



The Yukon Legislative Assembly

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7th Session,

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Debates & Proceedings

Thursday, December 2, 1976

Speaker: The Honourable Donald Taylor



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1987

Volume 1

Part 1

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Whitehorse, Yukon Territory.
December 2nd, 1976.

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.

(Prayers)

ROUTINE PROCEEDINGS

Mr. Speaker: We will at this time proceed with the Order Paper and, under Routine Proceedings, are there any documents or correspondence for tabling? Are there any reports of Committees?

The Honourable Member from Whitehorse South Centre?

REPORTS OF COMMITTEES

Mr. Hibberd: Mr. Speaker, I have for tabling this morning the second report of the Standing Committee on Rules, Elections and Privileges. Your Standing Committee on Rules, Elections and Privileges held seven meetings during the 1976 third session. The Committee has completed its revision of the Standing Orders of this Assembly. It is Committee's intention to meet early in January 1977 to finalize the recommendations on Standing Orders and to commence its second order of reference as cited in Motion Number 2, being the development of conflict of interest guidelines for M.L.A.s.

Mr. Speaker: The Honourable Member from Kluane?

Mrs. Watson: Mr. Speaker, I have for tabling this morning the first report of the Standing Committee on Yukon Land Claims.

Mr. Speaker, the Members of the Yukon Legislative Assembly listened with great interest to the views of the Council for Yukon Indians last week. Some of the issues raised were controversial and, in the heat of discussion, some statements were, perhaps, misinterpreted. As elected Members of this Government, each of us must note and consider objectively the views of Indian constituents within our individual ridings.

We wish to reassure the C.Y.I. Chairman of our sincerity in dealing with the concerns of all of our constituents.

In his address, Mr. Johnson observed that words carry many different meanings to those who view the political realities of Yukon. We certainly concur. Only one day after the opening of this Session, the new Minister of Indian and Northern Affairs proceeded to tell this Assembly that the constitutional development of Yukon could not continue because of the racial origin of the Members of this House, who were elected through the normal democratic process. We make no apologies for democracy, nor for being elected by both white and native voters. This does not mean that we are cognizant of the fact that some Yukon Indian people are suffering from inferior, social, economic and political circum-

stances, but we ask, who has had and continues to have the constitutional responsibility to improve the Indian circumstances? Certainly not the Yukon Government, and we share your frustrations.

It is not the intention of Members to open a debate on emotional issues. However, it is our duty to point out some misinterpretations of the Yukon Government's position concerning Land Claims and responsible government presented in Mr. Johnson's address.

It was alleged that the Yukon Government had been responsible for delays in settling the claims. On the contrary, this Government continues to believe in an expeditious settlement so the Yukoners can collectively plan for their own future. Because of the gravity of the issues facing the respective negotiating teams, there will be unavoidable delays from time to time for serious deliberation and reassessment of position. The most recent delay was requested the CYI in order to improve communication and understanding of the claims at the community level.

There also appears to have been some confusion about this government's position in support of a land claims settlement. We would remind you of the Yukon Government's statement in the analysis and position paper on land claims published in November, two years ago. And I quote: "The Government of the Yukon concurs with the approach of the Government of Canada in working towards a settlement by means of negotiation. At the same time, the Territorial Government has several objectives which it feels must be basic to any settlement that may be reached. Any settlement should contribute positively to the constitutional development of the Territory, particularly in regard to the goal of obtaining responsible government." There is no change in this position.

We also welcome the support of southern Canadians as expressed in Resolution Number 7 made at the Seventh National Northern Development Conference held in Edmonton on November the 3rd to 5th, 1976, and I quote from that Resolution:

"Whereas all responsible organizations in the Territories are on record as being in support of an early and just settlement of native land claims; and, two, whereas there is considerable confusion and apprehension both in the north and in the south over the implementation of native land claims — be it resolved that the Federal Government, with the backing of Parliament, press to an early conclusion their programme that will resolve the native land claims in the Yukon and Northwest Territories on the basis of equality of opportunity and responsible participation in Canadian society."

Mr. Johnson also suggested that we Yukoners should be going to Ottawa with hat in hand asking for funds and that we should be happy to be a mere colony of the Government of Canada. We were surprised at these remarks. We were under the impression that Indian people as well as white Yukoners wanted to have more meaningful input and participation in the decisions which affect us all as residents, rather than to remain silent colonials.

The CYI Chairman suggested that the issue which most directly concerns the Legislative Assembly is how the present administrative structure of this Government may be affected by the land claims settlement.

It was suggested that the Yukon Government need not be involved in other areas of the settlement and that the

Yukon Government has nothing to offer to the Indian people. We would remind everyone that, while the Government of the Yukon does not yet have the constitutional responsibility for most of the land in the Territory, it is concerned with and involved in all issues which affect all Yukoners.

The support of this Government on issues which have been of vital concern to the native people in the past has been an asset to those people and the support will continue to be there when needed.

It is time now that Yukoners themselves, native or non-native, take up the challenge to deal with the land claims settlement. The Members of this Assembly and of this Committee are confident that Yukoners working together can and will work out their differences.

In order to ensure that the needs of all Yukoners will be met, the Standing Committee will investigate the crucial issue of Land Claims and their implications for all Yukon. You will understand that this will require restructuring of our approach to the negotiation and we request the necessary time to accommodate these changes in format and to establish research support before any serious dialogue begins.

Following the initial meeting of this Standing Committee, its immediate recommendations are:

1) That the Commissioner of Yukon shall act on the advice of the Executive Committee on all matters involving Yukon Land Claims.

2) That a Member of the Standing Committee will attend all formal or informal meetings relating to Yukon land claims.

3) That the services of the Yukon Territorial Government Land Claims Secretariat will be made available to the Standing Committee on Yukon Land Claims.

These recommendations will be forwarded to the Minister of Indian and Northern Affairs forthwith for immediate action. This Standing Committee will continue to meet following prorogation of this Session and will report to the people of Yukon from time to time.

Thank you.

Mr. Speaker: Are there any further reports of Committees?

Mr. Fleming: Mr. Speaker, a point of privilege. May I have a chance to answer the Honourable Member's proposal some time?

Mr. Speaker: Sorry, perhaps that is not possible at this time. Perhaps later in the day this may be possible.

Are there any further reports of Committees? Petitions? Introduction of Bills? Notices of Motion for the Production of Papers? Are there any Notices of Motion or Resolution?

NOTICES OF MOTION OR RESOLUTION

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

Mr. Hibberd: Mr. Speaker, I give Notice of Motion regarding the second report of the Standing Committee on Rules.

Mr. Speaker: The Honourable Member from Kluane?

Mrs. Watson: I'd like to give Notice of Motion regarding the first report of the Standing Committee on Yukon Land Claims.

Mr. Speaker: Are there any further Notices of Motion or Resolution?

Are there any statements by Ministers?

STATEMENTS BY MINISTERS

Mr. Speaker: The Honourable Minister of Health and Welfare?

Hon. Mrs. Whyard: Mr. Speaker, I rise really on behalf of all Members of this House to say a word prior to prorogation regarding the resignation of Mr. Merv. Miller from our midst.

I think I'm reviewing the vital statistics here, Mr. Speaker. We could say that the Assistant Commissioner is suffering from the seven year itch. He has served a seven year hitch. He arrived almost exactly seven years ago, Mr. Speaker, on December 1st, 1969, a native of B.C., to become our Chief Territorial Accountant in the Yukon Territorial Government.

He was appointed Territorial Treasurer in February of '71 and Acting Assistant Commissioner Administrative on April 23, 1973. He has been a Member of the Executive Committee for three and a half years. He has been in charge of some of the most important portfolios in this Government, bearing the very heavy responsibilities for financial, treasury, highways and public works, Yukon Housing Corporation, and was at one time also responsible for Local Government.

He has been Chairman of the Financial Advisory Committee, Vice-Chairman of the Legislative Programming Committee, and an invaluable part of the administration for this Government.

Mr. Miller and his family are staying in the Yukon, which is a matter of great satisfaction to all of us, I am sure, Mr. Speaker, and they will continue to take an active part as they have in the past in youth work with guides and cross-country skiing and various other community endeavours.

I am only rising to say that his resignation, which is effective mid-January 1977, is going to leave a very large void in the day-to-day activities of this Government and on behalf of all Members I would extend our very best wishes to Mr. Miller and our most sincere thanks.

(Applause)

Mr. Speaker: Are there any further statements by Ministers?

This brings us to the Question Period. Are there any replies to questions? The Honourable Minister of Education?

QUESTION PERIOD

Hon. Mr. Lang: Mr. Speaker, I was asked approximately one week ago for the copies of the Resolutions submitted at the School Committee Conference held on November 19, 1976, and also I have for tabling a Legislative Return and reply to a question asked on November 22nd by Mrs. Watson concerning a section of an Act of

Canada which might be applicable to Indians.

I have also for tabling a Legislative Return to written question number 30.

Mr. Speaker: Further replies to questions? We will then proceed with the Question Period. Have you any oral questions this morning?

There being no questions this morning, we will then proceed to Orders of the Day.

ORDERS OF THE DAY

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

Mr. Hibberd: Mr. Speaker, I seek consent of the House to suspend Standing Orders to move Motion Number 40 re Standing Committee on Rules, Elections and Privileges.

Mr. Speaker: Is the House agreed?

Some Members: Agreed.

Mr. Speaker: Proceed.

Mr. Hibberd: It has been moved by Dr. Hibberd, seconded by Mr. Lengerke, that the second report of the Standing Committee on Rules, Elections and Privileges dated December 2, 1976 be received and concurred in.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse South Centre, seconded by the Honourable Member from Whitehorse Riverdale, that the second report of the Standing Committee on Rules, Elections and Privileges dated December 2, 1976 be received and concurred in. Is there any debate? Are you prepared for the question?

Some Members: Agreed.

Mr. Speaker: Are you agreed?

Some Members: Agreed.

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

(Motion carried)

Mr. Speaker: The Honourable Member from Kluane?

Mrs. Watson: Mr. Speaker, I seek consent of this House to suspend Standing Orders to move Motion Number 41.

Mr. Speaker: Does the House agree?

Some Members: Agreed.

Mr. Speaker: It has been moved by the Honourable Member from Kluane, seconded by the Honourable Member from Whitehorse South Centre, for leave to deal with Motion Number 40 respecting the second report of the Standing Committee on, pardon me, the first

report of the Standing Committee on Yukon Land Claims.

I'll put the question again. Agreed?

Some Members: Agreed.

Mr. Speaker: This Motion would have to have unanimous consent to have it discussed so, consequently, the Motion cannot be received at this time.

The Honourable Member from Kluane?

Mrs. Watson: Mr. Speaker, will the Motion be received tomorrow?

Mr. Speaker: It will require another sitting of the House tomorrow to deal with it.

This brings us to the Order Papers, to

The Honourable Member from Kluane?

Mrs. Watson: Mr. Speaker, on a point of privilege, I don't think the Members who disagreed realized that they were not voting against the Motion. When the Motion is put they will have the opportunity to enter into debate and I think this is the one thing that the Members want to do. And I would hope they would reconsider if it means sitting an extra day. This is just an opportunity to face the issue today rather than to

Mr. Speaker: Order, please. I'm afraid we can't debate the Motion until it is before the House.

May I have your pleasure in respect of Public Bills?

PUBLIC BILLS

Madam Clerk: First reading of the Amendment to Bill 5.

Amendment to Bill 5 - First Reading

Mr. Speaker: The Honourable Member from Whitehorse West?

Hon. Mrs. Whyard: Mr. Speaker, I move, seconded by the Honourable Member from Whitehorse Porter Creek, that the Amendment to Bill Number 5 be now read a first time.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse West, seconded by the Honourable Member from Whitehorse Porter Creek, that the Amendment to Bill Number 5 be now read a first time.

Are you prepared for the question?

Some Members: Question.

Mr. Speaker: Are you agreed?

Some Members: Agreed.

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

(Motion carried)

Amendment to Bill 5 - Second Reading

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

Hon. Mrs. Whyard: Mr. Speaker, I move, seconded by the Honourable Member from Whitehorse Porter Creek, that the amendment to Bill Number 5 be read a second time.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse West, seconded by the Honourable Member from Whitehorse Porter Creek, that the amendment to Bill Number 5 be now read a second time.

The Honourable Member from Whitehorse South Centre?

Mr. Hibberd: As this amendment came through in Committee, I have not had a chance to address myself to them and I would like it known at this time that I intend to vote against these amendments. These amendments are ambiguous, they are vague and they are difficult to interpret. They do not reflect the desires of the people of the Territory. Jurisdiction on public drinking in this matter will not be well understood and therefore will be difficult to obey and, Mr. Speaker, this method of restriction does not address itself to the primary problem — which is that of alcoholism.

Mr. Speaker: Is there any further debate? Are you prepared for the question?

Some Members: Question.

Mr. Speaker: Are you agreed?

Some Members: Agreed.

Mr. Speaker: Are there two calling disagreement? Two Members?

Madam Clerk, would you poll the House on division?

Madam Clerk: Mrs. Whyard?

Hon. Mrs. Whyard: Agreed.

Madam Clerk: The Honourable Mr. Lang?

Hon. Mr. Lang: Disagreed.

Madam Clerk: The Honourable Member, Mr. McIntyre?

Mr. McIntyre: Agreed.

Madam Clerk: The Honourable Member, Mr. Berger?

Mr. Berger: Agreed.

Madam Clerk: The Honourable Member, Mr. Hibberd?

Mr. Hibberd: Nay.

Madam Clerk: The Honourable Member, Mr. Fleming?

Mr. Fleming: Agreed.

Madam Clerk: The Honourable Member, Ms. Millard?

Ms. Millard: Agreed.

Madam Clerk: The Honourable Member, Mr. McCall?

Mr. McCall: Agreed.

Madam Clerk: The Honourable Member, Mrs. Watson?

Mrs. Watson: Agreed.

Madam Clerk: Mr. Speaker, the result of the division is seven yea, two nay.

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

(Motion carried)

Mr. Speaker: When shall the Bill be read for the third time? The Honourable Member from Whitehorse West?

Amendment to Bill 5 - Third Reading

Hon. Mrs. Whyard: Mr. Speaker, I move, seconded by the Honourable Member from Whitehorse Porter Creek, that Bill Number 5, an Ordinance to amend the Liquor Ordinance, be now read a third time.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse West, seconded by the Honourable Member from Whitehorse Porter Creek, that Bill Number 5 be now read a third time. Are you prepared for the question?

Some Members: Question.

Mr. Speaker: Are you agreed?

Some Members: Agreed.

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

(Motion carried)

Mr. Speaker: Are you prepared to adopt the title to the Bill? The Honourable Member from Whitehorse West?

Hon. Mrs. Whyard: Yes, Mr. Speaker, I move, seconded by the Honourable Member from Whitehorse Porter Creek, that Bill Number 5, An Ordinance to Amend the Liquor Ordinance, do now pass and that the title be as on the Order Paper.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse West, seconded by the Honourable Member from Whitehorse Porter Creek, that Bill Number 5 do now pass and that the title be as on the

Order Paper. Are you prepared for the question?

Some Members: Question.

Mr. Speaker: Are you agreed?

Some Members: Agreed.

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

(Motion carried)

Mr. Speaker: Bill Number 5 has now passed this House.

Mr. Berger: On a point of privilege, Mr. Speaker, the reporters are having trouble with the system.

Mr. Speaker: Very well. I shall declare a brief recess at this point.

(Recess)

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

May I have your further direction? The Honourable Minister of Health and Welfare?

Hon. Mrs. Whyard: Mr. Speaker, I rise on a point of special privilege, Mr. Speaker. At the request of a number of citizens of the Yukon and Municipalities, and my Honourable colleague who is absent from the House today, Mr. Speaker, because of illness, I rise to ask the approval of this House that we request the Commissioner of Yukon, when assenting to Bill Number 5, to not proclaim the section amended by the House from Committee until the first of April in order to provide an opportunity to bring forward an amendment which will address specifically the problem of drinking in organized communities in public places and the matter of impaired drivers, ninety-eight per cent of whom are charged in Municipalities.

These are the two specific areas of concern, Mr. Speaker, which have been brought to our attention throughout the debate and since the decision on the amendment. Mr. Speaker, I would urge all Members to support the need for clearer thinking on this particular section.

It is a matter of importance that this Bill pass the House and we have done so because there are a number of vital sections in it which this government will require to proceed with, so I would ask the approval of this House that we not proclaim that one amended section until the first of April, 1977.

Mr. Speaker: The Honourable Member from Klwane?

Mrs. Watson: Mr. Chairman, I find this rather unusual. Is this a form of a Motion, or how ...?

Mr. Speaker: Order please. Order please. Does the Member have a question of privilege?

Mrs. Watson: Mr. Chairman, it certainly is a question of privilege. Are we going to debate the pro's and

con's of assenting to a Bill on a point of privilege or are we going to have a normal — are we going to go into Committee, or how are we going to handle it, because I have some things that I would like to say and I don't feel that I want to breach the Orders of the House in order to say them.

Mr. Speaker: Order. On the Member's question of privilege, no, this is not debatable at this time.

Mrs. Watson: Mr. Chairman, on a point of privilege, when we pass a Bill and then we're not going to bring it into effect for six months and change it and it isn't debatable, Mr. Chairman...

Mr. Speaker: Order please. May I have your further —? We still have one matter left to deal with on the Order Paper which will require a sitting tomorrow morning. May I have your pleasure at this time? The Honourable Member from Pelly River?

Mr. McCall: I would move that we call it five o'clock.

Mr. Speaker: Is there a seconder?

It has been moved by the Honourable Member from Pelly River, seconded by the Honourable Member from Klondike, 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 the Motion is carried.

(Motion carried)

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

(PROCEEDINGS ADJOURNED)

THE FOLLOWING LEGISLATIVE RETURNS WERE TABLED

76-3-42

Yukon Research Project Near Old Crow
(Written Question Number 30)

76-3-43

General Application of Laws Regarding Indians
(Oral Question, Page 338)

THE FOLLOWING SESSIONAL PAPER WAS TABLED

76-3-42

School Committee Conference Resolutions of Conference Held November 19th, 1976.

LEGISLATIVE RETURN #42
1976 (Third) Session

Mr. Speaker
Members of the Assembly

On November 29, 1976, Ms. Millard asked the following question:

"Further to questions concerning the Northern Yukon Research Project near Old Crow:

- 1) When is their annual report to be filed?
- 2) When it is filed, will Mr. Commissioner supply us copies of the report?
- 3) Are any special hunting licences given to the N.Y.R.P.?

The answer to the above question is as follows:

- 1) A condition of the annual licence issued requires that the report be forwarded as soon as possible, but no deadline is established.
- 2) The annual report, which contains detailed information on site location is confidential and may only be released on specific authorization of the project director.

General or summary reports may not be confidential, in which case I would be at liberty to supply copies to the members on request.
- 3) No special hunting licences are given to the N.Y.R.P.

Dec 2 1976
Date

AM Pearson
Signature

LEGISLATIVE RETURN #43
1976 (THIRD) SESSION

Mr. Speaker,
Members of the Assembly

On November 22nd Mrs. Watson asked the following question:

"Section 22(2) of the Yukon Act states:

All laws of general application in force in the Territory are, except where otherwise provided, applicable to and in respect of Eskimos in the Territory.

Is there a similar section which expresses the same intent for Indians in any other legislation of Canada, Act of Canada?"

The answer to the above question is as follows:

Sections 17 (1) (2) (3) of the Yukon Act and its counterpart sections 14 (1) (2) (3) of the Northwest Territories Act represent laws of general application enacted through the Parliament of Canada to clarify the jurisdiction of the respective Territories for the preservation of game as that preservation relates to Indians and Eskimos, and further, to set out the privileges of Indian and Eskimo people to hunt for food on unoccupied Crown lands.

On the provincial level, there are two roughly analogous provisions to s. 22(2) of the Yukon Act giving limited scope to general provincial laws in relation to Indians. These are Section 88 of the Indian Act and section 12 (section 13 in the case of Manitoba) of the Natural Resources Transfer Agreements between the federal government and the prairie provinces.

An effect of s. 22(2) of the Yukon Act is to subordinate territorial ordinances of general application to contrary federal legislation in relation to Eskimos. Section 88 of the Indian Act has the general effect of subordinating provincial laws of general application to contrary federal legislation in relation to Indians.

Section 88 of the Indian Act differs from the Yukon Act s. 22 (2) in a number of ways: firstly, it expressly subordinates laws of general application in the province to treaties (as well as to federal legislation); secondly, s. 88 not only subordinates laws of general application to inconsistent federal legislation but goes on to subordinate these general laws whenever the Indian Act (or regulations etc. under it) makes provision for matters covered by the general laws. "Laws of general application" have been interpreted in the case of R.V. Peters (1966) 57 W.W.R. 727 (Y.T.C.A.) to include territorial ordinances.

While not technically Canadian legislation, the Natural Resources Transfer Agreements have been incorporated as amendments to the British North America Act and therefore have legal force in the prairie provinces.

These provisions in effect permit the provinces to legislate generally even in relation to game hunted by Indians, but prohibit the provinces from restricting Indians' rights to hunt, fish and trap game and fish for food at all seasons of the year and on any other land to which the Indians may have a right of access.

Dec. 1/76
Date

AM Pearson
Signature