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Speaker: The Honourable Donald Taylor



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Mr. Speaker reads Daily Prayer.

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

Madam Clerk: There is, Mr. Speaker.

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

ROUTINE PROCEEDINGS

DAILY ROUTINE

Mr. Speaker: We will proceed with the Order Paper. Are there any documents or correspondence for tabling this morning? The Honourable Member from Whitehorse North Centre?

Hon. Mr. McKinnon: Mr. Speaker, I have for tabling today Legislative Return Number 2.

Mr. Speaker: Are there any further documents or correspondence for tabling? The Honourable Member from Whitehorse West?

Hon. Mrs. Whyard: Mr. Speaker, I have for tabling today Legislative Return Number 3, Medical Evacuation Costs.

Mr. Speaker: Are there any further documents or correspondence for tabling? Are there any reports of committees? Introduction of Bills? Are there any Notices of Motion or Resolution? The Honourable Member from Ogilvie?

Ms. Millard: Mr. Speaker, I give Notice of Motion, seconded by the Honourable Member from Mayo, respecting the Remedial Tutor Program.

Mr. Speaker: The Honourable Member from Kluane?

Mrs. Watson: Yes, Mr. Speaker, I'd like to give Notice of Motion, seconded by the Honourable Member from Whitehorse Riverdale. Whereas James Smith, Commissioner of the Yukon will cease to hold such office as Commissioner after June the 30th, 1976 and whereas continuity in negotiations respecting the Yukon Indian

Land Claims is of the highest importance. Now therefore, this House respectfully request the Honourable Judd Buchanan, Minister of Indian and Northern Affairs to appoint James Smith as Yukon's chief representative in the current Yukon Indian Land Claim negotiations.

The appointment to continue until a settlement had been reached notwithstanding that Mr. Smith will not continue as Commissioner of the Yukon Territory.

Mr. Speaker: Are there any further Notices of Motion or Resolution? The Honourable Member from Whitehorse Riverdale?

Mr. Lengerke: Yes, Mr. Speaker, a Notice of Motion moved by myself, seconded by the Honourable Member from Kluane, with respect to the government of the Yukon Territory position paper "Meaningful Government for all Yukoners."

Mr. Speaker: The Honourable Member from Ogilvie?

Ms. Millard: I beg to give Notice of Motion, seconded by the Honourable Member from Kluane that Sessional Paper Number 1 be moved into Committee of the Whole for discussion.

Mr. Speaker: The Honourable Member from Kluane?

Mrs. Watson: Yes, Mr. Speaker, I'd like to give Notice of Motion, seconded by the Honourable Member from Mayo, that Section 2, sub-section 1 of the Home Owner Grant Ordinance be referred to Committee for discussion.

Mr. Speaker: The Honourable Member from Whitehorse Riverdale?

Mr. Lengerke: Excuse me, Mr. Speaker.

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 under Orders of the Day to the Question Period.

ORDERS OF THE DAY

Question Period

Mr. Speaker: Have you any questions this morning? The Honourable Member -- Mr. Commissioner?

Mr. Commissioner: Mr. Speaker, if I may, I have an answer to a question that was asked by Mr. Lengerke, if I may proceed at this time.

Mr. Speaker: Proceed.

Mr. Commissioner: On Tuesday, May the 18th, Mr. Lengerke asked for information regarding a British Columbia firm called Northern Canada Producing, Mr. Speaker, involving a Mr. Wochinsky who is allegedly involved in the use of gillnets and electronic homing devices, and is contemplating a fish processing plant in the Yukon.

Ninety thousand dollars is reported to have been spent last year in the Yukon by this outfit. The answer, Mr. Speaker, is as follows: As this type of enterprise falls under the jurisdiction of Federal Fisheries, they were contacted in this regard by the Game Department on May 19th. The federal Fisheries advised that they had just received a copy of a 20 page report and proposal, prepared and submitted to the Minister of Indian and Northern Affairs, Ottawa, by Mr. Wochinsky, Northern Canada Produce Limited, Surrey, B.C.

The report outlines Mr. Wochinsky's proposal to (a) fish farm barren lakes stocked by their company with rainbow trout; (b) commercially fish Yukon Lakes for native Yukon fish, and (c) commercially fish Yukon salmon rivers for Chinook and Chum salmon.

Federal fisheries report that Mr. Wochinsky attempted a fish farming operation last season by planting 10 barren lakes with rainbow trout. His venture met with very poor success, less than a 2 percent recovery rate for fish stocked. They also stated that Yukon Lakes which are commercially fished have poundage quotas already established, and these quotas will not be exceeded or changed by any fishing enterprise of this nature.

In his proposal, Mr. Wochinsky mentioned a quota of 100,000 pounds of Chinook salmon, and 3,000,000 pounds of Chum salmon available for harvest. Federal authorities advise that no such quota is in existence, and further suggested that it is doubtful if 3,000,000 pounds of Chum salmon ever occurs in the Yukon Territory during their spawning run.

In the conclusion of Mr. Wochinsky's report, he has requested government assistance to establish his project in the Yukon Territory, and mentions a figure of 2.4 million dollars for the first year of operation basically involving fish farming rainbow trout. Federal Fisheries concluded they have not had time to finish analyzing the report and subsequently have come to no formal conclusions.

Mr. Speaker: Thank you, Mr. Commissioner. The Honourable Member from Mayo?

Question re: Remedial Tutor Program statement.

Mr. McIntyre: Mr. Speaker, a question for the Minister of Education. In view of the letter that we all received yesterday regarding the remedial tutor program from the various native organizations, and the news story which appeared in the Whitehorse Star last evening, I wonder of the Minister has a statement to make on this confusing situation?

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

Hon. Mr. Lang: Mr. Speaker, I can only reiterate what I said in the House yesterday as far as the Government of the Yukon Territory is concerned. As far as I'm concerned, as far as I can see, the news conference and whatever is based, as far as I can see, not on fact but on apparent conversations and this type of thing which I have no knowledge of. I do know that Mr. Gillespie and Mr. Miller made various statements to the press in regards to what took place between him and Mr. Kennedy, but other than that I have nothing else to say as far as the program is concerned.

I'm waiting for the Federal Government to come down with their Edict.

Mr. Speaker: The Honourable Member from Mayo?

Mr. McIntyre: Supplementary, Mr. Speaker, I think the House is entitled to an explanation of the apparent conflict between the appointed members of this House and the elected members.

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

Hon. Mr. Lang: Mr. Speaker, I take offence at this. Mr. Gillespie and Mr. Miller are part of the Executive Committee as the Honourable Member well knows. As far as Mr. Gillespie and Mr. Miller are concerned, they talked to Mr. Kennedy apparently and it was a very informal talk. The individual apparently was asking about the program from the educator view point which I espoused in this House, if you look through the Votes and Proceedings in regards to the remedial program, that if we had the \$250,000 we would spend it in some other area, either revamping the program or in some other areas in the Department of Education. The responsibility of the Federal Government whether or not they wanted to carry on the program. It's up to them to come up with the funding. In other words, what I am waiting for is a formal letter of some kind, hopefully, we will get it the same time as other organizations get it, that from the Minister of Indian Affairs and Northern Development whether they're prepared to carry on funding the program. I would like to think that decision is being made in the very near future.

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

Hon. Mr. Lang: Mr. Speaker, Mr. Fleming a couple of days ago inquired about the Teslin Pool. As far as the recreation branch is concerned a pool manager will be provided as per the agreement with the Teslin Community Club. This individual will in fact be in Teslin on Saturday of this week. Mr. Fleming's concern may be due to a health inspector's report to the Community Club last summer. The inspectors listed four problem areas, three of which will require capital funding, example (1) installation of a septic tank replacing the existing outhouse (2) installation of a hot water system (3) completion of the pool deck walkway on the remaining side of the pool and (4) problem area in the inspector's mind is the absence of a continuous feed chlorinator. Regarding the capital items, the recreation branch capital funds were transferred in 1975- '76 to local government budget, consequently we have no capital funds available for any projects.

Mr. Speaker: The Honourable Member from Kluane?

Question re: Proposals for Local Government Structures.

Mrs. Watson: Mr. Speaker, I have a question for the Minister of Local Government and he may take it as a written question or he may answer it now. Will the Minister of Local Government undertake to table in this House within the year, proposals whereby Local Government structures can be established in all the Yukon? These local government structures to have the authority and responsibility to levy property taxes in their own jurisdictions. The Yukon Territorial Government should not continue to operate as a quasi local government authority and property taxes should not continue to be a source of revenue --

Mr. Speaker: Order, please. Could I have the prefix of that question. I believe that is a matter of direction would not be considered to an acceptable question in Question Period.

Mrs. Watson: Mr. Speaker I almost made it, didn't I?

Mr. Speaker: I read the question part. The comments are not necessary, I realize it. But my question is will the Minister of Local Government undertake to table in this House within the next year these proposals. That's my question and it's in written form so he may undertake to answer it now or later.

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

Hon. Mr. McKinnon: I'm prepared to delve into the matter further. But my initial reaction would be it would be unnecessary because the legislation is already in place and it's called the Municipal Ordinance. There's well laid out lines where a local improvement district can move to municipal status and gain the same rights and privileges of municipalities in the Yukon Territory.

Mr. Speaker: The Honourable Member from Kluane?

Question re:

Mrs. Watson: Supplementary, Mr. Speaker. I am asking for various proposals and also local government structures that can be established in all the Yukon. Mr. Speaker, the rest of my question would have explained part of the question that was asked.

Mr. Speaker: Perhaps in order to resolve this matter, the question could be accepted as a written question and for consideration of the Minister. Would this be agreeable?

Hon. Mr. McKinnon: Yes, Mr. Speaker, I have no objection. I just want to state one thing, that I just returned from a conference dealing with local government structures across the total part of Northern Canada, including the Northwest Territories and every northern province. There is no further advanced method of unorganized areas receiving funding and moving to a local government structure under the L.I.D. Ordinance, and then moving into the full municipal status under the Municipal Ordinance. There is no more generous system of funding for local improvements anywhere in the Yukon Territory, and I think all members at this Assembly can be proud that the Y.T.G. is further along these lines than any other government or any other jurisdiction in the total part of Canada.

Mr. Speaker: The Honourable Member from Kluane?

Question re:

Mrs. Watson: Mr. Speaker, supplementary. These local government structures, to have the authority and responsibility to levy property taxes within their own jurisdiction, and this, I would hope that the Honourable Member would take it as a written question and give it the consideration which I hope he would in his answer.

Mr. Speaker: The question will be considered a written question. The Honourable Member from Pelly River?

Question re: Land Permits for Seismic Exploration

Mr. McCall: Yes, Mr. Speaker. I have a question for Mr. Commissioner. Would the Commissioner provide this House with the number of land permits that were issued for seismic exploration on the Yukon portion of the Dempster Highway for this year?

Mr. Commissioner: Mr. Speaker, this information is available. As to whether or not I can procure this information you know, as rapidly as what the Honourable Member might like, this would be another question, but certainly it is available and will be provided as promptly as possible.

Mr. Speaker: Thank you. The Honourable Member from Ogilvie?

Question re: Utilization of Yukon Teachers

Ms. Millard: Mr. Speaker, a question for the Minister of Education. In Motion 10 of our last session, it was resolved that the Minister of Education explore the possibilities and implement as soon as economically feasible, a program to strengthen the utilization of Yukon teachers. I would like to know that has been done so far, and that could be taken as a written question.

Mr. Speaker: Well I'm just wondering if this -- the answer would be similar to the answer given to an earlier question in the question period. However, I will permit the Minister to answer that question.

Hon. Mr. Lang: I will take that as a written question, Mr. Speaker.

Mr. Speaker: Thank you. The Honourable Member from Hootalinqua?

Question re: Assessment on Property in Outlying Districts

Mr. Fleming: Yes, Mr. Speaker, I have a question for the Minister of Local Government regarding assessments and taxation. In the case of -- I must explain, so he can realize what I am speaking about -- in the case of the selling properties in the Yukon Territory, and I'm not speaking municipalities, I don't think, say the outlying districts, they sell a piece of property for say \$200.00, then on the Agreement of Sale you have a clause which reads you must place say \$3,500.00, \$2,500.00, whatever, on that property to obtain the title for such property. Upon doing your work, you might even call it assessment work to gain your title, they do send you the tax notice, I think, with the explanation that there is \$3,500.00 worth of improvements on that property.

Mr. Speaker: Could the Honourable Member get the question?

Mr. Fleming: Yes. Does that \$3,500.00 carry on forever and ever in the assessment, or is that assessed at the proper -- the figure that the assessment officer does bring down? In other words, does that stay there forever, that amount of money as an assessment?

Hon. Mr. McKinnon: Well, Mr. Speaker, every five years there is supposed to be a reassessment. If the Honourable Member can bring us -- the property to the attention where the Yukon Territorial Government is not fulfilling the terms of the Taxation Ordinance, we would be very happy to go out and reassess the property. In fact, through the increase of minimum taxation, I have found all kinds of properties where I'm sending the assessor out to reassess and gain more revenue for the Government of the Yukon Territory.

Mr. Speaker: The Honourable Member from Klondike?

Question re: Land Use Permits for Oil and Gas Exploration

Mr. Berger: Yes, Mr. Speaker. I had a question for Mr. Commissioner, but the Honourable Member from Pelly jumped me to the gun, but I have a similar question, a little more explicit. How many land use permits were issued to date for oil and mineral exploration along the Dempster Highway, and to whom. Mr. Commissioner can take it as a written question.

Mr. Speaker: The Honourable Member from Ogilvie?

Question re: Complaints Concerning Rent Controls

Ms. Millard: A written question to Mr. Commissioner. How many complaints have been received by the administration concerning rent controls to date, and what plans do they have in regards to rent controls in the Yukon?

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

Question re: Rates of pay for Substitute Teachers

Ms. Millard: A written question to the Minister of Education. What are the rates paid to substitute teachers, and why is there a difference between elementary and secondary teachers?

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

Hon. Mr. Lang: Mr. Chairman, it's \$31.00 and \$38.00, and the way I understood it, it was brought in by agreement by the Y.T.A. at the time.

Mr. Speaker: The Honourable Member from Ogilvie?

Ms. Millard: Mr. Speaker, just on privilege, I would like that as a written answer, please.

Mr. Speaker: Are there any further questions?

We will proceed then with the Orders of the Day. There being no Motions on the Order Paper, or no Bills for processing this morning, may I have your pleasure at this time?

The Honourable Member from Pelly River?

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

Mr. Speaker: I 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 into Committee of the Whole for the purpose of discussing Bills, Sessional Papers and Motions. Are you prepared for the question?

Some Members: Question.

Mr. Speaker: Are you agreed?

Some Members: Agreed.

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

(MOTION CARRIED)

MR. SPEAKER LEAVES CHAIR)

COMMITTEE OF THE WHOLE

Mr. Chairman: I now call Committee to Order and declare a brief recess.

RECESS)

Mr. Chairman: I now call this meeting to order. As indicated before we recessed yesterday, the government wished to bring in further revisions to Bill Number 1, which are now before you.

Hon. Mr. McKinnon: Mr. Chairman, I believe the normal way that the Committee has handled this is for the Chairman to go through the amendments that are presented, and discussion to ensue from the amendments which have been offered.

I might say, Mr. Chairman, that in many of the Sections where controversy was between the P.S.A.C. and the government, that I think that when we come to the amendments in areas such as transfers and political office, that you will see that the government has come a long way towards meeting some of the objections that were presented by the P.S.A.C. brief, and also by members around this table. I hope that that's in the spirit of compromise which we will be able to expect from both sides, and that we end up with a workable and a good piece of legislation, Mr. Chairman.

Mr. Chairman: I will proceed with reading the revisions and then ask for a Motion of amendment.

Page 5, change heading to "Powers and Duties of Public Service Commission".
Clear?

Some Members: Agreed.

Mr. Chairman: Ms. Millard?

Ms. Millard: Mr. Chairman, just for clarification, are we going to also go through the Ordinance again for further amendments after the government –

Mr. Chairman: At the conclusion of the discussion of

these amendments, we then will go through each part, just to introduce it if there are further amendments to be made.

Page 5, insert new subsection 9(1) (b):

(Reads Sub-section 9(1) (b))

All subsequent sub-sections are, subsequent paragraphs are relettered.

Ms Millard?

Ms. Millard: Does this mean that 9(1) (b) is deleted?

Mr. Chairman: No, it is now 9(1) (c).

Page 6 -- is that clear?

Some Members: Agreed.

Mr. Chairman: Page 6, Sub-section &(3) is deleted and inserted:

(Reads Sub-section 9(3))

Clear?

Some Members: Clear.

Mr. Chairman: Page 11. Section 39:

(Reads Section 39)

Clear?

Some Members: Clear.

Mr. Chairman: Page 16, Section 64(1) is deleted and replaced.

(Reads Section 64(1))

Clear?

Some Members: Clear.

Mr. Chairman: Page 29, add new sub-sections to Section 131. 131(2):

(Reads Sub-section 131(2))

Mr. Chairman: Section 131(3):

(Reads Sub-section 131(3))

Mr. Chairman: New heading prior to Section 133, "Abandonment".

Mr. Fleming: Let's take it a little slower so we will have a little time to study some of it.

Mr. Chairman: 130(6):

(Reads Section 130(6))

Mr. Taylor?

Hon. Mr. Taylor: Have we cleared page 29 as yet?

Mr. Chairman: One thirty-one two and one thirty-one three. Mr. Fleming?

Mr. Fleming: Mr. Chairman, at this time may we speak on the Motion?

Mr. Chairman: Yes.

Mr. Fleming: Or any amendment to the Bill. An employee may appeal the written acceptance of his oral resignation by the Deputy Head or Unit Head to the Public Service Commissioner within 10 working days of the receipt of the acceptance.

I think that back in the Ordinance somewhere in this Ordinance, that if the person does resign and turns in his resignation he still has 10 days within which to say, no thank you I think I'll stay on my job, if it's his prerogative, you know.

I'm wondering here if this don't take away that right or if that right should still be there. Due to that being an oral resignation more or less and nobody can prove yes or no anyway in the first place. And I'm wondering if he shouldn't have that, still have that choice.

Mr. Chairman: Mr. McPhail?

Mr. McPhail: Mr. Chairman, the reason for the appeal is to protect the very concern that Mr. Fleming has so the employee can be assured that if there's any doubt, there's a place for an appeal.

Mr. Chairman: Mrs. Watson?

Mrs. Watson: Mr. Chairman, I think it's quite significant for Mr. Fleming to realize that this has nothing to do with written resignation. This is only with oral resignations. This 10 days has nothing to do with any written resignations that have been submitted.

Mr. Chairman: Mr. Fleming.

Mr. Fleming: Mr. Chairman, I think the Honourable Member is really trying to tell me something, but I understand that, it is more or less a written resignation. I'm saying it is written because of the fact that when he gave his oral resignation, which I'm saying he may have given, he just may have given it. He may not have given it. But the Deputy Head said you did give it so that was the conflict I was about yesterday. There would be a squabble over as to who was there and there was only two witnesses and that's it.

So who is right and who is wrong. But the Deputy Head in the meantime gives him acceptance of that oral, but it's nothing yet, it's still nothing. Then he receives his written acceptance or and he has 10 days, and he can appeal it in this case. But he has no way of saying "No, I'm going to stay on the job." Has he? Maybe he did nothing in the first place. He may not have even said anything about quitting in the first place but they gave him termination letter saying you know and he accepts it and then later he has no right to say "No, I'll stay on

the job." That's what I'm saying, he's still.

Mr. Legal Advisor: Mr. Chairman the basic position is as the discussion was yesterday, the question arose as to a dispute between, say a foreman and a workman, as to whether or not the guy did say I quit next Thursday. So the suggestion was that there should be some decision making power, an appeal for the guy to say I really didn't mean it, it wasn't a resignation or something.

So there must be a written acceptance and then if he says I didn't resign, he can appeal. The most we can do is provide him with special witnesses.

Mr. Chairman: Ms. Millard.

Ms. Millard: I think I can clarify some things for the member from Hootalinqua, because it reads me that the concession isn't all that great. The appeal only goes to the Public Service Commissioner it does not go to adjudication. I think that should be point out to all members.

Mr. Chairman: Mr. Lengerke.

Mr. Lengerke: Mr. Chairman my only point was this, the written acceptance is delivered to the fellow that was resigning. In other words he has to have that in hand and I think there's been some suspect that the Deputy Head or whoever is going to write a written acceptance and shove it in his drawer and say I accept this kind of thing. It's going to be delivered.

Mr. Chairman: Clear?

Some Members: Clear.

Mr. Chairman: Page 30, Section 136.

(Reads Section 136(1))

Mr. Chairman: Section 136 is deleted and the new Section 136 is as follows: One thirty-six, two

(Reads Section 136(2))

Mr. Chairman: One thirty-six three.

(Reads Section 136(3))

Mr. Chairman: One thirty-six, four.

(Reads Section 136(4))

Mr. Chairman: One thirty-six, five.

(Reads Section 136(5))

Mr. Chairman: One thirty-six six.

(Reads Section 136(6))

Mr. Chairman: One thirty-six, seven.

(Reads Section 136(7))

Mr. Chairman: One thirty-six, eight.

(Reads Section 136(8))

Mr. Chairman: One thirty-six (9):

(Reads Clause 136(9))

Mr. Chairman: One thirty-seven -- I will finish this section, I think they are related.

(Reads Clause 137)

Mr. Chairman: Mr. McCall?

Mr. McCall: Yes, Mr. Chairman, amendments 136 and 137, I have got to honestly admit that this is a long way from yesterday, and it's a far better compromise as far as I'm concerned.

Mr. Chairman: Mr. Berger?

Mr. Berger: Yes, Mr. Chairman. I have to agree with the Honourable Member from Pelly River, but there's still a question -- a question in my mind is we could have saved ourselves just about a whole page of paper if the administration would have considered just inserting on the second line after "any time", "with the consent of the employee". It doesn't need to have any appeal proceeding. If the employee consents for transfer and he agrees to everything, there's no need for an appeal procedure afterwards.

Mr. Chairman: Clear?

Some Members: Clear.

Mr. Chairman: Page 36, correction page 35. Sections 164 will replace Section 164:

(Reads Section 164)

Mr. Chairman: Clear?

Some Members: Clear.

Mr. Chairman: Page 36, Sections 165 to 171 are deleted, and replaced by new Sections.

Mr. Chairman: Section 165:

(Reads Section 165)

Mr. Chairman: One sixty-six:

(Reads Section 166)

Mr. Chairman: One sixty-seven (1):

(Reads Section 167(2))

Mr. Chairman: One sixty-eight (1):

(Reads Section 168(1))

Mr. Chairman: One sixty-eight (2):

(Reads Section 168(2))

Mr. Chairman: One sixty-nine(1):

(Reads Section 169(1))

(Reads Section 169(2))

(Reads Section 169(3))

Mr. Chairman: One seventy:

(Reads Section 170)

Mr. Chairman: One seventy-one:

(Reads Section 171)

Mr. Chairman: Mr. McCall?

Mr. McCall: Yes, Mr. Chairman. Here again, I must compliment the government on this language. I think it's a substantial giant step forward in a better understanding. There is only one question, or a question of clarification here.

In 167sub(2), and 168 (1), could I have some clarification there? It seems a little ambiguous.

Mr. Chairman: What sections?

Mr. McCall: 167 sub(2), 168 sub (1). There seems to be a slight conflict in the language as you read through the sub-sections.

Mr. Chairman: 167, sub (2), 168 sub (1)?

Mr. McCall: Yes.

Mr. Chairman: Mr. Legal Advisor?

Mr. Legal Advisor: Mr. Chairman, I can't see that there's a conflict. It just appears to me that what 168 says is that notwithstanding anything else you do, employees may not go out fund raising, and there are perhaps good reasons for this, treated as a special case. Fund raising is possibly a bit different from ordinary political activity, and there are government employees who are in a position in some departments to do a little arm twisting that should not be possible.

Mr. McCall: Well all I am saying here, Mr. Chairman,

is it the Legal Advisor's opinion that as you read through Sections 165 through to 170, you do not feel there would be a conflict in any way, shape or form as to that particular language, slotted where it is?

Mr. Legal Advisor: That's my opinion at the moment, Mr. Chairman. When we're through two or three law cases, my opinion might be different.

Mr. Chairman: Mr. Fleming?

Mr. Fleming: Thank you, Mr. Chairman. I wonder if the Legal Advisor could give me the meaning -- or how far that goes. Any government policy which he has been instrumental in formulating.

Now, the managerial staff and so forth I can see this, but an employee, for instance, an ordinary employee, an operator or something like this, you consider that that person could have anything -- would have any knowledge that would affect him in any way.

Mr. Legal Advisor: Mr. Chairman, there are many officers who are consulted in the formulation of policy, who do not do any managing. I can see, without giving factual examples, that in say the Game Department, they may have a variety of specialists who would be advocating particular environmental views, so there is a departmental internal conference, and the thing is thrashed out and a government policy is agreed.

It's considered that it would be improper then for one person in the group who had been part of and had a say, to go out and campaign against the government when he was part of the formulation of the original policy.

Mr. Chairman: Mr. McCall?

Mr. McCall: I just have one question for Mr. McPhail, Mr. chairman. Being of a very suspicious nature, once this Bill is passed through this House, I was wondering if it would be the intent of administration to have an ongoing rush of reclassifications for individuals going into confidential exclusion?

Mr. McPhail: No, Mr. Chairman.

Mr. Chairman: Mrs. Watson?

Mrs. Watson: Section 169, will all officers of the Public Service Commission be managerial or confidential exclusions? All officers and employees?

Mr. McPhail: Yes, they are excluded under the Public Service Staff Relations Ordinance.

Mrs. Watson: Thank you. That's most important.

Mr. Chairman: Mr. McIntyre?

Mr. McIntyre: I wonder if the Legal Advisor could perhaps in formulating the final Act, change the word "procured" to something with less evil connotations,

such as "obtain"?

Mr. Legal Advisor: Yes, Mr. Chairman.

Mr. Chairman: Mrs. Whyard?

Hon. Mrs. Whyard: Mr. Chairman, I don't know if the Honourable Member from Mayo noted that we changed to lend from "loan".

Some Members: Clear.

Mr. Chairman: Clear? Page 42. Section 192(2)

(Reads Section 192(2))

Some Members: Clear.

Mr. Chairman: Section 192, sub-section (3) is deleted. Clear?

Some Members: Clear.

Mr. Chairman: Mr. Taylor?

Hon. Mr. Taylor: One question. When you say "unless the employee can show that the notice was received on another date", that could be prior to the assumed date or beyond the assumed date, is that right?

Mr. Legal Advisor: Or after.

Hon. Mr. Taylor: Yes.

Mr. Legal Advisor: It's a thing that, Mr. Chairman, which constantly occurs in the court. A person is presumed to have received a date, but when he explains to the court that it was three weeks coming, well then the judge automatically lifts any penalty which may be imposed.

Hon. Mr. Taylor: Real good, thank you, Mr. Chairman.

Mr. Chairman: Mr. Berger?

Mr. Berger: Yes, Mr. Chairman. A question to somebody down at the other end of the table here. Why was it not considered, the wording by mail, why wasn't it considered "registered mail"?

Mr. Chairman: Mr. Commissioner?

Mr. Commissioner: Mr. Chairman, there's probably a legal interpretation to this, but from the common sense point of view, there are many, many locations in the Yukon Territory that it is not practical -- I won't say not possible, but not practical, to use registered mail for the delivery of a notice of this.

Mr. Chairman: Mr. Legal Advisor?

Mr. Legal Advisor: But in the draft as it is here, both are catered for. It permits service by mail, but then if it's served by registered mail, certain things are deemed to have happened, so you may serve either way.

Mr. Chairman: Mr. Fleming?

Mr. Fleming: Yes, Mr. Chairman, that was my question. The concern that I had was actually was that the chance for the person to have proof here that he didn't get that letter is here, and I see it. I'm very glad this happened, because I want to recommend it.

Now, I was only concerned as to the registered part, due to the fact that how does he actually prove that he ever did get it again? You know, this of course can be construed one way or the other, but that was my concern too.

Mr. Legal Advisor: Mr. Chairman, there is no regular method of proof, it's just a question of fact of what you tell the judge, and it's always a difficulty in law cases to prove service.

Mr. Chairman: Mr. Berger?

Mr. Berger: I still didn't quite get why the registered mail is not acceptable, because I think -- I'm not only looking at the employee's side, I'm also looking at the employer's side.

If the employer says he mailed it registered, well it would be proof on the employer's side, and also that the employee received it on a certain day.

Mr. Legal Advisor: Mr. Chairman, with respect, what the Section says is, you may serve personally or you may serve by mail. The expression to serve by mail includes registered mail, so the section means that you can serve personally or you can serve by ordinary mail or you can serve by registered mail.

The section then goes on and says, if however, you do choose registered mail, which is in the section, then he is deemed to have received it after a certain time unless he proves otherwise.

Some members: Clear?

Mr. Chairman: Page 45, Section two oh three. The first portion is revised to read in total.

(Reads Section 203)

Mr. Chairman: Section two oh five is replaced. Is deleted and replaced by Section 205 sub-one.

(Reads Section 205 (1))

Mr. Chairman: Section 205, sub-two.

(Reads Section 205 (2))

Mr. Chairman: Section 205, sub-two.

(Reads Section 205 (2))

Mr. Chairman: Section 206, is deleted and replaced.

(Reads Section 206)

Mr. Chairman: Mrs. Watson.

Mrs. Watson: Mr. Chairman, could I go back to one of the sections that we dealt with?

Mr. Chairman: Yes.

Mrs. Watson: I'd like to go back to page 4, Section 167, sub-one. I'm quite concerned about that. I think we're putting our management people in quite an untenable position with this section. Now because political activity means, speaking, writing or working on behalf or against a candidate or a person who is seeking nomination. Now your managerial people could be the butt of a whole campaign. They wouldn't be able to speak at all. So by excluding managerial and confidential people, you're closing their mouths and making them, they can be open to attack. You know the little internal politics that goes on, it's there.

Now they can be open to public attacks and they cannot defend themselves at all. I think it's a very, very, I'm not saying the Public Service shouldn't have the opportunity to take part in political activity, but when you're dividing the line, when you've got a line that group can and that group cannot think we're creating ourselves a terrible problem. I think managerial people from foreman up are going to be the butt of every Territorial Election campaign. It could well be. I think we should give some serious consideration before we put, before we divide it.

Mr. Chairman: Mr. Taylor.

Hon. Mr. Taylor: Are we not, if we're talking about one sixty-seven one, we're going excluding the Deputy Head as I see it. maybe I've got this all wrong.

Mrs. Watson: No, Mr. Chairman, you're excluding managerial or confidential exclusions pursuant to the Public Service Staff Relations Ordinance and that's quite a number of them.

Mr. Chairman: This is one sixty-seven two, I think Mr. McKinnon.

Hon. Mr. McKinnon: Mr. Chairman we took the remarks of the Honourable Member from Kluane into consideration and this is one of the problems of being in the half way house transitory period of government which we are at the present time. Certainly when the elected members are in charge of a department, it is their duty and their responsibility to defend their managerial and their confidential employees where they do not have the ability to defend themselves.

We've even gone further than that where because

appointed members are still in charge of certain departments that the elected members of the Executive Committee have defended managerial and confidential staff in their department when the situation had to arise.

The situation will be cured completely of course, in the very near future which we all hope when elected members will form the total of the cabinet of the Province of the Yukon and of course then the confidential and managerial employees will be protected by the Cabinet Minister responsible for that department. So it's one of those anomalies that come about because of the transition period that the Yukon is in. I don't think that we're going to have that much difficulty with it while we go over this transition period.

I think that there's much, many more problems involved with the managerial and confidential people getting fully involved in a Territorial Election than the examples which the Honourable Member from Kluane states, that's the way that we looked at it. I think that you know, we've moved so far in this area that right now, the Territorial Public employees have total freedom in municipal, territorial and federal elections and there's only managerial and confidential exclusions in Territorial Elections. That's better than all of the Eastern Provinces and the Federal Government and on a par with any of the Western Provinces and much better than our sister in the Northwest Territories also, I must add.

Mr. Chairman: Mrs. Watson.

Mrs. Watson: Mr. Chairman, I agree that at the top level of the managerial exclusion the elected people will be able to provide that protection. But my concern is at the lower level with the managerial exclusions and at the local level of campaigning. I think this is where we're going to have problems. I don't know how you're going to get around it but maybe you should look at your levels of managerial exclusions. I mean there's enough political now and they're not allowed to work along with political activity. You're going to have problems.

Hon. Mr. McKinnon: Mr. Chairman, as I understand it, all road foremen, except one, are not managerial or confidential exclusions, and they can wade right into it.

Mr. Chairman: Mr. Commissioner?

Mr. Commissioner: Yes, just so that Honourable Members don't lose track of this fact, it is not an option of the Territorial Government who a managerial or a confidential exclusion is. This is the prerogative of the Public Service Staff Relations Board, so I want to make that clear, Mr. Chairman, so that all members understand that.

Mr. Chairman: Mrs. Watson?

Mrs. Watson: Mr. Chairman, I'm quite prepared to let this issue drop for now, but I would certainly hope,

and I want it to go down in the record, that a review be made of this Section after a federal by-election or a federal election, and particularly after a Territorial election. So that a very specific review be made so that if it is necessary, that adjustments can be made. Shall we try it for once?

Mr. Chairman: Mr. Commissioner?

Mr. Commissioner: Mr. Chairman, I hope that Honourable Members are not losing track -- or losing sight of the fact that in the course of the, probably the fall session of Council, that a completely revamped Territorial Elections Ordinance will be here before you, and undoubtedly in matching up the two Ordinances as they apply to public servants, there will be another opportunity for safeguards or the discussion of potential safeguards, along the lines that the Honourable Member is speaking of. I simply mention this, Mr. Chairman, so that Honourable Members are not losing sight of the fact that there is another companion Ordinance. That at the present time they do not have control of, as a consequence of delegating the operation of Territorial Elections to the Federal Elections Act, that this is going to be getting brought home and it will be a further opportunity for safeguards at that time, that Honourable Members can address themselves to.

Mr. Chairman: Mr. Berger?

Mr. Berger: Thank you, Mr. Chairman. I just about forgot what I had to say.

The Honourable Member from Kluane, I think, hasn't raised the concern, I don't think it shouldn't be a concern, because it is safeguarded is here in 168 (2) under section (a) (b), and the only attack I could possibly visualize on the local level would be a personal attack, and there is nothing in this Ordinance that restricts the supervisor not to go back on a candidate on a personal basis.

But I think on policy matters with concern to the Territorial government, I think there's enough safeguards in here to protect the local supervisor or unit head.

Mr. Chairman: I will now entertain a Motion.

Hon. Mr. McKinnon: Mr. Chairman, I move, seconded by the Honourable Member from Whitehorse West, that the amendments to Bill Number 1, as read from the Chair, be adopted as written.

Mr. Chairman: It has been moved by Mr. McKinnon, seconded by Mrs. Whyard, that the amendments to Bill Number 1 as read from the Chair be adopted as written. Are you ready for the question?

Some Members: Question.

Mr. Chairman: Mr. Berger?

Mr. Berger: There's one question here. Does this mean

that now that we can't come in with any further amendments?

Mr. Chairman: No, Mr. Berger.
Ms. Millard?

Ms. Millard: A further question to that. Are we not going to vote on each one individually?

Mr. Chairman: No we're not. Are you ready for the question?

Some members: Question.

Mr. Chairman: All those in favour?

Some members: Agreed

Mr. Chairman: Contrary? The motion is carried.

(Motion carried)

Mr. Chairman: Mrs. Whyard?

Hon. Mrs. Whyard: Mr. Chairman, I would just like at this stage in the Committee to express appreciation to members of the staff who worked long hours last night in order to prepare these amendments for consideration this morning. We did appreciate it in the Legislative Programming Committee, and I'm sure all members would agree, and I would specifically address these remarks to the Legal Advisor and his staff, and Mr. McPhail and our own secretaries.

Some Members: Hear, hear.

Mr. Chairman: Well there will be further amendments forthcoming, no doubt, and I think it would be appropriate that they be given time to reconsider and view of the amendments that have now been passed, and I would suggest that we now recess until 1:30 p.m.

(ADJOURNED)

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

Apparently there has been some confusion arise as to the procedure that we were following in the debate of Bill Number 1. The clause by clause reading was carried out with the understanding that the opportunity for amendment would be forthcoming following the conclusion of this first reading.

Amendments were then introduced by the government, these were read by the Chair and ample opportunity was given for debate and for amendment to these amendments.

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amendments.

A motion was then introduced that the amendments to Bill Number 1 be adopted as written and this Motion carried. As previously decided by Committee, the Chairman would then call out each part, with a call for further amendments. I would remind Committee, the Chairman would then call out each part, with a call for further amendments. I would remind Committee that a Motion is out of order if it repeats something already decided by Committee.

Ms. Millard?

Ms. Millard: Mr. Chairman, I certainly must register my consternation that these things were not made clear before we had any vote on the amendments that were brought forward to us.

In the copy of Hansard that I have, I was trying to make it clear for myself what the procedure would be. I said just for clarification, are we going to also go through the Ordinance again for further amendments after the government, and it was interrupted by yourself saying: "At the conclusion of the discussion of these amendments, we will then go through each part, just to introduce it, if there are any further amendments to be made.

My understanding at that point was that we could amend any part of those parts, because it was not clearly stated that we could not amend anything that was being brought forward in the next few minutes. I find it really sloppy that this wasn't understood. There wasn't enough debate on the amendments that were brought forward by the government. Certainly I would have led the debate on those amendments, had I understood that we were going to first of all vote on them in lump, which I didn't understand either.

I thought if we were going to vote on them at all, we would vote on them section by section, so that we would have the chance to register our disagreement with any part of it. Instead, we went ahead and voted on the thing in lump, and there was very little debate on it. I feel that it is a totally undemocratic way to operate.

Mr. Chairman: Ms. Millard the opportunity was given during the reading of the amendments and each section was called out and the phrase used was "clear", at which time debate was available. At that time the Chair was available for any Motions. The Motion that was put was that those amendments be adopted as read. That Motion did carry.

Ms. Millard: Mr. Chairman, I must point out that I disagreed with that Motion and it should be in Hansard that I disagreed with that Motion. I disagreed because I wanted to vote on each one separately. I still would have voted on each one separately with the understanding that it could be, have further amendments to that amendment. I still find it hard to accept the fact that we can't amend an amendment. I thought that was normal parliamentary procedure and I object very strongly.

Mr. Chairman: I will read from Beauchesne under citation 397 in part reads: Each clause is a distinct question and must be separately discussed. When a clause has been agreed to it is irregular to discuss it again on the consideration of another clause. Amendments must be made in the order of the lines of the clause. If the latter part of a clause is amended, it is not competent or a member to move to amend an earlier or antecedent part of the same clause.

Ms. Millard: May we then have a definition of what a clause consists of so I won't be making amendments that are out of order in the next while.

Mr. Chairman: Well Ms. Millard I think it is encumbant upon every member of this Committee to exercise their competence to carry out parliamentary procedures and I can't be responsible for everyone not being cognizant of what the parliamentary procedures are. Mr. Berger?

Mr. Berger: Thank you, Mr. Chairman. I have to rise in disagreement with the ruling because, as every member in this House was aware of, I stood up and questioned the Chair if this means that we can not bring any further amendments down. The Chair said to me yes, you can bring further amendments forward. I was definitely not referring to the Bill Number 1 as a whole because we weren't discussing it at the time. We were discussing the amendments to Bill Number 1. I think the Chair made a mistake in the ruling, to me I think I shoun't be suffering because of that.

Mr. Chairman: I would quote Hansard again, Mr. Berger. There is one question here that does this mean now that we can't come in with any further amendments? Mr. Chairman: No, Mr. Berger."

The situation does exist that you can't bring in further amendments.

Mr. Berger: Mr. Chairman, is this to the amendments that the government put forward?

Mr. Chairman: I've already dealt with that Mr. Berger.

If it please you I can ask Mr. Speaker to resume the Chair and give us a ruling.

Mr. Berger: Mr. Chairman, I think it is unnecessary exercise because I know the Speaker's ruling off hand right now. But the thing is Mr. Chairman, was well aware of that I was not referring to the Bill Number 1. I was referring to, as I stated my question, to the amendment the government had brought forward to this House this morning. It's the only part we dealt with this morning.

Mr. Chairman: Mr. Fleming?

Mr. Fleming: Mr. Chairman, I just must rise because I think the two members do have a point. I, myself, was

slightly confused, and I don't know whether every other member here knows as much about what passed this morning as he says he does now, because it would only be somebody that had a little opposition to some of the things that would speak up for it right now.

But I am wondering if the Chair really got it across this morning, in the wording that was asked at the time, as to whether we could do this or not, and I would have to see that wording somewhere before I would agree to it that it is right, Mr. Chairman, now.

Mr. Chairman: I will ask for a ruling from the Speaker.

Mr. Taylor?

Hon. Mr. Taylor: Mr. Chairman, I am somewhat distressed that perhaps there have been, on behest of some members, some misunderstanding in procedures this morning I must say as a member, that the annotation you have cited from Beauchesne, clearly describes the situation. It is unfortunate that perhaps some members did not understand the procedures.

These are procedures that have been used in this Committee for many years, and certainly this situation has -- not situation, this procedure has been used in several of the sessions that this legislature has sat at, and it is just unfortunate that there was that misunderstanding.

But I must say, Mr. Chairman, that I must agree that your ruling, and your noted citation under Annotations of Beauchesne is correct. The question having been decided, cannot be again considered or decided at the same session.

Mr. Chairman: Ms. Millard?

Ms. Millard: Well, Mr. Chairman, I must point out that it was made clear to us, apart from what Beauchesne has said, or you have repeated what Beauchesne says, that the Committee makes its own ruling, and its own rules of procedure that it can do that, and you have proceeded to change the rulings anyway by saying that we are going back a thrid time or a second time, and go through and look at each part.

So you have changed the ruling that Beauchesne has said already. Now you are using him to support something else. I think that's very wrong. If you're going to change these things, you should make--

Hon. Mr. Taylor: On a point of order, Mr. Chairman--

Ms. Millard: --it is very clear to us what is happening.

Hon. Mr. Taylor: -- a point of order.

On a point of order, Mr. Chairman, it is a grave disrespect of a Committee to reflect upon the actions of the Chair, and I would suggest that this be understood by all members.

Ms. Millard: Mr. Chairman, I --

Mr. McCall: I would like to request from the Chair that we have a five-minute recess while we clear this up, this confusion.

Mr. Chairman: Mrs. Whyard?

Hon. Mrs. Whyard: If I may make a suggestion, Mr. Chairman, I think what the Honourable Member is attempting to do is bring in her proposed amendments to Sections which we did not touch in the Bill, and I presume this would be in order, if they are not the same subject matter as the amendments which we have already passed. Can they be considered in this committee?

Mr. Chairman: Mrs. Whyard, I think what the Member is trying to bring forth is she wants to amend the amendments that have already been considered by Committee and voted on.

There is still room under what we decided before to bring in further amendments, and that is what we intend to proceed with now.

Hon. Mrs. Whyard: That's the point I was trying to make, Mr. Chairman.

Mr. Chairman: Mr. McKinnon?

Hon. Mr. McKinnon: Mr. Chairman, if one goes back in the history of my time in this House, you will find that I have never prevented or stopped the ultimate in debate, whether it was filibuster or any matter, shape or form, that always when anybody wanted the opportunity to debate more, that was always given.

The other fact is that there is no possible way that, now that we have had the Motion and ruled on it, that we can open that subject matter which was voted on again. I want to tell all the members I got burnt something silly for the first couple of years that I was here, because I did not know the rules of debate and the rules of procedure. And after two years, I learned the rules of debate and learned the rules of procedure, because I was sick and tired of getting burned by those Parliamentary experts who were just a little bit sharper than I was.

I am only going to say that there was no attempt from the government side to try to pull the wool over anybody in this debate, and if there was any possible way that we could open the debate again, because people thought that they were hoodwinked, the government would do that, because we have no intention of stifling debate.

The Chairman and the Speaker are absolutely right. Once the subject matter has been dealt with by Motion and voted on, we are dead, and that's the fact of the matter.

Mr. Chairman: Thank you, Mr. McKinnon. With deference to your remarks it is the responsibility of the Chair to reopen it if possible, not the government. And I cannot reopen it.

Hon. Mr. McKinnon: Mr. Chairman, if the govern-

ment can assist the Chair in opening the debate, we would bend over backwards.

Mr. Chairman: It's just that I do not want to be aligned so closely with government, Mr. McKinnon. Mrs. Whyard?

Hon. Mrs. Whyard: Mr. Chairman, I don't mind being aligned with government. But it is still possible for the Honourable Member to pursue her course and introduce items which have not already been passed upon.

Mr. Chairman: That is our intention and I would like to proceed this way at this time if we are in agreement?

Some Members: Agreed.

Mr. Chairman: We will proceed with Bill Number One. Part One. I will simply read out the parts and ask for amendments. Ms. Millard?

Ms. Millard: Mr. Chairman, moved by myself and seconded by the Member from Klondike, that the definition for casual employee be amended to delete the words "casual or temporary" in the second line and the word "intended" in the third line. And replacing "casual or temporary" with "non-recurring".

Mr. Chairman: I will accept that Motion, Ms. Millard, but as I pointed out yesterday, every effort must be made to bring amendments forward as soon as possible so that they can be considered by members of committee, so that they may be debated adequately. At this time I will declare a five minute recess and if you could bring in as much as possible of the amendments that you intend to bring forward that applies to all members of committee-- I will now declare a five minute recess.

(RECESS)

Mr. Chairman: I will now call this Committee to order. There have been a number of amendments that have been presented to me, but because of the large number of amendments it's going to take a considerable length of time for these to be printed. We will simply have to wait for the printing of them or, alternatively, we can proceed, if you are willing to accept the oral transmissions of the amendments. Mr. Taylor?

Hon. Mr. Taylor: Mr. Chairman, in the presentation of an amendment, just the basic rules of course are that they first must be presented by a Member orally and then the Chair should be presented a copy, and the amendment does not become considered until it is read from the Chair. I would think that if these can be photocopied and, you know, this done, this would be the approach.

Mr. Chairman: Well, that's what we're trying to do, Mr. Taylor, but I'm pointing out that this takes a considerable length of time and it will just not be available to

Committee unless it's a very protracted time that we're dealing with. Mr. Berger?

Mr. Berger: I just have another suggestion for the Committee. Maybe we could waive the reading of amendments for this day and continue on with some other bills.

Mr. Chairman: Well, I will leave that up to Committee, but personally I think that we should proceed as soon as

Hon. Mr. Lang: Mr. Chairman, how long would it take to run off the copies of these amendments, about half an hour?

Mr. Chairman: It would take about an hour to run them all off. We can proceed in part with some of them now. I would suggest that we do proceed with what we have.

Mr. McIntyre: Couldn't we have them done one at a time and bring them in as they are run off?

Mr. Chairman: That's what we're trying to do.

Hon. Mr. Lang: I would suggest that's the way to proceed.

Mr. Chairman: The other thing. There are a number of these Motions that may well require a ruling whether they are a repeat of something that is already been decided by Assembly and the Chair will make decisions regarding this to accept the Motions or not. We'll have to appeal to Committee for help in these rulings. Ms. Millard.

Ms. Millard: Yes, Mr. Chairman, may I point out that there are a number of them that won't be considered either, because some of them are repeat of other things.

Mr. Chairman: The Motion of course has not yet been put forth. Let us proceed with your first Motion, Ms. Millard.

Ms. Millard: I don't have a copy myself.

Hon. Mr. Taylor: Well, Mr. Chairman, the Honourable Member can quote it from memory.

Ms. Millard: Mr. Chairman, my first Motion which I read previously, I would like to withdraw.

Mr. Chairman: The seconder?

Ms. Millard: Secunder withdraws also.

Mr. Chairman: Does Committee agree?

Some Members: Agreed.

Ms. Millard: The Motion then will read, moved by myself, seconded by the Honourable Member from Klondike that the definition "employee" be deleted as read and amended to read "employee means a person appointed to or employed in a position in the Public Service."

Mr. Chairman: It has been moved by Ms. Millard, seconded by Mr. Berger, that "employee" be deleted as read and amended to read "employee means a person appointed to or employed in a position in the Public Service." Any discussion?

Hon. Mr. Taylor: Well, Mr. Chairman, we don't have copies of this amendment. What is the difference between this proposed amendment and the way the Ordinance is presented to us. What's the different wording, we have nothing to go by here

Mr. Chairman: Ms. Millard.

Ms. Millard: Mr. Chairman, the difference is in the words that are inserted "or in employed in", which simply defines it more closely so that a person who hasn't gone through the actual appointment procedure, but still is employed, is considered an employee.

Mr. Chairman: Mr. Lang.

Hon. Mr. Lang: In other words Mr. Chairman, if that was to be introduced into that, into the interpretation of the meaning of employee, it would nullify our definition of casual employee, which is very important. It's the most crucial definition in the Ordinance. I can't agree with it Mr. Chairman.

Mr. Chairman: Are you ready for the question? Mr. McKinnon?

Hon. Mr. McKinnon: Mr. Chairman, I wonder if we could ask the Legal Advisor. He has given us an explanation of what that would do to the intent of the Ordinance if it was amended to read "or employed in a position in the Public Service"?

Mr. Legal Advisor: I take it, Mr. Chairman, that the amendment -- that I have it right here. "An employee means a person appointed to or employed in a position in the Public Service".

The effect would be that if you employ a casual person without an appointment in a position, then he is covered by the Ordinance. It becomes doubtful exactly what it is. It wasn't our intention in drafting to use the words "employed in" because of this doubt. We wanted to separate it into two distinct segments. The permanent employees who have appointments, and the casuals who are merely employed by the government. This mixes the two together in a way which is difficult to handle.

I couldn't give you -- you know, being quite honest about it, I couldn't say it would destroy the Ordinance,

in the sense it would destroy the intent, but it raises the doubt for the rest of the Ordinance.

Mr. Chairman: Ms. Millard?

Ms. Millard: Well Mr. Chairman, in that regard, yes, definitely, this first definition does mess things up a bit. It has -- just to throw in some more confusion, it has to be considered in conjunction with other motions that are making other definition changes. For instance, established position, the motion is to delete it, and replace it by another definition of position. There are permanent positions, temporary positions, and the word casual employee is also asked to be amended, so that unfortunately this Motion has to be in consideration with other Motions changing other definitions, yes, otherwise it doesn't make sense.

I don't know how you want to handle that one.

Mr. Chairman: Mr. McCall?

Mr. McCall: I think we are running into another area of confusion, Mr. Chairman. I believe when we started the reading of this Bill, I myself got up and put forward suggested amendments at that point, not in the form of a Motion, to a particular section or part of this Bill, as we started reading through it.

I was left with the understanding that this is what we would be attempting to do if there was any amendments coming forward after we have read the Bill for the first time in Committee. What I can see, at this point in time, are individual motions to individual amendments. We're going to run into a lot of problems, because we will finish up inasmuch as defeating each motion as we present it, for the simple reason that as we are moving through each section or part of the Bill where amendments will be coming forth, there is no, shall we say, consensus within the amendments, because we will be ruling them all out individually.

I think the mover of the motion should consider this, when the motion is being put forward as per part or section. If there are necessary amendments, then they would have to be put in block form under the motion, so that we are fully aware and understand what the intent is.

Mr. Chairman: Yes, I agree, Mr. McCall. I would only add that the first time such subject is introduced in that part, the Motion could be brought forward to all subsequent parts.

Ms. Millard: Well, Mr. Chairman, could I amend the original Motion and just read all the definitions, if that would be easier, and make that one whole Motion? Is that better?

Mr. Chairman: It's your Motion, Ms. Millard.

Ms. Millard: Okay, I would like to amend the Motion which I just put forward --

Hon. Mr. Taylor: Mr. Chairman, perhaps we -- obviously the Honourable Member is well -- mover of this amendment is well knowledgeable in the reasons behind the amendment. Perhaps she could stand up and explain what the real reason is, what is intended, how it affects the Ordinance and what she is driving at in the presentation of the Motion?

Ms. Millard: The intent of the Motion is to define more clearly what casual employee consists of. It is also to define more clearly the separation between a casual and a permanent position. It is adding the concept of a temporary position, which has been called in here seasonal position, so that the effect of the whole -- I find myself repeating what is already in the Y.T.P.S.A. -- in the Public Service Alliance brief, and these are amendments that are put in there for members' enlightenment.

I will repeat what that says to the best of my knowledge and that is that again, it defines what a casual employee is, much more specifically. It gives an additional position of temporary position which will be for a specific period of time, and that's mostly what it is. A casual employee is simply one who is in a non-recurring position, one who can't be reemployed in the same position year after year.

Mr. Chairman: What Motion are you speaking to, Ms. Millard?

Ms. Millard: Well Mr. Chairman, like I said before, if someone would wish to amend the Motion that I have, I will be quite glad to include all the other definitions so that the original Motion makes more sense.

Mr. Chairman: Would it not be simpler for you to simply withdraw the Motion that you now have?

Ms. Millard: Withdraw it.

Mr. Chairman: Mr. Berger?

Mr. Berger: Yes.

Mr. Chairman: Is committee agreed?

Some Members: Agreed.

Ms. Millard: Mr. Chairman, I would like to make a Motion, seconded by myself -- seconded by -- that is what's going to happen. I would like to make a Motion, seconded by the Honourable Member from Klondike, that the definition section of this Bill be changed to read, "Employee be deleted as read and amended to read", "Employee means a person appointed to or employed in a position in the Public Service.

Class be deleted as read and amended to 'class means a group of similar positions requiring same or like qualifications for which the same rates of pay range or pay grades can reasonably be applied'.

Casual employee be deleted as read and amended to

read, 'Casual employee means a person engaged in a non-recurring casual or temporary basis and whose period of employment cannot exceed six months'.

Established position be deleted and -- as read, and the following new definitions added: Position means an aggregation of duties, tasks and responsibilities requiring the services of one individual'.

'Permanent position means an indeterminate full time or part time position approved by the Commissioner'.

'Temporary position means a position required for a specified period of time'.

Establishment be deleted as read and amended to read, 'Establishment means the total of permanent and temporary positions'.

Mr. Chairman: May I have a copy of that please, Ms. Millard?

Mrs. Whyard?

Hon. Mrs. Whyard: Mr. Chairman, I think for the enlightenment of the Honourable Member, we should point out, for the enlightenment of the Honourable Member, that all these points which were clearly covered in the brief presented to us some days ago, were taken into careful consideration by the Legislative Programming Committee, which then brought in the amendments which you have approved today, the amendments for Bill Number 1.

Now this indicates clearly to me that the suggestions made in that brief which have been considered and are not included in the amendments which you have approved, are not acceptable and cannot be included in the Ordinance.

Mr. McIntyre: Why not?

Ms. Millard: Well, Mr. Chairman, I just believe that they are not acceptable to the Executive Committee -- or the Legislative Committee. I think that we have every right to amend whatever is put before us, by proper Motion.

Hon. Mrs. Whyard: Mr. Chairman?

Mr. Chairman: Mrs. Whyard?

Hon. Mrs. Whyard: I was merely expanding on the statement made by the Honourable Member that we should have known about these things. We did, Mr. Chairman, we took them carefully into consideration.

Mr. Chairman: Mr. McIntyre?

Mr. McIntyre: Nothing.

Mr. Chairman: Mr. Fleming?

Mr. Fleming: Mr. Chairman, I'm getting totally confused now. Are we going to read this Ordinance clause by clause, or are we going to read this Ordinance part by

part?

Mr. Chairman: No, Mr. Fleming, we are just going to call out Part I, II, et cetera, at which time any parts of that Motions may be put to amend any Part of that particular Part.

Mr. Fleming: Okay.

Mr. Chairman: And we are now dealing with Part I, and we now have a Motion on the floor, moved by Ms. Millard, seconded by Mr. Berger, that the definition section be revised as follows:

"Employee be deleted as read and amended to read 'Employee means a person appointed to or employed in a position in the Public Service'.

Class be deleted as read and amended to read, 'Class means a group of similar positions requiring same or like qualifications for which the same rates of pay range or pay grades can reasonably be applied'.

Casual employee means a person engaged in a non-recurring casual or temporary basis and whose period of employment cannot exceed six months.'

Established position be deleted as read and the following new definitions added: 'Position means an aggregation of duties, tasks and responsibilities requiring the services of one individual'.

'Permanent position means an indeterminate full time or part time position approved by the Commissioner'.

'Temporary position means a position required for a specified period of time'.

"Establishment be deleted as read and be amended to read, 'Establishment means the total of permanent and temporary positions'."

Mrs. Watson?

Mrs. Watson: Mr. Chairman, I believe, and it was my understanding and the Legal Advisor can correct me because he did the drafting of the legislation, that the whole legislation is drafted to the definitions in the Interpretations Section.

Now, if we -- there was a change made that all of the definitions as suggested, your whole legislation would have to be pulled back and redrafted in order to accommodate the definitions. I mean, these definitions are very vital.

Mr. Legal Advisor: With respect, Mr. Chairman, not with respect to every change. Some of the changes are sound, and a couple of them, if I was redrafting the Ordinance, I might have used almost identical language to the language suggested, particularly in the definition of the word "position". It's a perfect description in this definition of what a position is.

We haven't attempted to do that. We've just attempted to say who creates the position, we haven't attempted to define it in that way. We have used the definition in the short hand method.

Now, the key definition, it appears to me, is the definition of "casual employee", because of my instructions,

in drafting, it was to create a law which would control what we generally call the "permanent civil service", and casuals are not really thought of or considered in detail in this. They have their own set of rules and policies and regulations.

So if it was to be that through the definition of the word "employee" coming in as being a person who is employed in, or through the definition using the expression "casual" means so forth, that the two became melded into one, then it would be my advice to the government to withdraw the Bill at this time and to give me a chance to redraft it into two Bills.

Now, that's speaking quite frankly, and don't take this as a threat in any way on the members, but it would put me in a tremendously difficult position to redraft the whole Ordinance overnight, a second night, in order to make that change.

Mr. Chairman: Mr. Lang?

Hon. Mr. Lang: Mr. Chairman, there's been a lot of thought put into this Ordinance and it's a very important Ordinance, very important to the future of the Government of the Yukon Territory.

Number one - Public Service Commission, the idea of the Ordinance is to attempt to remove it as far as possible from government control as far as the hiring policies and this type of thing and the government is concerned.

The other point is that at the same time the people around this table have been elected to take care of the Public Service, the public purse, must keep control of the Public Service. And if like the definition for the casual employee was changed you would have no control, you might as well, as far as the man years in the budget, you might as well not even vote the man years, because you might as well just vote a lump sum of money and let the Public Service run itself.

What you would be doing as far as I'm concerned, would be usurping some of the power that the legislative body here does have.

Mr. Chairman: Mrs. Watson?

Mrs. Watson: Mr. Chairman, again for the Legal Advisor. Now, you are stating that the definition of "position" that was given in the brief is a good definition. Well then the definition of "class" as written in the Ordinance here would have to be amended to tie in with the definition of class, as they have used. They have tied in both "position" definition and "class" definition so those two definitions would have to both be amended.

Mr. Legal Advisor: I'm not sure that they would have to be, Mr. Chairman. In my opinion the definition of class as suggested in this amendment is a good definition. It's one we haven't used, it's almost identically the same. There's no serious changes, just what the word similar is transferred three words forward and the position is transferred three words back. It's almost identical.

Mrs. Watson: No, it isn't

Mr. Legal Advisor: Almost identical, but it's still not identical and we still have to examine it. The same thing happened with each of these definitions and we would need time, if they were accepted, to go through the Ordinance to make sure, section by section, what effect it would have on the other sections. Because if this is conceived, as a poem it must rhyme at the right place, Mr. Chairman.

Mr. Chairman: Mr. McKinnon?

Hon. Mr. McKinnon: Mr. Chairman when we looked over the definition section, the only one that we had really difficulty was with "employed". It's our opinion from our Legal Advisor and from personnel people that the definition in the amendment to the P.S.A.C. Ordinance is an attempt in the "employed" to sneak in the casual through the backdoor. Well I think that's an obvious thing that the union admits that they would like to do and have no objection to them attempting to do it. It's whether the government feels that it should be done or not. We do not feel that it should be done. We still feel that it should be an employees right if he wants to be a casual without getting into superannuation plans and various other schemes, that that man still has that liberty to be able to do so.

With the rest of the definitions we had no problems six of one, half a dozen of the other, some of ours are better, some of theirs may be better. It doesn't hurt the Ordinance one way or another to change them or not. If they were changed from the definitions other than employed than we have in all the other sections, it would mean that we would have to go through a complete review of the Ordinance to see where sections had to be drafted over again to make the whole Ordinance consistent. So we're really talking about employed as a meaningful one and we don't feel that casual employees should come under the definition of employee in the Public Service Commission.

Mr. Chairman: Mrs. Watson?

Mrs. Watson: Mr. Chairman, that's fine for you to say well, we're not that concerned, the other definitions, six of one, half a dozen of the other, but the Legal Advisor did say in the drafting, and I know the drafting has to be very carefully done, and as you consider one definition, you're familiar with it as you go along through your whole legislation. In order to keep the basic philosophy of this legislation we would be well advised to keep the definitions that are in the interpretation section that are defined in the Ordinance.

We could be creating problems possibly for the employee, possibly for management without realizing what we are doing. So this has been thought out.

Mr. Chairman: Mr. McKinnon.

Hon. Mr. McKinnon: Yes, Mr. Chairman, what we are

saying if the definition sections were changed in any-one, that we would want to withdraw the Ordinance to be able to have a total review of it, where the effect of definitions apply to other sections. We wouldn't feel proper in doing it without having that review of the whole total legislation.

Mr. Chairman: Mr. Berger.

Mr. Berger: Thank you, Mr. Chairman. I've seen there's a lot of people concerned with time, there's a lot of people concerned if you have to read again. There's a lot of people concerned, I heard the remark here just a minute ago from some member here, that we'd have to stay here all night. I'm willing to stay here all summer. Just with this one Ordinance. I think it's something which is very important. I think there's a lot of members of this House don't think it is very important, because they're dealing with people who only work manually in a lot of cases. And they're not in the managerial staff and things like this.

I heard one member just mention a little while ago they're very concerned about employees. It's the first time that I've heard this mentioned in this House. Because they have the right not to join the bargaining agent unit. Maybe he doesn't want to change. But right now they have no rights even to join one because the Ordinance doesn't give them the right. I'm concerned with this point of view. I'm also concerned that this thing could possibly be abused the way it is in here right now. First of all I'd like more definitions in there. And if it means that the definitions, that changing part of the definition, we'd have to change the whole Ordinance, let's go on with it. Never mind talking about time, I want to go home tomorrow. I want to be out of here, like some members thinking about it here.

I think it is our responsibility as legislative members in this House, and this is what we call ourselves, not councillors anymore, that we are legislative members and we are responsible enough to make laws that people can live with.

Mr. Chairman: Ms. Millard?

Ms. Millard: Mr. Chairman, I would just like to point out, I think it was the Member from Whitehorse North Centre who said that the casual, by changing casual employee definition, that it leaves it so that the casual employee who is now a casual employee can't be a casual employee. That's totally wrong. It only means by opening another definition of temporary position, the casual employee who is presently casual can become more permanent, if he wants to be.

If he does not want to be, and is engaged in a non-recurring casual or temporary basis whose period of employment does not exceed six months, he is still a casual, and so these people that want to go summer by summer to jobs in the Territorial Government, certainly it's still available to them under this definition.

As far as changing the definition section meanin such a terrible amount of work, I'm surprised if the Legal

Advisor -- he's had the brief from the Public Service Alliance for three week, four weeks, if he has not considered changing them now, he should have, if he feels they are good. I have no qualms about sending this Bill back. I would like to see it sent back for reconsideration for another few months if that's necessary, because it's obviously a very bad piece of legialtion the way it stands.

Mr. Chairman: Ms. Millard, it's not the responbility of the Legal Advisor nor the unions to make legislation. It is the responsibility of this Committee.

Mrs. Watson?

Mrs. Watson: Mr. Chairman, I would just like to comment that democracy is very tiring at times.

Some Members: Hear, hear.

Mr. Chairman: Mr. Berger?

Mr. Berger: On a point of order, Mr. Chairman. I notice we still have a witness present in this House, and I wonder if he is recognized as witness or what?

Mr. Chairman: Mr. McPhail is present to assist the Commissioner, and the Commissioner is in turn present to assist us in our deliberations. He is not contributing to the debate. I think it is in order that he remain.

Mr. Berger: I just wanted information.

Mr. Chairman: If the Committee wishes otherwise, that's fine.

Mr. Berger: Fine, thank you.

Mr. Chairman: Are you ready for the question?

Some Members: Question.

Mr. Chairman: I will read the Motion.

I was moved by Ms. Millard, seconded by Mr. Berger, the definition section revised as follows:

'Employee be deleted as read and amended to read, 'Employee means a person appointed to or employed in a position in the Public Service'.

Class be deleted as read and amended to read, 'Class means a group of similar positions requiring same or like qualifications, same rates of pay, pay range or pay grades can reasonably apply.

Casual employee be deleted as read and amended to read, 'Casual employee means a person engaged in a non-recurring casual or temporary basis and whose period of employment cannot exceed six months'.

Established position be deleted as read and the following new definitions added: 'Position means an aggregation of duties, tasks and responsibilities requiring the services of one individual.'

'Permanent position means an indeterminate full time or part time position approved by the Commissioner'.

'Temporary position means a position required for a specified period of time'.

Establishment be deleted as read and amended to read, 'Establishment means the total of permanent and temporary positions'."

Are you ready for the question?

Some Members: Question.

Mr. Chairman: All those in favour?

Some Members: Agreed.

Mr. Chairman: Contrary?

The Motion is defeated.

(MOTION DEFEATED)

Mr. Chairman: The Chair will now entertain further Motions of amendment to Part I? There are no further proposed amendments to Part I?

Part II.

Part III.

Mrs. Whyard?

Hon. Mrs. Whyard: We have a number of pieces of paper before us which say "I move", and there's no signature and there's no seconder. Could we be informed as to --

Mr. Chairman: They have actually not been brought forward as yet, Mrs. Whyard, and I think it's understandable under the circumstances.

Ms. Millard?

Ms. Millard: Mr. Chairman, since no one else seems to be standing up, I move, seconded by the Member from Klondike, that the following sub-section be added to Section 9(1) of Part III, entitled -- or Section p.

"The Commission shall consult with representatives of any employee organization certified as bargaining agents under the Public Service Staff Relations Ordinance within an ongoing program of joint labour-management consultation with respect to selection standards that may be prescribed, or the principles governing the appraisal, promotion, demotion, transfer, lay-off or release of employees at the request of such representatives, or before such instances are promulgated".

Mr. Chairman: Ms. Millard, there has been alterations to that sub-section before, so I think that you -- this is an addition and therefore would be (q).

Ms. Millard: So that additions to Sections are also out of order?

Mr. Chairman: No, Ms. Millard, I'm just edifying your Motion, so that it fits in the context of the Bill. It is still as you have proposed it.

Ms. Millard: Well I'm sorry, I don't understand whether that Motion is in order or not.

Mr. Chairman: This morning we added one item to this section, and therefore every -- that was 2(b) was added, and therefore every part thereof drops one down in the alphabet, so yours is simply an addition, it's an alphabetical summation.

Ms. Millard: Mr. Chairman, so you want me to change it to (q)?

Mr. Chairman: Yes.

Ms. Millard: All right.

Mr. Chairman: That's all right, we'll accept it.

Ms. Millard: You accept it with a (q)?

Mr. Chairman: Yes.

Ms. Millard: Okay.

Mr. Chairman: Ms. Millard:

Ms. Millard: Mr. Chairman, if you want me to speak to this Motion. In speaking to this Motion, I would like to say that the problem I find with most of Bill Number 1 is that there is very little consultation with anyone outside of the administration. I feel that our union representing the employees in the Territorial Government have proved themselves as being efficient and honourable, and that they should be given recognition of the fact that they do represent the employees.

The employees have to feel that they have solid representation in negotiations at every level, especially where their personal lives are concerned, and this simply brings forth the idea of joint labour-management consultation which is -- is a concept that is being accepted across Canada, not only in public service, but in all other aspects of employment.

It brings us forward into the modern world, where employment is a matter of enjoyment, a matter of choice and a matter of democracy, not a matter of dictatorship by the management over the labour.

It seems to me that it is absolutely essential that the public service staff -- that the public service have input into what is happening to them, and in one of these -- one of the ways it can be done is simply by communication of the ideas that management has, and discussion, consultation with them, over what is going to happen to those employees.

The only method we have currently is through a union; unfortunately that's true. Unfortunately we have to elect people to go and talk, but it's more unfortunate that these people have been elected and haven't been discussed -- nothing has been discussed with them.

In the making of this Bill, as I said previously, I feel that if there had been thorough discussion with the Al-

liance before this even came to us we could have had a much better, more workable solution, a much more democratic solution to the problems of administering such a large employment staff.

I would just like to reiterate that this is simply bringing us into line with what's happening across Canada in labour.

Mr. Chairman: Are you ready for the question?

Hon. Mrs. Whyard: Mr. Chairman, I need clarification. Is this not one of the points that was amended? Are we on (q)? I'm reading 9(3).

Mr. Chairman: It was moved by Ms. Millard, seconded by Mr. Berger, that the following sub-section be added to Section 9(1)(q):

"The Commission shall consult with representatives of any employee organization certified as bargaining agent under the Public Service Staff Relations Ordinance within an ongoing programme of joint labour management consultation with respect to selection standards that may be prescribed or the principles governing the appraisal, promotion, demotion, transfer, lay-off or release of employees at the request of such representatives, or before such instances are promulgated."

All those in favour?

Contrary?

The Motion is defeated.

MOTION DEFEATED

Mr. Chairman: Are there any further amendments to Part III?

We will now move on to Part IV.

Ms. Millard: Mr. Chairman, I'm sorry, my Motions were all messed up here and they are not in order. I do have a further amendment to Part III.

Mr. Chairman: Very well.

Ms. Millard: The amendment that the government put forward to change the title to the "Duties and Powers of the Public Service Commission". I would like to move, seconded by the Honourable Member from Klondike, that Sections 10(1), 10(2) and 10(3) be deleted as read, and amended to read as follows:

"(1) The Commission may authorize a deputy head to exercise and perform in such manner and subject to such terms and conditions as the Commission directs, any of the powers, functions and duties of the Commission under this Ordinance, other than the powers, functions and duties of the Commission in relation to appeal.

(2) Where the Commission is of the opinion (a) that a person who has been or is about to be appointed to or from within the Public Service pursuant to authority granted by it under this Section does not have the qualifications that are necessary to perform the duties of the position he occupies or would occupy, or (b) that the

appointment of a person to or from within the Public Service pursuant to authority granted by it under this Section has been or would be in contravention of the terms and conditions under which the authority was granted, the Commission, notwithstanding anything in this Ordinance but subject to sub-section (3), may revoke the appointment or direct that the appointment not be made as the case may be and shall thereupon appoint that person to that person's previous position or at a level that is commensurate with his qualifications.

(3) An appointment from within the Public Service may be revoked by the Commission pursuant to sub-section (2) only upon the recommendations of a board established by it to conduct an inquiry, at which the employee and the deputy head concerned or the representatives are given an opportunity of being heard.

(4) The Commission may, from time to time as it sees fit, revise or rescind and reinstate the authority granted by it pursuant to this Section.

(5) Subject to sub-section (4), a deputy head may authorize one or more persons under his jurisdiction to exercise and perform any of the powers, functions or duties of the deputy head under this Ordinance, including, subject to the approval of the Commission and in accordance with the authority granted by it under this Section, any of the powers, functions and duties that the Commission has authorized the deputy head to exercise and perform.

Mr. Chairman: Any discussion? Mr. Taylor?

Hon. Mr. Taylor: Perhaps, Mr. Chairman, the mover of the Motion would explain the reasons for this particular amendment.

Mr. Chairman: Ms. Millard?

Ms. Millard: Well, Mr. Chairman, I would much sooner the seconder did that, to tell you the truth. My understanding was that the seconder was going to be the mover of this Motion.

Mr. Chairman: Mr. Taylor?

Hon. Mr. Taylor: Mr. Chairman, just one question as a matter of interest, does the mover of the Motion understand the impact or what the amendment is all about that she's just moved?

Ms. Millard: Mr. Chairman, I might suggest just a brief break if the Honourable Member from Watson Lake wants to study the Motion.

Mr. Chairman: I would rather finish this Motion in Council, Ms. Millard, if Committee is in agreement.

It was moved by Ms. Millard, seconded by Mr. Berger, that Sections 10(1), 10(2) and 10(3) be deleted as read and amended to read as follows:

"One. The Commission may authorize a deputy head to exercise and perform in such manner and subject to such terms and conditions as the Commission directs

any of the powers, functions and duties of the Commission under this Ordinance, other than the powers, functions and duties of the Commission in relation to appeals.

Two. Where the Commission is of the opinion (a) that a person who has been or is about to be appointed to or from within the Public Service pursuant to authority granted by it under this Section does not have the qualifications that are necessary to perform the duties of the position he occupies or would occupy or (b) that the appointment of a person to or from within the Public Service pursuant to authority granted by it under this Section had been or would be in contravention of the terms and conditions under which the authority was granted, the Commission, notwithstanding anything in its Ordinance but subject to sub-section 3, may revoke the appointment or direct that the appointment not be made, as the case may be, and shall upon appoint that person to that person's previous position or at a level that is commensurate with his qualifications.

Three. An appointment from within the Public Service may be revoked by the Commission pursuant to sub-section 2, only upon the recommendation of the Board established by it to conduct an inquiry in which the employee and the deputy head concerned or their representatives are given an opportunity of being heard.

Four. The Commission may, from time to time as it sees fit, revise or rescind and reinstate the authority granted by it pursuant to this Section.

Five. Subject to sub-section 4, a deputy head may authorize one or more persons under his jurisdiction to exercise and perform any of the powers, functions or duties of the deputy head under this Ordinance including, subject to the approval of the Commission and in accordance with the authority granted to it under this Section, any of the powers, functions or duties that the Commission has authorized the deputy head to exercise and perform.

Are you ready for the question?

Mrs. Watson: Mr. Chairman, there's absolutely no consistency with this. I think that maybe there's been an error in typing because it -- you have duties and powers of the Public Service Commission. Certain sections of that deal with the duties and powers of the Public Service Commission but the rest of it doesn't seem to. And I would suggest possibly that the mover of the Motion review it thoroughly before we proceed with voting on it.

Hon. Mr. McKinnon: Mr. Chairman, I have that problem too, as the Honourable Member from Kluane mentioned. I wonder if Mr. Legal Advisor can shed some light on it. It just doesn't seem to flow properly.

Mr. Legal Advisor: Mr. Chairman, as I see the draft here, prepared by the P.S.A. and it contains a lot of good ideas within the draft, it's a sound piece of work putting this together. It just so happens that most of the powers that are given under this are already given elsewhere in the Ordinance. This is a group of sections which you give

substitutions for 10(1), (2) and (3) of the present Ordinance, the present draft. It adds an additional power to the Public Service Commission; it's a difficult power and one which has not been sought by the government in this Ordinance, and that is, the power to revoke an appointment or dismiss the holder of an office on the grounds that he is not qualified to hold the office. This is the power which, I think, perhaps the Public Service Commission may wish to have but which he didn't have the nerve to ask for when he was producing the draft.

I don't know the philosophy behind it. It's a much more wide-spreading group of sections than the ones which were in there originally.

Mr. Chairman: Mrs. Watson.

Mrs. Watson: But Mr. Chairman, if that includes in the Ordinance Ten, it includes delegation of authority, the one section includes delegation of authority, appointment and powers of deputy head. Now, if this is going to be an amendment, what sections are going to be deleted - maybe I could ask the mover of the Motion? You can't leave all of the rest of the sections in, because you're repeating it in this one.

Mr. Chairman: I think I would like to give the mover of the Motion an opportunity to clarify this, and I will declare a five minute recess.

(RECESS)

Mr. Chairman: I now call this Committee to order. Order, please.

I am now going to call for any further amendments to Bill Number 1. Mr. Taylor?

Hon. Mr. Taylor: Just for clarification, Mr. Chairman, just where are we at now? Are we considering an amendment, or what's the situation?

Mr. Chairman: I'm sorry, I'm sorry, there's a Motion on the floor.

Ms. Millard: Mr. Chairman, I wish to withdraw that.

Mr. Chairman: Mr. Berger?

Mr. Berger: I agree.

Mr. Chairman: Is that all right with Committee?

Some Members: Agreed.

Mr. Chairman: The Motion is withdrawn. I will now call for any further amendments to Bill Number 1. Ms. Millard?

Ms. Millard: Well, Mr. Chairman, I have several Motions. Do you want them all at once -- I thought we were going to go at it part by part?

Mr. Chairman: It was discussed in recess, Ms. Millard, most of the amendments that had been proposed were not going to be forthcoming and therefore, to expedite matters, I am now calling for all Motions, not all at once, no. If you have Motions, I would like to have them.

Ms. Millard: Well, Mr. Chairman, since the decision was made clear to me that we couldn't amend what had already been amended, I haven't been able to go through my own Motions and amend them so that they coincide with the amendments that were made this morning. So, if I can proceed, I'll make the Motion and then, if you can tell me whether or not I can make it or not, that would probably be the best procedure.

Is that all right?

Under Part IV, that Section 19 be amended to add a further section -- pardon me, moved by myself and seconded by the Member from Klondike --

Mr. Chairman, there seems to be some disagreement on something that was agreed on before. Mr. Chairman, on a point of privilege, I'm finding this situation I'm in very embarrassing. I had made arrangements with the leader of the N.D.P. party to go ahead and make some Motions and have them seconded. That agreement, as far as I knew, was not rescinded. I find myself in a very embarrassing position, and I would like to proceed with these Motions.

I have some of them that are seconded by the Member of Hootalinqua, if I can go forward with those Motions, I would like to.

Mr. Chairman: Mr. Taylor? Mr. Fleming?

Mr. Fleming: Mr. Chairman, in all respects, the Member is absolutely right. As far as I am concerned, when it comes to that section that -- the amendments that I have seconded for her will be seconded, so it has nothing to do with where we are in the Ordinance now. I want her to understand too that I am ready to second the Motions.

Some Members: Hear, hear.

Ms. Millard: Thank you.

Well, Mr. Chairman, on another point of privilege, I'm just glad that a Member who is not even a member of the N.D.P. party can at least support the things that were discussed previously.

Mr. Chairman: Ms. Millard --

Ms. Millard: All right, I can start with the Motions if you like.

Mr. Chairman: I did hear Mr. Berger tell you that he would not second the Motions during the recess.

Ms. Millard: I'm not sure which Part because I haven't had it defined in that way, but I have sections down here.

Moved by myself, seconded by the Honourable Member from Hootalinqua, that Section 46(1) be amended to increase the number of working days required for notification of appeal to 30.

Mr. Chairman: Moved by Ms. Millard, seconded by Mr. Fleming, that Section 46(1) be amended to increase the number of working days required for notification of appeal to 30.

Ms. Millard: Mr. Chairman, in support of this Motion, it's quite simple. In the Yukon certainly, 15 working days is three weeks, but I have known that a lot of things take a long time to be delivered, and it just gives it much more flexibility to make it 30 for both parties, and there doesn't seem to be any administrative reason why this can't be put forward.

Mr. Chairman: Mr. Fleming?

Mr. Fleming: Yes, on seconding the appeal, Mr. Chairman. I have again the feeling that sometimes the process of procuring the appeal from the people sometime would be a problem in the Yukon Territory. You could be 500 or 600 miles north of here working somewhere for the Territorial Government on the Dempster Highway, for instance, and the time that he has to formulate his appeal, get it together and possibly get -- this is a problem and it is maybe a rare case, but it may be some problem to get everything together that he needs to clear him of whatever is necessary, and I felt that 30 days is not too long in this respect for the government to give that person. That's all I have on that.

Mr. Chairman: Mrs. Watson?

Mrs. Watson: Mr. Chairman, possibly the Legal Advisor or Mr. McPhail could indicate why they used the 15 days, and then of course, Section 47 does give time to extend -- there is provision for an extension if they haven't been able to get their appeal in within the 15 days.

Mr. Legal Advisor: Mr. Chairman, there's a couple of points on this. The 15 days was chosen because it's three working weeks, which means effectively 21 days, but I would also remind the House that they have amended Section 39 by adding a 10 day notification appeal time from the deputy head. So, effectively, assuming the deputy head is slow in getting it to the employee, you've then got 10 working days plus 15 working days, which is 25 working days, which effectively is five weeks, which is 35 days, so it's already gone four days over a month in calendar days.

Mr. Chairman: Mr. Lengerke?

Mr. Lengerke: Thank you, Mr. Chairman. My point's been covered.

Mr. Chairman: Mrs. Whyard?

Hon. Mrs. Whyard: Mr. Chairman, I just wanted to add a word of reassurance to the Honourable Member from Hootalinqua that the employee involved here does not have to prepare all the material for his appeal. This is just a notice that he is going to file. He has time after that, the date for the appeal would be set long after that.

Mr. Chairman: Ms. Millard?

Ms. Millard: Yes, Mr. Chairman, when this Motion was formulated, we did not have the extra 10 days involved, and that does make a difference, definitely.

Mr. Chairman: Are you ready for the question?

Some Members: Question.

Mr. Chairman : It has been moved by Ms. Millard, seconded by Mr. Fleming, that Section 46(1) be amended to increase the number of working days required for notification of appeal to 30. All those in favour? Contrary?

The Motion is defeated.

Motion Defeated

Mr. Chairman: Mr. McCall?

Mr. McCall: Mr. Chairman, I would like it to be recorded that I abstained from voting.

Mr. Chairman: Mr. McCall, your vote is recorded as abstaining.

Mr. Berger: I would like to abstain.

Mr. Chairman: Mr. Taylor?

Hon. Mr. Taylor: Mr. Chairman, within the rules of the House, it is not possible to have a vote recorded in Committee of the Whole.

Mr. Chairman: Thank you, Mr. Taylor.

Ms. Millard: Mr. Chairman, on my next motion, I need some clarification from the Chair. I think that it may have been cleared up in the amendments this morning, Section 54. The Motion is moved by myself and seconded by the Member from Hootalinqua that Section 54 be deleted.

Is that in order, Mr. Chairman?

Mr. Chairman: Yes, Ms. Millard.

Ms. Millard: Yes, that's one of the arguments I had with some of the amendments this morning, is that it does give some appeal, but it does not -- it hasn't gone through the Bill and actually cleared up appeal procedures and adjudications in each section, and this is one section where it states definitely that the decision of the Classification Appeal Board shall not be the subject of a grievance referable to adjudication, and I find that

quite contrary to the intent of good relationships within the Public Service and I would just like to move that that section be deleted.

Mr. Chairman: Mr. Fleming?

Mr. Fleming: Yes, I don't have anything to add any more than that, but I would like at this time to get maybe a little better explanation from the Legal Advisor.

Mr. Legal Advisor: Mr. Chairman, this is an amendment to an existing appeal structure. At the moment, the position is that, when a person wants to be reclassified, he things he is doing more work than he is being paid for, he can request a classification review and he gets it automatically.

The new structure of the House, you will recall, was to put in an independent outside Chairman who will be a technician, probably from a neighbouring jurisdiction like Alberta, who will sit and have an appeal period say every October and do all the reclassification procedures. It was decided by this House this morning that the retroactivity, in case of delay in the hearings, it would be extended backwards. So the appeal will be dealt with adequately by a technician.

It was not intended, and it was not the government's policy, to permit it to go to a lawyer who would then hear a grievance who was a non-technician hearing a grievance over a technician. So this would be opposed by the government. It's a new appeal, and perhaps it might be just as well to let it work for a couple of years to see how it works before moving in a further type of appeal.

Mr. Chairman: Are you ready for the question?

Some Members: Question.

Mr. Chairman: It has been moved by Ms. Millard, seconded by Mr. Fleming, that Section 54 be deleted. All those in favour? Contrary?

The Motion is defeated.

MOTION DEFEATED

Ms. Millard: Moved by myself, seconded by the Member from Hootalinqua, that Section 108 be deleted.

Mr. Chairman, in speaking to this Motion, I would simply say that Section 100 of the same Bill states "that all appointments to positions in the public service shall be made on merit" and then, further in 108, it now states that these things can be done away with.

The whole part is the exemption from competition and playing with the competitions to make it convenient to the -- for the Commissioner. To the Commissioner of the public service. It contradicts Section 100; it does not allow everyone to be appointed on merit, and I fully agree with the merit principle, as stated in the Ordinance, and I think 108 should be deleted.

Mr. Chairman: Mr. Fleming?

Mr. Fleming: Yes, Mr. Chairman. I am of the same opinion. It is by exemption from competition, then by open competition, in other words, I don't think we need it in there in this Ordinance. This is already stated in many other places, and I would have to look back to find everyone, but there -- you are contradicting yourself when you say that you are going to have open competition and then you turn around and say you are going to be exempt from competition. Now, I just don't get the drift of it; I don't care for the Ordinance that way, that's all.

Mr. Legal Advisor: Mr. Chairman, with respect, the Honourable Member doesn't quite get the meaning of this particular Section. This is a Section which doesn't allow the Public Service Commission to do anything except, first of all, receive a recommendation in respect of the making of an appointment. These appointments will be promotional appointments.

So, the department head recommends either B or C of Section 108, and then it comes into 110, and the decision has to be made in respect of this promotion. Will it be a promotion within the department, within a group of departments or from the whole Public Service, and without this section it would be extremely difficult to promote anybody within the Public Service because everything would be open competition, and it would be very hard.

So, this Section represents the thesis that promotions are good within the service and that Yukoners should have some degree of preference for appointments over people from outside. This represents that philosophy.

Mr. Chairman: Mr. Berger?

Mr. Berger: Thank you, Mr. Chairman. Just as a, with all respect to Mr. Legal Advisor there. I think the objection is one oh eight A, not in one oh eight B and C, because there's a way of competition. But A eliminates competition on the recommendation of a Deputy Head. And this is completely contradictory to Section 100 where its on the merit principle.

Mr. Chairman: Mr. Fleming.

Mr. Fleming: The Honourable Member has said exactly what I was going to say.

Mr. Chairman: Ms. Millard.

Ms. Millard: Yes that was what I was going to reiterate also and as well it does not eliminate competitions within the department if that is necessary. I just feel that every position should have a competition and shouldn't be at the whims of a unit head or director.

Mr. Chairman: Mr. McPhail.

Mr. McPhail: Mr. Chairman, this section is a recommendation section only and all it allows is the Deputy Head to elect a man to the Commission whether in his

opinion the competition should (a) be an exemption, he has no authority to say it shall be an exemption. It's only a recommendation.

Secondly, he only recommends whether the appointment should be within his department. It gives the Deputy Head an option of requesting to the Commission that there be an internal competition or an internal promotion within the service.

Mr. Chairman: Mr. Berger.

Mr. Berger: Thank you, Mr. Chairman, but the objection that I would have in this particular section is you're creating a doubt in the employee's mind by having this section in there because he does not get any answer in writing, he does not get an answer in any sort and he sees the section and he can say there's some hanky-panky going on. This I think is not necessary if we write out legislation, let's make it clear that those positions are only to be filled on the merit principle and on open competitions, be it within a department, or be it within the Civil Service. Or be it on a wide open competition where everybody could participate. But let's not have a thing like this in the legislation.

Mr. Chairman: Mr. Fleming.

Mr. Fleming: Yes, I don't know, maybe I'm not very smart, when it says all appointments to positions in the Public Service will be made on merit. You know, I just read that as all will be made on merit. I'm not entirely in disagreement with the Ordinance or anything but I just can't understand how you can do something like that an turn around and say Deputy Head shall recommend to the Commission or otherwise. It doesn't make any difference if he's recommending or how he does it he is doing the fact, when over here he says there will be no such fact. At one hundred.

Hon. Mr. Lang: Mr. Chairman, I'm sure if the Deputy Head recommends someone for a promotion it would be on merit, because he has to explain it to the Public Service Commission and justify it. That recommendation.

Mr. Legal Advisor: It may occur there is only one qualified person for the position of a practical nature. The example which was used during a discussion of this was, that if a person arrived in Whitehorse, who happened to have a boiler maker certificate and be a qualified engineer, he would automatically be appointed to a vacant position, which we had been unable to fill for two years. But would we have to have a competition for it, postpone it and advertise it through southern Canada. There are isolated occasions where it's essential to exempt from competition for specific task, but it is not the routine and is not normally done.

Mr. Chairman: Mr. Lengerke.

Mr. Lengerke: Thank you, Mr. Chairman. It's a very

interesting discussion, I'm just want to make this comment, I'm sure throughout the Civil Service that there's been many times when a competition has been held within the service and somebody's got up and said well, you know they just had a really mock competition because they did appoint the fellow that was probably the better qualified in the first place. And why did they hold that competition. With all due respect, I think that the section does still allow the flexibility but, and in answer to the Member from Klondike, I think the other side of the coin is also there that say you can certainly have competitions and really the decision is known before you have the competition, believe me.

Mr. Chairman: Mr. Commissioner.

Mr. Commissioner: With respect, Mr. Chairman, the first aspect of this Section 108, is in the current Ordinance and has been there since 1967. The supplementary sections to that are basically additions here which are designed to make the application of 108 not entirely a straight forward and simple situation. There has to be a lot more to it than just a verbal situation, this is the basic thesis of the whole thing, is 108 and 109, they are a package, Mr. Chairman.

Mr. Chairman: Mr. McKinnon.

Hon. Mr. McKinnon: I've just got to admit, I'm the other way around on this one. I just can't believe that the Deputy Head who the taxpayers of the Yukon are now paying in the neighbourhood of 25 to 35 grand a year to manage a department, still have to recommend only to the Commission that an appointment be made. You know if I was taking that kind of money and expecting to manage, and in the instance where I needed a personal secretary and obviously one of my girls was so far superior and to any of the girls in the department and I knew her and her ability and it was impeccable and all her qualifications were there. That I as a managerial Deputy Head of a department in that salary range, could not even say would you like to be my personal secretary. All I could do under the section was recommend to the Commission that that girl become my secretary without going through a competition.

I'm always amazed in government at how stymied these guys that we are paying these monies for, managing a department are under Ordinances like this. I go the other way on it, I think if you're paying a guy to manage and paying those bucks, boy it's about time we let somebody manage something around here.

Hon. Mrs. Whyard: Are you suggesting an amendment?

Hon. Mr. McKinnon: It would be the other way if I was amending.

Mr. Fleming: I would like to have a last word. I can't agree more with the Honourable Member, but I just want it understood that the language in here doesn't

exactly say that, because it does say back there that all appointments shall be made on merit, and then you turn around and say you are not going to -- you are going to recommend different -- call the question.

Mr. Chairman: It has been moved by Ms. Millard, seconded by Mr. Fleming, that Section 108 be deleted. All those in favour? Against? The Motion is defeated.

(MOTION DEFEATED)

Ms. Millard: Mr. Chairman, moved by myself, and seconded by the Member from Hootalinqua, that Section 109(2) be deleted.

In speaking to this Motion, I'll just state that it's in the same category as the Motion before, that it contradicts Section 100, that people are not posted on the merit principle, and therefore should be eliminated.

Mr. Chairman: Our of order, Ms. Millard.

Ms. Millard: Pardon me?

Mr. Chairman: That Motion is out of order.

Hon. Mr. McKinnon: If the Motion had succeeded on 108, then the Motion would have been --

Ms. Millard: Yes.

Mr. Chairman, then 111(b), I was going to move that that also be deleted, and since we have discussed the principle that that is also out of order?

Mr. Chairman: Ms. Millard, that's out of order.

Ms. Millard: Further then to Section 117, moved by myself and seconded by the Member from Hootalinqua, that Section 117 be amended to add the words "only once and only under extreme circumstances" and also the words "and not retroactively effective". 117.

That Section 117 be amended to add the words "only once and only under extreme circumstances" and also the words "and not retroactively effective".

Mr. Chairman: Mr. Taylor?

Hon. Mr. Taylor: Mr. Chairman, the Motion is stated and as I have it down here doesn't say where these words are to be inserted or just where, where does all this fit?

Ms. Millard: Mr. Chairman, the words are added at the end of the Section.

Mr. Legal Advisor: Mr. Chairman, what the Motion says is, the intent is, is that the extension of the probation period can only occur once. The drafting appears to represent this language. In other words, there can be a probation period of six months, there can be a single extension for six months, but no more. That's what the language says. Yes, one single extension.

The addition of any words do nothing to change that meaning, if that's the Honourable Member's intention.

Ms. Millard: Yes, Mr. Chairman, that's true but also have I added "and not retroactively effective". I think by adding the words "only once and only under extreme circumstances", there is some caution to it.

Mr. Legal Advisor: Mr. Chairman, as a matter of law, you cannot retroactively extend, and this has been decided by the Public Service Staff Relations Board, where a case occurred, the Madran case we have already referred to, where it was held that it was an attempt to extend the probation period retroactively and it was invalid.

Ms. Millard: Well then by amending this Section, we only make it better law.

Mr. Chairman: Mr. Lengerke?

Mr. Lengerke: Mr Chairman, I have a question with respect to 113 but I would further ask if there are any other questions with respect to the subject you're talking about at the moment be asked first.

But I want to go back to 113 and just for clarification, I have a question. Is that in order?

Mr. Chairman: No, we have a Motion on the floor, Mr. Lengerke. Yes, we can go back.

Mr. Lengerke: I didn't realize -- I'm sorry.

Mr. Chairman: Are you ready for the question?

Some Members: Question.

Mr. Chairman: It has been moved by Ms. Millard, seconded by Mr. Bleming, that Section 117 be amended to add the words "only once and only under extreme circumstances" and also the words "and not retroactively effective". All those in favour?

Against? The Motion is defeated.

(MOTION DEFEATED)

Mr. Chairman: Mr. Lengerke?

Mr. Lengerke: Yes, Mr. Chairman. As I say, I apologize for going back. It was a question I should have asked earlier, to Mr. McPhail I would put this question. What is the general policy with respect, or your thinking, who would constitute this board in most instances, when you're --

Mr. McPhail: Mr. Chairman, the Board would always be constituted -- the applicant's immediate supervisor, so in that manner the applicant can meet his immediate supervisor and vice versa, and generally speaking, a personnel officer, and in some cases, one other individual from the department. Very seldom does the

board go beyond three members.

Mr. Chairman: Mr. Lengerke?

Mr. Lengerke: Very seldom does it go beyond less than three members?

Mr. McPhail: Yes, that's correct.

Mr. Chairman: Mr. Commissioner?

Mr. Commissioner: Mr. Chairman, just to supplement Mr. McPhail's answer, very often if we are dealing with a position where technical qualifications or professional qualifications are a very necessary adjunct, and someone of competence to judge those technical qualifications is an obvious asset to the Board, a person irrespective of whether he or she is in the government or out of government, is brought in for that purpose, Mr. Chairman.

Mr. Chairman: Mr. McKinnon.

Hon. Mr. McKinnon: The brief presented by the P.S.A.C. asked amendments from 113 to constitute the board into the legislation. We agreed totally with the comments made by the P.S.A.C. only we feel that properly those, the makeup of the Board should be under regulations and when the regulations come under this Ordinance, you'll see reproduced the content of the P.S.A.C. brief in those regulations because they're excellent.

Mr. Chairman: Are there any further Motions for amendment?

Ms. Millard: Pardon me, Mr. Chairman, I thought we were voting on the Motion that's Section 117?

Mr. Chairman: We've already voted the Motion, was defeated.

Ms. Millard: Moved by myself, seconded by the Member from Hootalinqua, that Section 120 be amended to more carefully define eligibility to further employment.

Mr. Chairman: Where is this intended to fit in Ms. Millard?

Ms. Millard: Yes, my problem with 120 is that it doesn't very clearly state what the layoff person is entitled to. I feel that the amendment could be improved in that section and that's why I haven't defined it specifically what, in --

Mr. Chairman: Ms. Millard, your Motion is out of order. A Motion must give positive directions to Committee.

Ms. Millard: Yes the positive direction is that it be amended to more carefully define eligibility. To further employment.

Mr. Chairman: That point is the intent of the section. The Motion is not order.

Ms. Millard: The intent of Section 120 is to state that a layoff person, or a person who has been laid off with not less than 5 years continued service, and later rejected on a probationary, oh I'm sorry that's not layoff at all ---

I still find the latter section of Section 120 at the discretion of the Commission entitled for a period of one year from the date of his rejection to be reappointed to a position at the same class level as the position occupied prior to the probationary period. I find those words rather vague. I would like to see them more carefully defined to state that the person who has been rejected on a second probation, is entitled and is definitely assured of being back into a position.

Mr. Chairman: Ms. Millard, I still don't understand -- what is your Motion, it must give positive direction to Committee. Your Motion as worded now does not do so. The Motion is out of order.

Ms. Millard: I withdraw the Motion.

Moved by the member from Hootalinqua, seconded by myself that Section 126 be deleted.

Mr. Chairman: Mr. Taylor.

Hon. Mr. Taylor: Mr. Chairman, I don't believe it's proper for a member to move a Motion on behalf of another member. I think, I believe the Member from Hootalinqua is to move this Motion as just stated then he would have to move it himself.

Ms. Millard: I'm sorry, did I say moved by the Member from Hootalinqua?

Mr. Chairman: Yes.

Ms. Millard: No doubt. Moved by myself, and seconded by the Honourable Member from Hootalinqua, that Section 126 be deleted. This is the section which deals with releasing an employee because of ill health.

Mr. Chairman: One twenty-six.

Hon. Mr. Lang: Mr. Chairman, could the Honourable Member explain herself a little bit more than what she has?

Ms. Millard: Yes, I feel that under the circumstances under 126, that it would be misused and that it shouldn't be the right of the Commission to be able to dismiss a person because they are ill. That's simply what it is. The way it is written there's no documentation in support of the person being too ill to carry on his work and I feel that by deleting the section we would have a much bet-

ter Bill.

Mr. Legal Advisor: Mr. Chairman one comment on this section. This is a new section it was not in the old section. We came across an individual who got six months leave of absence with pay, six months leave of absence without or with half pay and six months leave of absence with no pay, and at the end of a long period of time we found there was an argument going on as to whether he still employed or not employed. Although he hadn't been at work for some eighteen months. On examining the Ordinance we found that we had no technical method of dealing with it other than to deem he was absent from duty.

So this is, in my opinion, speaking from a technical point of view, essential to give a resolution to a position where the person has been away for a year from his job in fact that's what it amount to, and it's necessary to tie the ends together and allow the normal course of termination to occur.

Mr. Chairman: Mrs. Whyard.

Hon. Mrs. Whyard: Mr. Chairman could I ask for assurance however, that there is documentation supporting such a matter.

Mr. Chairman: Mr. McPhail.

Mr. McPhail: Mr. Chairman, I thought yesterday I indicated very clearly that the requirement of the employer before he releases an employee for ill health. I believe I talked about accrued sick leave, I talked about disability insurance, I talked about our policies which are presently in the government policy manual, that I think is on the shelf over there, that they can get six months leave without pay before any action is taken, etcetera. The employer must have documentation.

Mr. Chairman: Ms. Millard?

Ms. Millard: Mr. Chairman, that's not stated in Section 126, and this is my argument with most of the Bill, is that the statements within the Bill leave it wide open for a lot of abuses. It does not specifically say that an employee has to go through his required sick leave or leave without pay or anything else before this happens. The way this is, an employee could be dismissed for being ill, and that's all it say to me.

Unless the administration is willing to amend it to make it much more clear, I would still move that it be deleted.

Mr. Chairman: Mr. Commissioner?

Mr. Commissioner: With respect, Mr. Chairman, all the other laws, regulations and contracts that apply

have to take precedence or have to have been applied first before this can be applied. This is put in here basically, Mr. Chairman, as an alternative to discharging a person because that is the only other alternative we have at the present time, and this is not a proper thing to do.

We want to be able to under -- after all, the other things that are required by law or contract that have been proceeded with, we want to have the right to properly release the employee for that particular reason, that he is unable to carry on with his job due to ill health.

Mr. Chairman: Mr. Fleming?

Mr. Fleming: Yes, Mr. Chairman. In seconding this Motion, I find fault with it due to the fact that in 128 it says, "an employee released pursuant to Section 126, who submits satisfactory evidence to the Commission of his fitness for re-employment, may for a period of one year after the submission of the evidence, be given preference over other applicants to a vacant position in the public service, for which he is qualified, after a lay-off."

What I'm concerned with is the fact, as the Honourable Member from Ogilvie has stated, that these things can happen, when you write it that way, he's ill, you're gone, "Goodbye, John, you've had your job", and down here it's going to be a year before he can prove really, to come back even for that job. He must prove evidence of his fitness before he can get back to that job and he's got a year, he's got a year to prove that, he has one whole year. But he can be hassling with that department for a whole year over the fact that somebody just said you're ill today.

No? Well, I must be wrong.

Mr. Commissioner: Mr. Chairman, with respect, I'm afraid it just isn't quite that simple, and the statement in 128, the year referred to is a period of a year after the submission has been made. The individual has been off, he's been sick, he has been declared by a doctor to be unfit to come to work. He has been released under 126, and he comes back a few weeks later. He has been cured, he has medical evidence to show that he is fit for re-employment.

Now, for one year after that date, he has a preferential -- he has preferential re-employment status. The only people that he does not take preference over are someone who is on lay-off, which is pursuant to other sections and contract and the Public Service Staff Relations Ordinance.

Mr. Chairman: Are you ready for the question?

Some Members: Question.

Mr. Chairman: It has been moved by Ms. Millard, seconded by Mr. Fleming, that Section 126 be deleted. All those in favour? Contrary?

The Motion is defeated.

MOTION DEFEATED

Ms. Millard: Mr. Chairman, my further amendments are on 127 and 28. Are those out of order?

Mr. Chairman: Are there any further Motions for amendment?

Ms. Millard: Mr. Chairman, I just asked you a question.

Mr. Chairman: I'm sorry.

Ms. Millard: I have further amendments on Sections 127 and 128. Are those out of order?

Mr. Chairman: Yes, they are.

Any further amendments?

I take it, then, for the record that Parts I to XVI and attached Schedule of Bill Number One are now cleared. Are you agreed?

Some Members: Agreed.

Mr. Chairman: I will read the preamble.

(READS PREAMBLE)

Mr. McCall?

Mr. McCall: Yes, Mr. Chairman. I would like to move that Bill Number 1 be moved out of Committee as amended.

Mr. Berger: I second that.

Mr. Chairman: It has been moved by Mr. McCall and seconded by Mr. Berger that Bill Number 1 be moved out of Committee as amended. Are you ready for the question?

Some Members: Question.

Mr. Chairman: All those in favour?

Some Members: Agreed.

Mr. Chairman: Contrary?

Some Members: Disagreed.

Mr. Chairman: The Motion is carried.

MOTION CARRIED

Mr. Chairman: Before we pass on, I would like to add my commendation to the work that the P.S.A. has put into their brief, and the effect it has had on us. I think they are to be commended for what they have done.

Some Members: Hear, hear.

Mr. Chairman: I declare a brief recess.

(RECESS)

Mr. Chairman: I now call this Committee to order. Mc. McCall?

Mr. McCall: Mr. Chairman, I would like to move that Mr. Speaker do now resume the Chair.

Mr. Berger: I second that.

Mr. Chairman: It has been moved by Mr. McCall, seconded by Mr. Berger, that Mr. Speaker do now resume the Chair. All those in favour?

Some Members: Agreed.

Mr. Chairman: Contrary?

MOTION IS 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?

Mr. Hibberd: Yes, Mr. Speaker. The Committee convened at 10:25 a.m. to discuss Bills, Sessional Papers and Motions. Mr. Commissioner and Mr. McPhail were present as witnesses. Committee recessed at 11:32 a.m. and reconvened at 1:45 p.m.

It was moved by Mr. McCall and seconded by Mr. Berger that Bill Number 1 be reported out of Committee as amended.

It was moved by Mr. McCall and seconded by Mr. Berger, that Mr. Speaker do now resume the Chair and this Motion carried.

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

Some Members: Agreed.

Mr. Speaker: I have, handed to me a moment ago, a matter of interest for all members of the House. It is that the British Columbia Premier, Bill Bennett, and Cabinet Ministers Jack Davis and Don Philips, will visit the Yukon, Wednesday, May the 26th. The Premier and his party are touring the Northern British Columbia communities of Fort St. John and Fort Nelson. They are briefing community officials in these areas about the British Columbia's Government position on the recent Alaska Highway Gas Pipe Line proposal.

Since the Premier will be in Northern British Columbia, he has expressed a desire to visit with Yukon Government Officials and the members of the Yukon Legislative Assembly for a general discussion on matters which are of mutual interest to both jurisdictions.

George Leckner, Chairman of the British Columbia Petroleum Corporation, will also be along on the tour. And the Premier and his party will be leaving the Yukon

early on Thursday morning. I draw this to the attention of all members of the House.

May I have your further pleasure at this time?

The Honourable Member from Whitehorse Riverdale?

Mr. Lengerke: Mr. Speaker, I would move that we now call it five o'clock.

Mr. Speaker: Is there a seconder?

Ms. Millard: I second that Motion.

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

Some Members: Question.

Mr. Speaker: Are you agreed?

Some Members: Agreed.

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

MOTION CARRIED

Mr. Speaker: This House now stands adjourned until 10:00 a.m., Wednesday the 26th of May.

(ADJOURNED)

LEGISLATIVE RETURN NO. 2
(1976 SECOND SESSION)

May 19, 1976

Mr. Speaker,
Members of Council

On May 18, 1976, Councillor Fleming asked the following question:

"If and when the new bridge is erected at Tagish, will there be any change in the right-of-way?"

The answer is as follows:

As part of the design of the new bridge structure, Highways and Public Works are investigating the possible re-alignment of the road on the west side of the bridge.

Final details will not be available until the Fall of 1976.

M.E. Miller,
Member,
Executive Committee

LEGISLATIVE RETURN NO. 3
(1976 SECOND SESSION)

May 19th, 1976.

Mr. Speaker,
Member of Council

On Tuesday, May 18th, Councillor Hibberd asked the following questions concerning the Medical Evacuation Programme:

"It has recently come to my attention that the government in B.C. has had considerable difficulty with their medical evacuation programme primarily because of the cost and they have withdrawn a large amount of that programme. In that case I would be most interested in finding out what are the costs of our medical evacuation programme, both within the territory and to outside centres as to the number of patients that are involved and the cost of per patient."

The answer is as follows:

Total Costs \$163,226.99

In Territory Costs \$ 32,018.36

Out of Territory Costs \$ 93,172.58

Charters \$ 38,036.05

In Territory Patients 524

Out of Territory Patients 278

Charters 49

Cost Per Patient

In Territory \$ 61.10

Out of Territory \$ 321.82

Charter \$ 776.25

Flow Whyard,
Member,
Executive Committee