at some length while she was still a member of the Executive Committee because one of her constituents was very drastically effected by Alaska Highway relocation. That's one of the strongest threats behind this ordinance to the total part of the ordinance because everything was happening on every class of highways in the Yukon Territory that the Members of the Yukon Legislative Assembly, the Members of the Executive Committee knew nothing about until after the fact. And you can find a constituent put out of business through a Federal decision to relocate a highway. Really it was pretty hard to try

and figure out why the relocation was absolutely necessary. The whole thrust of this ordinance is that this decision making process and that this ability to make the decision about where the highway is going to go, if the highway is going to go, and where the relocation will be possible, will be now, for the first time, in the hands of the Commissioner. If the power is flowing properly it means that the Members of the Yukon Legislative Assembly will have input into whether there is going to be relocation, whether there is going to be a new highway, whether there is going to be a tote trail and where those highways are going to go. And it was with these examples that the Honourable Member is using that I was certainly one of the strong proponents of that control resting in the Commissioner hands finally.

Mr. Chairman: Mr. Taylor.

Hon. Mr. Taylor: Mr. Chairman, though I can still see the point that is being raised here, this piece of legislation or this section of this legislation absolutely prohibits compensation of any sort. What if in the wisdom of the Government of the Yukon Territory in such relocations around the Territory, what if they in fact deem it reasonable to offer compensation to a person aggrieved for one reason or another by a relocation. Why should it not be possible in the ordinance for the Commissioner of the Government of the Yukon Territories to do that, where it desired.

Hon. Mr. McKinnon: Of course, the reason is, Mr. Chairman, that once you begin the compensation process, it is impossible for government to treat any other instance as not a special circumstance. Of course you may as well say instead of there is not going to be compensation, that it is going to be compensation, because there is no way that you are going to stop after having for what circumstances, paid compensation to an individual. You may as well be realistic and face the reality that you are going to be paying compensation for every individual affected by highway construction and highway relocation.

Mr. Chairman: Mrs. Watson?

Mrs. Watson: Mr. Chairman, the Honourable Member made a good point because the Alaska Highway, of course, the capital construction of the Alaska Highway has been under the Department of Public Works, and this is what happened.

Now this will be declared a Territorial highway, and one way that we can get a handle on it is through the budget appropriations for relocation, and it might be well that if in our budget in the forthcoming years, that not only construction of new highways, but relocations of existing highways, be detailed within the main estimates that are given to Council for their consideration, because they wouldn't know about it otherwise, about a proposed relocation.

Hon. Mr. McKinnon: Mr. Chairman, there is probably no area where the Highways Ordinance is going to have more benefit than in the Honourable

Member's home constituency.

We all know that there are plans underway now for the major relocation and major upgrading and paving from Haines, Alaska to the Alaska border. I share her concerns, and the concern of many of the people in her constituency, that this is going to be a super duper American paid for, sponsored highway. That it is going to take in no consideration at all of either the historical or the aesthetic beauty and the park area of the Kluane region. She knows that I share these concerns, and it's one of the things that we talked about prior to her re-election. I know that it was one of the Commissioner's concerns too, and this is one of the areas that we thought that we may have some control of what the actual relocation, and what the actual grade—what the actual status of that highway will be. Because I would find it impossible to support that if the highway through her area became nothing but a speed artery to get to Alaska as quickly as possible, completely ignoring the park and completely ignoring some of the best scenery in the whole of the Yukon. These were other thoughts and other bearings that made it a priority that we have such an Ordinance brought before the Legislative Assembly at this time. We hope that we are going to be able to control these types of decision with this power vested in the Commissioner and the Yukon Legislative Assembly.

Mr. Chairman: Mr. Lengerke?

Mr. Lengerke: Yes, Mr. Chairman, I recognize the concern by the Honourable Members, but I just would really like to ask the Legal Advisor pertaining to Section 10 there, Sub-section (2) okay, it says "No person is entitled as of right to any compensation solely by reason of designation", solely by reason of designation, it isn't talking about construction or anything else. Am I clear on that, is it strictly solely by designation...

Mr. Legal Advisor: Yes, Mr. Chairman.

Mr. Lengerke: If you have a highway running along or a road running along, and all of a sudden you designate it a Territorial highway, just because of the designation, you are not going to get paid for it, is that correct?

Mr. Legal Advisor: Correct, Mr. Chairman.

Mr. Lengerke: But if you are going to change the construction, or the right-of-way, then there is some compensation.

Mr. Legal Advisor: If there's an interference with the property itself, automatically compensation comes into that.

Mr. Lengerke: Yes, okay, I just want to have that clear. Thank you.

Mr. Chairman: 4:
Reads Clause 10 (4)))

Mrs. Watson: Mr. Chairman, could that be both?

Mr. Legal Advisor: Yes, Mr. Chairman.

Mrs. Watson: It would have to be both. I know of an instance where it has to be both.

Mr. Legal Advisor: It could be both.

Mr. Chairman: Are you suggesting that as an amendment?

Mrs. Watson: I think it should be.

Mr. Legal Advisor: Mr. Chairman it means both.

Mrs. Watson: It doesn't.

Mr. Legal Advisor: In English it doesn't.

Mr. Chairman: 11 (1):
Reads Clause 11 (1))

Mr. Chairman: (2) :
(Reads 11 (2))

Mr. Chairman: (3) :
(Reads Clause 11 (3))

Mr. Chairman: Mrs. Watson?

Mrs. Watson: Mr. Chairman this talks about buildings, structures, excavations on the right of way of a Territorial Highway. How are you going to prove somebody owns a hole on the right-of-way of a highway? You talk about the right-of-way of a highway and then go into sub-section 5 where you say, the last part of it, the Commissioner may charge the costs of the work done against the owner of the land on which the building, and who owns the land, the right-of-way. It is public land, and who owns the hole.

Mr. Legal Advisor: I don't know the answer to this question.

Mrs. Watson: You're going to have to do a little rewriting I think Mr. Chairman.

Mr. Berger: Yes Mr. Chairman, I have to go back to section 11 (1) again. We are very much concerned about building structures, fixtures, excavation and everything like this but how about horses. I mean we are building multi-million dollar highways right now and there is one hundred dollar horse running around on the road. Nobody says anything about this. I mean I am very much concerned, I'm travelling many, many times back and forth on those highways and the horses right now occupying the highways. Shouldn't we be more concerned about such animals about like this too?

Mr. Legal Adviser: I don't know what to do about horses Mr. Chairman it is really high policy in dealing with horses. They make films about it these days and we don't know what to do about horses. If the Members

want to suggest a policy with dealing with horses on the highway I'm sure the Government would be prepared to listen but there doesn't appear to be any policy or it's not dealt with in this ordinance.

Mr. Chairman: Mr. Berger.

Mr. Berger: Well, I have a very simple solution to the whole thing. Fence them things up. I mean require that the outfits who own those horses to have a fenced range. Isn't this the only solution to the whole problem. Instead of declaring the whole Territory an open range.

Mr. Chairman: Any further comments.

Mr. McIntyre: Yes, this particular section, Mr. Chairman gives me some problems too because I'm wondering how a building, structure, or fixture became located within the right of way of the Territorial Highway without first having a, some kind of a lease from the Territorial Government. And if it hasn't got the lease it's there illegally anyway and so there is no purpose for this section. You could have them removed under the Territorial Lands Ordinance.

Mr. Miller: Mr. Chairman what we're attempting to try to do here is there are literally hundreds of buildings, fixtures etc. that are located in what could become Territorial Highways without any legal right to be there, other than the fact that they have been there for twenty or twenty-five or forty years. Mainly because the original right of ways were not very carefully defined. All we're trying to do here is to provide provision that if those things are abandoned at some point in the future we have an ability to remove them. In other words it's a backward way of putting in a Grandfather Clause.

Mr. Chairman: Mr. Fleming.

Mr. Fleming: Yes, I find this a very discriminatory because if these buildings are there before, I myself, or someone else owns the property, trappers cabins for instance, there is an example and then you become the legal owner of that property and you have a legal document from the Government saying it is your property but you did put that there many years ago and the Government comes along all of a sudden they say because it is on your land, which it says here, and you are liable to the removal of it or the destruction of it or so forth and so on and actually you didn't — haven't done anything wrong or anything, I don't know where or how they can charge you for something like that as the owner of the land.

Mr. Miller: What we are talking about Mr. Chairman is the highway right of way now if you as an individual go out to buy a piece of property today you can't buy the highway right of way. The previous owner might have had something on the highway right of way abutting his land but if you're buying that land abutting the right of way you can't buy the right of way so that would just stay where it is. You can't be

charged as a new owner.

Mr. Fleming: Under these regulations if they move the highway and those buildings are there you can be.

Mr. Miller: No we're not talking about relocations of highways. We're talking about existing highways. If we wanted to relocate a highway through a piece of land that you as an individual own we would then have to deal with you to get a new right of way including any buildings that might be within that right of way and you would be perfectly entitled to whatever compensation would be agreed upon. That's a different situation.

Mr. Chairman: Mr. Lengerke.

Mr. Lengerke: Just further on that I just feel that we're talking of dilapidated and unsafe and unprotected type of buildings and my gosh they should be removed. So what— You know, I think that if an owner does by some mere chance have some land there and he's maintaining some buildings in good order, then I think he has a case, but in this particular instance I think it's very clear.

Mr. Chairman: Clear.

Mrs. Watson: Mr. Chairman I still think you should amend section five and say the owner of the building structure or fixture, not because it's on a right of way. e doesn't own the right of way.

Mr. Chairman: We haven't come to section five.

Mrs. Watson: Oh I'm sorry.

Mr. Chairman:
(Reads Section 11(4))
(Reads Section 11(5))

Mr. Chairman: Mrs. Watson.

Mrs. Watson: Mr. Chairman I think, I'm sorry that I jumped the gun, if you just replace it with the words of section four I think we could just ammend it.

Mr. Miller: We'll have a look at that Mr. Chairman.

Mr. Chairman:
(Reads Section 11(6))

Mr. Chairman: Section 12(1)
(Reads Section 12(1))
(Reads Section 12(2))

Mr. Chairman: 3;
(Reads Clause 12(3))

Mr. Chairman: (4):
(Reads Clause 12(4))

Mr. Chairman: Mrs. Watson?

Mrs. Watson: Mr. Chairman, this really does concern me. I realize that we do have a dangerous situation in some of the stretches of our highway, and I am thinking about the Mayo road and the Alaska Highway North, where we have many individual driveways entering upon the highway, but it here says that the Commissioner may at any time close these means of access between the Territorial highway and land adjacent to the highway.

Now, this does give him the power to close these driveways. I can understand the danger with all of the driveways, but they must have some other means of access, and this would be a frontage road or a secondary road along the highway. Now, I would like to get some comments from the people who have been involved with this legislation, whether there are plans afoot to in fact close or cut down the number of accesses to the highway, and whether the government plans on making provision for access before they close them down?

Mr. Miller: Mr. Chairman, I think from the administration standpoint, we don't intend to close any access roads onto a highway without some viable alternative being made available to the people that are using that access. Really, all we are suggesting here is that, you know, this gives us the power to close it. Obviously we are not going to do it unless we have got a viable alternative such as a frontage road, and where we are doing some reconstruction, this is basically what we are providing is some form of access road or frontage road, with limited access onto the highway.

Mr. Chairman: Would it satisfy Mrs. Watson if an addition was made to that Section, "provided there is adequate provision for access to that highway", or something of that nature?

Mrs. Watson: Well, Mr. Chairman, that does leave it fairly "Loosey-goosey" too, that does put an obligation on the government, anybody could want to have an access, and then the government would have to provide it.

Mr. Lengerke: Could we possibly consider some notification too in that point? You know, I think you should serve some notice on whoever has got the access road.

Mr. Chairman: I'm sorry?

Mr. Lengerke: I just feel that if you are going to close access to or from a Territorial highway, that whoever you are affecting should be notified, and I think there should be some notification to that individual, if there is an individual involved. I think there should be a provision, and I may be wrong, maybe it's further on in here, but I haven't found it.

Mr. Chairman: And you are suggesting that a provision be made —

Mr. Lengerke: I think that added to the Honourable Member from Klauane's suggestion, that we should say

that there is at least some notification, 15 days' notice, 30 days' notice or whatever, but I do feel that there should be some notification.

Mr. Miller: Mr. Chairman, we'll have a look at that section.

Mr. Chairman: (5):
(Reads Clause 12(5))

Mr. Chairman: Mr. Taylor?

Hon. Mr. Taylor: Mr. Chairman, I just wonder about the restrictiveness of this Section. There are, in many instances, places where people take access off highway for wood cutting, some times moose hunting and this type of thing. I'm a little concerned about this. There are some people who have summer residential locations around the Territory that must have access to those locations; there are trappers who need access to trap lines and trap line cabins and this type of thing. I wouldn't want to think that it was not possible for these people to get access which they now have, and would now be refused access.

Mr. Miller: Mr. Chairman, sub (b) deals with those people who have existing access. All other people in the future can apply for a permit for permanent access. It's not our intention to restrict people from using what is existing.

What happens so often, though, is people, if you like moose hunting, if I can use the term, the Honourable Member used, just pull off the highway and in doing so, are literally ruining the shoulders of the road, which becomes very expensive to maintain. We are suggesting that we don't like that sort of thing. If there is an access, we are happy to have them use it. Normally in these cases, these accesses have already been provided.

Hon. Mr. Taylor: Perhaps, Mr. Chairman, my concern is the rationale that will be employed in administering the Section, but that is just another way, it appears to me, that we could cause harassment to some people in the Territory, who have unwittingly perhaps broken this law. There's no one can tell me that everybody in the Territory knows what's in all these various Ordinances that we are either dealing with now, or have dealt with in the past, or will deal with in the future, and it just offers the inspection services, or the law enforcement agencies of government, to further harass the public and sometimes with no real need for this harassment.

Mr. Miller: Mr. Chairman, it's not our intention to harass anybody with the thing, but I think where we found people who were abusing the highway, we might be prepared to harass them.

You can do a lot of damage with a four wheel drive vehicle driving along the shoulder of a highway, or in the ditches. That is precisely what we want to deal with, we want to do something about.

Mr. Chairman: (6):
(Reads Clause 12(6))

Mrs. Watson: Mr. Chairman, should we have an example of when you are exempt, under what situations would you be exempt from requiring a permit for an access road?

Mr. Miller: I can't think of anything off the top of my head.

Mr. Legal Advisor: This is basically to control through highways that we are talking about. There are no through highways here at the moment, but it could be that you would create a through highway situation, for instance in Watson Lake. You would have only three points of access. It could be in any other L.I.D. as well, in which event there would be a frontage road.

Now, there might be a portion of it which you might exempt from the control and say all the people who are constructing residences along this section may do so, and then abolish permits for the section.

Mr. Chairman: Part III, General. 13 (1):
(Reads Clause 13 (1))

Mr. Chairman: 14 (1):
(Reads Clause 14 (1))

Mr. Chairman: Mr. Taylor?

Hon. Mr. Taylor: Just one point. When you speak and when you say the Territory is not thereby prejudiced, what do you mean, the government of the Yukon Territory or the Commissioner?

Mr. Legal Advisor: Mr. Chairman, it's the embodiment of all we know and believe in.

Hon. Mr. Taylor: Well, Mr. Chairman, I've many times risen in this House to make the point that there is no such an entity as the Government of the Yukon Territory in law, and that this just does not exist.

There is in fact, the Commissioner who is the administrator of an administration which administrates the Territory, and I'm just wondering if the wisdom of using terminologies making reference to things that don't in fact in law exist.

Mr. Legal Advisor: It's standard terminology, Mr. Chairman.

Hon. Mr. Taylor: But Mr. Chairman, I rise again to submit that this is not just well enough to state that it's standard terminology. Either the Territory is, in law the Territory, or in fact it is the Commissioner. I make this point and I have made it several other times before, and I really don't appreciate getting the brush-off when I make this point.

I say again, there is no Government of the Yukon Territory, styled and known as such in any law, including the Yukon Act. There is only an administration, and are we then competent to making references to entities that don't exist in our legislation? I don't think we are.

Mr. McIntyre: Mr. Chairman?

Chairman: Yes, Mr. McIntyre?

Mr. McIntyre: The Yukon Act provides in dealing with lands, that the right to the beneficial use or the proceeds thereof is hereby appropriated to the Territory, not to the Commissioner. I think the term is quite properly used in this Ordinance.

Hon. Mr. Taylor: Well then perhaps, Mr. Chairman, I was looking for a definition of Territory, and based on the definition given to me by Mr. Legal Advisor, that did not exist at this time, and I thank the Honourable Member for pointing this out.

Mr. Chairman: 15 (1) :
(Reads Clause 15 (1))

Mr. Chairman: 16 (1) :
(Reads Clause 16 (1))

Mr. Chairman (2) :
(Reads Clause 16 (2))

Mr. Chairman: (3) :
(Reads Clause 16 (3))

Mr. Chairman: Clear?
17 (1):
(Reads Clause 17 (1))

Mr. Chairman: 18 (1) :
(Reads Clause 18 (1))

Chairman: 19 (1) :
(Reads Clause 19 (1))

Mr. Chairman: Mr. McCall?

Mr. McCall: Isn't that in conflict with other legislation?

Mr. Legal Advisor: I didn't get the question, Mr. Chairman.

Mr. Chairman: Is this not in conflict with other legislation?

Mr. Legal Advisor: I wouldn't think so, Mr. Chairman. Once it's established here, it resolves the conflict, if there was one before.

Mr. Chairman: Mr. Taylor?

Hon. Mr. Taylor: Mr. Chairman, could I have some hypothetical circumstance as to where a peace officer, which I assume is a policeman or a game warden, would in fact go to a property and go upon that property and make any changes to it, or this type of thing as expressed in 19 (1)?

Mr. Legal Advisor: An instance occurred up the highway when a man with a sniping rifle was sniping a people recently, and it has happened. It could be a sniping situation, it could be a dangerous slide situation, there could be apprehension of a bridge falling down.

There are dozens of things that could happen, it's only in this emergency situation that this Section would operate.

Mr. McCall: So, Mr. Chairman --

Mr. Chairman: Mr. McCall?

Mr. McCall: -- that is not what it states.

Mr. Legal Advisor: With respect, yes, Mr. Chairman. He can do anything that is necessary to save life at that point.

Mr. McCall: Mr. Chairman, does that include on private property also? I would call him a trespasser.

Mr. Legal Advisor: He would be a trespasser, but for the existence of this Section. This would be a necessary requirement to permit the policemen to do things necessary to save people's lives.

Mr. McCall: Mr. Chairman, I don't think the Legal Advisor is being explicit enough. You mentioned a moment ago an emergency condition, that is not what that language says.

Mr. Legal Advisor: It's intended to, Mr. Chairman. When he finds conditions existing which may cause danger to life or property, of a person travelling on the highway, that's an emergency situation.

Mr. Chairman: Mr. Legal Advisor, does this give the peace officer the right to enter the premises of, for instance a licenced lounge where someone is in the process of leaving that property to operate a motor vehicle?

Mr. Legal Advisor: No, Mr. Chairman. He has got to find actual conditions which exist, which, in his opinion, will endanger people travelling on the highway. It's not the people who remain in the lounge that are going to get shot, it's the people travelling on the highway he is looking after.

Mr. Chairman: But he's anticipating that he's going to be entering upon this situation.

Mr. Legal Advisor: If the policeman was asking me for advice, most certainly I would say "stay outside". If he hasn't found the conditions yet, he's anticipating.

Mr. Chairman: But the way this Section reads is in terms of anticipation.

Mr. Legal Advisor: With respect, no, Mr. Chairman. He must find the conditions existing, and then make a rational judgement that those conditions may cause danger to life or property to travellers.

Mr. Chairman: Mr. Taylor?

Hon. Mr. Taylor: Mr. Chairman, yes, I am still having trouble with this. Ought not the person, the peace officer, ought not he be required to go to a J.P. or

communicate with a J.P. or somebody and get a warrant or something of this nature? You know, I too can see the possibility of abuses here, that this could be misconstrued by—you are only as good as what the discretion of the officer is in any given situation, and it seems to me that that's an awful loose piece of - or a loose section in the Ordinance to leave that way.

Ought not he show cause to somebody why he wants to do this, or something along that line, or indeed go get a warrant, a bench, or something like this?

Mr. Legal Advisor: It's just a question of time, Mr. Chairman.

What he will have to make up his mind about is this, either I do it now, or I will have to get a coroner and not a J.P. to deal with the situation. That's what he's got to say, in effect, and he's got to think and he's paid to take a discretion and if he's wrong, then he will suffer in the normal way, and any damage he does to other person's property is compensable in any event.

If he puts in bulldozers and starts pushing cars around and so forth, it has to be paid for, notwithstanding the fact that it was necessary, and he will have to make his report and satisfy his commanding officer of the necessity for doing this thing.

Hon. Mr. Taylor: Just one further—just to follow, pursue this. Ought not yet, ought not the peace officer have to show cause before he takes this action? That's what I'm getting at, show it to somebody, I don't care if it's the court or his superior or something, but it seems to me that there should be cause shown to justify his going on any lands for this purpose.

You're talking about any lands, you're not just talking about public lands, you're talking about private property, and a man's home is his castle, or generally has been determined as being, and I think that there has got to be some pretty rational approaches made to any rights given to a peace officer to enter a man's property, his lands or his properties, because then under this Section his home is no longer his castle. I think this ought to be looked at very, very closely.

Mr. Chairman: Mr. McCall?

Mr. McCall: Thank you, Mr. Chairman.

May I suggest at this point in time, Mr. Legal Advisor, if you could take sub-section 19 along with the Assistant Commissioner, and review the structure of that language, and then bring it back to up please?

Mr. Legal Advisor: We will look at it, Mr. Chairman.

Mr. Chairman: Mr. Lengerke?

Mr. Lengerke: Well Mr. Chairman, with that action it's fine, but I find not too much difficulty with that section at all. I would think an example of that would be, and correct me if I am wrong, Mr. Legal Advisor.

For instance, if you had an accident alongside the road, and there was cars strewn all over some adjacent property, and there was somebody that had to be

pulled out, and you had to take a wrecker or something to get onto that private land to pull that car out, or up over, or whatever, to extract that person out of that vehicle, I would hope that they wouldn't have to go and get permission and phone the J.P. and all the rest of it to do that.

Or how about entering somebody's house to use their telephone in case of an emergency. Is this the kind of situation that we are talking about here?

Mr. Legal Advisor: Mr. Chairman, that could happen.

Mr. Chairman: Mr. McCall?

Mr. McCall: Thank you, Mr. Chairman.

In view of what the Honourable Member has just stated, I don't want to be accused of, a finger pointed at me as encouraging a police state, this is why I am asking for the language to be reviewed.

Mr. Chairman: 20 (1):
(Reads Clause 20 (1))

Mr. McCall: Mr. Chairman.

Mr. Chairman: Mr. McCall?

Mr. McCall: I find this a little ridiculous really. I mean, here we are, a police officer comes onto your property and maybe he drives his machine right through your fence, you've just spent \$20,000.00 in building, and finishes up at your rear door and kills the dog while he's at it.

When you file a complaint with the government, they say well we can't help you, according to the Ordinance there is no compensation. Well it may have cost you \$2,000.00 for the dog, and X number of dollars to replace your fence. Now, that's one way of ripping off the public, I think.

Mr. Chairman: I think after the repartee, we will have a brief recess.

Recess

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

We will proceed with section 21 (1).
(Reads section 21(1))

Hon. Mr. McIntyre: I am wondering how the Commissioner superceded the Ministry of Transport?

Mr. Legal Advisor: I don't think the Ministry of Transport have any authority to operate a ferry at all.

Mr. McIntyre: They licence them.

Mr. Legal Advisor: If it is a highway but from the Port of Vancouver, the ship as such becomes licenced.

Mr. McIntyre: Well they do on the Yukon.

Mr. Legal Advisor: I didn't know they did. We w

Chairman M.O.T. only licences on
This may be a lake which is not

Mr. Miller: A lake is a navigable water.

Mr. Miller: Well I think you get two different definitions though under their — what they are talking about is things like the Yukon River.

It could be both. All we are saying is that we can operate it, it doesn't say that we don't need a licence to operate it.

Mr. Legal Advisor: There used to be a very substantial Ferries Ordinance which got lost some years ago, around about 1914.

The Chairman: Two.

(Reads Section 22(2))

The Chairman:

(Reads Section 22(1))

Mr. Chairman: Mr. Taylor.

Hon. Mr. Taylor: Mr. Chairman this is understood to be only on Territorial Highways. This is not on private roads. Is this correct.

Mr. Legal Advisor: Yes Mr. Chairman.

The Chairman:

(Reads Section 22(1))

The Chairman:

(Reads Section 22(1))

The Chairman:

(Reads Section 22(1))

The Chairman:

(Reads Section 22(1))

Mr. Chairman: Clear? 23(1)
(Reads Section 23 (1))

Mr. Chairman: Mr. Taylor.

Hon. Mr. Taylor: Mr. Chairman if I may, I'm sorry it's just something that slipped by me here. Just to slip back to sub 5 or 22 again. In addition shall be ordered to pay triple the fee found due. When you have left the Court the opportunity of imposing the fine not exceeding, say five hundred dollars, and imprisonment terms not exceeding six months why do you not let the Court determine whether or not the triple fee will be paid. Why do you say shall why don't you say may be ordered to pay triple the fee found to be due.

Mr. Legal Advisor: Mr. Chairman the fine is for committing the offense itself, the other is a form of revenue gathering device and it's customary to impose a penalty of double or treble the revenue which is lost

because it very may, well be substantial. It could be a tremendous amount of money. It could be habitually done.

Hon. Mr. Taylor: Is not the court the judge in such a case and should not the court have the right to determine that and if they find that, you know, a severe abuse has been made then levy the tripe fee. But it may be in the wisdom of the court that perhaps the triple fee is not required. Why not make it may instead of shall.

Mr. Miller: Perhaps some judges are softer than others, Mr. Chairman.

It is a policy decision to impose extra revenue on these type of people. The fine is for doing it, the revenue gathering is something for the Government to determine.

Mrs. Watson: It was with another section.

Mr. Chairman: Alright is there any other than dealing with section 22, Mr. Berger.

Mr. Berger: I have to actually go back a little further 22 (2). The thing that bothers me the weigh scales like for example last spring there was a, the weigh scale was broken down for three days.

I know as a fact that Cassiar hauling out of Clinton Creek grossly overloaded their trucks. Is there any other ways or means of checking the weights. I mean I know it's quite easily with Cassiar to check the pallets but like in the Anvil Ore trucks or so, is there any ways of checking them.

Mr. Miller: Mr. Chairman we have portable scales which can be used. Now the disgression is with the Registrar of Motor Vehicles as to whether those be used or not. They are not certainly as accurate nor convenient as the permanent weigh scales.

Mr. Berger: The thing that what I'm really concerned about is, like last spring the highway going into Dawson was in horrible condition. By overloading those heavy trucks more than they actually legally should have, those companies sure didn't help any.

Mr. Miller: Mr. Chairman I can't speak for what happened last spring but if there is any reason to believe that, you know, if people know that someone is doing things illegally all it takes is a phone call to the Registrar of Motor Vehicles and he can certainly put the portable scales out on a moments notice to try and correct that situation.

Mr. Chairman: Mr. McCall.

Mr. McCall: Thank you Mr. Chairman. In answer to what the Honourable Member from Klondike has just brought up. The situation of Cyprus Anvil has just improved a new scale system which records all weight loads before they leave the property. This is the first weight that is done before he comes to the Territorial scales here. The second point I would like to assist the Honourable Member from Watson Lake, if he did a spot check on all the Provincial weigh scales system

you'll find that the system of fines and levies is based on a similar to what we are proposing here.

Mr. Chairman: Mr. Lengerke.

Mr. Lengerke: The Honourable Member covered my comment.

Mr. Chairman: Mrs. Watson.

Mrs. Watson: Mr. Chairman section 23, sub 1. The Commissioner may mark or erect along any Territorial Highway, shouldn't it be just Highway. Because Territorial Highway is a designated highway. Shouldn't he be able to put traffic signs on a highway whether it's designated a Territorial Highway.

Mr. Legal Advisor: Yes, Mr. Chairman. This is an exact section and it is not a repeal. It remains with highway in it and the Motor Vehicle Ordinance. It's parallel.

Mrs. Watson: The purpose is served if having this section was Territorial Highway here and just highway in the Motor Vehicle. Is there any advantage to doing it in that method.

Mr. Legal Advisor: There is no legal advantage Mr. Chairman but it's done in order to have this as a fairly comprehensive code so that people handling this ordinance would have it fairly complete. It wasn't really necessary to put in this section at all. But it was put in to make it a complete code.

Mr. Chairman: We will proceed to section 23 (2).
(Reads section 23 (2))
(Reads section 23 (3))

Mr. Chairman: Twenty-four (1).
(Reads section 24 (1))

Mrs. Watson: Could we add no person shall without the authority of the Commissioner remove or deface any traffic sign or device or indicators. Now I'm thinking about the tourist, you, know, food, lodging and this type of thing and it also should be included in there.

Mr. Chairman: Mr. Legal Advisor.

Mr. Legal Advisor: The Member has a point, perhaps we could look at it and use a word which could contain the full list. With a cross-reference perhaps.

Mrs. Watson: I left a list --

Mr. Legal Advisor: Thank you Mr. Chairman.

Mr. Chairman: Twenty-four (1)
(Reads Section 24 (1))

Mr. Chairman: Twenty-five (1).
(Reads Section 25 (1))

Mr. Chairman: Mrs. Watson.

Mrs. Watson: Mr. Chairman are election posters considered commercial advertising devices?

Mr. Miller: Yes.

Mr. Legal Advisor: Mr. Chairman the Honourable Member in charge is nodding his head and I am shaking mine so --

They should be considered so but I'm not sure that that language, commercial because the Honourable Member would hesitate to say that it was a commercial device she was posting on a telegraph pole in Haines Junction but it should be included.

Mrs. Watson: It should be included.

Mr. Chairman: Twenty-six (1)
(Reads Section 26 (1))

Mr. Chairman: Twenty-seven (1)
(Reads Section 27 (1))

Mr. Chairman: Two
(Reads Section 27 (1))

Mr. Chairman: 28 (1) :
(Reads Clause 28 (1))

Mr. Chairman: Mr. Taylor?

Hon. Mr. Taylor: Mr. Chairman, this could prove to be very, very difficult. I can think of a situation immediately in my constituency, and that is along the first portion of the Campbell Highway, which is normally known as the Airport Road out of Watson Lake, and there are residences all along there, and because of the nature of our climate in the Yukon, and the depths of snow, it is quite often necessary for people to pull off to the side of the road and park their vehicles there and get extension cords up to plug them in and this type of thing. This would indeed work a great hardship along people along that road, because in fact, the Territorial Government with graders have a tendency to plough them in every time they plough the road, they plough the driveways full.

I'm wondering if some consideration, further consideration could be given to this Section, because this would indeed work a hardship on people, I'm sure, in other areas of the Territory.

I might say that the highway at this point, in terms of this specific instance, is wide enough to accommodate some parallel parking along the side, but it's a very wide road, it's part of the Campbell Highway. However, I put this up for your consideration, because I can see that this can work a hardship at this point on some of these people.

Mr. Miller: I think, Mr. Chairman, that particular instance is covered. It says where it is practicable to stop off the roadway, you may do it. If it is not practicable to stop off the roadway, you shall not do it, that's what it is saying. In other words, we don't want them parking in the middle of the highway, if they can get off the roadway, where they are not interfering with traffic, there is nothing wrong with that.

Hon. Mr. Taylor: Well, Mr. Chairman, it's just the interpretation then of what is practicable that concerns me. So in other words, I can conclude that the situation such as I described causes no problem to the government, and no prosecutions would come under this section?

Mr. Miller: That's right.

Hon. Mr. Taylor: Okay.

Mr. Fleming: Mr. chairman, I think it's cleared up now, and my question and in (3) it is cleared up more so.

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

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

Mr. Chairman: Clear?

Some Members: Clear.

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

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

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

Mr. Chairman: 30(1):
(Reads Clause 20(1))

Mr. Chairman: Clear? Mr. Fleming?

Mr. Fleming: Mr. Chairman, if I may, I would like to go back to 29. "An officer may move the vehicle or require the driver or person in charge of the vehicle to move it to a position determined by the officer". I think that's just going maybe a little too far, saying a position determined by the officer, which means he can say you go over there, or over here, where you possibly can't go. Couldn't that be worded better saying that he would remove you from wherever you are now, to clear the area, in other words?

Mr. Miller: Mr. Chairman, I think the confusion if there is one, comes into the attempt to cover off, the officer may move, and if he has got to move it, he has got to determine where it's to be moved to. If he is requiring the driver or person in charge of the vehicle to move it, he may say you can move down the road, you can go here or you can go over there to a specific place.

Mr. Chairman: Mr. Fleming?

Mr. Fleming: I agree, Mr. Chairman, except I don't agree that it is worded that way here.

Mr. Miller: Mr. Chairman, that's what it means.

Mr. Fleming: They don't imply that, Mr. Chairman.

Mr. Chairman: 30(1) — oh, we have read that, sorry.

Part IV, Administration. 31(1):
(Reads Clause 31(1))

Mr. Chairman: (2):
(Reads Clause 31(2))

Mr. Chairman: Clear?

Some Members: Clear.

Mr. Chairman: 32(1):
(Reads Clause 32(1))

Mr. Legal Advisor: Mr. Chairman, the paragraph designator (a) and the words, "for a first offence", should come out, because there is only one offence provided for.

Mr. Chairman: 33(1):
(Reads Clause 33(1))

Hon. Mr. Taylor: Mr. Chairman, inasmuch as the administration are going to look at several sections of this Bill, perhaps it may be well at this time to report progress on Bill Number 1.

Mr. Chairman: What is your pleasure? We will proceed with Bill Number 2. Thank you.

Bill Number 2

Mr. Chairman: Bill Number 2, Legal Aid Ordinance. It has occurred to me that there may be requests on the part of Council to have witnesses for this Ordinance. I think that the President of the Law Society is available, so if you would like a brief recess, I will call it.

Mr. McCall: Mr. Chairman, did you say one person from the Law Society? I think we have more than one.

Mr. Chairman: This is the Legal Aid, not the Legal Professions.

Mr. McCall: I know.

Hon. Mr. Taylor: Mr. Chairman, in this case then, perhaps the Law Society themselves could be informed at this point, and send over whoever they wish but, hopefully not too many people.

No doubt, since the last session that — yes, well perhaps that's the way to approach it.

Mr. Chairman: They are aware that it's coming before us today, and I think they are probably available at this time.

Yes?

Mrs. Watson: Mr. Chairman, do we need representation from the Law Society while we are

doing Legal Aid? Let's go through it first, and determine whether we need witnesses. The Legal Advisor is here, he's been involved in the drafting of it, and let's find out first of all. I'm sure some of you have not read it.

Mr. Chairman: This was a suggestion, Mrs. Watson. I am open to suggestions.

Mr. McCall: Mr. Chairman, I would accept your judgment and wisdom in this matter.

Mr. Chairman: Is that the wish of Council?

Mrs. Wyhard: Before you read the Bill—

Mr. McIntyre: I would just as soon not have them in until after we have read it.

Ms. Millard: I think we need the help as we go along with it.

Mr. Legal Advisor: I am only aware of one point of controversy, and that would arise in the regulations, and not the Bill.

Mr. Lengerke: I would like to suggest that we proceed with reading of it, and if we find that we are in need of representation, they are available as you say, let's take advantage of it at that time.

Mr. Chairman: Is that the wish of Council?

Mr. McCall: Well, Mr. Chairman, am I led to believe that we are going off our course or direction? I think at this point in time we have encouraged witnesses to assist us in matters when we are reading out legislation, now we are changing course mid-stream. Now what is going on here?

Hon. Mr. Taylor: Mr. Chairman, with respect, I think it's usually been the policy of the Committee to ask for witnesses if they wish, or to acknowledge any submissions made to the House by people wishing to make presentations to Committee, and then usually Committee decide on that, but it is not a thing done as a matter of course. If that were the case, why we would have the population of the Yukon Territory in toto sitting in this Chambers at one time or another.

But, if indeed the Law Society have indicated to the House, an interest in the thing, I think that we could have maybe the Clerk inform them that their Bill is now under consideration, and perhaps proceed with the reading of the Bill, and should the House require witnesses from the Law Society, fine, or if the Law Society indicate that they wish to speak on the point, perhaps Committee could consider that at this time. Maybe this will get us out of the situation that we are in.

Mrs. Watson: Mr. Chairman, Bill Number 2 is Legal Aid, and that is a service for the people of the Territory. It's not a service for the legal profession. The legal profession we will be providing, will be paid for a service by the government.

Now, I think it is up to us to read the Bill, and as the Legal Advisor said, there is only one area that the legal profession will be interested in, and that is likely the fee structure—

Mr. Legal Advisor: I didn't say that.

Mrs. Watson: Well I am saying, Mr. Chairman, I am saying it, and if we want them here to discuss that, that's up to us, after we read the Bill.

Now, when we go through the Legal Professions Ordinance, again I think this is a piece of legislation we should read over carefully ourselves, and give them, after we have read it, give the legal profession, their representatives, the opportunity to appear here and make representations on certain Sections of the Bill. We should also have any other member of the public who has some opinions on the Legal Professions Ordinance the opportunity to come here and give us their opinion on it.

So especially Legal Aid, it's a service for people. Legal Professions is different, but we have to consider the Bill, and then bring them forward if they have some objections to certain portions, and then we have to weigh their objections in our decisions.

Mr. Chairman: With deference to our Legal Advisor, I think that we are best able to make decisions with the presence of those who are expert in the field.

Mr. McCall?

Mr. McCall: Thank you, Mr. Chairman. I'm not an expert in the field, but I beg to differ with the Honourable Member in her statement a moment ago. I believe you can drag a horse to water but you can't make it drink.

When you are talking about—drank or drink or whatever—speech impediment, I can't help that, as far as I am concerned, when you are dealing with a professional like the attorneys and the lawyers, they have to be handled carefully just like doctors and whatever else.

What I'm concerned about is, there was a point brought up in question as to fees. Now, if it is in the wisdom of any judge to assist any person who has got into difficulty to direct him to Legal Aid because of funds not being available, that being their own, and lawyers turn around and refuse to accept this Ordinance, simply because they have not had an opportunity to go through this Ordinance with us, word for word, and I am not about to adopt a principle that we read this Ordinance twice.

I think we should encourage witnesses to come, in case any of the Honourable Members have questions as we read through this Bill like we have done in the past. I'm not about to adopt changing of a practice that we've had up to this point.

Mr. Chairman: It seems there is divided opinion. Perhaps we should have a vote on whether a witness should appear on this Bill.

Mr. McCall: Well, Mr. Chairman —

Hon. Mrs. Whyard: Could I suggest that we proceed with the reading of this Bill, and if there are any points that require clarification, we have our friend in the gallery who will be available.

Mr. Chairman: Is that acceptable?

Some Members: Agreed.

Mr. Chairman: Legal Aid Ordinance —

Mr. McCall: A point of privilege. I ask for a witness to attend, isn't that my right?

Mr. Chairman: Well it's with the consent of Council the witness appears.

Mrs. Watson: Mr. Chairman, I wonder if the Honourable Member from Pelly would repeat what he said. I didn't hear.

Mr. McCall: Mr. Chairman, could you ask them to read back that tape, please? It doesn't matter, forget it.

Hon. Mrs. Whyard: Mr. Chairman, if I may assist, the Honourable Member from Pelly said that he had raised, as a point of privilege he had requested that a witness be provided during discussion of this Bill, so it's a matter for the Chair to rule on.

Mr. McCall: I also stated, Mr. Chairman, I would accept your judgment and wisdom, which you have not brought forward.

Hon. Mr. McKinnon: Mr. Chairman, perhaps I could accept a compromise.

This Bill, Legal Aid, the Member of the Executive Committee who is responsible for this Bill is Mr. Assistant Commissioner Gillespie and I would suggest that he should be invited to Committee along with a representative from the Law Society, if such representation is available to us at this time.

You know, we can all gain by the knowledge of both of these people.

Some Members: Agreed.

Mr. Chairman: We will now have a five minute recess while these witnesses are assembling.

Recess

Mr. Chairman: I call the Committee to order. We have as witness Mr. Peter Gillespie and Mr. Willard Phelps.

I will proceed with the reading clause by clause of the Legal Aid Ordinance.
(Reads Section 1(1))

Mr. Chairman: 2(1)
(Reads Section 2(1))

Mr. Chairman: 3(1)
(Reads Section 3(1))

Mr. Chairman: Mr. Fleming.

Mr. Fleming: That's 3 (a). Without charge to any individual who is unable to pay for legal aid furnished. Who and how do they decide whether they are able or not able to pay for legal aid.

Mr. Gillespie: Mr. Chairman the Legal Aid Committee that we will be coming to shortly will make that decision.

Mr. Chairman: Mr. McCall?
(Reads Section 4(1))

Mr. Chairman: Mr. McCall?

Mr. McCall: I suggest an ammendment here Mr. Chairman if we have a look at the title of this ordinance. A suggestion reads as follows, there should be a Legal Aid Committee consisting of three members to be appointed by and with the advice and consent of council by the Commissioner.

Mr. Chairman: You are suggesting that as an ammendment.

Mr. McCall: Yes I am.

Mr. Chairman: That's fine.

Ms. Millard: Mr. Chairman that's exactly what I was going to say also was I feel there is far too much strength in the Committee on, in the Commissioners hands, and we may have all the faith in the world in the Commissioner's appointees but we would like to have some input into it also.

Mr. Legal Advisor: Mr. Chairman it hasn't been the custom to date that this House except on request from the Minister gets involved in making appointments. It's done by the Commissioner on the advice of his Executive Committee. This has been the custom to date. It would be quite a major step for the Council to take to be involved in the day to day appointments to Members of Boards other than the three or four Boards which are constituted where each member of the Council nominates a particular individual to the Consumers Act Board and the Sports Federation Board.

Mr. Chairman: But I think there is other legislation that is coming before this Council that does apply in other terms with the Commissioner in Council was responsible for the appointments. Not this ordinance particularly but in other ordinances that are to come before Council.

Mr. Legal Advisor: I wasn't aware of that.

Mr. McCall: Mr. Chairman.

Mr. Chairman: Mr. McCall.

Mr. McCall: I think like I said a moment ago if you go to the opening paragraph of the Legal Aid Ordinance it says by and with the advise and consent of the Council. What I'm implying here is if we are going to pass this piece of legislation for the benefit of the people of the Yukon, we also should have the right to have input on this Committee that will be used as guidance in regards to Legal Aid. This is why I suggested the amendment.

Mr. Chairman: Mrs. Watson.

Mrs. Watson: Mr. Chairman these appointments are made on the advise of the Executive Committee, and three of our Members sit on the Executive Committee, and if it is on the advise and appointments even by this Council here you run into quite a problem. If there's a resignation or something happens to one or even the three Members of the Committee, in order to fill that Committee you have to call Council back into Session. And I myself am quite, I would feel quite confident in leaving the appointment to the Commissioner, virtually to our three Executive Committee Members, and leaving the Legislation as it is.

MMcIntrye: Mr. Chairman.

Mr. Chairman: Mr. McIntyre.

Mr. McIntyre: I was about to say almost the same thing that the Honourable Member from Kluane has said that I have every confidence in the Executive Committee to make suitable appointments to this Committee.

Mr. Chairman: Ms. Millard.

Ms. Millard: Mr. Chairman perhaps we could just add the words after Commissioner say on the advise of the Executive Committee.

Mr. Chairman: Mr. McCall.

Mr. Legal Advisor: Mr. Chairman again that would be a constitutional change that we haven't given the final sanctification to the existing Executive Committee by embodying them in particular legislation. It's a constitutional document on local matters the Commissioner is bound to accept the advise of his Executive colleagues. And this is a constitutional matter.

Mr. McCall: Well Mr. Chairman I don't want to sound a little disrespectful here but I'm getting a little rather annoyed about the excuses I've heard from Honourable Members about who selects what. I believe this Legislative Assembly is a body or a group of twelve people. I am suggesting in the amendment that if we are to have input and communications between Committees that are guides to present legislation and new legislation this is the only route we should start going. Otherwise I can see a lot more problems arising in the not too distant future, simply because legislation has been buried in a sea of Administration and we have

no input whatsoever. So I am suggesting in the changes I think it is about time that we started selecting Committees to govern our lives pertaining to these ordinances and especially Legal Aid.

Mr. Chairman: Mr. McCall are you suggesting an amendment to this.

Mr. McCall: Mr. Chairman I've already given you the amendment. Suggested amendment.

Mr. Chairman: Do you have a Motion to that effect.

Mr. McCall: You would like me to move it as a Motion, Mr. Chairman?

Mr. Chairman: If you so wish an amendment.

Mr. Chairman: Mr. Taylor.

Hon. Mr. Taylor: Mr. Chairman for many years I have been one of the first to rise in this House and propose that in the dealing with ordinances that in many instances we should be determining Commissioner in Council rather than giving all the powers to the Commissioner, but, you know, since oh, these past few years that we've brought into effect the Executive Committee system and it took me a long, long time to satisfy myself that that system would work. As a matter of fact I decreed it wouldn't work but you can't be right all the time. It is working. It occurs to me that at some point the Minister is going to give this House total control over the Executive Committee as he stated he may do before the end of the term of this legislature. With this in mind there has to be a transitional transfer of responsibilities from the House to the Administration.

In this case the term Commissioner to me has in the past included the Executive Committee as the Executive Committee to date I do believe by majority come to reach the day to day decisions of Administration. While I would like to support the amendment I don't think I could at this time for the reason that I have expressed. I would have to at this time as I say offer my support to decisions made by the Executive Committee in the appointment of this specific Board. Realizing however, that if an unpopular appointment was made to the Board that the Members of the Executive Committee would find themselves recipient of my wrath and I'm sure of other Members, if they were to make an unwise appointment, or in fact an appointment which the House felt, the majority of the House felt was not a wise appointment.

So I thought I would like to leave on record these remarks, and as I say, while I would like to normally support this Motion if the Motion does come, I indeed cannot for the reasons I have just stated.

Mr. Chairman: Mrs. Whyard?

Hon. Mrs. Whyard: Mr. Chairman, we cannot discuss a motion that hasn't been accepted, as far as I know?

Mr. Chairman: There has not been a Motion, no.

Hon. Mrs. Whyard: But in the meantime, I would ask the indulgence of the Committee to read the following sections and then go back to the first one if they wish, because I think there's some misunderstanding here and we are confusing — it's a matter of semantics, you are confusing the words "appointed" and "nominated". There is a difference, and if you read on, you will see how the Committee is to be formed. The appointments are then officially made through the Committee.

Mr. Chairman: Any further comment? Mr. McCall, at the present time, or shall we read this first?

Mr. McCall: Mr. Chairman, with all due respect, I have already read it. I am a little adamant in my position. I am quite prepared to put forward a motion that presumably may be defeated, but discussions we've had for the last three days, I have been left with a distinct impression that the people that have been discussing matters in these last few days are not sincere.

I am quite prepared to put the Motion forward. I move that the amendment to 4 and sub (1) be read as follows: "There shall be a Legal Aid Committee, consisting of three members to be appointed by and with the advice and consent of Council by the Commissioner".

Mr. Chairman: Secunder?

Ms. Millard: I will second that, Mr. Chairman.

Mr. Chairman: Further discussion?

Hon. Mr. McKinnon: Mr. Chairman, there was a point in time that I would only have moved exactly the same motion, or seconded it or have supported it with no question whatsoever, prior to the establishment of even two of the members on the Executive Committee. It was a very distinct move by all members of Council in some method or other to get the elected members of the legislature more involved in the day-to-day actions of the administration.

We found that at every turn that we took, we were being frustrated. We tried to put people on the Legislative Programming Committee, and the sub-committee on Legislation and all these different areas, and were refused just out of hand by the government of Canada. So we constantly, in the legislation, continued to put in "Commissioner in Council" — attempted to put "Commissioner in Council", which means the Commissioner acting on the advice and consent of the Council of the Yukon Territory, into all legislation where it just mentioned Commissioner.

We found that it has come back to haunt us in an awful lot of areas, now that there is a more responsible system of government than there was in that day, because we found in a lot of areas, and in legislation, we have already changed some of it back where the elected members on the Executive Committee didn't have the prerogative of action in the changing in

regulations and in Statutes, without having the total Council in session and making that decision. We knew from different times that we have consulted with you and had been advised by you, that you were completely behind us in something that we are attempting to do in the changes of the regulatory function.

However, we had changed the Ordinance to read "Commissioner in Council", and had to wait until the Council sat prior to making the changes that we all wanted and sometimes this entails a six months' waiting period. I think we are now at the constitutional evolutionary stage of whether we trust the elected members on the Executive Committee to be acting with and in concert with the other members of the Yukon Legislative Assembly, or whether we are going to go back and start again in all the Ordinances of putting back in "Commissioner in Council".

Of course, this is completely eliminated from all provincial style legislation, because the person who is the titular head of the government, the Lieutenant-Governor, everybody knows that that means the cabinet of the day that actually is making the decision to have the majority support of the majority of the legislature.

So it goes an awful lot further than just amending as we come to it, through the Ordinances, changing where appointments are made by the Commissioner back to Commissioner in Council, and I just think that all members should be aware that it is a very real constitutional dilemma that we find ourselves in these instances.

Mr. Chairman: Any further discussion? Mr. Fleming?

Mr. Fleming: I would like to sympathize a little with the Honourable McKinnon, but on the other hand, I still wish myself — I would like to see us get some input into Council, and so far that is one of the sore points where we don't seem to be able to get in and possibly we won't and possibly we won't be able to win this motion, but I am willing to support this Motion of Mr. McCalls.

Mr. Chairman: Mr. McCall?

Mr. McCall: Thank you, Mr. Chairman.

In support of my motion I presented, I just want to make one thing quite clear. This is not to, or whether we question the wisdom and trust that we have in our Ex-Com, I think it is to show that the consensus that we have here in this Legislative Assembly, is that twelve people not allow the public to bombard and blockade the Ex-Com every time there is a predicament presented to him in a language in the legislation that we pass at this House.

In the amendment, like I stated a moment ago, we seem to be in a predicament of non-communication. It's been quite evident in some areas. I think this may be one of the stepping stones to rectify this. There may be other legislation that we have not, shall we say working with at the present session, that will also include the establishing of Committees. This is a stepping stone, this is communications to the public we represent. It is not to be meant or taken as an insult as

to our Executive Committee or Minister.

The only reason why the suggested amendment was put forward, was to allow communication to commence to a very important piece of legislation.

Mr. Chairman: Are you ready for the question?

Some Members: Question.

Mrs. Watson: I wonder if you could read the Motion?

Mr. Chairman: It was moved by Mr. McCall, seconded by Miss Millard, Section 4 (1), "There shall be a Legal Aid Committee consisting of three members to be appointed by and with the advice and consent of Council by the Commissioner".

All those in favour?

Contrary? The Motion is defeated.

Motion Defeated

Mr. Chairman: 4 (2).
(Reads Clause 4 (2))

Mr. Chairman: (3):
(Reads Clause 4 (3))

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

Mr. Chairman: Mr. Taylor?

Hon. Mr. Taylor: Yes, Mr. Chairman, is there any reason why from the three members of the Committee, that the Committee can't appoint one of them as Chairman?

Mr. Chairman: Mr. Gillespie?

Mr. Gillespie: Mr. Chairman, the Commissioner will want some discretion, some ability to assure himself that this Committee serves the proper function that it is appointed to perform, and in a number of ways. One of those ways is to ensure that people throughout the Yukon have access to Legal Aid; and secondly, to assure the government and the people who are paying for this Legal Aid, and the people who are being served by it, that a fair amount—a fair taxation of accounts is given in the sense that people who should be getting it, are getting it, and they are getting it in the right amount.

The Commissioner will, from among the people that he appoints to this Committee, be in a position to determine a Chairman who will be able to carry out that function, and also a Chairman, I should add, who will be in a position to call meetings on a regular interval as they are required. I guess that's all I have to say at this point, Mr. Chairman, on that.

Mr. Chairman: Ms. Millard?

Ms. Millard: Mr. Chairman, I don't think that answer really replies to what the question was, which was

whether or not the Chairman should be appointed by the Commissioner. Any other Chairman could do as well.

Mr. Gillespie: Mr. Chairman, it's in keeping with some of the arguments that were given a few moments ago about why this Committee and its members should be appointed by the Commissioner. This is one of the powers given effectively to the elected representation on the Executive Committee, who advise the Commissioner on who he shall appoint. This effectively is strengthening that power in a constitutional sense.

Mr. Chairman: (5):
(Reads Clause 4 (5))

Mr. Chairman: (6):
(Reads Clause 4 (6))

Mr. Chairman: (7):
(Reads Clause 4 (7))

Mr. Chairman: (8):
(Reads Clause 4 (8))

Mr. Chairman: (9):
(Reads Clause 4 (9))

Mr. Chairman: (10):
(Reads Clause 4 (10))

Mr. Chairman: (11):
(Reads Clause 4 (11))

Mr. Chairman: (12):
(Reads Clause 4 (12))

Mr. Chairman: (13):
(Reads Clause 4 (13))

Mr. Chairman: (14):
(Reads Clause 4 (14))

Mr. Chairman: (15):
(Reads Clause 4 (15))

Mr. Chairman: (16):
(Reads Clause 4 (16))

Mr. Chairman: (17):
(Reads Clause 4 (17))

Mr. Chairman: (18):
(Reads Clause 4 (18))

Mr. Chairman: 5 (1):
(Reads Clause 5 (1))

Mr. Chairman: (2):
(Reads Clause 5(2))

Mr. Chairman: 6(1):
(Reads Clause 6(1))

Mr. Chairman: 7(1):
(Reads Clause 7(1))

Mr. Chairman: Clear?

Some Members: Clear.

Mr. Chairman: 8(1):
(Reads Clause 8(1))

Mr. Chairman: (2):
(Reads Clause 8(2))

Mr. Chairman: (3):
(Reads Clause 8(3))

Mr. Chairman: (4):
(Reads Clause 8(4))

Mr. Chairman: Yes, Mr. Lengerke?

Mr. Lengerke: Just an inquiry here. I don't know if the question will be valid or not, but I would like to know what sort of figures we are looking at for budgetary consideration. Does anybody know?

Mr. Chairman: Mr. Gillespie?

Mr. Gillespie: Mr. Chairman, the budget in this current year is \$35,000.00 for Criminal Legal Aid. None of that is recoverable from the Federal Government.

If we pass this Bill and we have both criminal and civil legal aid, then the Federal Government has agreed to cost share in the total amount, so we will remain next year with something like \$35,000.00 in the budget. Pardon me, \$70,000.00 in the budget, \$35,000.00 of which will be recoverable from the Federal Government, 50-50.

Mr. Chairman: Mrs. Watson?

Mrs. Watson: Mr. Chairman, at the present time we don't have legislation covering criminal legal aid; we have a program of criminal legal aid. Now, whose decision is it, is it the court's decision when criminal legal aid will be provided?

Mr. Legal Advisor: In a general sense, yes, Mr. Chairman. The officials who work with the courts are involved in the decision itself, but it's the courts basically who are doing it.

Mrs. Watson: Mr. Chairman, one further question. At the present time, is criminal legal aid counsel, does it accompany the Supreme Court and the Magistrate Court in their circuits?

Mr. Legal Advisor: Yes, Mr. Chairman.

Mr. Chairman: 9 (1) :
(Reads Clause 9 (1))

Mr. Chairman: Mr. Lengerke?

Mr. Lengerke: A question of inquiry, Mr. Chair-

man. What model was used for drafting up this legislation? Was a provincial model used or another --

Mr. Legal Advisor: It's home-made jam, Mr. Chairman, there was no model.

Mr. Chairman: Mrs. Watson?

Mrs. Watson: Mr. chairman, again referring to our present system of criminal legal aid, under Section number 9, are we expanding the criminal legal aid that we are now providing, and under what Section -- new Section?

Mrs. Watson: In what areas Mr. Watson?

Mr. Legal Advisor: Yes, Mr. Chairman, a marginal extension in some areas.

Mr. Legal Advisor: I was afraid, Mr. Chairman, I would be asked that.

Under the Juvenile Delinquents Act. At the present, we would only provide automatic legal aid if it was a serious matter. That's under 9 (1) (c). We don't at present, normally in simple matters in proceedings under the Extradition Act and the Fugitive Offenders Act, we wouldn't normally do this.

On paragraph (e) on the top of page 7, this crystallizes what we would like to have happen, but sometimes cannot by the restrictions which are currently in force and the staff, although they may or may not provide it under paragraph (e), are afraid as to whether they are doing the right thing or not. There are occasions which arise where a person, while not legally insane, may be somewhat mentally deficient or be taking a completely wrong headed view and deciding to do something himself, the court is not happy when it has to deal with it, and requires to be absolutely satisfied if it's going to deal with the person, that he has had every chance before he is struck hard with a sentence.

In that case, notwithstanding the views of the accused himself, the court or the officials will overbear the person and try to insist that he has a lawyer, because there may be appeals or other proceedings, and especially with a person who came from a foreign place.

Now apart from that, we don't have any major -- any real extension of criminal legal aid.

Mrs. Watson: Mr. Chairman, one further question under this. Now I am going to show my ignorance. I don't understand 9 (d), "Proceedings pursuant to the Extradition Act and the Fugitive Offenders Act". To me that sounds as though we are giving legal aid to Non-Canadians. Is this true?

Mr. Legal Advisor: Yes, Mr. Chairman, that is true, and under those two it would normally be non-Canadians. The Fugitive Offenders Act is an Act in common form in all British connected countries. The Extradition Act is a parallel type of Act, and it's always a non-Canadian person, or a Canadian who has committed an offence, say in the Bahamas, and has come back here and is being extradited back to the

Bahamas. This can happen too, but we must not forget that for now for the first time, the Canadian government is contributing 50 percent of the costs of the program, and therefore it's concerned to see that people in this area will be furnished with legal aid, if required.

Mrs. Watson: Mr. chairman, will Canadians in the Bahamas benefit from the legal aid in the Bahamas?

Mr. Legal Advisor: I will look the matter up.

Mr. Chairman: I will volunteer to go down and find out.

Mrs. Watson: Mr. Chairman, the eligibility then can't be based on citizenship, and I would hope that it would be that you must be a Canadian citizen to be eligible for legal aid.

Mr. Legal Advisor: Mr. chairman, it's in the Bill, I'm not sure of the Section. The Commissioner points out that it's Section 5(1). Under Section 5 (1), a Canadian who gets into trouble in a foreign place -- sorry, a Yukoner who gets into trouble in a foreign place will be protected by this, and we would pay the amount of the legal aid up to the amount of our schedule.

Mr. Chairman: Mr. McCall?

Mr. McCall: Mr. Legal Advisor, foreign employees, is that anywhere outside the Yukon?

Mr. Chairman: No, Faro is included.

Mr. Legal Advisor: In terms of this Ordinance I suppose yes, Mr. Chairman.

Mr. Chairman: Ms. Millard.

Ms. Millard: I think there's a typographical error in Section 9(1) (f), yes, section (ii) under there. "Where counsel advises that an appeal by the accused has merit and the committee agrees; and where the Appeal Court or a judge thereof" -- I believe that should be "or". Yes, the and should be changed either to an "or" --

Mr. Legal Advisor: With respect, it's a matter of English. It's intended to be conjunctive, to put an and in the penultimate paragraph of the group and it should apply in all these cases.

Ms. Millard: In other words, we have to have all three conditions to have an appeal?

Mr. Legal Advisor: I didn't say that Mr. Chairman. It would apply -- where the appeal is taken by the prosecution, a right of appeal exists, and the right of appeal exists where counsel advises and the appeal has merit, and it will also exist where the appeal court asks for it.

Mr. Chairman: Mrs. Watson?

Mrs. Watson: Mr. Chairman, I continue to have misgivings regarding the Legal Aid for non-Canadians, and I realize that in any agreement with Canada, that they would probably require us to do this, and this is one reason why I spoke this morning.

We have no idea how much this legal aid program is going to cost us. We haven't any yardstick whatsoever, and I can see a lot of possible aliens, or we get a lot of American citizens up here during the summer time, so are we going to have to provide legal aid for them before we can send them out?

Mr. Legal Advisor: Yes, Mr. Chairman.

Mrs. Watson: Mr. Chairman, it's likely that I wouldn't qualify for legal aid, but a non-Canadian could qualify for legal aid.

Mr. Legal Advisor: There are two forms of legal aid, Mr. Chairman, there is criminal legal aid and civil legal aid. The only yardstick that I know of to measure the cost, is that roughly in comparison in all the jurisdictions so far that have instituted any form of legal aid, the dollar cost of civil legal aid has matched the dollar cost of criminal legal aid. It is most awkward to handle it that way, but we know that the costs of the criminal legal aid have cost us \$35,000.00 a year, so we are making the assumption that a further 30 or \$35,000.00 will cover civil legal aid.

As far as giving legal aid to Americans is concerned, there are a number of transients and apart from being an advantage to the accused himself, it's a considerable advantage to the court in handling the case to give him legal aid and pass it through.

Mr. Chairman: 10(1) :
(Reads Clause 10 (1))

Ms. Millard: Mr. Chairman, I think we need some clarification on some of these legal terms, particularly (h), "relator or representative actions". What would this mean?

Mr. Legal Advisor: Relator or representative actions is the kind of actions which some former Honourable Member has taken for certiorari or mandamus or various forms like that, picking themselves as a representative of the public at large to take a particular action to establish a right.

We had some such actions when a member of the public attacks the validity of certain acts of the City Council. He is electing himself and is said to be the representative of the public and he takes an action. This kind of action will not be supported from the public purse.

Ms. Millard: A supplementary question? Would this then include anything under the Consumers' Protection Ordinance?

Mr. Legal Advisor: If it's a representative action by the person on behalf of a group, there will be no help for him. If he himself has been wronged as a consumer, and his car was not repaired properly, and that is a

proper action to take, he as an individual, if he cannot support the action from his own resources, would be entitled to the same services as a taxpayer or a person to be served as any other person, but not by reason of being members of a consumers' group.

Mr. Chairman: Clear?

11 (1):

(Reads Clause 11 (1))

Mr. Chairman: 12 (1):

(Reads Clause 12 (1))

Mr. Chairman: (2):

(Reads Clause 12 (2))

Mr. Chairman: (3):

(Reads Clause 12 (3))

Mr. Chairman: (4):

(Reads Clause 12 (4))

Mr. Chairman: Mr. Lengerke?

Mr. Lengerke: Yes, Mr. Chairman, I just wonder if we could use the resources that we have at hand here. I would like to have an opinion by Mr. Phelps as to Section 10, from there on down to—well we can go into 11 (1) and 12. Maybe he has got some comments as to these matters, the legal aid matters, or the civil matters that are listed here.

Hon. Mr. McKinnon: I'm just checking whether you are eligible for free legal aid—

Mr. Phelps: Well I do have a comment on Section 10, and it's not only pertaining to Section 10 (1) (k), I'm concerned because I rather hate to see absolute exclusion in cases of defamation, estates, et cetera, because once or twice every three or four years, something comes along where a person desperately needs a lawyer, and doesn't have the resources. In the case of estates, quite probably with the assistance of a lawyer, would have a good chance of recovering enough to pay his own way once the action was—or whatever was necessary was completed. In the case of defamation, every now and then somebody will push an indigent person to the wall, simply saying that he has been slandered, et cetera, and again, this only occurs very seldom, and I'm concerned that the Committee doesn't have the right to say, well in exceptional circumstances, we can give this person legal aid, just in exceptional circumstances.

I understand the reason for the exclusions is possibly that the federal government won't fund this kind of an action, won't guarantee to fund, say a defence against a defamation or a situation where somebody is probably entitled to be a beneficiary in an estate.

But I myself in my practice, have had I think two instances where I have gone to bat for people who have eventually recovered a fairly substantial sum under an estate, where they were just told flat out "no". In one case, it was a resident who was entitled to money in England, of all places, and frankly, it was just a

situation where we and the lawyer that we engaged in England carried that person. Eventually we were all paid, but it was a bit of a gamble. She would have got nothing, and she needed the money, and I think that it was a good thing for the Yukon generally, that a person like this would get these resources, and get her just portion of the estate.

Defamation is another situation, and there's other areas in 10(1) where I think that the Committee ought to be able in exceptional circumstances, to override this absolute exclusion.

Mr. Gillespie: Mr. Chairman?

Mr. Chairman: Mr. Gillespie?

Mr. Gillespie: Mr. Chairman, civil legal aid is a new program for the Yukon if it is accepted by this Chamber. As Mr. Phelps has just suggested, these items that appear here are ones that the federal government has indicated to us that they would not cost share in, and we are putting forward these exceptions at this time for that reason.

Now, if at some later time, the government should decide, after it has a better knowledge of the real costs that this program will incur, that it wishes to extend the program and incur fully, 100 percent, the additional costs that would be incurred by so doing, then the amendments could be brought forward for review by the Council. The reason we have stuck with this list, is because we, as Mrs. Watson has said, are not totally sure of just how much this program is going to cost, and we are afraid of extending it on a hundred percent basis any further than we have already gone.

Mr. Phelps: If I may comment, my only comment on this is that almost all of these exclusions very seldom come up where there would be a worthy applicant for legal aid, but I could see it happening once every three or four years. I can't see the costs being very great. I'm just rather sorry that it's not — there isn't some kind of a clause that says in exceptional circumstances the Committee can grant it.

The other question while I am it, I take it from the wording of 10 again that there will be money supplied for counselling people in debt, with debt difficulties, et cetera. Mr. O'Donoghue knows of the time involved in these matters. Is that going to be under the system, come under the system where a person who is being hounded by creditors can go and seek the help of a lawyer in settling those matters?

Mr. Legal Advisor: An individual as a person would be covered. His company would not be covered, it's a deliberate intention.

Mr. Phelps: Right.

Mr. Legal Advisor: But I'm not sure that Mr. Phelps is reading sub-section (1) completely correctly. What the Ordinance says is, that in all civil matters, except certain ones, it shall be provided — this is the list which does not give the person a right to obtain legal aid, but they are not excluded from discretion in decision, I think if it was closely construed.

...**Mr. Phelps:** I didn't pick that up as being even clear in the ordinance but I'm sure that you can show the Members that it is. Those are the only comments I have on that section.

Ms. Millard: That doesn't satisfy it for me. I think it really means they are all exempt.

Mr. Chairman: I would like to entertain a Motion for the speaker to resume the Chair when he can be found.

Mr. McCall: I make the Motion that the Speaker do now resume the chair when he can be found.

Mr. McIntyre: I second that.

(Mr. Speaker Resumes Chair)

The Speaker: I call the House to order.

The Speaker: May we have a report from the Chairman of Committees.

Dr. Hibberd: Mr. Speaker, the Committee reconvened at 11:10 a.m. to consider Sessional Papers and Motions. We had present this morning Mr. Miller as a witness. I can report progress on Bill Number One.

Mr. Speaker: Order please. I wonder if at this time we could have the House cleared of the strangers in the House. Would you proceed.

Dr. Hibberd: The Committee recessed at 12:00 noon and reconvened at 2:00 p.m. At that time we had witnesses, Mr. Gillespie and Mr. Phelps and I can report progress on Bill Number Two. It was then

moved by Mr. McCall and seconded by Mr. McIntyre that Mr. Speaker do now resume the Chair and this was duly carried.

Mr. Speaker: You have heard the report of the Chairman of Committee's are you agreed.

Some Members: Agreed.

Mr. Speaker: What is your further pleasure.

Mr. Speaker: The Honourable Member from Ogilvie.

Ms. Millard: Mr. Speaker I move that we now call it 5:00.

Mr. Lengerke: I will second that.

Mr. Speaker: It has been moved by the Honourable Member from Ogilvie, seconded by the Honourable Member from Whitehorse Riverdale that we now call it 5:00. Are you prepared for the question.

Some Members: Question.

Mr. Speaker: Are you agreed.

Some Members: Agreed.

Mr. Speaker: The Motion is carried.

Motion Carried !!!!!

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

Adjourned

