The Yukon Legislative Assembly

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Friday, November 28, 1975

Speaker: The Honourable Donald Taylor

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Mr. Speaker Reads the Morning Prayer.

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

Madam Clerk: There is, Mr. Speaker.

ROUTINE PROCEEDINGS

Mr. Speaker: I now will call the House to order. At this time we will proceed with the Order Paper. Are there any documents or correspondence for tabling. Are there any reports of Committees. Are there any introduction of Bills. The Honourable Member from Pelly River.

Mr. McCall: Yes Mr. Speaker, I beg to move, seconded by the Honourable Member for Klondike for leave to introduce a Bill entitled an Ordinance to amend the Labour Standards Ordinance.

Mr. Speaker: It has been moved by the Honourable Member from Pelly River, seconded by the Honourable Member from Klondike for leave to introduce a Bill entitled an Ordinance to ammend the Labour Standards Ordinance. Are you prepared for the question.

Some Members: Question.

Mr. Speaker: Are you agreed.

Some Members: Agreed

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

Motion Carried

Mr. Speaker: Are there any further introduction of Bills. Are there any Notices of Motion or Resolution. The Honourable Member from Ogilvie.

Ms. Millard: Mr. Speaker I give Notice of Motion respecting the report of the Task Force on the Tolerance Standard for Airborn Asbestos in mining plants and operations in the Yukon Territory.

Mr. Speaker: The Honourable Member from Pelly River.

Mr. McCall: Yes, Mr. Speaker I give Notice of Motion re hours of sitting.

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 the question period. Madam Clerk could you ascertain if Mr. Commissioner is available to the House this morning.

MADAM CLERK LEAVES THE ROOM

Mr. Speaker: At this time I will declare a brief recess.

Recess

Mr. Speaker: At this time we will call the House to order. Have you any questions this morning? The Honourable Member from Pelly River.

Question Re: Faro Airstrip

Mr. McCall: Yes Mr. Speaker I have a written question for the Commissioner. I was wondering if the Commissioner could give us a progress report as to the improvements proposed for the Faro Airstrip.

Mr. Speaker: This is a written question. Are there any further questions. The Honourable Member from Ogilvie.

Question Re: Water Board Recommendations

Ms. Millard: I have a verbal question for Mr. Commissioner. The Yukon Territory Water Board has made recommendations to Mr. Buchanan regarding the N.C.P.C.'s application for increased water storage levels at Aishihik and Canyon Lake. What are these recommendations and is there any possibility this House may be consulted on the final decision in this matter.

Mr. Speaker: Mr. Commissioner.

Mr. Commissioner: Well Mr. Speaker I am not privy to the decision of the Water Board. It is a Board that is set up under an Act of Parliament and this House has three nominees on that Board, as you are well aware, but as far as this House becoming involved in that decision making process with regard to the responsibilities of the Water Board I am not aware of any mechanism that exists that would permit that to happen.

Mr. Speaker: The Honourable Member from Klondike.

Mr. Berger: Mr. Speaker I have a question for Mr. Commissioner. On a recent tour, the Commissioner's tour, I asked Mr. Commissioner if he could possibly come up with some figures on the oil and gas reserves Peel Plateau area. I was wondering, Mr. Commissioner if there might be something, if it could be possible, made available to the House.

Mr. Commissioner: Mr. Speaker the answer is in the affirmative. It is the public information is published as part of the annual report of the Department and I will see that the most recent one is made available.

Mr. Speaker: The Honourable Member from Hootalinqua.

Question Re: Transportation

Mr. Fleming: Yes Mr. Speaker I've a further question for Mr. Commissioner. Dealing with the transportation in the Yukon Territories. The bus companies have a—travel to and fro and back and forth and they stop at certain places and sometimes do a little travelling at night. It is three or four o'clock in the mornings that they have to stop at certain Villages and so forth along the road. My question is does the Yukon Territorial Government have jurisdiction as to what route the vehicle in question travels and as to what facility the company must maintain or would maintain for the passengers while waiting to embark on the vehicle.

Mr. Commissioner: Mr. Speaker, I would want to see what authority that the Transport Public Utilities Ordinance conveyed to the Transport Public Utilities Board in this matter. It undoubtedly would have to be a licencing condition or a condition that was laid down in the licence. If the Honourable Member would be good enough to leave that question with me I would like to have a little bit of research done on it to see if indeed that authority does exist in that Ordinance.

Mr. Speaker: The Honourable Member from Ogilvie.

Question Re: Ecological Damage to Wildlife

Ms. Millard: I have a written question for Mr. Commissioner. In the next month is the Game Department going to be investigating the possible ecological damage to wildlife which will ensue if a proposed dam is put on the Stewart or Pelly Rivers. If so what is the outline of their investigative program?

Mr. Speaker: Are there any further questions. Mr. Commissioner.

Mr. Commissioner: Mr. Speaker, yesterday I was asked by Councillor Fleming are there any plans to move the TV transmitter on Grey Mountain. That is the transmitter located here at Whitehorse. The Canadian Broadcasting Corporation officials advise that there are no plans to move the Whitehorse transmitter on Grey Mountain.

Yesterday Councillor Lengerke posed a question concerning Resource Revenue sharing. The question being, in the negotiations to date with the Federal Government regarding the sharing of resource revenues had any numbers or percentages been discussed. What is the schedule for continuing these discussions. Answer Mr. Speaker: In discussions on resource revenue sharing numbers and percentages have been discussed. No resolution of these has yet been obtained. Discussions are ongoing, however, the date for actual finalization has not yet been resolved.

Mr. Speaker: The Honourable Member from Ogilvie.

Ms. Millard: A verbal question for Mr. Commissioner.

Question Re: Archaeological Resources

Ms. Millard: I have a question for Mr. Commissioner on that same subject. In discussions with Ottawa on resource sharing, are archaeological resources being considered?

Mr. Speaker: Mr. Commissioner?

Mr. Commissioner: Well, Mr. Speaker, the actual resources themselves are not being discussed, Mr. Speaker. It is the revenue that accrues to the federal government that is being discussed, and it is the totality of revenue that we are speaking of.

Mr. Speaker: The Honourable Member from Ogilvie?

Ms. Millard: Supplementary then, Mr. Speaker. Is there revenue from archaeological resources now coming into the federal government?

Mr. Commissioner: Mr. Speaker, there may well be, I'm not aware of just whether there is or whether there isn't.

Mr. Speaker: Have you any further questions? We will then proceed to Orders of the Day.

Just prior to proceeding with Orders of the Day, I would like to draw the attention of members to the presence in the public gallery this morning, of the Mayor of Port Coquitlam, Mayor Jack Campbell, who I am sure has just concluded a very arduous election or re-election, and I'm sure the House would want me on their behalf to extend to Mayor Campbell, our congratulations and bid him welcome to these Chambers.

(APPLAUSE)

ORDERS OF THE DAY

Motion Number 1

Mr. Speaker: The first Motion this morning is Motion number 1, moved by the Honourable Member from Kluane, seconded by the Honourable Member

from Mayo, that Sessional Papers 1 to 6 inclusive be referred to the Committee of the Whole for discussion.

Some Members: Question.

Mr. Speaker: Question has been called. Are you agreed?

Some Members: Agreed.

Mr. Speaker: I declare the Motion carried.

Motion Carried

Motion Number 2

Mr. Speaker: Motion Number 2, moved by the Honourable Member from Mayo, seconded by the Honourable Member from Kluane, that Standing Order 3, sub (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".

Is there any discussion?

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: There being no Public Bills, what is your pleasure at this time? The Honourable Member from Pelly River?

Mr. McCall: Mr. Speaker, I move that Mr. Speaker do now leave the Chair, and the House resolve itself into Committee as a whole for the purpose of considering Bills, Sessional Papers and Motions.

Mr. Speaker: Is there a seconder?

Mr. Gerger: I second it.

Mr. Speaker: It has been moved by the Honourable Member from Pelly River, seconded by the Honourable Member from Klondike, that Mr. Speaker do now leave the Chair and the House resolve inot Committee of the Whole for the purpose of considering Bills, Sessional Papers and Motions. Are you prepared for the question?

Some Members: Question.

Mr. Speaker: Are you agreed?

Some Members: Agreed.

Mr. Speaker: I shall declare that the Motion is carried, and the Honourable Member from Whitehorse South Centre will take the chair in Committee of the Whole.

Motion Carried

(Mr. Speaker leaves Chair)

COMMITTEE OF THE WHOLE

Mr. Chairm: I now call this Committee to order and declare a brief recess.

Recess

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

We are supposed to have as witnesses, Mr. Gillespie and Mr. Phelps. I wonder if you could have them—

Bill No. 2 Continued

Mr. Chairman: We will now proceed with the reading of Bill Number 2, Clause by Clause, beginning with Section 11, Subsection (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: (5):
(Reads Clause 12(5))

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

Mr. Chairman: 13(1):
(Reads Clause 13(1))

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

Mr. Chairman: (2): — Mr. Lengerke?

Mr. Lengerke: I would ask Mr. Phelps if he could maybe clarify, or the Legal Advisor, what would be an exceptional circumstance be?

Mr. Legal Advisor: It would be hard to say. I'd like to say that there should be an "or" between the sub-paragraph (a) and sub-paragraph (b). It hink if the lawyer was out of town, unexpectedly detained out of town and couldn't get back, he might transfer the case to another lawyer, if it had to go on at that time. But I would expect that what he would normally do would be to seek an adjournment, but there are circumstances

under which an adjournment will not be granted by the court. It would be rare, but they can exist. That would be an exceptional circumstance.

Mr. Lengerke: Thank you.

Mr. Chairman: Mrs. Watson?

Mrs. Watson: Mr. Chairman, I would like an explanation of (b). I don't understand it. I'm sure everyone else doesn't, and they won't ask.

Mr. Legal Advisor: Mr. Chairman, an interlocutory thing is a step, a short step between two major steps. It could be an adjournment, it could be permission to do something like serve an extra document or to make a motion to serve a person out of the jurisdiction at a point to get ready for the action. That would be interlocutory, it comes between is what it means, between steps.

Mr. McIntyre: Mr. Chairman?

Mr. Chairman: Mr. McIntyre?

Mr. McIntyre: In Section 12(4), the last word, shouldn't that be client rather than accused, because a person getting legal aid may not always be an accused person.

Mr. Legal Advisor: Yes, Mr. Chairman, I think applicant would be a better word.

Mr. Chairman: 14(2):
(Reads Clause 14 (2))

Mr. Chairman: (3):
(Reads Clause 14(3))

Mr. McCall: Mr. Chairman?

Mr. Chairman: Mr. MCall?

Mr. McCall: Just for clarification, would that be the tax regulations?

Mr. Legal Advisor: No, Mr. Chairman, the expression "tax" is a technical word they use to measure a lawyer's cost, shall be measured is what should be there, but you have to use a technical word so the lawyers will understand it, so you use the word "taxed".

Mr. Chairman: Ms. Millard?

Ms. Millard: Mr. Chairman, just as a matter of clarity, what is the percentage of taxation at this point?

Mr. Legal Advisor: What is the question?

Ms. Millard: What is the percentage of taxation now?

Mr. Legal Advisor: I don't want to give an answer which would appear foolish, it would be less than one percent.

Taxation is the measurement of a bill—if a lawyer and a client have a dispute in relation to how much the bill is, the thing goes to a court or someone else to be measured, the lawyer may charge $300.00 for doing a service, the client says it is only worth a hundred, so then the expression is he has the bill taxed by the clerk or the judge, and the judge will say whether the $300.00 is a fair and reasonable amount in accordance with court rules or is not. That's the expression to tax.

Ms. Millard: Mr. Chairman, this section doesn't apply to the fact that legal aid lawyers only get a certain percentage of what they would normally charge? This isn't relevant here, is that correct?

Mr. Legal Advisor: No, Mr. Chairman, but perhaps the Honourable Member has a misapprehension. Under this particular scheme as we apprehend it, under normal circumstances, the lawyers are paid a hundred percent of what they charge.

Mr. Phelps: What they charge is limited to 75 percent of what they normally charge.

Mr. Legal Advisor: No, Mr. Chairman. There will be a schedule of fees, and assuming there is agreement between the lawyers, as a group, and the financial arm of the government as to what the level of those fees should be, that will be a hundred percent of the fee. In any matters which are not covered by the agreed particular detailed schedule, then the rule would, I would expect, but I cannot say this for certain, would be 75 percent of what a normal client would pay to a normal lawyer for the similar service. We are hopeful that the lawyers would see their way to agree a detailed schedule to save administrative headaches.

Mr. Phelps: I think that's what Ms. Millard was getting at. Once that schedule is set, taxation is simply making sure that the lawyer is following the agreed fees for the agreed kind of work, but the schedule itself, the tariff itself will be set in accordance with—what a normal client pays a normal lawyer.

Mr. Legal Advisor: No, Mr. Chairman, the schedule will be set as an agreed amount. If it says in the schedule $300.00 per day for a lawyer's services to a client, it is $300.00 we expect to pay. Not 75 percent of $300.00, but if in respect to a particular unusual service there was no measured amount, we would then refer to detailed rules of court which are sometimes difficult to construe because they very often measure the lawyer's charges at $1.25 per folio of preparation of work for something, so somebody then has to count the pages and see there are 16 lines to the page, and that there are not less or more than 200 words to a page and so on. It becomes quite a difficult thing to compute a lawyer's charges.

So to save the lawyer problems and to save the government problems, we are attempting to measure

it in precise amounts so far as we can.

Mr. Phelps: I don't want to chase you down a long, long street, Mr. Legal Advisor, but the point is, that we agree upon, the government, the tariff will be really based, I presume, on a percentage of what normally lawyers charge.

Mr. Legal Advisor: No, Mr. Chairman.

Mr. Phelps: That would be so much per day.

Mr. Legal Advisor: It's based on what — we would produce a schedule, so far as we can, to provide a reasonable recompense to the lawyer for doing a piece of work, and we would not be setting out at the outset to make it 75 percent of a normal charge. It would be 100 percent of a fair charge.

Mr. Chairman: Mr. Lengerke.

Mr. Lengerke: Just a further clarification on that then. Do I understand correctly that the tariff established under and in the manner prescribed by regulations here does not refer to the fees charged under the Legal Professions right now. That's correct isn't it.

Mr. Legal Advisor: No Mr. Chairman.

Mr. Chairman: Mr. Legal Advisor is this schedule of fees to be negotiated or is it to be set down by the Government itself.

Mr. Legal Advisor: Well as the Honourable Member knows the Government never imposes anything arbitrarily.

Mr. Chairman: Thank you Mr. Legal Advisor. Mr. Gillespie.

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

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

Mr. Chairman: Two
(Reads Section 15(2))

Mr. Chairman: Mr. Taylor.

Hon. Mr. Taylor: One question respecting any funds. Will this go into a separate fund and acrue interest. Any monies involved in this fund or is this just go into general revenue.

Mr. Chairman: Mr. Gillespie.

Mr. Gillespie: The answer Mr. Chairman is that it would just go into general revenue.

Hon. Mr. Taylor: I simply, Mr. Chairman, I simply wanted to clarify that point.

Mr. Chairman: 15(3):
(Reads Section 15(3))

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

Mr. Chairman: 17(1):
(Reads Section 17(1))

Mr. Chairman: Mr. Taylor.

Hon. Mr. Taylor: Mr. Chairman I wonder if we could have a little explanation on this section.

Mr. Legal Advisor: Mr. Chairman, costs, to answer the question properly I'm afraid I must be legalistic and boring. Costs are either of two kinds. The costs you've got to pay to your own lawyer are your business and you've got to pay your bills. When you fight a case you recover what they call costs from your opponent, but that amount of costs are never equal to the costs you have to pay for your own lawyer. They are always much less. They are measured much harsher. But it can happen that the amount you recover under those court rules would be greater than the bill the lawyer will provide you, and there may be a small profit. In that event those monies should come to the Commissioner rather than to the lawyer or the client. In some kinds of case there may be a percentage available as a result of a settlement. That percent should go to the Commissioner who is the, in a sense the real paying client and not to the client himself.

Mr. Chairman: Mr. Fleming.

Mr. Fleming: Mr. Chairman I'd like to go back a ways to where it — to section three, it's a long ways back I know but the question deals with a partial charge to any individual who is able to pay a portion of the cost of such legal aid. Now the partial charge comes into effect again in 15(1). An applicants partial charge towards to Legal Aid Services. Just how do they intend to come, other than checking whether he has any money or hasn't any money, to find out just what a partial charge would be. Is there any indication of what that partial charge might be now.

Mr. Legal Advisor: No Mr. Chairman, the basic concept of the Ordinance is that where a person is unable to pay for the services which he requires he will have to pay nothing. But there are marginal people who have a fair income but not enough to pay for an expensive case. The Legal Aid Commiteee will then fix and have him sign an agreement to pay an amount. The amount might be, say, if the expenses of the case were estimated to cost $3,000.00 they might say to him, you are able to pay something towards this. And they might assess him and ask him to pay say, $500.00 towards the cost of the case over a period of say twelve months. This could happen.
happen.

Mr. Chairman: Mr. Fleming.

Mr. Fleming: In other words, Mr. Chairman, in other words it is up entirely, I would say, to the Committee. That is their responsability.

Mr. Legal Advisor: Yes Mr. Chairman.

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

Mr. Chairman: 19(1):
(Reads Section 19(1))

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

Mr. Chairman: 21(1):
(Reads Section 21(1))

Mr. Chairman: 22(1):
(Reads Section 22(1))

Mr. Chairman: (2):
(Reads Section 22(2))

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

Mr. Chairman: Mr. Lengerke.

Mr. Lengerke: Yes Mr. Chairman, this again information for myself. How many Provinces in Canada now extend Legal Aid? Do all of them have this.

Mr. Legal Advisor: All of them extend some sort of Legal Aid. It's possible there is one Province who still has not got a firm agreement signed with Canada but so far as I know nine of the Provinces and the Northwest Territories have and at least six of them have had it for some considerable time. But Canada pays 50 percent of the cost in the Provinces with an upper limit depending on a scale relative to the population of the Province and so many cents on the dollar. So there's an upper limit. For instance in Ontario the cost of Legal Aid would be approximately $24,000,000.00 but the Government of Canada will only pay $6,000,000.00.

Mr. Lengerke: Further to that —

Mr. Chairman: Mr. Lengerke.

Mr. Lengerke: Further to that I think it's section 5(1) it seems to me, every, it says every person in the Territory or every person ordinarily resident. Now does that same kind of agreement prevail in the Provinces, and I'm talking of the other program.

Mr. Legal Advisor: Yes Mr. Chairman. That's a condition of precondition of Canada funding any of this aid that some of their basic conditions must be met for cross-Canada interchange.

Mr. Lengerke: What would happen in the case of, if we had somebody from Alaska for instance, touring through the Yukon, going up the Alaska Highway and got involved in some kind of an accident and all the rest of it and required Legal Aid. As I read it now we would extend Legal Aid to that person.

Mr. Legal Advisor: Yes.

Mr. Lengerke: What would happen if a Yukoner was in Alaska and this happened, is there any legal aid situation in Alaska or, is there any way that we would have a reciprocal agreement?

Mr. Legal Advisor: Mr. Chairman, I cannot say precisely what the law says in Alaska, but I can say that the Public Defender for Alaska — they have a different system there now — they have a Public Defender's office with, the last time I was looking into it, had 11 lawyers on staff and a Director or a Commissioner, and that Commissioner was a guest from time to time here, and informed me that they have and would extend legal aid in Alaska to a Canadian under similar circumstances that they would to an Alaskan.

Now, that is not to say that we would get the whole gamut of services. In respect to Americans from the lower 48, the best legal aid might have been a return ticket to his point of origin, but they would still give him the service regardless.

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

Mr. Chairman: Mr. Legal Advisor, does this refer to your civil legal aid as well?

Mr. Legal Advisor: If the person remained in Alaska, he would be given the services available from the Public Defender's office, but how far into this this would go, I don't know. I don't think the question had arisen very much. A stranger from the Yukon going to Alaska being involved in something, would normally return to his home jurisdiction, and initiate his action from his home jurisdiction, but a person who was in need of some temporary remedy would be referred to them and they would take the action without worrying too much of his origin. Their question was, did the thing need to be done there and then?

Mr. Chairman: I was referring more to the other provinces of Canada with regard to civil legal aid.

Mr. Legal Advisor: I'm not precisely sure what the position is. I can only say that in respect of Saskatchewan and B.C., we had telephone conversations with these jurisdictions, but up to now, we haven't been in a normal position to provide civil legal aid here for a person at the request of the government of B.C. or the legal aid office of B.C. or Saskatchewan, but the reverse has happened.

We have asked them to provide legal aid in respect of a para-Yukon situation, and they have been in a position to respond.

Mr. Chairman: Mrs. Watson?

Mrs. Watson: Mr. Chairman, would it not be better then if we amended or added another Section to 23, or a sub-section, where we could enter into agreements with other jurisdictions, not just with the government of Canada, sort of reciprocal agreements for civil and criminal legal aid?

Mr. Legal Advisor: Yes, Mr. Chairman, I think it would be an advantage to the Ordinance to allow for a relatively informal arrangement to be made with the head of a legal office in Regina, whom we have had dealings with or Ontario, that they would provide legal aid in a certain situation, and we would provide it in relation to theirs. I would refer the matter to Mr. Gillespie if we could consider the matter.

Mr. Gillespie: Mr. Chairman, my understanding, and correct me if I am wrong, Mr. Legal Advisor, is we don't require that power in this Ordinance. We require the power in any Ordinance where we want to enter into an agreement with the government of Canada. We don't require a similar power under the Yukon Act to enter into an agreement with a province, so we can still do it, in spite of the fact that it is not so stated here.

Is that not correct?

Mr. Legal Advisor: This is correct, Mr. Chairman. It may not be correct in every situation. If we are expending money under a particular Ordinance which directs it in a certain way, we could conceivably find ourselves limited, but regardless, I presume we would be making these informal arrangements in any event, whether it was in the Ordinance or not, and then obtaining a similar service back from them.

Mr. Chairman: Mrs. Watson?

Mrs. Watson: Mr. Chairman, I'm still concerned with going back and it's generally with the same topic we are talking about now, 9 sub (1) (d) regarding proceedings pursuant to the Extradition Act and the Fugitive Offenders' Act, where we provide legal aid to non-citizens of this country when they are in our country under the Extradition Act.

I'm wondering whether it is cheaper to give them legal aid or to incarcerate them in our — what are the alternatives if they don't have financial resources so that they can get their own legal aid?

Mr. Phelps: Well the comment I would have is simply this, that normally the judge of the court wants to ensure that the person being prosecuted under that kind of a statute, has legal advice. It's usually a situation where the consequences are dire, indeed, to the accused, and most judges would insist that person have a lawyer.

In other words, what used to happen years ago was in a case such as that, the judge would simply twist the arm of the Bar to do it for free, so long as the person had some advice, because when a person is being extradited, usually it's a pretty serious offence he's going back to face, you know; and the procedures are very, very technical. So the judge really doesn't want this person to face a prosecutor when he may have all kinds of defences to the proceeding. So all I am suggesting to you is that most judges would want a lawyer to be present, in fact, insist on it.

It's only fair, I'm suggesting, that the lawyer should be paid something, because these cases can be very technical and drawn out.

Mr. Chairman: Mr. Taylor?

Hon. Mr. Taylor: Mr. Chairman, while we are on Section 9 again, I'm wondering if Mr. Legal Advisor has been able to give any attention to 9(f) on page 7, and the problem we had with the wording of sub(1)(2) and (3)?

Mr. Legal Advisor: Mr. Chairman, the Legal Advisor is satisfied with the wording as it is.

Mr. Gillespie: Mr. Chairman, may I ask the Legal Advisor a question? Would it make any difference if we were to use the word "or" in place of the word "and"? Would it hurt the intent of this Section?

...**Mr. Legal Advisor:** The Legal Advisor will be willing to compromise this way. He would be willing to elimiante the word "and", because these things are forming part of a list. I wouldn't like the suggestin that "or" has, that it can only be applied to one of those things, and not them all. They can all come together or they can come apart, but when any one of those things comes, so when you say the list, an appeal lies in any of the following matters, you are making a list of things in respect of which an appeal can be taken, not in the alternative, so I wouldn't object ot taking out the word "and" because it's part of a list, but I would not like the word "or".

Mr. Gillespie: It seems to me, Mr. Chairman, that we were better off with the word "and" remaining in there fore certainty, but I am willing, Mr. Chairman, to see the word removed, if that's the wish of the House.

Mr. Chairman: There was some question raised, I believe, over the misinterpretation of using the word "and" in that instance.

Are there any other comments?

Hon. Mr. Taylor: Mr. Chairman, it seems to me that if we attempt at this table, perhaps as laymen to bring down legislation, that at least we should be clear on the meaning of that legislation, and it seems to me this is simply a drafting problem, but it should be made clear so that anyone could read this Ordinance and make no mistake, or place no different interpretations upon it than that to which it refers. I personally would like to see, as I'm sure all members would like to see, the sub (f) worded in such a way that it cannot be misunderstood.

Mr. Phelps: If the witness may be allowed to say something. I'm confused simply because you say it's part of a list, and yet up above, after (d) is the word "or", so why isn't the word "or" down below as well?

If it is part of a list, if (a), (b), (c), (d) and (e), is

that what you are saying? What I am saying is surely you can't run with the hare and hunt with the hounds.

Mr. Legal Advisor: As I appreciate ...
there are three cases, and we are talking about the case where an appeal has been taken by the prosecution. We are also talking about a second case, so if you could in your minds put in "and also" between 2 and 3.

In the case where an appeal has been taken by the prosecution an appeal lies; in the case where counsel advises an appeal lies; and an appeal also lies where the Appeal Court or a judge thereof requests legal aid.

Now, if that sentence was placed first, and the original sentence read this way, "Where an appeal has been taken, and where counsel advises, and where an Appeal Court requests, an appeal shall lie". Normally speaking in writing this, one would reverse it and put the cases first and the general words later.

Mr. Chairman: Ms. Millard?

Ms. Millard: I hope it's relevant. There's another "and" above in Section (e) which also makes the same sense of the whole Section different. That should definitely be an "or" at the end of the (e) section.

Mr. Legal Advisor: No, Mr. Chairman. With respect, you're setting out the limitation, and there are two limitations. First, it must be a case which is not provided for in those paragraphs, that's a precondition, and then either the court or the Committee must be of the opinion that the accused is not capable of an informed decision. That creates the exception to the group of (a), (b), (c) and (d), which allows legal aid to be given in that case, so "and" is a requirement, with respect.

Mr. Chairman: Mr. McCall?

Mr. McCall: Mr. Chairman, can I suggest that we send this back for further review?

Mr. Chairman: There are a couple of other typographical corrections to be made, perhaps this could be considered at the same time, but if we could finish reading it at this time.

Mr. Fleming?

Mr. Fleming: I would like to rise in support of our Honourable Member from Kluane in her thinking as to adding to this Ordinance, to the effect that we could come into agreements with other provinces or such. Mr. Gillespie explained it but I'm not fully aware yet of just how it stands. Apparently because the federal government has some input into this or monies into this with the Yukon Territory, you say we would not need, in any case, an agreement with any of the provinces or anything—this would be in effect more or less there. They would be more or less obliged to undertake legal aid to us there; is that what I understand?

Mr. Gillespie: Mr. Chairman, the answer is that before the Yukon Territory can enter into any agreement with the federal government, it must be empowered to do so by statute. It must be in the Ordinance. That stipulation is founded in theYukon Act.

The Yukon Act, however, does not require that we so stipulate in an Ordinance the power to enter into an agreement with a province, so we must have this section in this Ordinance if we are going to enter into an agreement with the federal government. We do not require a similar section if we are to enter into an agreement with any province on any matter.

Mr. Chairman: Section 23 (2):
(Reads Clause 23 (2))

Mr. Chairman: 24(1):
(Reads Clause 24(1))

Mr. Chairman: Clear?
Mr. Taylor?

Hon. Mr. Taylor: Mr. Chairman, I'm wondering — I wonder if we could have perhaps from the administration, either Mr. Gillespie or Mr. Legal Advisor, some further word on Section 9, sub (f) and the wording of that Section. I really think that progress should be reported on the Bill and this taken under further review before we reach the end.

Mr. Chairman: I think we are in the position of reporting progress on the Bill, but not passing it out of Committee.

Mr. Lengerke: Mr. Chairman, just one more question on this.

Yesterday I asked in this House, and I think Mr. Gillespie answered, I asked with respect to the cost, or the estimated cost, and I was told of course it was a cost sharing between the federal government and the Yukon Government on a 50-50 basis, and there would be about a $35,000.00 estimate.

What would the reaction be, if I were to say this to you, that what if we put a lid of $35,000.00 as the total expenditure in the next year's budget on this? What kind of a reaction would you have to that?

Mr. Gillespie: Mr. Chairman, it would certainly give me pause. It would be difficult at some point in the year to suddenly say to somebody who is a bona fide applicant and genuinely needed legal aid, that we are unable to provide it. I would be reluctant to say, at this point, that we are going to cut it off at that $35,000.00 level, although we would hope to remain below that level.

Mr. Lengerke: My point, Mr. Chairman, is this, then why estimate $35,000.00, because when we are passing legislation like this, and of course there's monies involved, we like to know, you know, what the estimate is going to be, what our expenditures are going to be, so why not at least say $50,000.00 or something and play it safe, and then put a lid on it? Is there any merit to that?

Mr. Gillespie: Mr. Chairman, in the estimating process, we try to identify as best we can, how much we expect a particular item to cost. If we, in fact, spend more than that in a particular item of this nature, we would have to come back to this House to vote supplementary funds. This in a way, keeps the government responsible, this does keep the government responsible.

Mr. Chairman: Mrs. Watson?

Mrs. Watson: Mr. Chairman, the suggestion that the Honourable Member from Whitehorse Riverdale made, I think it's quite valid. It all depends on when we consider to have this legislation come into force, but the eligibility, the financial position of a person who is eligible for legal aid, I don't think has been determined yet. If it has, I would like to see it. But if you knew the amount of money, the limit that this Council was prepared to vote for legal aid, I think it would make quite a difference in the eligibility standards that were set in the regulations.

But the big question is, when does the government plan to bring this legislation into force? I foresee bringing it in for the next fiscal year, April of '76.

Now going a little further, there are a few questions that probably a Member of the Legislature shouldn't ask, but I still have concerns about it, because it's administrative. How will the government deliver this service to people who live outside the City of Whitehorse? I was looking forward to something in here that said telephone, because in the Commissioner's opening address, he said we were going to have a telephone service. This leads to other question. What type of administrative staff are you going to have? If you have got a telephone, you are going to have to have someone answering that telephone at the other end, some knowledgeable person. I would like a little more information on how the government, when the government is planning to implement this legislation, should this legislation pass this House.

Mr. Gillespie: Mr. Chairman, the government will likely bring this into force when certain things have happened. One of those things is the publicity to the people who might be affected, of how the delivery system will work, that's one item.

Secondly, an agreement reached between the federal government and the Territorial Government. We do not want to bring this into force until we are absolutely assured that the federal government is prepared to sign the agreement that we are going to enter into with them, otherwise we might find ourselves in a position of having to pay the full costs, so we want that absolute assurance.

That could well happen. Our hope is that that will happen before the end of this fiscal year, and we have monies in this year's budget to cover that eventuality. The delivery system will operate in this way: Let us say that there is a person in Watson Lake who is seeking legal aid. He would — that person would approach any one of a number of people who will be listed, such as a welfare worker, an Out-Reach worker or a Justice of the Peace or some other person who would be prepared to take on this task at Watson Lake. That person, let us say it is the Out-Reach worker, would give the applicant a form to fill out. On that form he would explain the reasons why he needed legal aid, and also his financial circumstances.

That form would be sent to Whitehorse to the, let us say the legal administrator, to be dealt with so that he can then appoint a counsel for the person in Watson Lake and so on. In certain circumstances where there is a rush or a hurry in the matter, the Out-Reach worker could telephone the legal administrator here in Whitehorse. The legal administrator in Whitehorse would then get in touch with a lawyer from the panel, and provide him with an interim certificate, which would enable him then to get in touch with the applicant in Watson Lake, and find out the facts of the matter, both as to the legal problem and as to his ability to pay.

Once the lawyer has determined those facts, he will then write up in an application to the Committee, the circumstances, and the Committee would then sit in judgment as to whether this was a matter that warranted the granting of legal aid. So the telephone service is available, that is the plan, to any person who needs it on an immediate basis, otherwise matters would follow the normal course through the mail.

Mr. Chairman: Mrs. Watson.

Mrs. Watson: Mr. Chairman, it's disasterous. That's my comment, it's going to be disasterous. We have, and I was talking about abuses the other day when I spoke against the principle of the Bill. I know it's very, very difficult thing to overcome, but at the present time we have abuses of all programs, Government programs. Which are sort of sitting there with their chins sticking out. One of the greatest abuses of some of our Government programs is the rent structure and the method of payment for rent or for rental purchase houses. For low cost housing. Here we go again. Where the income documentation is not properly carried out. Now I don't — I know that people resent, very much, having to disclose their financial situation, with proof, but that is the only way that you're going to be able to carry out this program and make it acceptable to the general public. I regret very much that, I know people resent having to give very personal information, but it is absolutely necessary in order to protect the other tax payers, who are paying for this type of service and who are not eligible for it. And unless you have an administrative structure set up so that there is verification required for ability to pay, the abuses are going to be unlimited. I think, I won't even bring in this other thing, but I think this is the key to it. Then the rest of it can roll. But you had better make sure that every person who is acting on behalf of the Government and prepared to provide this service gets some proper documentation and verification on the ability of a person to pay. The abuses in various programs are terrible. Let's not enter into another one with a loosey-goosey arrangement.

Mr. Phelps: Well I might just comment that I can assure you that the Member of the Committee who is appointed or Nominated by the President of the Law Society will be a lawyer and I can assure you that the lawyers aren't going to be looking for this kind of work. They will be, really the Legal Aid work, whatever the schedule ends up, whatever the agreed rate is, will probably be no more that 75% what the lawyer would make in private practice. So we don't want too many cases, you know, we're going to be watching each very closely. I myself, have rather strong feelings, and I agree entirely with your comments about too much welfare and so on, too many handouts and too much abuse. I can assure you that the one Member in the Committee who comes from the ranks of the lawyers in town will be watching each applicant very carefully because really it's a -- the lawyer is going to be doing a lot of work at really a loss in terms of what they could make if they were doing it for an average citizen.

Mr. Chairman: Mr. Fleming.

Mr. Fleming: Yes Mr. Chairman, I disagree in some things on this Bill myself, very strongly, and I have no use going over it the Member from Kluane has stated exactly what I -- and I find it very hard to vote for something that I know in the long run possibly can be abused. I find it very hard and in the same token I would like Legal Aid for people that really, really need it. I find in so many of these documents that come from the Government and their regulations and everything that there is nothing definite here and I find the same thing here, as how you define whether that person is in need of Legal Aid or not. I find that all of our other, in welfare cases and some of our unemployment insurance, all of these things that we are, we, or not we, but the Government is giving to the people and paid for by the people , and mostly by the middle class people, not the poor people because they don't have it and not necessarily the bureaucrats either. It's paid for mostly by the middle class people because that is the majority in the Territory. Now -- and also all over Canada. Now this same thing comes up again, we are going to give something, but what is the level of where you should get that help. is there no way that we can put something definite into the Ordinance. More definite that is in it now, that says you must be this destitute before you get it, not just have the Committee take a form of paper from him which they may fill out and say we don't have this and we don't have that, it's very hard to prove whether they have anything or not or whether they have lots. I don't know the answer maybe -- before I vote yes I would like to see everybody think on it very hard and see if they can't find a way to make sure there is no abuse.

Mr. Gillespie: Mr. Chairman.

Mr. Gillespie.

Mr. Gillespie: The administration or those of us who are involved in preparing this were very concerned with the points that were made both by Mr. Fleming and Mrs. Watson. On the standards, or the criteria for eligability, we hadn't very much latitude because in the agreements that the Federal Government has with the Provinces and the one that they are prepared to enter into with us, the wording is as appears in section 5 (1) of this Bill before you. Where it says in the, where it says subject to this Ordinance and the terms of any agreement made pursuant to this Ordinance, Legal Aid in both criminal and civil matters shall be made available to every person in the Territory and to every person ordinarily resident in the Territory who, in the opinion of the Committee cannot afford to retain his own lawyer without, and here is the critical part of it, without depriving himself or his dependants of reasonable necessaries or without sacrificing modest capital assets. Now you go beyond there, I can't put my finger right on the section in the Ordinance, which states that the Committee itself sets such rules of procedure and criteria for, for eligibility and methods of delivering the Legal Aid scheme as it may consider appropriate. There's also the ability at a later section for the Commissioner to introduce regulations which will in some ways, in whatever manner he may deem necessary, determine how these things will be carried out. There is also at an early stage in, in the Ordinance in section 4, the ability of the Commissioner to appoint the three Members. Now one of these Members shall be a lawyer appointed on the nomination of the President of the Yukon Law Society. One of the other Members may be a Member of the Territorial Government Administration and this approach may be chosen by the Commissioner to insure the very thing that you are concerned about. That the delivery system is in fact a factor that does reach the people not only in Whitehorse but throughout the Yukon and also to insure that there is some strong Administrative control over the expenditure of funds that will be spent pursuant to this Ordinance.

Mr. Chairman: Mrs. Whyard?

Hon. Mrs. Whyard: Mr. Chairman, I think this is a point that concerns all the members present, and I was wondering if it might not be helpful to inquire of Mr. Legal Advisor, or one of our consulting witnesses this morning, for a little information regarding how legal aid in criminal matters has been administered. Have we found evidence of widespread abuse? Has there been great difficulty in deciding who should receive legal aid in those courts?

This plan has now been in effect for a year or more. We should have some ground rules to work on for civil legal aid.

Mr. Legal Advisor: Mr. Chairman, the ground rules that are applied in criminal cases are slightly different, quite different from in civil cases. In civil cases, it will not be the case that the aid is required immediately, but it's required for the assistance of the court or that a tremendous injustice will result if the legal aid is not forthcoming, so the rules are applied differently.

Back in 1969 or '70, there was an Inquiry held by a Mr. Cashman, who was appointed by the Commissioner who went throughout the Territory, and

found no substantial fault with the legal aid system which we were operating, which in the criminal side is identical to what is in this Ordinance, except that he found that the fees being paid to the lawyers were ridiculously low because they had been in force for 15 years, and he made recommendations on that behalf. Eventually these recommendations were accepted, and the scheme is running under the same basis now.

But we do find from time to time, that people are dishonest in their approach to legal aid. There is not much you can do about it after the event. It has been found that people have concealed assets they have. I know from my own staff that they get quite annoyed when an individual comes back for the fifth or sixth time, ignoring all the normal laws, and still is within the eligibility factors for the delivery of another expensive 3 or 400 or $500.00 amount of legal aid. This upsets our staff, but there is little they can do about it, because he fits within the eligibility factors.

We may be able, by our regulations, to impose limits on how often the pitcher can return to the well in a criminal matter for legal aid, and I think this is probably what will be done.

On a civil matter, I wouldn't expect the thing to be quite so easy as criminal legal aid, but I think the courts, the bar and the public generally, would regret if the doubt was not cast in favour of giving a person who is on a trial for a serious offence the benefit of a doubt as to whether or not he is eligible.

Now on another matter dealing with the present proposed delivery system, we would not intend, to be fair to the officials of our department, we would not intend to be unduly severe at the initial point of granting an interim certificate to test the temperature of the water. The person will be given, without too deep an investigation, the interim certificate to enable him to talk to a lawyer to see has he got a problem at all. We would expect that this would cost the scheme in the nature of $15.00. We think that by being reasonably lenient at the initial point, the lawyers have agreed that they will severely screen applicants to test is there a problem at all. The man might think he has a problem, but all he needs is a referral to an appropriate government department to assist him, and we think that this will save a tremendous amount of expenditure.

So that when a person is referred in by a telephone through getting the administrator's number from a point in Watson Lake or Haines Junction, that telephone call for the price of $15.00 plus the actual cost of the call, may tell him something which otherwise it would cost him a lot of money to come into Whitehorse, make his application, eventually get a refererral and then have to do something. It might save him a lot of money and it certainly would save him a lot of time and help him.

But from that point on, a lot depends on the lawyer giving an estimate to the Committee, that in fact there is a cause of action in a civil matter, and that it's justifiable to take the action in those circumstances. The standards which will be set in the regulations will be, would that kind of an action be taken by a man of modest means, if he had to pay for it himself. Now this would screen out a lot of unnecessary actions.

Now, we would hope that with the assistance of the bar and the experience which will be granted by the officials who are operating it, that we will be able to keep the expenditures low. I do agree that in any scheme such as this, there is a capacity for abuse, so I have no doubt that there will be abuses. All we can do is to try to limit them as much as possible.

Mr. Chairman: Mrs. Whyard?

Hon. Mrs. Whyard: Just one other matter, Mr. Chairman, and I think it would assist all members, a little clarification. There seems to be a feeling around this table that the institution of the civil legal aid is going to mean massive administrative staff, and I wonder if Mr. Gillespie might just clarify that bit. How many people are required to handle legal aid now, how many more people will be required if this program is implemented?

Mr. Gillespie: Thank you, Mrs. Whyard.

Mr. Chairman, the answer is that we intend to add no new staff to administer this program in our Legal department. The only new staff in a sense will be those who are members of the Committee itself, for whom there will be a per diem expense, and such other expenses as they may incur coming to them. Those will be the only additional expenses from a personnel standpoint, so there will be no new staff associated with this program.

Mr. Chairman: Mr. Phelps?

Mr. Phelps: The only comment I would like to make is I think that today's Hansard should be given to each member of the Committee when it's established, and the remarks of Mrs. Watson and Mr. Lengerke, et cetera, be underlined in red, because I think the Committee has to realize that they are not going to be able to come back to the public trough and get more money very easily. I think that's going to be a—that could be a fairly decisive factor in how they treat applicants.

Mr. Chairman: Mr. McKinnon?

Hon. Mr. McKinnon: Mr. Chairman, I have only a few comments to this Bill, and many of the points that were raised by the Honourable Member from Teslin, and the Honourable Member from Kluane are exactly the points that I raised in discussing this Bill in Executive Committee and sub-committee on legislation. Of course, I echo all the fears that they have registered.

I think there is one rather valid point that has been missed up to that time. I think it will have a real reflection on the cost of the program, and that is, Mr. Chairman, that if members of any legislative body, whether it happens to be at the municipal level or the Territorial level, or the Federal level, are doing their job properly and acting as ombudsmen and in that capacity in directing people to the proper government authority in helping them out, you will find that in the most cases, and I'm saying this after a dozen years in this House, that I bet there isn't ten instances where I fanally had to say to a person in a civil matter, and I

think ten instances are too many, I can't help you any further, you have to go and get yourself a lawyer. They say look, I just haven't got any bucks, that's the reason I came to see you. In the first palce they have a valid point, they have a valid case, I have been fortunate enough to be able to twist the arms of certain members of the bar profession in Whitehorse to take that person's case, but in other instances, the person has been left with the moral satisfaction that's pretty—not very much to go on, that they have been right, and because I couldn't get someone to take their case or because they didn't have the money, it was just dropped and they didn't get satisfaction.

So what I'm saying is that I think the estimates are fair. I don't think that it is going to cost that much money because, I say that over a dozen years, that there has probably been ten instances and ten instances only, when I haven't been able to take that person to City Hall, where I haven't been able to show them how you prepare a Petition; to City Hall where I haven't shown them how to get together ith people, to lobby City Hall for a zoning change; where I haven't been able to take them into a government office and pound and scream and chain myself to the desk, if that's what was needed to get them satisfaction before that person left. Sure, if you are doing your job properly, and that's one of the reasons why I have never pushed for an ombudsman role in the Yukon Territory, because I know each one of you are capable of fulfilling that role if you are doing your job properly, a hell of a lot better than someone we can hire to do it for you.

So I don't think that there is going to be massive abuses. I don't think there is going to be all kinds of instances where people are now using, either people from a municipal or territorial level who are now going to use the Committee which is being set up to put civil legal aid into effect. But, I will tell you something, that in those instances where you finally come to the end of the line ineareas where you can help and you know that person is right, and you know that they have a case, and you just have to sit there and say look it, I have to tell you the truth. I'm sorry, I can do nothing more for you, except to lend you some money so you can go and see a lawyer. I tell you in some instances, that's exactly what's happened too, because if you feel strongly enough about it, you have to follow it through to its ultimate conclusion.

So I think in those instances there has to be this ability for that person, if our system of jurisprudence is going to have any kind of credibility amongst all segments of society.

This has to be instituted, I don't think that the costs are going to be exhorbitant, I don't think they are going to be any more than they are now which are $35,000.00 a year because, finally we can enter into a cost sharing program, which the Northwest Territories did about ten years ago, and their reaction is that it hasn't been abused and isn't costing them that much over and above what just the criminal Legal Aid would have because now they are getting a 50 per cent cost sharing with the Federal Government. I think that all Members here are on top of what their constituents are thinking upon drains of the public purse to make it pretty clear that if, in the first year of operation, this is double the estimate and we're coming back for a supplimentary that you'll just say cut the program down to size or forget about the program. I'm positive that this will be the instance. I had all the fears that Honourable Members have mentioned, and I still have them when you go into any kind of new program. I say that in those instances though where you have to finally tell the person that there is nothing more that you can do, that you just have to have this type of a program to be able to fall back on, because you just can't let instances drop where there is no satisfaction from individual Members or from Members of the Legal profession that are willing to take a justified case to court at no cost to themselves. You just have to be able to have something to fall back on. I think we will in this instance, and I'm fully confident that it's going to work out and going to be easier for you to do your job properly as a duly elected Member of this House.

Mr. Chairman: Mrs. Whyard.

Hon. Mrs. Whyard: No it's alright Mr. Chairman.

Mrs. Watson: Just one more thing. For goodness sakes a word of caution. I hope the Administration insures that the people in the local communities who are the contact people are familiar and know what they are doing.

It's one thing to instigate the program here and have your administrative people here familiar with it. It's another thing to insure that they know what they are doing. I would like to suggest that surely we have enough Y.T.G. employees within the Territory that we don't have to draw upon Federal employees. I am referring to Out-Reach employees who are Manpower employees who will not be familiar with the Territorial Program and who will be standing on judgement to a certain degree on the expending of Territorial funds. So I would certainly suggest that whereever possible you use Territorial employees as your contacts in the communities outside of Whitehorse.

Hon. Mr. Taylor: Well Mr. Chairman —

Mr. Chairman: Mrs. Whyard.

Hon. Mrs. Whyard: Well Mr. Chairman I just had one or two other points I thought might help in clarification. I'm sorry I should ask Mr. Legal Advisor earlier when we were working on that section. Do we have any idea how many of these costs are recovered in court judgements. There is a section in this Bill which provides for recovering all the cost the Government puts forth if the case is successful and the Court awards cost. What's the batting average on that, how much of it actually goes down the drain. How much of it do we get back. How much does the Government get repaid.

Mr. Legal Advisor: I'm not sure Mr. Chairman it would largely depend on how many were plaintiffs in the Civil side. We get virtually nothing back in the

Criminal side, but in the Civil side we would expect to get some proportion. But the point that perhaps the, maybe I shouldn't entactfully bring home to the Members, but, the bulk of the Civil Legal Aid money that's expended in the Province tends to be expended in the Matrimonial and Family Law area. So that you have the situation of the Government providing two lawyers, one for each side in divorce cases involving custody of children, and in some places they are moving to the area where they have to provide a third lawyer to advise the children, so you may have three lawyers fighting each other on behalf of three separate clients all at Government expense. What proportion this would form of our expenditures I don't know but we would have reason to believe that in the initial stages it will be a high proportion of the expenditure of $35,000.00 in a full year.

Mr. Chairman: Mr. Taylor.

Hon. Mr. Taylor: Mr. Chairman in respect of the remarks made by the Honourable Member from Kluane. Regarding people in the outlying districts who could assist people in getting Civil or in fact Criminal Legal Aid, I wouldn't want to associate myself with the, or would hope that the House did not agree, that only Territorial Government employees be employed in this matter. I think it was suggested by Mr. Gillespie, earlier in our discussions on this Bill, that perhaps J.P.'s and other people could be approached to assist people in organizing Legal Aid. Certainly our J.P.'s are composed of some Territorial Employees perhaps, some Federal employees such as Postmasters, and this type of thing and some who are not employees of either Government. I wouldn't want to see the Government assume that it would be the intention of the Legislature to restrict the, this sort of action to it, Territorial employee.

Mr. Chairman: Mr. Fleming.

Mr. Fleming: Mr. Chairman yes, I was just going to ask the Legal Advisor possibly, why I don't find myself in here, any action to be taken in any way against an applicant that has by any chance given false information. Maybe it's not necessary according to the laws, you know, but why is maybe not something in here to that effect. As there will be some action taken.

Mr. Legal Advisor: Mr. Chairman in the first instance he'd be cut off and he'd be liable to repay any monies which had been given to him in respect to the false statement. In the second place he will have committed an offense. In the third he becomes liable at civil law to return that amount if it can be recovered. These are all, all except the criminal point as stated there but in form some of these applications will require a verification by a legal document which would be, it would be perjury to falsify it.

Mr. Chairman: Mrs. Whyard.

Hon. Mrs. Whyard: Mr. Chairman just one final comment before we finish with this debate. There were, there was a great deal of value in what the Honourable Member from Kluane had to say and her concern about, on behalf of the taxpayers of the Yukon about paying costs of Legal Aid for non residents and visitors from other countries, is quite genuine. I would like to suggest to the Honourable Member that she approach this problem from two other points of view. These matters could be pursued and I think we could solve this problem in two other areas. Not in this particular Bill.

One would be a requirement for Motor Vehicle Insurance on all foreign vehicles entering the country, which has been a problem for some years as you know. If they are involved in an accident in the Yukon you then find that they are uninsured. There is no requirement, or if there is a requirement it is not being enforced by anybody I'm familiar with on any American vehicles for example, coming up the Alaska Highway and, this raises a certain amount of consternation after an accident . The R.C.M.P. may impound the vehicle but that doesn't do the victim much good. That's one thing that might be fruitful. Another avenue that I would like to see pursued because it's one of my pet hobbies, is the establishment of an unsatisfied judgement fund, which I have proposed in the House on earlier occasions, and which is a very useful means of getting around some of these situations and would not be a drain on the taxpayer.

Thank you, Mr. Chairman.

Mr. Chairman: Ms. Millard?

Ms. Millard: Mr. Chairman, just one last informational piece. We have got a listing under 10 (1) of things that are exempted under civil matters. I wonder if Mr. Legal Advisor could give us an idea of what we can expect in the way of the kinds of cases that will be covered under civil aid besides family law?

Mr. Legal Advisor: We are expecting, Mr. Chairman, to be dealing with serious cases involving tenants who are being dealt with by landlords; people who are involved in what we call knocking down actions involving motor vehicles and such like things. We would expect a number of appeals against the government in the area of the refusal by the Director to grant welfare; the refusal of Workmen's Compensation in certain circumstances, and any other matter where a person thought he was wronged in the payment of money. We would expect to be providing services in that area.

We would not be providing servies in relation to companies, but where an individual is so oppressed by garnishees and such like matters in his personal life, so that his wife was suffering by having her salary garnisheed because of her husband's debts, we would expect to have on a number of cases of these because we have refused them already.

We also would expect to be providing service in relation to the family area, where the Social Welfare Department was asking for orders in respect of children, to under this provide representation to the parents when the application was being made, to defend the matter, and more especially when a permanent order was in prospect. There are a number of

these items—it would be hard to categorize them without turning to what was the experience of the provinces in such matters. It's quite a wide area.

Mr. Chairman: Are there any other members who wish to speak on this debate? Mr. Taylor?

Hon. Mr. Taylor: Mr. Chairman, I would suggest if the debate is not going to go on any further at this time, that the witnesses could be excused.

Mr. Chairman: The Chair will now entertain a Motion for Mr. Speaker to resume the Chair.

Mr. McCall: I move that the Speaker do now resume the Chair.

Mr. Chairman: A seconder?

Mr. Berger: I'll second that.

Mr. Chairman: It has been moved by The Honourable Member from Pelly River seconded by the Honourable Member from Klondike that Mr. Speaker do now resume the Chair.

Motion Carried

(Mr. Speaker resumes Chair)

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

May we have a report from the Chairman of Committees?

Dr. Hibberd: Mr. Speaker, the Committee convened this morning at 10:50 to discuss Bills, Sessional Papers and Motions. Mr. Gillespie, Assistant Commissioner, and Mr. Phelps, representing the Yukon Bar Association, were present as witnesses.

I can report progress on Bill Number 2. A motion made by the member from Pelly, seconded by the Member from Klondike for Mr. Speaker to resume the Chair was duly carried.

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

Some Members: Agreed.

Mr. Speaker: May I have your further pleasure? The Honourable Member from Whitehorse Riverdale?

Mr. Lengerke: I move that we now call it 5 0'clock.

Mr. Speaker: Twelve.

Mr. Lengerke: Twelve o'clock?

Mr. Speaker: Is there a seconder?

Mr. McCall: I will second that, Mr. Chairman.

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

Some Members: Question.

Mr. Speaker: Are you agreed?

Some Members: Agreed.

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

Motion Carried

Mr. Speaker: This House now stands adjourned until 10:00 a.m. Monday next.

Adjourned

SESSIONAL PAPER NO. 6
(1975 THIRD SESSION)
(TABLED NOV. 27)

November 21st, 1975

Mr. Speaker
Members of Council

Arctic Winter Games

The concept of the Arctic Winter Games was the result of discussions held between the Members of Parliament representing the Northwest Territories and the Yukon Territory, the Commissioner of the Northwest Territories and the Yukon Territory, the Commissioner of the Northwest Territories, the Governor of Alaska and myself. Basically, it was suggested that a northern games would provide the necessary catalyst to promote the development of amateur sport throughout the north. Secondly, it was felt that such games would provide athletes from the North an opportunity to improve their skills for future national participation.

The first Arctic Winter Games were held in 1970 in Yellowknife with the three regions, Yukon, Alaska and Northwest Territories being represented. The 1972 games were hosted in Whitehorse and once again, the three regions were represented. In addition, Arctic Quebec, which had been invited to the games in a non-participatory capacity, asked to be included as a participant at future games. Alaska hosted the 1974 games in Anchorage with representation from all four regions.

To complete the original cycle of rotation (each participating region was to once host the games) Arctic Quebec will host the 1976 games in Schefferville from March 21st-27th inclusive.

The games this year will be somewhat smaller with reductions being made in the number of sports, participants and officials. This reduction in size of each contingent has been dictated by two factors: the spiralling cost of transporting athletes to the games site and the limited accommodation facilities available in Schefferville.

In the Yukon, the co-ordination of the Arctic Winter Games trials and selection processes have been contacted to the Yukon Sports Federation. This government's commitments, as per the contract with the Yukon Sports Federation, are as follows:

1) The Government of the Yukon Territory to supply air transportation for a maximum of 232 athletes from Whitehorse to Schefferville return.

2) The Government of the Yukon Territory will pay one half of the costs associated with assembling a representative contingent, to a maximum of $16,400.

3) The necessary clerical support to the Yukon Sports Federation will be provided through the office of the Director of Recreation.

The total cost to our government for this project will not exceed $98,560. That is comprised of transportation costs of $82,160. and internal costs not in excess of $16,400.

In the past the transportation of the Yukon contingent to the Arctic Winter Games was subsidized by the Federal Government, Department of National Health and Welfare. This year, despite our requests, similar assistance will not be forthcoming. We will therefore be requesting supplementary funding at the forthcoming budget session.

The original agreement of the participating regions called for an evaluation as to the success of the games to be conducted once each participating region had the opportunity to host the Arctic Winter Games. The Games corporation has assured me they will ensure that a thorough evaluation is conducted. In addition, we will be conducting a similar exercise within the Yukon. The evaluation will be conducted by both government and non-government staff.

J. Smith,
Commissioner.