



# The Yukon Legislative Assembly

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Debates & Proceedings

**Tuesday, November 22, 1977**

Speaker: The Honourable Donald Taylor



Whitehorse, Yukon Territory  
November 22, 1977

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

At this time we will proceed with morning Prayers.

*Prayers*

**Mr. Speaker:** The Honourable Member from Whitehorse West?

**Hon. Mrs. Whyard:** Mr. Speaker, I rise on question of Privilege this morning to express the sympathy of all members of this House to the family of the late H.E. Boyd who died this morning.

I think that Bert Boyd was known personally to all of us. He served this Legislative Assembly for two-3 year terms, as the member for Whitehorse East, first running for election in 1962 and being re-elected in 1964. For the past ten years he has been a valuable resource person to many boards and commissions requiring a sane and sensible, calm and cool person, with a great deal of northern experience.

His recent resignation as Chairman of the Yukon Water Board has left a position of great importance of the Yukon to be filled.

I think probably what most of us will remember about Bert Boyd was that he never said anything unkind about anyone. I think we have all lost a friend, Mr. Speaker, and I would like to extend the sympathy of this House to his wonderful family. He founded a dynasty, he and Cathy, and they are serving in many places throughout the Yukon and we know that they must all be very proud of their father for his great contribution to this Territory.

Thank you, Mr. Speaker.

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

**Mr. Hibberd:** Mr. Speaker, I rise on a Point of Privilege. Before rising, last evening, there was a problem regarding assent to be given to a Private Member's Bill Number 102, and I quote: "Contrary to the intent and wording of Section 4, of the *Yukon Act*, have been instructed to refuse or withhold assent to Private Member's Public Bill Number 102".

My problem, Mr. Speaker, is whether this Bill has been refused or withheld its assent.

**Mr. Speaker:** Before rising on Monday last, the House recessed in order to permit Mr. Commissioner, in his role as Lieutenant-Governor of the Territory, to give assent to several bills passed by this Assembly. Concerning Private Member's Bill 102, *An Ordinance to Amend the Public Inquiries Ordinance*, Mr. Commissioner stated, and I quote from :

"I have been instructed to refuse or withhold assent to Private Member's Public Bill 102".

The action of refusal is separate and distinct from the action of withholding assent. Because of the record of this House is alike a court of record, accuracy of information, direction and evidence must be very clear.

Therefore, I have requested Mr. Commissioner to submit, by message to this Assembly, the exact prerogative of the Crown, respecting Private Member's Public Bill 102, and I shall advise this House accordingly, when I have received a reply.

We will now proceed to the Order Paper. Are there any Documents for Tabling? The Honourable Member from Whitehorse North Centre.

#### TABLING OF DOCUMENTS

**Hon. Mr. McKinnon:** Mr. Speaker, I have for tabling, a White Paper on Heating Fuel Equalization.

Mr. Speaker, I also have for tabling, the information requested by Motion Number 2 for the Production of Papers, regarding the supplying of electrical energy to the communities of Beaver Creek, Destruction Bay, Burwash and Haines Junction.

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

**Hon. Mr. Lang:** Mr. Speaker, I have for tabling a White Paper on the Arctic Winter Games, and also, pursuant to Section 223, of the *Schools Ordinance*, I have for tabling the Yukon Teachers Staff Relations Board's report.

I also have for tabling, Mr. Speaker, two letters, dated the 17th of November, 1977, addressed to the Commissioner, from Mr. Csizmazia, being reports on the accident at Cyprus-Anvil Mine, as requested in a question to the Commissioner on the 14th of November, 1977, from the Honourable Member from Pelly River.

**Mr. Speaker:** The Honourable Member from Whitehorse West?

**Hon. Mrs. Whyard:** Mr. Speaker, pursuant to Section 19 of the *Transport Public Utilities Ordinance*, I have for tabling, the report of the activities of the Transport Public Utilities Board for the year 1976-77.

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

Reports of Committees?

Petitions?

Introduction of Bills?

Are there any Notices of Motion for the Production of Papers?

Notices of Motion or Resolution?

The Honourable Member from Whitehorse South Centre?

#### NOTICES OF MOTION

**Mr. Hibberd:** Mr. Speaker, I would like to give Notice of Motion, moved by myself, seconded by the Honourable Member from Riverdale, that a special committee of this Legislature be established to deal with matters related to projected northern pipeline construction, to liaise with community interest groups on matters of concern regarding pipeline construction in order that Yukon individuals and groups are given the opportunity to make representation for the purpose of influencing government policy and pipeline construction and management. That the said Committee have power to call for persons and papers and records, to sit during the inter-sessional period and to report from time to time.

That the Clerk of the Legislative Assembly be responsible in providing the necessary support staff to the Committee.

Be it further resolved that the Standing Committee of Caucus be called forthwith to make nominations for membership to this committee.

**Mr. Speaker:** The Honourable Member from Ogilvie?

**Ms Millard:** Mr. Speaker, I give Notice of Motion, moved by myself, seconded by the Member from Riverdale that it is the opinion of this Assembly that the government should investigate the possibility of considering an annual grant to the local chapter of the Consumers' Association of Canada to assist them in financing their work within the Territory.

**Mr. Speaker:** The Honourable Member from Kluane?

**Mrs. Watson:** Yes, Mr. Speaker, I would give Notice of

Motion, seconded by the Honourable Member from Pelly regarding an inquiry to be made, pursuant to the *Public Inquiries Ordinance*.

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

Are there any Statements by Ministers?

This then brings us to the Question Period. Have you any questions?

The Honourable Minister of Highways and Public Works.

#### QUESTION PERIOD

**Hon. Mr. McKinnon:** Mr. Speaker, I have for tabling Legislative Returns in answer to the following questions: written question number 7, asked by Mrs. Watson, on November 10th, concerning tax revenue for the Whitehorse-Skaway pipeline; written question number 15, asked by Mrs. Watson, on November 16th, concerning assessment services to municipalities, and, Mr. Speaker, the question asked by Mr. Lengerke, on November 14th, concerning the Wolf Creek subdivision.

**Mr. Speaker:** The Honourable Minister of Education.

**Hon. Mr. Lang:** Mr. Speaker, I have for tabling answers to the following written questions: number one, relating to the \$200 million pipeline fund; number 14, relating to the Housing Corporation in the Teslin area.

At the same time, while I am on my feet, Mr. Speaker, I have replies to the oral questions by the Honourable Member from Riverdale, that was dated on November 10th, which asked about the addition and alterations to Selkirk Street School. The first question was: is the project on schedule?

Engineering has advised that good progress is being made by the contractor. All foundation work and undergrade drainage lines have been completed. Although Engineering has not received a detailed job scheduling from the contractor, discussions indicate that it is their intention to work all winter, except in very severe temperatures. As a result, it is anticipated that the contractor will meet the completion date of June 30th, 1978.

The second question: has there been any changes in the budget requirements for this particular project? Originally, the cost of the project had been estimated at \$900,000. In the 1977-78 Main Estimates, the sum of \$500,000 had been projected, under Establishment 2303 for the project, with the balance of \$400,000 included in the 1978-79 program forecasts.

However, the lowest tender for the project, inclusive of architectural, engineering and inspection fees, totaled \$1,253,776. As a result, changes have been made to the capital budget allocations for this project. The supplemental estimates for the 1977-78, will provide for an increasing capital of \$250,000, for Establishment 2303, a total capital expenditure of \$750,000, during the 1977-78 financial year. The balance of capital required for the project of \$500,000 is included in the 1978-79 estimates.

On November 17th, on the same subject, the Honourable Member made further inquiries. He asked why did it take so long for the time of budget approval to actually get construction started.

The *First Appropriation Ordinance, 1977-78*, was assented to on March 30th, 1977. The Ordinance provided the authority for YTG to enter into a contract with the architect. Prior to the end of March, the architect had prepared sketch plans for the project, and the actual working drawings were not started until early April.

The five month period between the time the Ordinance was assented to and construction commenced does not, in the opin-

ion of the Department of Education represent a prolonged delay as most of the period could have been reduced by four weeks had the mail service tender, procedure, et cetera been operating at maximum efficiency.

I have for tabling a dated outline of the actual events related to the planning of the project, the preparation of working drawings and tender procedures and ultimately, the beginning of construction.

**Mr. Speaker:** The Honourable Minister of Human Resources?

**Hon. Mrs. Whyard:** Mr. Speaker, I have for tabling a Legislative Return in answer to written question number 12 concerning the transfer responsibility for the delivery of Health Services.

**Mr. Speaker:** Are there any questions?

The Honourable Member from Ogilvie?

**Question re: Decentralization White Paper**

**Ms Millard:** Mr. Speaker, a question for any member of the Executive Committee. Since it is in response to a Motion which was passed last spring, when can we expect the Decentralization White Paper?

**Mr. Speaker:** The Honourable Minister of Highways and Public Works?

**Hon. Mr. McKinnon:** Mr. Speaker, I don't want to answer that question, but I will find out for the Honourable Member at the earliest opportunity.

**Mr. Speaker:** There being no further questions, we will then proceed to Orders of the Day, under Motions.

#### ORDERS OF THE DAY

#### MOTIONS

**Madam Clerk:** Item 1, standing in the name of the Honourable Member, Mr. Fleming.

**Mr. Speaker:** Is the Honourable Member prepared to discuss Item 1?

**Mr. Fleming:** Yes, Mr. Speaker.

**Mr. Speaker:** It has been moved by the Honourable Member from Hootalinqua, seconded by the Honourable Member from Klondike, THAT the agreement between Canada and the United States of America on principles applicable to a northern natural gas pipeline and also the Release dated September 9, 1977 by the Honourable Allan J. MacEachen on Canada-USA agreement on Northern pipeline be referred to Committee of the Whole for discussion.

The Honourable Member from Hootalinqua?

**Mr. Fleming:** Yes, Mr. Speaker, I would ask that this be moved into Committee of the Whole for discussion at this time.

*Motion agreed to*

**Mr. Speaker:** We will now proceed to Public Bills.

#### PUBLIC BILLS

**Madam Clerk:** Second Reading, Bill 6, *Labour Standards Ordinance*, standing in the name of the Honourable Mr. Lang.

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

**Hon. Mr. Lang:** Next sitting day, Mr. Speaker.

**Madam Clerk:** Second Reading, Bill 10, *Elections Ordinance, 1977*, standing in the name of the Honourable Mr. Lang.

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

**Hon. Mr. Lang:** Next sitting day, Mr. Speaker.

**Madam Clerk:** Second Reading, Bill 11, *An Ordinance to Amend the Interpretation Ordinance*, standing in the name of the Honourable Mr. Lang.

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

**Hon. Mr. Lang:** Next sitting day, Mr. Speaker.

**Mr. Speaker:** We will then proceed to Private Member's Public Bills.

#### PRIVATE MEMBER'S PUBLIC BILLS

**Madam Clerk:** Bill 101, *An Ordinance Respecting the Legislative Assembly*, standing in the name of the Honourable Mr. Hibberd.

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

**Mr. Hibberd:** Next sitting day, Mr. Speaker.

**Mr. Speaker:** The Honourable Member from Pelly River?

**Mr. McCall:** Thank you, Mr. Speaker. I would move that Mr. Speaker do now leave the Chair and the House resolve into Committee of the Whole.

**Mr. Fleming:** I second that.

**Mr. Speaker:** It has been moved by the Honourable Member from Pelly River, seconded by the Honourable Member from Hootalinqua, that Mr. Speaker do now leave the Chair and that the House resolve into Committee of the Whole.

*Motion agreed to*

*Mr. Speaker leaves Chair*

#### COMMITTEE OF THE WHOLE

**Mr. Chairman:** I call Committee to order. We will be proceeding this morning with consideration of Bill Number 9, *An Ordinance to Amend the Workmen's Compensation Ordinance*, after a recess.

*Recess*

**Mr. Chairman:** I call Committee to order.

We have with us, this morning, appearing as witnesses, Mr. Crawford E. Laing, from Vancouver, who is consulting actuary to our Workmen's Compensation Board, Mr. Brian Booth, the Administrator for the Workmen's Compensation, and Mr. Bob Cosman, our Legal Advisor.

Mrs. Whyard.

**Hon. Mrs. Whyard:** Mr. Chairman, I would just like to say a word before we get into this Ordinance, of appreciation to Mr. Laing, and also to the Workmen's Compensation Board of the Northwest Territories, who changed their regular meeting for this week, in order to accommodate our request to have Mr. Laing with us.

The reason we are so pleased to have Mr. Laing, is that he is from Glasgow, which is a mark on his side to begin with, and has been an actuary for 25 years, involved in various insurance companies and with the Faculty of Actuaries, in Scotland, and has been with consulting firms in Canada, and is presently the consulting actuary to the Workmen's Compensation Boards of British Columbia and the Northwest Territories, in addition to the Yukon.

So, I am very pleased that we are able to have Mr. Crawford Laing with us today. I cannot think of anyone better competent to assist us in our study of this Ordinance.

We have also, of course, Mr. Booth, who is our own Administrator, and has been very much involved in the preparation of these amendments.

I hope that all Members have had an opportunity to consider

the plethora of material now provided on background to this Bill. I know that some of it is very technical and that is why we have our assistants with us today.

I did cover, at second reading, Mr. Chairman, the main points to be considered in this Ordinance, and I will not delay Committee any further at this time.

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

We will proceed with the reading of Clause 1, before we get into general debate.

*On Clause 1*

**Mr. Chairman:** Is there any general debate? Are there any amendments to Clause 1?

*Clause 1 agreed to*

*On Clause 2*

**Mr. Chairman:** Mr. McCall?

**Mr. McCall:** Yes, Mr. Chairman, I would like some clarification on this Section 2. I think it's pretty loose language.

**Mr. Chairman:** Mr. Cosman?

**Mr. Cosman:** Section 2 simply adds to the definition of Commissioner to mean such person as is authorized by the Commissioner to act on his behalf, including the Worker's Compensation Administrator. This gives statutory recognition to the person who has been acting in this capacity for some time now.

Paragraph (b) of Section 2, the repealing of the definition 'flight crew member' is necessary because in a later amendment, with respect to Section 5 of the Ordinance, the intention is to have the *Worker's Compensation Ordinance* apply to flight crew members, and in fact they are listed as members of industry who are exempted from the *Worker's Compensation Ordinance* and by removing "flight crew member" from that list of exemptions, in effect, the *Worker's Compensation Ordinance* now applies to them.

**Mr. Chairman:** Mr. McCall.

**Mr. McCall:** I am not really satisfied with subsection 2, Mr. Chairman. We see, as I have said before in this House, the creeping vine of the administrative arm.

I am curious if we are to keep using the term Workmen's Compensation, in this particular Ordinance and I am curious as to why we do not have a Compensation Board, instead of reference to an Administrator, which is making reference in subsection 2.

The Compensation Board, in other provinces, and I believe this has been taken from another province, is not an advisory board like it is in the present legislation in the Yukon and I am curious as to why we do not have a Compensation Board here, instead of the Commissioner's power as being given loosely to just anybody, like an administrator.

**Mr. Chairman:** Mrs. Whyard.

**Hon. Mrs. Whyard:** Well, Mr. Chairman, as the Honourable Member knows, we have a Workmen's Compensation Board, at present, and it is in an advisory capacity, having just completed its first year.

I would hope, that as the Honourable Member said, that as we progress into the management of this particular area of our own affairs, and have more experience and ability, it will be beefed-up and strengthened, as it is in other jurisdictions. It is only three and a half years since we took over the administration of the fund. We have had the Board acting for a year now. Certainly, there is no objection, as far as I know, to additionally adding to their administrative zap. It is a decision that can be made as we progress in that direction, Mr. Chairman.

**Mr. Chairman:** Mr. McCall.

**Mr. McCall:** Thank you, Mr. Chairman.

It is all very well, for the Minister, Mr. Chairman, to make statements about the advisory board being in existence for one year, but it would be common sense if you are drafting amendments to legislation, to introduce them as the proper Compensation Board, as per the provinces.

I am a little alarmed to see an Administrator who is going to roughshod over an advisory committee, when the Compensation Board should be the Compensation Board, and not just an advisory committee. I am not satisfied with Section 2, Mr. Chairman.

**Mr. Chairman:** Mrs. Whyard.

**Hon. Mrs. Whyard:** Mr. Chairman, could I call upon Mr. Booth to outline the terms of reference for his position and what his working relationship is with the advisory board?

Thank you.

**Mr. Chairman:** Mr. Booth.

**Mr. Booth:** At the time, initially, the Alberta Worker's Compensation Board acted in the capacity of a referee and we found that this was very expensive, because every appeal we had to send the workman down to Alberta, and the only time, at that time, to form a Worker's Compensation Board, without changing the Ordinance, was by regulation.

They called it the Workmen's Compensation Advisory Board, and their terms of reference is as spelled out, as the referee, under Section 11, of the Ordinance, and also, they are to give financial and management advise to the Commissioner on all management and financial policies, which they do at present.

**Mr. Chairman:** Mr. McCall?

**Mr. Booth:** Pardon me, I do take the advice from the Board in administering the fund itself.

**Mr. McCall:** Thank you, Mr. Chairman, I am alarmed at this set up of mechanism that is being destroyed today. When you look at this particular Ordinance, there is no appeal procedure for a working person to appeal any decision that may be brought down by this government under this Ordinance and that's what a Workmen's Compensation Board is all about.

It is nice to say you guys are going to give us advice on financial reports and the way to handle the affairs of this particular legislation, but I am not satisfied that there is a proper appeal mechanism by just having an advisory board where you should have a proper compensation board developed and in place under this legislation. Not an administrator, not the Commissioner, but a proper Workmen's Compensation Board, because there is no proper appeals procedure under this particular Ordinance for any individual working person.

**Mr. Chairman:** Mr. Lang?

**Hon. Mr. Lang:** Mr. Chairman, I would like to ask Mr. Booth in respect to the other various jurisdictions where they do have a Workmen's Compensation Board which is not in an advisory capacity, or Mr. Laing, any one of the witnesses. Is it not fair to say then that these people would be on a permanent basis within the government? In other words, they would be working on a five day week for the government, if they are on a permanent basis?

**Mr. Booth:** Yes, Mr. Chairman. They are a full time board in most provinces, I believe with the exception of Northwest Territories and Prince Edward Island, where the Chairman is full-time and the other board members are part-time.

The terms of reference, the advisory board has gone into effect by Regulation, and the Regulation does state that this

board is a corporate body under the *Interpretations Ordinance*, although it is not spelled out into the Ordinance itself.

**Mr. Chairman:** Mrs. Whyard?

**Hon. Mrs. Whyard:** Mr. Chairman, it seems to me that we have to approach these matters with common sense, and I don't know that there is, at this stage, a requirement for a full time Board sitting on cases of Workmen's Compensation in the Yukon. I think that with a working population as small as ours, you have to make some attempt to be realistic. Perhaps I could ask Mr. Laing, for example, how many cases the Board in BC would be handling in comparison to ours?

**Mr. Laing:** Well, Madam Minister, I don't remember the exact number of claims, but I think it is of the order of 50,000 a year in BC. I think the closest parallel is to consider the practice in the Northwest Territories with which I am very familiar. As Mr. Lang said, the Chairman of that Board there is a public servant and an employee of the Northwest Territories Government and all their staff are employees. The Board is part-time, there are now four part-time members, plus a full time Chairman.

They do the same function as the Board here, in regard to claims adjudication. The Board here, although it is an Advisory Board, is the referee, as Mr. Booth has said, and it adjudicates the claims and the appeals on the claims are passed to that Board for adjudication and for review.

So, it is not a situation where there is a roughshod handling of the cases by a bureaucracy, if you like. This Board has the responsibility to act as referee and to deal with the claims cases that comes before it, fairly, and to review these cases.

So, it is only a technical point that there is not a Board, in the sense that there is in every other jurisdiction. It is a matter of development, the development in this Territory has been slightly different from the development in the Northwest Territories. There they had a Board first, but it was a number of years before they had their own accident fund. Here, you had your accident fund first, and you have not, yet, got your independent board, but it is just a matter of development.

**Mr. Chairman:** Mrs. Watson.

**Mrs. Watson:** Mr. Chairman, I also have some concerns, basically the concerns that were expressed by the Honourable Member from Pelly River.

A few years ago, I think my concerns would have been laid to rest, but we have this type of situation in the Yukon Territory. We have it with the Workmen's Compensation Board, where they have an advisory body, and we have it with the Yukon Housing Corporation, where the people, the administrator, of the Workmen's Compensation fund and the *Workmen's Compensation Act*, the Administrator of the Yukon Housing Corporation, are both members of the civil service of the Yukon Territory, and are under the Public Service Commission.

Now, the Director and the management and direction of the Public Service Commission, in the Yukon Territory, is the Commissioner of the Yukon Territory. So we are reverting all of these powers, directly or indirectly, to this one appointed position and common sense does prevail.

It has prevailed in the past and we have looked at our capability to establish an independent Workmen's Compensation Board, and have said common sense would decree that we do have the staffing of that Board come under the Public Service Commission and that they work, of the *Workmen's Compensation Ordinance*, the people who administer it, are public servants, under the *Public Service Commission Ordinance*. They act upon the advice of the Workmen's Compensation Board.

The same thing with the Yukon Housing Corporation. What

we have is people within our public service who are wearing two hats and have two masters. It is fine if the one master lets the Ordinance roll and accepts the intent and spirit of the legislation, but it is not fine when you do not have the rolling and the freedom and the recognitions of the advice that the Board may give.

In the past, everyone of us here put through the Yukon Housing Corporation, and I had no problem with the *Worker's Compensation Ordinance* at that time, the way it was structured. We knew it was sensible. But today, I think most of us have some reservations, and it is a dilemma that we are going to have to face. Are we going to have to make everything an independent corporate body so that the people who work and administer that fund or that Yukon Housing Corporation, so that they can be assured of independence, or are we going to hope that these people will be able to work and carry on their function without the interference where there is a legal right for the interference? Should we leave that legal right in our legislation?

I think that this is the thing that the Member from Pelly River was very concerned about, and it is the thing that I am very, very concerned about. When I think that one of the witnesses' remarks that the management of the *Workmen's Compensation Ordinance* and the management of the Workmen's Compensation Fund are acted upon from the advice of the Board to the Commissioner. Now this legislation implies when we say Commissioner, administrator, but there is nothing in there that gives us the assurance that that is exactly how it is going to operate. I think this is where some of us are extremely concerned.

While I am prepared to accept the principle that it has been operating within the *Workmen's Compensation Ordinance* at the present time, I think we should be looking, and the government should be looking and getting the background work done, so that they can prepare a proposal so that this body can be an independent body, independent of the administration of the government of the Territory.

Thank you, Mr. Chairman.

**Mr. Chairman:** Mrs. Whyard?

**Hon. Mrs. Whyard:** Well, Mr. Chairman, we have already heard that the advisory board is itself a corporate body. I am loath to accept the words of the Honourable Member if what I am hearing is what she means, because she is casting some kind of reflection upon public citizens who are now sitting on that Board, giving their advice to this government, and working with the Administrator of the Workmen's Compensation Fund.

I have confidence in those public citizens, Mr. Chairman, and I have no problem whatsoever with the fact that the advice that they are giving is being taken.

I would like, Mr. Chairman, if I may, just for a moment, to revert to a question raised earlier, and that is to ask if one of our witnesses will please assist the Members of this committee in an outline of the appeal procedure as it now exists from the time that a workman is injured on the job.

**Mr. Booth:** Mr. Chairman, the claim is filed with our claims department and the claims department adjudicate that claim, by either accepting or rejecting.

The worker then has the right of appeal to the referee, who is the Workmen's Compensation Advisory Board. The referee makes a decision on that claim. If the worker, or employer, is still not happy with the decision handed down, he then can appeal, under Section 22, and a medical panel is arranged, where we appoint, at the present time, three medical specialists. These are arranged Outside, either Edmonton or Vancouver and the worker is set down and fully examined by this panel of medical specialists.

If then, again, he is not satisfied with the decision handed down by that medical panel, he has the appeal, again, directly to the Commissioner, and the Commissioner may refer it back to the referee or to the referees, as the case may be. They have three appeals at the present time.

**Mr. Chairman:** Mrs. Watson.

**Mrs. Watson:** Mr. Chairman, I am not going to remark on the appeals, I am going to remark on the comments of the Minister of Human Resources.

How anyone could interpret my remarks as casting a reflection on the public citizens who are on this Board. On the contrary, I express my confidence, or, I hope I express my confidence in the Advisory Board.

It is unfortunate the Honourable Minister has not that much of an understanding of the administration, of some of the laws that are on our books. It is most unfortunate, because she is in quite a responsible position.

My doubt is in the ability of the administration of the Yukon Territory to the Government of the Territory, that is head, to keep their cotton-picking fingers out of it and let the administrator act on the advice of the Advisory Board. That is putting it very bluntly and that is where my concern is, because he has two masters.

He has the Advisory Board, and he has his chief, under the *Public Service Commission Ordinance*, and under the *Yukon Act*, as we were told yesterday. That is my concern that was most unfortunate, that the Minister tried to interpret it as a reflection being cast by myself, on the capability of the Board.

I have all the confidence. These people have a very, very important position. I think they handle it wisely and well.

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

**Mr. Chairman:** Mr. Berger.

**Mr. Berger:** Thank you, Mr. Chairman.

I partially agree with the Honourable Member from Kluane. I would further like to cast some more light on the Board and regulations. This is the same that I had with the *Motor Vehicles Ordinance* that is being reviewed. It is the same thing in here and it is moreso, so it is actually worse, on the *Workmens Compensation Board Ordinance*.

We have everything in regulations. There is absolutely nothing mentioned in the Ordinance, there is nothing mentioned in the amendment to the Ordinance, in front of us presently, about a Board.

We are putting the Board in an impossible position. We ask them to be the advisors. In other words we ask them to administer the funds of the Board, advise the Administrator and the Commissioner on what to do with the funds. Under Section 8 in the Regulations the Board is designated to act as referee. How can an Administrator, in the same token, be the referee if somebody comes to him and ask for judgment one way or another? It's an impossible position to be in as a Board member and I don't envy them to be sitting on that Board. I think this is what we are really talking about.

It is time to straighten out the mistakes we made in the past.

**Mr. Chairman:** Mr. Booth?

**Mr. Booth:** This is the way it is in every board across Canada. The Board is the referee, and they are the chief executive officers of the Board.

**Mr. Chairman:** Mr. McCall?

**Mr. McCall:** Thank you, Mr. Chairman, that is not quite true. As far as I am concerned, Mr. Chairman, I am not satisfied with this Ordinance as the Honourable Member from Klondike pointed out. An Administrator or any person, like the Chief Executive Officer of this Government, can overrule any

advisory committee. He really doesn't have to accept that committee's report or decision. That is not a Workmen's Compensation Board, that is an insult to the working person in the Yukon, and he does not have a proper appeal.

I would suggest you check the legislation and find out what a referee is all about. Find out what an Accident Prevention Officer really does, and he has more power if not as much as the Commissioner under this legislation. As a witness pointed out a moment ago, Mr. Chairman, with all due respect, an Accident Prevention Officer, or anybody in the Claims Department for Workmen's Compensation can refuse any request for a claim. Just right now. He has no proper procedure for appeal, period. That's what I am talking about. I don't like to see this type of insult to a working person, because that is all it is.

You said a moment ago, Mr. Chairman, the Minister said that this advisory committee has been functioning for a year. Well why isn't it in this amendment as a proper board and recognized as a proper board, not an advisory board, but a proper board like it should be? It's nice, Mr. Chairman, to make reference to the Alberta Act, what is the main industry in the Yukon? Mining. What is the main industry in Alberta? It's not mining, yet we have this type of material presented. It's an insult to the working person, Mr. Chairman.

**Mr. Chairman:** Mr. Lang?

**Hon. Mr. Lang:** Mr. Chairman, I think the Honourable Member is misconstruing the steps that can be taken by a worker that is hurt. I take exceptions to the words that you have just stated, because, sure they can be turned down at the administrative level in respect to a claim, but in my understanding that is one of the reasons the advisory board is there. They can go to the advisory board and say they are not satisfied with it.

At the same time the Honourable Member has the audacity to stand up in this House and talk about a creeping bureaucracy. We have just been informed that if we were to make it a permanent board, you would be looking at that many more members under the Public Service.

Or, if they do not work for the Public Service, they still have to be paid.

**Mr. Chairman:** Mrs. Whyard.

**Hon. Mrs. Whyard:** Mr. Chairman, the amendments to this Ordinance have been brought for the benefit of the working people of the Yukon. I would solicit the support of Members of this Committee in at least reading this Ordinance before they start knocking it to pieces.

I really cannot understand the approach of the Honourable Member, who is supposed to represent the working people, day and night, in his personal capacity, as well as a Member of this House, and who will not give us the courtesy of even reading through this Bill, in Committee, past the first section.

In the interest of all Yukoners, Mr. Chairman, the least we could do is study this Bill. If there is something is specific which is bad in this Bill, certainly the Members of this Committee will reject it. But there is a great deal of good in this Ordinance and I would like very much to ask the assistance of all Members in considering it.

**Mr. Chairman:** Mr. Berger.

**Mr. Berger:** Yes, Mr. Chairman, I would like to go back to what the Honourable Member from Pelly was talking about, about appeal procedures and so on.

I do not know how many people in this House actually had to go through this procedure. I personally had an experience with Workmen's Compensation, where I did not receive any pay for eight months and I had to go through a whole lot of hardship to go to the referee in Edmonton, to go to the referee

there and go to all sorts of things.

Why should an injured person have to go through all the proceedings? Why should he have to use up all his savings before he can get any money from a so-called Worker's Compensation Board, which has absolutely nothing to do with workers, because all that we are looking at is the money. We are not interested in the working man. We are looking at the principle of who has the most money.

Maybe the worker goes away because he has to starve to death. Maybe he has to go to Welfare in order to receive some money. If this is a Workmen's Compensation? That is a farce, Mr. Chairman.

**Mr. Chairman:** Mr. McCall.

**Mr. McCall:** Thank you, Mr. Chairman.

I am not trying to restrict the reading of this Bill, like the Minister was aptly pointing out.

With all due respect to the Minister, I do not think the Minister is fully aware of the conditions that some of these people have to work under.

I do not think an accident prevention officer from the Workmen's Compensation has ever made a trip to a mine such as Cyprus Anvil Mining Corporation, because we come under the *Mining Safety Ordinance*, that is why.

Yet, you are saying there are some nice pieces of this legislation for the working person, but at the same time, you are insulting the working person by some of these suggested amendments. All you are doing is creating a bureaucracy.

We do not need an administrator. What is wrong with the Advisory Board being incorporated into this Bill, properly, like it should be? With its own functional body, without having the Commissioner to make a rule simply because he may not like the particular claim or so-called, as you point out, an appeal, before him. He can overrule it anytime.

As the Honourable Minister for Education pointed out well we can always go back to the advisory committee for further assistance. That is impossible, because in appeal procedures you go forward you don't go backwards.

**Mr. Chairman:** Mrs. Watson?

**Mrs. Watson:** Mr. Chairman, I think it's rather refreshing for a change that we have people standing up and debating the Bill, and in no way should we restrict people's ability to debate the various sections of the Bill and the various principles that are being outlined in the Bill.

However, we do have witnesses here who are not in any position to take part in any of the debate, and who are here only to give us the technical interpretation of some of the sections, and I would suggest, Mr. Chairman, that we do go through the Bill in the areas where we want to question the witnesses, and then, Mr. Chairman, I would certainly hope we could debate to our fullest pleasure in order to determine this Bill.

But at this time possibly the witnesses should be given the opportunity and then they can be excused then we can continue with our debate.

**Mr. Chairman:** It is the request of the witnesses that they do remain while we go through the first reading of the Bill. Certainly we can go back afterwards, but they would like to be here as we proceed through the Bill.

**Mrs. Watson:** Mr. Chairman, I think we sometimes lose the point of having the witness. The witness is not here to carry a Bill through this House, and I hope the government people on the other side understand that. The witnesses are here to give us technical advice and this is rather a technical piece of legislation. We are fortunate in having the two witnesses that we have, so let us take advantage of them and get the informa-

tion we want from them. They can give us information on the operation and then we can debate the principle and the philosophy of the Bill, after they are excused.

**Hon. Mrs. Whyard:** I said that half an hour ago, let us get on with it.

*On Clause 3*

**Mr. Chairman:** Mrs. Watson?

**Mrs. Watson:** A question for the Administrator. Under this Section, this does not give you the authority to sign Regulations under this Ordinance.

**Mr. Booth:** This question came up from the Auditor General's Department initially, said that I had no authority whatsoever to sign anything from Workmen's Compensation because it was not in the Ordinance.

**Mrs. Watson:** Thank you.

*On Clause 4*

**Mr. Chairman:** Mrs. Watson.

**Mrs. Watson:** Mr. Chairman, another question for the witnesses: I was in this House when this Bill was first introduced, and, at that time, the decision was made to take flight crew members, not make it mandatory for them to have compensation. I believe, at that time, not many of the other jurisdictions covered them, because, I believe, there was something under the Federal law that didn't permit them to, or they were taken care of.

Could you tell me why now we are putting them into under our Compensation?

**Mr. Booth:** Well, the first of January, of this year, the Province of Alberta, and the Northwest Territories, brought them under on a compulsory basis and, therefore, the only people that were left to go through private insurance, were Yukon operators and they were told that their current rates, under private insurance, would go up at least 50 per cent.

We had representations from all the employers in the operation of airplane transportation, requesting coverage for this, under our Ordinance. It has been favourable from all operators.

**Mrs. Watson:** Mr. Chairman, why were they exempted, originally, three years ago, because none of the provinces seemed to carry them at that time?

**Mr. Booth:** They thought, at that time, they thought it was quite a high risk and would be a very, very high rate to be charged, but now, the feeling is that there is not that high risk anymore. There is more high risk on the highway, is the opinion, than there is in the air.

**Mrs. Watson:** Mr. Chairman, I see you are covering both the flight crew members, both the people who are in the air and the people who operate on the ground. You are proposing that we cover them in one class, rather than in a double class, as they do in other jurisdictions.

**Mr. Booth:** That is correct.

**Mr. Chairman:** Perhaps the witnesses could tell me what an out-worker is?

**Mr. Booth:** There is a definition of out-worker in our Ordinance. An out-worker means a person to whom articles or materials are to be given to be made up, cleaned, washed, altered, ornamented, finished, repaired or adapted for use or sale at his own home or at other premises under control or management of the person who gave him the articles or materials".

**Mr. Chairman:** Mrs. Watson.

**Mrs. Watson:** A further question on Section 4, subsection 2, (a): I wonder if we can have an example of an instance where (a) would apply, of 4.(3)(a)?

**Mr. Booth:** That would be the possibility of a trucking or a retail store, who is classified, registered with us, and his actual industry would be trucking. It is possible that he would have no work in the trucking, at this time, and could possibly send him to his house, employ him on a casual nature, mowing lawns or cleaning windows, this type, removing himself from his actual industry.

**Mr. Chairman:** Mrs. Watson?

**Mrs. Watson:** Mr. Chairman, I believe and I don't know whether I can find the Section right off hand, I believe we are referring to that type of instance later on in the legislation. I think that there is a conflict, or is it tied in properly?

**Mr. Cosman:** Mr. Chairman, yes, I would like further particulars on that if I may. I am not aware of the Section you are referring to.

**Mrs. Watson:** Well, Mr. Chairman, rather than take time now, I will likely come across it and then I will question you on it. I have it marked somewhere.

**Mr. Chairman:** Mr. McCall?

**Mr. McCall:** Mr. Chairman, I would like clarification on subsection (d) of (3), "a person who is exempted from the application of this Ordinance by subsection (2)". I would like some clarification on that. It can mean anybody.

**Mr. Booth:** Mr. Chairman, could we have that question again, please?

**Mr. Chairman:** He is requesting clarification of (3)(d): "a person who is exempted from the application of this Ordinance by subsection (2)." That is 5, subsection (2).

**Mr. Cosman:** Yes, Mr. Chairman, perhaps I can answer to that. In the existing Ordinance, in Section 5(2) enumerates certain persons who are exempted from the application of the Ordinance. They are persons who are duly ordained or appointed clergymen, members of religious orders, or lay readers, that sort of thing, well, exercising religious functions as such.

**Mr. Booth:** The purpose of this is that we have had members of the religious orders make application to have coverage, basically because they do quite a lot of travelling and the risk of a highway accident, and under this Section, we couldn't accept them if we wanted, so therefore we are changing this. Also domestic servants possibly you are aware, not too long ago on national TV there was a lot of screaming about these people were not covered anywhere in Canada so that we would be the first ones that would be able to cover domestic servants and these type of people if the amendment goes through.

*On Clause 5*

**Mr. Chairman:** Mr. McCall?

**Mr. McCall:** Yes, Mr. Chairman, here again we have the problem glaring in our faces, and that is "The Commissioner may enter into an agreement with the Workmen's Compensation Board". Where is ours? It is just an advisory committee.

**Mr. Chairman:** Mrs. Watson?

**Mrs. Watson:** Yes, I have a question for the draughtsman, Mr. Cosman. If you were draughting this for the Northwest Territories or for one of the provinces, you would have to say that the province may enter into agreements with other provinces and with the Commissioner of the Yukon Territory, but you wouldn't be required to say that for the Northwest Territories.

**Mr. Cosman:** I do not know exactly the nature of the question here, if I am answering....

**Mrs. Watson:** My question: if you were a draughtsman, draughting for the Northwest Territories and wanting to put this clause in, the Workmen's Compensation Board of the

Northwest Territories may enter into a grievance with other provinces and the Commissioner of the Yukon Territory.

**Mr. Cosman:** Well, it would depend, to a large degree, on their *Interpretation Ordinance*, in the Northwest Territories, I would suspect.

Here, our *Interpretation Ordinance*, in fact, holds the Northwest Territories is included in the definition of province, as we use the word here.

**Mrs. Watson:** But, Mr. Chairman, by the same token, it does not necessarily mean it would be in an interpretation section of the Northwest Territories.

**Mr. Cosman:** I am not sure of what...

**Mrs. Watson:** You have to, that shows the difference in the structure very clearly, doesn't it, that we are the only jurisdiction left where an agreement would have to be entered into, not with our Board, but with our Commissioner.

Thank you.

**Mr. Chairman:** Mr. Booth.

**Mr. Booth:** The only change here is because in the previous Ordinance, it did say the Commissioner of the Northwest Territories, and now that they have become a full corporate body, and are known as the Worker's Compensation Board, we had to remove the Commissioner and sign a new agreement with him.

On Clause 6

**Mr. Chairman:** Mrs. Watson.

**Mrs. Watson:** Mr. Chairman, in this new Section, there is no obligation for an employer to, in fact, or his family, to come under this Act. This is not a mandatory thing. This still gives the employer the right to chose.

**Mr. Booth:** Yes, this is correct, Mr. Chairman.

**Mrs. Watson:** Mr. Chairman, if an employer is part of the payroll, or one of his family is part of the payroll, then, in fact, then he would, in fact, fall under this Ordinance.

**Mr. Booth:** Not the employer, but the members of his family would, yes, if they are on the payroll.

But not the employer, if he is a proprietorship. Then he must make application to cover himself.

**Mrs. Watson:** Even though he is on the payroll?

**Mr. Booth:** Right.

**Mr. Chairman:** Mrs. Watson.

**Mrs. Watson:** Mr. Chairman, another question for the witnesses who are more familiar with other jurisdictions: is there any movement afoot in other jurisdictions where it would make it a little more difficult for an employer to come under the *Compensation Ordinance*. You hear some complaints that when employers themselves are under the *Compensation Ordinance*, they, in fact, may not be that careful of risk and careful of the working conditions.

Also, that if an employer comes under the benefits of the *Compensation Ordinance*, in fact sometimes he can still carry on this function as the boss, and still be under compensation. He is then being paid as a casualty in the statistics. Is there any action afoot like this in the provinces?

**Mr. Chairman:** Mr. Laing?

**Mr. Laing:** The only thing I know of is that in the Northwest Territories, we have made it possible for the employer and the members of the assembly to come in, but we have insisted that he both names them in the application and pays the assessment so that there is a clear contract covering the risk before any accident happens, if an accident happens before the employer makes application on behalf of himself and his family, and before he pays his assessment, then we don't

cover it. So there is no possibility of backdating the coverage so that it can cover an accident which has already happened.

On the second point you raised about the adjudication of the claim, I think that is a matter for the referee and the adjudicators to assess the loss to the individual. If he is still working at his job as boss, then he can't claim to be losing income and there is a matter for adjudication by the Board on that particular point.

**Mr. Chairman:** Mr. McCall?

**Mr. McCall:** Yes, Mr. Chairman, I would like to go back to Section 5 for just a moment. I would like to ask Mr. Cosman a question dealing with the Workmen's Compensation Board. I made reference a moment ago, Mr. Chairman, to the Commissioner entering into an agreement with any Workmen's Compensation Board of any province, and I wonder if Mr. Cosman can clarify again the basic position of a board in a province and the authority it may have, and I make reference to the Alberta piece of legislation.

**Mr. Cosman:** Mr. Chairman, I don't feel competent to answer that question. It is beyond my knowledge.

**Mr. Chairman:** Mr. Laing, could you help us?

**Mr. Laing:** I don't think I understand the question fully, Mr. Chairman, could I have him repeat it?

**Mr. McCall:** Okay, I will try to clarify it, Mr. Chairman. What I am trying to say here is that a moment ago I got up with concern about the Commissioner acting on behalf of our advisory board, that's all it is. He seemingly does not have the right to enter into an agreement of any kind with another compensation board representing a province, and I am curious if any of the witnesses know the status of the position of a Workers' Compensation Board, and what position or shall we say, jurisdiction do they have in entering into agreements with the territories or provinces dealing with any matter on compensation?

**Mr. Booth:** We do have these agreements and, in fact, they were signed initially in October of 1973, when this Ordinance was brought into effect.

They are signed as the Workers' Compensation Board, that one particular, the particular provinces and the Commissioner of the Yukon Territory. The only thing that we are changing here, as I say, is we are removing the Commissioner of the Northwest Territories, because they are now a corporate body and we have just removed that so that now we are referring to the Workmen's Compensation Boards, which includes the Northwest Territories.

**Mr. Chairman:** Mr. Laing.

**Mr. Laing:** I think I can answer the question better by referring to the Northwest Territories Ordinance, which was taken from the Alberta Ordinance. I do not know if these words are exactly the same in Alberta, but the Northwest Territories Ordinance says, in Section 15.(8), the board there, may enter into an agreement with the Workers' Compensation Board or body of like jurisdiction of any province or Territory to provide the payment.

So, it covers a body of like jurisdiction, which, in the Yukon, is the Commissioner or his delegated representative. So, I think it is possible to have the reciprocal agreements with the Yukon, for the other Territories and provinces to have reciprocal agreements with the Yukon. But, I am not a lawyer, I do not know whether I am interpreting it properly.

**Mr. Chairman:** Mr. McCall.

**Mr. McCall:** This is my concern, Mr. Chairman. We have an advisory board with no proper authority to do anything.

Clause 97.(6), *Workmen's Compensation Amendment Act*, for the Province of Alberta, there was an amendment made

and it stated, and I quote Section 17.(1), this is dealing with the Workmen's Compensation Board, not the Minister in charge, not the Administrator or a Chief Executive Officer, strictly with the Workmen's Compensation Board per se and I quote: "Section 17.(1) The Board may enter into an agreement with the Government of Canada or with the appropriate authority in any other province or Territory of Canada, provided for the sharing of cost of claims in proportion to the exposure or estimated amount of exposure to probable cause of damage given to rise to claims encountered, ...claimants with the respect of jurisdictional areas".

Why do we not have this in this amendment here, Mr. Chairman? I would like to know.

**Mr. Chairman:** Mr. Lang

**Hon. Mr. Lang:** I think my colleague clarified that when she spoke earlier and she said that the Board had been in existence for approximately a year and it was felt that, at this time, to carry on in an advisory capacity and, at some other time in the evolution, possibly make it a corporate body of its own.

Now, I do not know what one has to assure Members here, but I am sure that the Commissioner or anybody in charge of this particular area within the Government, would not act unless they had the advice of the Board.

I mean, this is why we have the proposed amendments before you today is one the advice of the Workmen's Compensation Board.

So, I think that the inference is in respect to the advisory capacity of the Board, I don't think they are true in this particular case, because I know they are heard and they are heard very well.

Mr. Chairman, as I said earlier, it is demonstrated by the fact that we have the Act before you.

**Mr. Chairman:** Mr. Lang, we are again ranging into the area of debate which can be deferred.

Mrs. Watson?

**Mrs. Watson:** Mr. Chairman, I note that we are going to change the minimum coverage if an employer applies on behalf of himself or his family from 3,000, what are we changing it to, and on that basis? Have we a formula, have we some comparison with other provinces that we have used in order to establish a new minimum?

**Mr. Booth:** Yes, we are recommending, Mr. Chairman, that the maximum wage rate is increased every year with the industrial composite of average weekly wages of workers in the Yukon Territory, and we are recommending that this be done this way. As the maximum goes up, then the minimum goes up. This is the way it is done in all the other provinces.

At the present time we are recommending that if this amendment goes through, that it will go up to \$5,664. Now that's basing it on the maximum from 74 on, the increases.

**Mrs. Watson:** Then it will flow every year with the result of the cost of living or incremental that is built into the legislation.

**Mr. Booth:** Yes.

**Mr. Chairman:** Mr. Lengerke?

**Mr. Lengerke:** Mr. Chairman, the Member from Klwane covered my points.

*On Clause 7*

**Mr. Chairman:** Mrs. Watson?

**Mrs. Watson:** Mr. Chairman, to me this section is sort of contradictory because I don't think I envision the situation under (3) and (4). I wonder if the witnesses could give us an instance where the provisions of (3) and (4) are required, be-

cause in subsection (2) you specifically say there is no action to the employer for personal injury or death to a worker arising out of an accident in the course of his employment, and no action in respect of such personal injury or death lies against the employer, and yet (3) and (4) make provisions for action. Maybe the witnesses could give us some instances or examples where this is necessary.

**Mr. Chairman:** Mr. Cosman?

**Mr. Cosman:** Yes, Mr. Chairman, subsection (3) contemplates a situation where an action has arisen between two parties and the question may arise in that action as to whether or not the plaintiff has a right to compensation under the *Workers' Compensation Ordinance*. In that case, either of the parties can apply to the Commissioner for his decision as to whether they have a right. This action has nothing to do with the action of a worker against his employer that is contemplated in subsection (2). Subsection (2) prohibits an action by the worker against his employer, but there may be the situation where a worker may be suing another worker or a third party of some sort and those types of actions are not ruled out, and subsection (3) and (4) contemplate these third party actions.

**Mr. Chairman:** Mr. Laing.

**Mr. Laing:** Would it clarify to envisage the situation where there is a motor vehicles accident, which was caused by a third party and a worker was driving a vehicle belonging to his employer and the employer was suing the third party, who is not connected with the employer's business at all?

So there would be a case of determination there, to say whether the worker was entitled to compensation because he was driving the truck on the employer's time.

**Mr. Chairman:** Mr. McCall.

**Mr. McCall:** Yes, Mr. Chairman. I am not happy with this particular section at all. It is retrograde as far as I am concerned.

Section 16.(1), "No action lies for the recovery of compensation and all funds for compensation shall be determined pursuant to provisions of this Ordinance".

Well, that does not make sense. The Section 16.(1) already in place is a far superior demonstration of language, as far as I am concerned.

**Mr. Chairman:** Mr. Cosman.

**Mr. Cosman:** Yes, Mr. Chairman, as I understand, Section 16.(1), it is simply stating that no action lies against the Workers' Compensation Administrator or the total concept of Workers' Compensation Fund, and so on. No action lies, but claims can be made and they shall be made pursuant to this Ordinance.

**Mr. Chairman:** Mr. Booth.

**Mr. Booth:** I think we should just outline the basics for changing the whole Section 16. The whole concept of Workmen's Compensation is to provide financial assistance, first of all, to any worker injured during the course of or arising out of his employment, and secondly, to protect an employer, who is covered under the Ordinance, from suit.

Under the old Ordinance, a worker could sue another worker, another employer or his worker. He just could not sue his own co-workers and his employer. This was fine in the days when a lot of industries were not covered under Workmen's Compensation, but today most industries are.

So, what we are attempting to do with this Section is, to take away the right of action against any employer or worker who is covered under the *Workmen's Compensation Ordinance*, and secondly, to provide immediate financial assistance to that injured worker, so that he can proceed with third party action, if he wishes, against any third party.

At the present time, he has to do it on his own and, in most cases, he cannot afford it because he needs financial assistance. So, we can adjudicate his claim, keep him on financial assistance at the same time, if he wishes to carry on with third party.

**Mr. Chairman:** Mrs. Watson?

**Mrs. Watson:** You can keep him on, if you originally determine that he is in fact eligible for financial assistance, doesn't that decision have to be made first?

**Mr. Booth:** Yes, the claim has to be adjudicated first.

**Mr. Chairman:** Mr. McCall?

**Mr. McCall:** Well, here again, Mr. Chairman, my concern here is, there is no form of appeal here. If the Commissioner, in his wisdom, so wishes to turn down any request whatsoever, he has that right to do it under this legislation, and there is no form of appeal for any working person, and again it has displayed itself in this particular matter here.

I am concerned about it.

I would like to point out in the Province of Alberta, Occupation Health and Safety Act where some of the Regulations for this particular Ordinance is taken out of, without the main ingredients. There is a procedure for an appeal, as high as the Supreme Court of Canada, and this is not locked into our legislation. If a worker or person is completely dissatisfied with the ruling that may come down and he appeals to the Commissioner, the Commissioner need not go any further with that appeal, he can just scrap it right there, whereas, if the individual working person feels still unjust, he has no right to go to a Supreme Court of Canada, whereas, the Province of Alberta legislation says you can, and there is a provision in there.

**Mr. Chairman:** Mr. Laing?

**Mr. Laing:** I don't think that can be the *Workers' Compensation Act* of Alberta, I think you mentioned another Act. It certainly is not the case in compensation throughout Canada that there is any appeal from the decisions of the Board. The Boards are the courts of last resort, as it were, and the appeals are made to the Board and there is no appeal from Board rulings to the courts, except if the Board has exceeded its jurisdiction. That is the general principle of compensation throughout Canada.

In this Ordinance, as it stands at the moment, that power is transferred to the referee by Section 11(1).

**Mr. Chairman:** Committee will recess until 1:30.

*Recess*

**Mr. Chairman:** I call Committee to order.

We will continue with consideration of Section 7.

*On Clause 7*

**Mr. Chairman:** Mr. Cosman.

**Mr. Cosman:** Mr. Chairman, if I may, before discussion on the clause commences, I would like to point out a drafting error. At line 33, of page 4, the wording reads, "or his dependents, under this Section", and, in fact, that should be a reference to Section 16, such that it would read, "or his dependents under Section 16". That would be in reference to the immediate preceding section 16.

**Mr. Chairman:** Are there any queries regarding Section 7?

*On Clause 8*

**Mr. Chairman:** Could we have some clarification of subsection (4).

**Mr. Booth:** This is just a certificate signed by the panelists, the medical specialists, as to the condition or to the

amount of disability the worker has.

**Mr. Chairman:** But I don't see how the referee can direct that conclusion of the medical examiner to be anything different than what the medical examiner found. The conclusions that the medical examiner arrives at are conclusive as to the findings?

**Mr. Booth:** As the findings there, yes.

**Mr. Chairman:** Well how can that be varied by a referee?

**Mr. Booth:** As to the medical aspect of the—

**Mr. Chairman:** Yes, so how can that be varied by a referee?

You might vary the recommendations of that medical examination, but you can't vary the findings of that medical examination, not by a referee certainly. You are asking a lay person to vary the findings of your medical specialist.

**Mr. Booth:** It would have to be directed as the referee would call for another examination. In some cases we would consult the worker, and then he would later find out, when he has gone for the examination, that he has already been to see this panelist, therefore feels it is unfair, so the referee can then direct that he go to another medical specialist, and therefore could refuse to take the certification on this particular specialist.

**Mr. Chairman:** Mr. McCall?

**Mr. McCall:** What it means in layman's terms, Mr. Chairman, is the referee is a dictator.

**Mr. Chairman:** Mrs. Watson?

**Mrs. Watson:** Mr. Chairman, I have a bit of problem with Section 8, the amendment to 22 subsection (2).

Subsection (a) says: "the referee may have his own motion or at the request of the employer, require a worker to be examined and where he so requires, the referee shall:

- a) nominate a duly qualified medical practitioner, and
- b) notify in writing the worker and the employer of the medical practitioner so nominated".

I wonder what we mean by the employer of the medical practitioner so nominated?

**Mr. Booth:** All we are saying is that if we had nominated Dr. Smith and we are notifying the employer and it may be a typographical error here. It should be worded differently.

**Mrs. Watson:** Do you mean...?

**Mr. Booth:** This is the intent...

**Mr. Chairman:** Who are you notifying?

**Mr. Booth:** The employer and the worker.

**Mr. Laing:** What are you notifying him of, you are notifying him of the medical practitioner who has been nominated. The name of the medical practitioner who has been so nominated.

**Mr. Chairman:** Oh, the name of a medical practitioner so nominated.

**Mrs. Watson:** I see.

**Mr. Laing:** It would be better to say...

**Mr. Chairman:** It doesn't read that way.

**Mr. Laing:** ..."notify in writing the name of the medical practitioner so nominated to the worker and to the employer of the worker".

**Ms Millard:** Mr. Chairman, I think if the sentence that begins with "of", or the group of words that begins with "of", was over to the margin, that would make the drafting clear.

**Mrs. Watson:** I couldn't quite get the intent of that section.

**Mr. Chairman:** Ms Millard.

**Ms Millard:** Mr. Chairman, back to what you were questioning, on page 8, it seems to me that the word "conclusive" really only means that it is concluded, at that point. Does that make it clearer?

**Mr. Chairman:** Well, the conclusions are not a, b, c, d, e. The conclusions are what he might derive from the a, b, c, d, e. That is the only thing that could be varied.

**Ms Millard:** But the matter is concluded at that point, unless the referee directs otherwise. I do not think that he is concluding anything about the medical contents, the matter is either concluded there or else it goes on to another, according to the referee.

**Mr. Chairman:** Then, you are implying, I gather this is not really your appeal procedure, because then you are implying that the second medical practitioner's findings are what you are accepting. In other words, you are refusing to accept the findings of the workman's own doctor but they are irrelevant. The only thing that you are accepting is what that second examiner states.

Is that what you really mean?

Mr. Lengerke?

**Mr. Lengerke:** Yes, Mr. Chairman, I'm glad you are pursuing that, because that was the part that I was having difficulty with. That means to me then that in 22.(1) the worker doesn't like the decision of the doctor, so he comes along and says I don't agree. They name another qualified medical practitioner who does an examination and then they accept that as the conclusion. Is that the way it reads?

**Mr. Booth:** No, Mr. Chairman, that is not it, really. The only time that the referee would direct otherwise is if I say that we do nominate the medical practitioner, and this has been the case, they are a specialized field, so they do go out to Alberta or BC for the medical panel.

He has been out and seen this medical practitioner, but the worker has agreed to him that he doesn't know that he has examined him before and he feels that he has not got an impartial panel, because the medical specialist has dealt with this case before.

If this comes up then the referee could direct another panel, direct otherwise.

**Mr. Chairman:** Your first medical practitioner could well be a specialist who is more expert in the field than who you have called in, but you might be calling in someone who is inclined to go along with what you say, because you are naming him.

This is not the appeal procedure. Is this what you are—

**Mr. Booth:** This is the second appeal procedure section, yes.

**Mr. Chairman:** Is this the final medical appeal?

**Mr. Booth:** Pardon?

**Mr. Chairman:** Is this the final medical appeal that is available?

**Mr. Booth:** No, the final appeal is to the Commissioner.

**Mr. Chairman:** Final medical appeal?

**Mr. Booth:** No, but it can be referred back to—the Commissioner can refer it back to the referee and the referee can then have another medical.

**Mr. Chairman:** So you no longer have a board by which there is more than one medical practitioner involved that reaches conclusions as you have in the past?

**Mr. Booth:** No, the idea of this section is to speed up the process. In the past we have had to get two specialists together, and as I am sure we are all aware, to get two

specialists together in one place at one time takes months, usually.

**Mr. Chairman:** No, you never had to get them in one place. You had three and they could be examined separately, and they each give their conclusions separately.

**Mr. Booth:** Under the old Ordinance it was two. One selected by the worker and one selected by the employer. The panel of two specialists that had to examine them, examine the worker together.

**Mr. Lengerke:** And they both have different opinions.

**Mr. Chairman:** So, then you are taking that right away from the worker and you are merely leaving it in the hands of the appointee of the Compensation Board?

**Mr. Booth:** Well, the worker still has the right. We are consulting with the worker and the attending medical practitioner of the nominations. If either one is not satisfied with the nominee, then the referee could nominate someone.

**Mr. Chairman:** Is that so stated in the legislation?

**Mr. Booth:** Yes. After consultation with the referee who after consultation with the worker and his attending medical practitioner, if any, may nominate a duly qualified medical practitioner. This where the worker is appealing.

Then we are saying on into 22.(2), "The referee may at his own motion request or at the request of the employer" select a duly qualified medical practitioner.

Then, again, after conferring with the worker and the employer of the medical practitioner, he then still has to say whether he is content with that panel of medical specialists.

**Mr. Chairman:** I know what you are saying, I just find it very disturbing that you have tried to cut corners so much, but we will get into that later.

**Mr. Booth:** No, as I say, the point here and this was the case in Alberta, they used to have this, our system, that we have now, and their problems were that the length of time it took to get this worker examined. Usually, in the case of an appeal, he has already been cut off compensation, he is not getting any financial assistance, waiting for this appeal to come up.

As I say, we had one case of six months, we have had some cases, and the idea and the problem was was trying to get the employer nominating one, the worker nominating one, trying to get them together at one time is virtually impossible. I know there was no choice of changing or substituting.

**Mr. Chairman:** That is not the way they operated. It may have been in your conception they operated that way, but they didn't get together in any one place at one time. They examined the workers separately and arrived at their conclusions separately.

Now, they might have pooled those results and given you that kind of a report, but, they didn't have to get together, certainly.

Mr. Lang.

**Hon. Mr. Lang:** Well, it was my understanding that some of the difficulty was to try to get a practitioner that was acceptable both to the employer and the employee. Wasn't that one of the problems?

**Mr. Booth:** Well, no, they both had a choice of one, each separately.

**Mr. Chairman:** You each had your own nominee.

Mr. McKinnon.

**Hon. Mr. McKinnon:** Mr. Chairman, I remembered the debate on this in Legislative Programming. It went on for quite some time, because the concept was an attempt to speed up a process. We are always getting accused that the

Workmen's Compensation process and the doctor process taking much too long.

We have seen that the provinces have gone to, rather than the panel of doctors, to one or two physicians, rather than a panel. The present Ordinance says, and I was really disturbed when I realized the purpose of the present Ordinance, "The Commissioner shall refer to the claim to the referee, who, after consultation with a workman's attending medical practitioner, if any, may nominate four or more duly qualified medical practitioners".

This is what is happening. The worker wasn't even involved at all in the selection of the doctors in some instances and some instances, after consultation with the physician, a panel was set up and I am inclined to believe, and I think the Honourable Chairman will agree with me, that the confidence of the patient in the doctor to whom he is referred is one of the key elements of whether or not the person feels that he is going to be dealt with in a proper manner.

We had that changed, that it would be after consultation with the worker and his attending medical practitioner, if any, would nominate a duly qualified medical practitioner, and what we had hoped to do.

This was the intent of it, that the doctor who was attending the person who was hurt would consult with the patient and say, you know, I know of a specialist who I personally have knowledge of, is an expert in this field, and I am sure that you will have confidence in and that you can accept his advice type of thing, and speed up the process, rather than go through the Board of doctors, and yet hopefully involve the worker where he didn't have to be involved at all before in the selection of a doctor.

We felt that that patient/attending medical practitioner relationship which would have to be guaranteed under the new Ordinance would do two things. It would get the thing resolved faster, and it also would improve a rather distant patient/doctor relationship, which was a complaint that had been given to members of Executive Committee on the process of speeding up compensation claims.

Now I stand to be corrected on that, but that was the intent of what we were trying to do, was get the confidence in the patient-doctor relationship, it would have to be mandatory that that consultation took place, which it isn't in the old Ordinance, and try to speed up the whole process. Now if we still have to go through a Board of doctors at the time and expense because of the necessity for it, fine. But this is what we were attempting to do in the legislation, was have the confidence in the relationship and yet speed up the system with the appeal procedure still there.

**Mr. Chairman:** The workman certainly did have a say in the selection of those doctors before that.

**Hon. Mr. McKinnon:** Not according to the legislation.

**Mr. Chairman:** Yes, he did. He certainly did. The names were posed and he had a say in the selection of that board. He certainly did.

**Mr. Booth:** The employer nominated a medical specialist, the worker nominated a medical specialist under the present Ordinance.

**Mr. Chairman:** Yes.

**Mr. Booth:** But, we were then bound by these two, and this was the problem, that to get these two together, we could not substitute. If one of them was not available or there was away for six weeks, we couldn't substitute, and this is why we are changing it to one, because you can get one specialist, but to get two together is virtually an impossibility, in a speedy method. If you are willing to wait four to six months, yes.

**Mr. Chairman:** I don't think that was the problem, be-

cause what I think what would happen is that there would be supplied a list of three or four from which one could be selected, so there was always one available.

**Mr. Booth:** We did start this in the—

**Mr. Chairman:** That was the procedure that you used.

**Mr. Booth:** We were questioned as to whether we had the authority under the Ordinance to do so. Mr. Chairman.

**Mr. Chairman:** That's exactly what you did though.

**Mr. Booth:** In the latter parts since the appointment of the medical advisor, he advised us to do this, but by the legal opinions, we really couldn't substitute.

**Mr. Chairman:** Well, you certainly could have changed that anyway. It certainly couldn't...

**Mr. Booth:** But again, whether it is who nominates them, the problem is getting two.

**Mr. Chairman:** Well, one, they don't have to be all together and, two, I am very disturbed over the fact that you come down to one person, and yet you have a very strict method of appeal that is involved. You have no recourse to courts and you are relying entirely on the opinion of one person. I find that very dangerous.

**Mr. Booth:** Alberta, the Northwest Territories have done it, and, apparently, it works fine.

**Mr. Chairman:** I find it very dangerous to my own personal experience.

**Mr. Booth:** ...no problems with it, but...

**Mr. Chairman:** It puts that one doctor in a very vulnerable position, too.

**Mr. Booth:** There has only been, apparently, there is only one doctor, specialist in the City of Edmonton that refused to sit on a panel of this, because it was only one. The rest of them consented.

**Mr. Chairman:** But it hasn't only been one, up until now. It hasn't been only one, up to now.

**Mr. Booth:** Not here, but it has been in the Northwest Territories and Alberta for a number of years.

**Mr. Chairman:** Mr. McCall.

**Mr. McCall:** I have reservations with this particular Section, dealing with consultation. As in 22.(1), it says "The Commissioner shall refer the claim to a referee, who, after consultation with the worker and his attending medical practitioner, if any, may nominate a duly qualified medical practitioner".

Then, we go on to say in 22.(2), "The referee may, on his own motion, or at the request of the employer, require a worker to be examined under provisions of this Section and, when so required, the referee shall

a) nominate a duly qualified medical practitioner...".

That is very arbitrary and it is taking any considerations away from the employee and I do not like that. I have a lot of reservations in that intent.

The Minister pointed out a moment ago what was discussed prior, but this is not what is expressed in the language. This can be interpreted many different ways and is showing that the referee has very large, substantially large sweeping powers and he can be very, very arbitrary and I cannot accept that.

It is fine to consult with the person, it is fine to take or not take advice from a person. You can still make your decision irrespective and this is what the language is expressing here.

**Mr. Chairman:** Mr. McKinnon.

**Hon. Mr. McKinnon:** Mr. Chairman, the fact remains that

the law did read that "the Commissioner shall refer the claim to the referee who, after consultation with the workman's attending medical practitioner, if any, may nominate...."

Mr. Chairman, we changed it that it had to be not only after consultation with the workman's attending medical practitioner, but it also had to be in consultation with the worker, which we thought was of paramount importance.

Mr. Chairman, then the law is not as it states under Section 22. (1), because that is what the law states at the present time. Whether it was the practice of regulation not to follow the law or not, the fact remains that that was the law as it stood. We expanded the law so that it would not only be with the medical practitioner, but also be with the prime person involved in it, the employee who was hurt.

I think that that was the intent. Now, I think the question is whether or not one medical practitioner, or whether it should be at least two, should be consulted. But the fact is that the law was broadened, that the worker was involved, where, under the prior legislation, he did not have to be, whether or not he was by regulation is another matter, but the law did not ask him to be.

**Mr. Chairman:** Mr. McCall?

**Mr. McCall:** I differ with the Minister, Mr. Chairman. I can't accept what it expresses in this language. It may have expanded the law, but this is an amendment to that particular piece of legislation made reference to. In expanding, as you suggest, the language here, you have shrunken the right of the worker. This is my concern, because if you go further on in (2)(b): "notify, in writing, the worker and the employer of the medical practitioner so nominated,".

Well, the referee has arbitrarily made that decision. They have got no choice in the matter. They can't say well we don't like this medical practitioner. He has no right whatsoever to disagree with the referee, because the referee has so arbitrarily decided upon who is going to conduct the investigation. That's the major question here, Mr. Chairman.

**Mr. Chairman:** You know, I take issue both with what Mr. McKinnon has to say, and with respect to Mr. Booth, it is written in your registration that you nominate four or more duly qualified medical practitioners. That's the procedure. You first go through the business of trying to satisfy the worker, if he has an appeal procedure left to him whereby you must nominate four or more duly qualified medical practitioners, and from that list is selected the examiners. Well there are two examiners, yes. But you did have the list, you are supplied the list, so you are not restricted as you suggest by someone on holidays.

It's not merely to expedite the claim that you can make that—

**Mr. Booth:** Yes, but we could not substitute. The worker has already nominated Dr. Smith, the worker has already nominated Dr. Jones, we cannot substitute. They have had a choice of four doctors, but they have nominated two out of that four and we cannot substitute, according to the Ordinance.

**Mr. Chairman:** Mr. Berger?

**Mr. Berger:** I have another problem here. This attending medical practitioner, are we talking about here the doctor, the surgeon, who actually say performed an operation in Edmonton, in Vancouver, or are we talking about his own doctor in his hometown, if there is such a thing. Because as my experience it goes that in most cases the worker, is going to be transferred to hospital, and I am talking about a serious case now, to Edmonton or Vancouver, and he receives treatment from a totally strange physician or doctor or surgeon. Where is the relationship here. I mean are we thinking about the doctor who attended the worker in his home place, his place of work, or what are we talking about here?

The other thing I have problem with is the worker himself. In a lot of cases the worker may not be able to do all the things. Can the worker's representative do all those arrangements for him? It doesn't spell it out in here.

**Mr. Chairman:** You see, in the old Ordinance, you have a whole appeal procedure laid down. If you cannot reach a consensus, then you supplied the list of four workers, then the employer and the workman each select a doctor. Even if they cannot agree, then another one is selected.

You have a whole appeal procedure that you seem to be doing away with in the new Ordinance.

**Mr. Booth:** The appeal section is still there. All we are doing is changing it from the worker and the employer nominating two and the referee nominating one, and then consulting with the employer and the worker, under 22.(1).

Section 22.(2) deals strictly when the referee, on a motion of his own or the employer, appeals, but the worker still has the say of whether he agrees with the nominated practitioner. So does his attending medical practitioner.

To answer a question there, when it gets to Section 22, it has reached the permanent disability stage in nine out of ten cases, and therefore, he is back home and he is conferring with his family doctor, as you may say, at this stage. That is where he would be, or a representative, he can have his representative attend on his behalf, appeal on his behalf.

**Mr. Chairman:** Your nomination procedure here is quite rigid. In the old Ordinance, it allowed for differences of opinion and a third medical opinion could be sought at that time. That is another method of appeal which I don't see in the new Ordinance. Another method of resolution of the problem, the appeal.

**Mr. Booth:** One other point that we have, when we formed the Advisory Board and we wrote to all the specialists in Alberta and B.C., to find out if they would carry on these medical panels, on our behalf, as they had in the past for the Alberta Workers' Compensation Board, they did say yes, but they would wish for one person to be appointed as a Chairman and they wished it to be done in one place. They did not want it separately.

In other words, for him to go for two examinations, one to Dr. Smith's office, and one to, they wanted one appointed as a chairman and for the claimant to attend his office, along with the other nominated medical practitioners.

**Mr. Chairman:** I can appreciate that, but you still haven't allowed for the same type of an appeal that was available there that is not available in the amendment.

**Mr. Booth:** The appeal is there, all we are doing is cutting it down from two medical practitioners to one medical practitioner to speed up the process of getting that worker examined.

**Mr. Chairman:** Mr. Lengerke.

**Mr. Lengerke:** I still have some difficulty with that. I quite agree, I like the idea, in 22.(1), where they have now put in the worker and his attending medical practitioner, I think that is great, but, okay, it says it there, 22.(1) "where a worker alleges that", and we are going to go down to (d) "that the medical opinion upon which the determination of his claim was made as erroneous", and then he is going to get together with his... Is this the doctor he is getting together with that he is saying, listen, doc, he says, I don't agree with your opinion.

Okay? So he says, I don't like your opinion, in this case. So they tell that to the referee and the referee says, all right, now we are going to nominate another doctor.

So then you go to (3), 22.(3), and they go through that, and then you come to (4), and you get a conclusion.

Now, what if the worker still doesn't agree with either one of the doctors' opinions? What happens?

**Mr. Booth:** The final appeal is to the Commissioner.

**Mr. Chairman:** But that's a final medical appeal.

**Mr. Booth:** He gives the authority back to the referee for their decision to do which they may call another panel. This is why this section in here is to say "as the referee may otherwise direct".

**Mr. Lemgerke:** It says conclusive.

**Mr. Booth:** Conclusive evidence on that panel, but then under Section 11, the Commissioner then has the right for a final appeal.

**Hon. Mrs. Whyard:** Mr. Chairman, with reference to the Chairman's experience in this field, I would like to ask if he could advise Committee how many times around a worker should be able to go for another opinion? He knows, as all of us do, of cases where there have been sixteen, twenty medical opinions, and the person involved still didn't agree. Maybe I wouldn't either if I had been the patient. I am just trying to get some kind of sensible input here for how many times we should appeal a specialist's opinion. How many specialist's opinions do we need?

**Mr. Chairman:** I think you underscore my point, Mrs. Whyard.

**Hon. Mrs. Whyard:** Well, Mr. Chairman, with respect, how many?

**Mr. Chairman:** Under this present system, you have the right from your own doctor, and you have the right of one other doctor, to appeal to another doctor, and that's all. I would sincerely doubt whether that is truly objective, if there are appeals involved but there shouldn't be more opportunity. I think you are driving the workman off.

**Hon. Mrs. Whyard:** Mr. Chairman, I don't clearly have an answer here. I am sure that there are more than two medical opinions involved in this procedure.

**Mr. Booth:** Yes, well if the attending medical practitioner cannot reach a decision, he will then refer it to a specialist who will then possibly make a recommendation. It then comes back to our own medical advisor who will decide on the degree of disability. Then if—so that is three at that point. Now if he, as you say, he could have seen twenty other different doctors, referred to twenty other different doctors.

**Mr. Chairman:** With respect, this is not what your legislation says. It says if the medical practitioner from which he is referred, which is one doctor, now you are taking into a consultant service that goes on in the profession, but with respect, this only says the one doctor, plus the one doctor appointed as a referee by the referee. There is only two doctors involved in your legislation here.

**Mr. Booth:** Under this appeal of Section 22.

**Mr. Chairman:** Mr. Laing?

**Mr. Laing:** I am not clear on this at all. Is it not in Section 22.(4) that the appeal goes on, because say the worker is not satisfied with the decision of the evidence put forward by the appeal doctor, and he says so to the referee, and the referee can direct that, for the facts set out, are not conclusive, and go on to, at its own motion, to have another specialist examine him. So, as the words that we have stumbled over to begin with are the words that protect the worker and give him another right of appeal with the co-operation of the referee so the referee, at any time can direct it. This is not the final medical opinion and it can go out and they can get another one.

**Mr. Chairman:** He can, but under the mechanism of your legislation, there is only one doctor involved. Under the

mechanism of your other legislation, there was a board of three involved. Three. If they disagreed, there was a third one nominated, so it was three other doctors.

My suggestion is because your appeal system is quite rigid, with the Commissioner's word being the end-all, it should be a fairly accurate conclusion, and if you are placing that on just one doctor's opinion, I think you are in very dangerous water.

**Mr. Chairman:** Mrs. Whyard.

**Hon. Mrs. Whyard:** Mr. Chairman, I would like authority to return to this Section and discuss it again and bring it back to Committee, because, obviously, what we had intended is not being understood as coming through.

We thought we were taking a couple of steps forward, on behalf of the injured worker. If there is any doubt at all, that that is not what we are doing, I would like to re-examine this Section.

**Mr. Chairman:** Thanks, Mrs. Whyard.

Mr. McIntyre.

**Mr. McIntyre:** Yes, Mr. Chairman. I agree with what the Minister of Health and Welfare was saying, but it seems to me that this particular section indicates that an injured workman could appeal successively. There is no indication to me that a certificate, that the doctor produces in Section 22.(4) is the final one. That is a certificate.

The workman then can go back and start 22.(1) all over again and he can keep on doing that forever. There is no ending to this appeal, so that, you can involve 50 physicians.

**Mr. Chairman:** Mr. Fleming.

**Mr. Fleming:** I interpret that just a little bit the other way, however, Mr. McIntyre possibly may be right, but when I see, "unless the referee at any time directs otherwise", and I see "otherwise" in there, and he is going to be the final say, then I can see it going just exactly the opposite way. There will be no more appeals.

**Mr. Chairman:** Mr. Booth.

**Mr. Booth:** Any claim can be opened at any time, if the claimant produces more medical evidence.

**Mr. Chairman:** That is true. I think in that way, the experience is very good.

**Mr. Booth:** The claim file is never closed and finalized.

**Mr. Chairman:** Mr. McCall.

**Mr. McCall:** Yes, Mr. Chairman, I am glad that the Minister has offered to take back and look at this particular language.

I am left with the opinion, on all of these proposed amendments, contrary to what Mr. McIntyre said, that it closes up any rights of appeal and that is what I am very concerned about and I do not like the present language.

**Mr. Chairman:** Mrs. Watson.

**Mrs. Watson:** Mr. Chairman, I found the remark of the witness very interesting, that a claim is never closed and I would like to question some of these people who have had a lot of experience with the Compensation Board.

These claims, under industrial illnesses, such as silicosis, where people have had compensation under them, and as more information is gained on these industry diseases, does that then make it possible for the people who are on some type of compensation or some type of pension, as a result of an industrial disease, can they then go back and have their claim re-opened, on the basis of new medical information?

**Mr. Booth:** At any time. In fact, we don't, a lot of times, do not arrive at permanent disability. We will say you have a temporary partial disability this time, but the medical profes-

sion indicates that it will increase or decrease. Mostly increase, and therefore we will review and reassess your case in two years time, in three years time.

**Mr. Chairman:** I must say I really do commend the Compensation Board for this. I think they have been always amenable to the reopening of claims at any time, contrary to popular opinion and they are much to be credited in this way.

**Mrs. Watson:**

**Mrs. Watson:** I can't really understand the concern about the appeal procedure in this specific instant. You can always go back, and if you have two medical practitioners, or three medical practitioners that you have seen, and you really don't believe that your disability is greater. In a year's hence, is the disability really becomes evident, you then can go back and have it reopened.

**Mr. Chairman:** Yes, but that's a different matter.

**Mrs. Watson:** No, it isn't. One leads into the other.

**Mr. Chairman:** Mr. Berger?

**Mr. Berger:** Yes, Mr. Chairman, the Honourable Member from Klwane mentioned silicosis. I am interested in something else altogether on this. Where under this new amendment here of the Ordinance do we recognize asbestos related diseases? Is the Workmen's Compensation Board at the present time, keeping a list of all the workers in the asbestos related industries in the Territory? In asbestos related diseases, we are talking about, they don't come to daylight until about twenty or thirty years from today.

**Mr. Booth:** I am afraid that would be a question that would have to be put to our medical advisor. There is no way I am qualified to answer to that for the moment. Our medical advisor has been doing a study into this and there has been studies done in the Ontario Board on numerous occasions, and it is very difficult because some people say that two days exposed to asbestosis, could cause cancer of the stomach, or destroy the lungs, and so I can't really comment on that. I could possibly the answer from our medical advisor if the member wishes.

**Mr. Chairman:** Mr. Berger?

**Mr. Berger:** Yes, Mr. Chairman, what my question was actually: are we keeping a list at the Workmen's Compensation Office at the present time, keeping a list of all the people who worked in the Yukon, in asbestos related industries? That is a simple forward question. This is what I would like to get an answer on.

**Mr. Chairman:** Mr. Laing?

**Mr. Laing:** I don't think it would be practicable, nor do I think it is necessary for the Workers' Compensation Board to keep a list of the workers. The worker who suffers from asbestosis or from exposure to asbestos is open at any time to bring forward a claim based on his past work experience, and he can site the places where he has worked, where he has been exposed to asbestos dust, and if the state of medical knowledge at that time is sufficient, then a claim for compensation would be recognized.

If it is properly documented, it is not a case of keeping a list of workers who are employed at the moment, it is a case of being willing to look at any claim which arises twenty years down the line, or two years down the line.

**Mr. Chairman:** Mr. Berger.

**Mr. Berger:** Mr. Chairman, with all due respect to the witnesses, I disagree with it, because it was for many, many years in this country, silicosis was a similar problem and there were many, many people in this country of ours, where miners, received silicosis and they didn't receive any compensation of anything. It was just in recent years that the

medical boards and the workman's compensation recognized silicosis.

A similar thing can quite easily happen with asbestosis and all sorts of related sicknesses that could be caused by that. I think it is our duty to the people to see that they are insured some way or another and that they could possibly get compensation.

Under the present circumstances, there is not even anything mentioned about asbestos-related diseases.

**Mr. Chairman:** Yes, Mr. Berger, I think just what the witnesses have been saying is that these people have at any time a claim, in the future, so they in actuality they are covered, even though it comes 20 years down the line.

They are not saying that they are not covered.

**Mr. Berger:** Mr. Chairman.

**Mr. Chairman:** Mr. Berger.

**Mr. Berger:** Mr. Chairman, where is it written down? I do not see anything anywhere where they are covered under.

**Mr. Chairman:** Are you supposed list every disease?

**Mr. Laing:**

**Mr. Laing:** It is in favour of the worker not to list diseases, because if we listed industrial diseases, we would only list the ones that are known at this moment of time and it may well be that tomorrow a new one comes up, due to exposure to something that we never thought of before. So it is better not to list the diseases, so that any worker at any time can come along and produce medical evidence that his disability has been caused by an industrial-related disease.

It is much to the advantage of the worker not to make a specific list.

**Mr. Chairman:** Mr. McCall.

**Mr. McCall:** Mr. Chairman, the working man doesn't have a chance, because, under Section 22, which we are talking about now, in reference to the referee, "except as otherwise provided", this is the original line, "except where otherwise provided by this Ordinance, the referee has exclusive jurisdiction to examine and inquire into here and determine all matters and questions arising under this Ordinance and referred to him by his Commissioner and the action or decision of the referee therein is final and conclusive and is not open to question or review in any court".

It goes on to say, Mr. Chairman, in the same Section 10, "The referee is not bound by his own previous ruling or decisions and all rulings and decisions that he makes shall be upon the merits and justice of the case before him".

It goes on further, Mr. Chairman, "Every person aggrieved by a decision of the referee, or any person administering this Ordinance, may appeal to the Commissioner, who may refer the matter to the referee, or back to the referee as the case may be".

Now, how ludicrous can we get, Mr. Chairman? The working person doesn't have a chance, doesn't have a chance, period, under this piece of legislation, for an appeal or anything, whether he has got a disease now or in 20 years.

**Mr. Chairman:** Mrs. Watson.

**Mrs. Watson:** Mr. Chairman, I think the definition of accident covers that, the disease, it doesn't specify the disease, but it says, "accident includes disablement arising out of and in the course of the employment and where the disablement is caused by disease, the date of the accident shall be deemed to be the date of the disablement".

So, that gives you the opportunity to be retroactive.

Disablement there, does it refer to partial or permanent? Both? Both.

**Mr. Chairman:** Ms Millard.

**Ms Millard:** Referring this back to asbestosis for a minute. In my experience at Clinton Creek, the Compensation Board has been very generous in considering diseases that have started years before in other places, even so that there is no question in my mind that it is treated well under the Compensation Board but I think the Member from Klondike should realize that it is not the Compensation Board's prerogative or duty to act as an epidemiologist or something to look after the control of diseases. That is under the Department of Health and there is a section under the Department of Health of occupational diseases or health and safety, which certainly, if there was some emphasis on that, I would really appreciate that help. The people from Clinton Creek would certainly appreciate that but it has nothing to do with the Compensation Board.

**Mr. Chairman:** Mrs. Watson?

**Mrs. Watson:** Mr. Chairman, we do have a section on silicosis in our existing legislation, and I believe at the time when this legislation was brought in, there was some question brought up about asbestosis and whether it also should be included in the legislation. At the time they felt they didn't have enough information on the disease. I wonder whether the witnesses could tell us whether other jurisdictions are now including asbestosis, devoting a special section to it, as a recognized industrial disease under the *Workmen's Compensation Ordinance*?

**Mr. Booth:** They are recognizing any industrial disease that is caused by industry. The only difference, and I think at the time in '73 when they did not spell it out and just said industrial diseases, was for the reason that Mr. Laing explained earlier. In the other provinces they have a schedule of industrial diseases, and they have run into problems with this, because every time they have to get Regulations to add this new, we do not. It is there and wide open for any industrial disease caused by employment.

**Mrs. Watson:** Mr. Chairman, that's very interesting, because I believe on the radio the other day or just yesterday, they were talking about another disease at Kitimat. So if that wasn't listed on the schedule under the BC Compensation, then the people with that disease under compensation wouldn't be eligible. They would have to amend the schedule. Ours, because of its broadness in latitude, they automatically as an industrial disease would.

*On Clause 9*

**Mr. Chairman:** Mrs. Whyard?

**Hon. Mrs. Whyard:** Mr. Chairman, Honourable Members have available to them on page three of their White Paper on the Ordinance, comparable amounts paid in neighbouring jurisdictions and I would like to ask them to make a correction please, because very recently the Northwest Territories has amended their widow pension to \$398.75 per month, and for each child \$90.62.

**Mr. Chairman:** Mr. Berger?

**Mr. Berger:** Yes, Mr. Chairman. I am quite concerned about this under (e) "to a dependant child under the age of sixteen". Why sixteen?

I mean, do we all of a sudden say, because Charlie is in an unfortunate position and his father has died because of an accident, he's 16 and has to leave school and had to go to work? Why couldn't we say until he has finished school, or his schooling? Why can't we, Mr. Chairman. Why should that child be deprived of a proper education, just because there was unfortunate circumstances that his father died or his mother died or something? Why can't we say to the age of 19 or something like this, like other jurisdictions have? I mean, in other jurisdic-

tions, if the Honourable Member from Klouane would look, they spell it out.

**Mr. Chairman:** Mr. Laing.

**Mr. Laing:** That is covered in Section 32 of the present Ordinance, where the dependent child is approaching the age of 16 and attending an academic, technical or vocational school and making progress satisfactory to the referee, the referee may continue payments to the dependent child. So that the provision for after age 16 is in a different section, that is all it is.

It goes on after 16, if he is still at school.

**Mrs. Watson:** Mr. Chairman, usually when you set an amount you have to base it on some formula or some base. Some of the provinces have tied it into the Canada Pension Plan and so on, and I see that we are adjusting ours, and bringing it up to the beginning of \$275 monthly payment to a widow or a widower.

What base, or what basis did we use to establish this amount of \$275 and then \$90 per dependent?

**Mr. Booth:** We were actually trying to bring it into line with the Northwest Territories, at that time, or a little better, because we feel that the cost of living is, as we say, in comparison, and taking it into consideration, the Canada Pension Plan, basically, was it. And what would be a liveable allowance.

**Mrs. Watson:** Mr. Chairman, for my own information, under the Canada Pension Plan, what would be available to a person under the Canada Pension Plan, and at what age?

**Mr. Laing:** I would answer that, Mr. Chairman. There is a widow's pension, of course, of \$109 or thereabouts. Now, there's a dependent child's pension of \$44.84, I think it is.

**Mrs. Watson:** Forty-four?

**Mr. Laing:** It is \$44.84, about \$45, in round figures, for each of the first four children, and \$22 and some cents for children after four.

So that the widow with two children would be getting close to \$200 from the Canada Pension Plan, and then she would get \$90 for each child under Workers' Compensation, which takes her up to \$380, plus the \$275, which takes her to \$655.

**Mr. Chairman:** Mrs. Watson?

**Mrs. Watson:** Mr. Chairman, one further question on the Canada Pension Plan, that is if a person proves need.

**Mr. Chairman:** What was the question?

**Mrs. Watson:** The pension is only available to people who prove need, who have a limited income.

**Mr. Booth:** No, it is available to anybody, it is strictly a survivor's suspension. Supplementary, yes.

**Mr. Chairman:** Mrs. Whyard?

**Hon. Mrs. Whyard:** Mr. Chairman, for clarification, we pointed out in the background paper that increasing the amounts of these pensions would not have a significant effect on assessment rates, because estimated on the number of people now receiving such pensions, it would be an additional \$12,000 a year, but I would like to ask the consultant, please, Mr. Chairman, to explain to us how much we have to have in the fund in order to make that \$12,000 available annually?

**Mr. Laing:** That depends on the age of the widow, but on an average you would need about fifteen times that amount in the fund as a capital sum in order to be able to pay the pension out to the widow for her lifetime, less of course, in respect of the children, but it depends on the age of the widow.

**Hon. Mrs. Whyard:** So, Mr. Chairman, if you are going to increase that much annually into these pensions, you would require additional something like \$200,000 in your fund.

**Mr. Laing:** That is correct.

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

**Mr. Chairman:** Mrs. Watson?

**Mrs. Watson:** Mr. Chairman, if we are proposing to increase and bring in line with the cost of living the pensions for widows and dependants, when this legislation was brought in, the Territorial Government then assumed the responsibility of accommodating the pensions that were at that time written under private insurance companies. Is it the intention of the Government then to also to change the amounts of pensions that would be paid to these people who are now being paid out of Yukon's General Revenue Fund, that we picked up when we went into the Compensation.

Mr. Chairman, will it not require additional legislation?

**Mr. Booth:** I think the present supplementary Ordinance would cover that. These people are getting the consumer price index as the CPI increases, and have since 1975.

**Mrs. Watson:** Mr. Chairman, I would certainly look into that, because this is certainly more than the consumer price index. I would hate to see—the reason I mention it, if this Bill goes through and the pensions for this group of people is increased because of this Bill, and if there is a necessity to bring in legislation to increase the others to bring them up to the line we certainly should do that.

Thank you, Mr. Chairman, I thought the Honourable Member was just referring to the annual increase.

*On Clause 10*

**Mr. Chairman:** Mrs. Whyard.

**Hon. Mrs. Whyard:** May I ask our witnesses to advise whether these are the same time period applied in other jurisdictions?

**Mr. Laing:** Yes, this is more or less the same as other jurisdictions, madam.

**Mr. Chairman:** Ms Millard.

**Ms Millard:** Section 34, of the present Compensation Ordinance, it says that a widow or a widower who is receiving monthly payments on compensation, shall be paid a lump sum, a strange number, I don't know why. I would like to know that, why \$2,625 on remarriage, and does that apply to the person who is co-habiting?

**Mr. Booth:** I am afraid I cannot answer the first part of the question, of how they arrived at \$2,600, as I wasn't here at that time.

It would apply to a person co-habiting, if they remarried. This amount has increased since 1975, when the CPI increased as well and it is now up higher.

**Mrs. Watson:** How is that section policed?

**Mr. Chairman:** It would be difficult.

*On Clause 11*

**Mr. Chairman:** That covers your fixed sum in the last clause that was sited?

**Mr. Booth:** All that we are removing is the fixed sum, yes.

**Mr. Chairman:** Mrs. Watson.

**Mrs. Watson:** Mr. Chairman, where you have the death of a worker and he qualifies under Section 31.(1)(a), but he does have a spouse who is dependent upon him for maintenance payments, how would, is there any provision in this legislation so that the compensation and the maintenance payments can also be accommodated under the compensation, or under the pension?

All right, a worker dies. He does have a legal wife and children and he is obligated, under court order, to make

maintenance payments to that wife and children. However, he also qualifies, under 31.(1)(a), now, who would get the pension?

Well, it is a very real question, but do we make any provision, in the legislation, so that it can be, the pension, some of it can be to one and, so that the obligations for maintenance are at least fulfilled, and then the remainder then would, or, is there anything in here where you have the ability—oh, we had better look at that then.

**Mr. Booth:** It would be a referee's decision, in actual fact. Yes, it would be a tough decision, but it would be a referee's decision.

**Mrs. Watson:** Mr. Chairman, I would—

**Mr. Booth:** It is the same as Section 30(c), where someone is maintaining a household for a deceased worker, it is a referee's decision of who is the foster parents, in this case.

**Mr. Chairman:** Mrs. Watson?

**Mrs. Watson:** Mr. Chairman, I wonder whether the government would consider putting something in here where it is the referee's decision where maintenance payments for a spouse. Whether that would be a possibility to consider that?

**Mr. Laing:** On the question, there would be no problem if the parent could prove that they were also dependant upon the fatal worker, and that he was supporting his parent as well as he was supporting his wife. They could award to the parent, under Section 33.(1), as well as the dependant, providing it could be proven that they were dependant upon him.

**Mrs. Watson:** However, you do say, in 31, subsection (1), and it would throw out the whole (a) section, where a worker who dies leaving no dependant spouse -- now if you are making maintenance payments, you have a dependant spouse, or a dependant, and does that automatically throw out the person in (a) then.

**Mr. Laing:** Yes.

**Mrs. Watson:** Is that what you wanted?

**Mr. Laing:** That's right, in 31.(a).

**Mrs. Watson:** It throws out (a) then? Maintenance payments?

**Mr. Laing:** Under this Ordinance there is no power to acquire the benefit to someone who was cohabitating, if there is a dependant spouse.

**Hon. Mrs. Whyard:** Mr. Chairman, I wonder if he could repeat that, we couldn't hear it over here.

**Mr. Laing:** Mr. Chairman, my reading of 31.(1) is that if there is a dependant spouse, then there is no right to make any payments under 31.(1)(a) or (b) to a person who was cohabitating.

**Mr. Chairman:** This gets complicated. What if there is a dependant ex-spouse? Divorced, and there are payments due her?

**Mr. Laing:** Perhaps we can turn to our legal advisor for help on that one. Is the dependant ex-spouse a dependant spouse as well?

**Mrs. Watson:** No, Mr. Chairman, are you dependant if the court has ordered maintenance payments to you? You are then, you are a dependant of that worker.

**Mr. Laing:** We get proof of this fact from the courts that the person was making payments, and that person then does become the dependant...

**Mrs. Watson:** A beneficiary under compensation, and (a) is then out?

**Mr. Laing:** As a cohabitant, yes.

**Mrs. Watson:** I don't know how I feel about this.

**Mr. Laing:** They have to be legally separated before the Section 31(a) cohabitant wife becomes dependant.

**Mr. Chairman:** Ms. Millard?

**Ms Millard:** Mr. Chairman, if the person who is receiving benefits was either married or cohabiting with the worker who died, and then goes on and lives with someone else, and still keeps receiving those compensation benefits, are they liable to fraud?

**Mrs. Watson:** That's why I asked how well they policed it?

**Mr. Chairman:** You worried, Mrs. Watson?

**Mr. Laing:** We have, in one instance, but it is pretty difficult to prove unless you are there at nighttime.

**Mrs. Watson:** Very difficult.

**Mr. Booth:** We would attempt to investigate it, but, whether or not we would be able to prove it or not is another question.

**Mr. Chairman:** Committee will recess.

*Recess*

**Mr. Chairman:** I call Committee to order.

*On Section 12*

**Mr. Chairman:** Clause 51.(1)(b), you don't mean by this that if a worker is being cared for in the Yukon and he is subsequently required to be transferred to a centre outside of the Yukon, this is to be paid for by the Compensation Fund, and not by the employer?

**Mr. Booth:** That is correct. The idea of this that we do run into such instances where an employer is out in the bush and does have a first aid attendant, or a first aider and the first aider is not really qualified, but they seem to think that because they have a first aider, then that is as far as they have to take it.

We are saying, in this position, then, no. Subsequent, you must provide that to the nursing station or the nearest medical.

**Mr. Chairman:** Then, why the necessity of that subsection (b)? Isn't that taken care of with (a)?

**Mr. Booth:** It could be, and then, again, it couldn't be. It depends if you are looking from the employer's point of view. He seems to think that that is as far as he has to go because he has a first aider on site, then he could feel that that first aider is qualified to give treatment required.

The worker may not think so, or the safety supervisor may not think so, and therefore, we get a phone call, and therefore that gives the Commissioner the right to say no, you must take him to the nearest nursing station. A first aider isn't qualified under the circumstances.

They get him first to the nursing station and the nurse is not qualified and sends him into Whitehorse. We pay from the nursing stations to Whitehorse, the employer doesn't.

**Mr. Chairman:** Mr. Fleming?

**Mr. Fleming:** Yes, Mr. Chairman, I don't see the point in (b), at all, actually. You have already said that he requires him to be taken to a hospital, the office of a medical practitioner, home of the worker, if such things as nursing stations are there, but well maybe it should be spelled out. I just can't see why that last section is in there at all, really. There is no reason for it.

**Mr. Chairman:** Mr. Lengerke?

**Mr. Lengerke:** Maybe I am reading that wrong, Mr. Chairman, but my interpretation would be that it is really a little bit of a safety margin there with (b), that in the first

instance, maybe the employer would take the worker to the home of the worker for instances, and that wouldn't be an appropriate place because of the condition of the worker, and from there on should be taken to the hospital. This would then mean that the expense of this would be borne by the employer, and the Commissioner or the Board would so deem it to be, isn't that the case?

You know, you take him to the place of least resistance in the first instance, and say well there, I have done my duty. My obligation is fulfilled.

**Mr. Chairman:** Mrs. Watson.

**Mrs. Watson:** Mr. Chairman, I may be repeating, but I think that there is a problem there, "to such places as conditions require him to be taken", and there are problems in the area that I represent, where they take people to a nursing station to begin with. That is the nearest medical centre.

Maybe they should determine and take them right into Whitehorse to the hospital or the nearest hospital. What happens? They take them to the nursing station and the nurse calls out the ambulance and it is just a sit-up patient, so the employer has to pay for the ambulance, whereas he could have driven him in himself.

This, I would like to debate this section, after we have got the information from the witnesses, because I think this is one area where there is a great inequity across the Territory, because of where the various businesses operate. If you have a hospital in your vicinity or where your business is, great, but, if you don't, you, as an employer, are responsible for providing that transportation to the hospital.

I also, in 51.(1)(b), if a worker, an injured worker is referred to a specialist in Vancouver or Edmonton, the employer, under this, is then responsible for paying that worker's transportation. Is that correct?

**Mr. Booth:** No, that is not correct. If they have got them to the nursing station in Haines Junction, that is as far as the employer's responsibility. If that nurse says, I cannot take care of that person, we must send him to Whitehorse to the hospital, the Workmens' Compensation will pay his transportation from Haines Junction to Whitehorse, or Vancouver, if it is necessary, once he gets to Whitehorse.

**Mrs. Watson:** Mr. Chairman, I actually have a bill where an employer is being billed, from Destruction Bay to Whitehorse.

**Mr. Booth:** That is an error, then. I was at a meeting with, in this particular instance, on Friday evening, and this was brought to my attention. I have since checked into it and this was a misunderstanding because we did not get a report from the Destruction Bay Nursing Station. We were not aware that the patient had been there first.

So, the bill will be paid for by the Workmens' Compensation, and not the employer.

**Mrs. Watson:** Okay, thank you.

But, Mr. Chairman, would it not then, also, list a hospital or a nursing station? Would it not, there? Because people feel that they have to take them to a hospital, if they are in the outlying areas and if they can take them to a nursing station, fine, but it doesn't say nursing station and we don't have medical practitioners on the Highway.

**Mr. Booth:** We wouldn't have any objections to having that...

**Mrs. Watson:** It would certainly clarify it.

**Mr. Chairman:** Wouldn't it clarify it more if it said the nearest hospital or nursing station, because, instead of being Vancouver General Hospital, it would be Whitehorse General Hospital, i.e. the nearest hospital or nursing station.

**Mrs. Watson:** It would certainly clarify it.

**Mr. Chairman:** Mr. McKinnon.

**Hon. Mr. McKinnon:** Mr. Chairman, the way this was explained to me in Subcommittee on Legislation, and I was rather amazed that the explanation had to be given, was there has been instances in a bush accident, where an employee was told by a first aid attendant to just go to your bunkhouse, you are all right, and, subsequently, that was not all right. The guy had to get to the nursing station or hospital and there was an argument, on the spot, over who the hell was going to pay for the transportation out.

I think in that point in time, that argument shouldn't even exist. Leave the arguments for after, get the employee out to the place where he can be treated and without question, in the first instance, that would be the employer who would get him to the nursing station, or to the hospital, or to the place where he got that medical attention that was needed.

I was surprised that such a discussion or an argument would take place at the time of an injury, but evidently it was a problem with the Compensation Board, and that is what we are trying to get around in the first instance, this problem.

**Mr. Booth:** This is actually the same wording that was in previously. The only thing that we have added is Section 2, and that is where we can automatically authorize the transportation immediately for that patient to some place, wherever the case may be, and then we will pay the bill, because a lot of transportation companies are phoning us up and saying who is going to pay this, and we say the employer. And they say I know this employer, he has got no money, we will never collect, and this is the reason for this. We will guarantee the payment of that.

*On Clause 13*

**Mr. Chairman:** Mrs. Watson?

**Mrs. Watson:** May I go back to 51.(1). I am not satisfied with (b) because (b) says that the employer is responsible for the costs. "The employer of that worker shall where conveyance of the worker is necessary, (b) subsequently provide the worker with transportation to such place as in the opinion of the Commissioner, the condition of the worker requires him to be sent."

**Mr. Booth:** Yes, we will guarantee payment, and pay the transportation company, the airlines company and then we will proceed to collect from the employer as we do at their assessment. This is the intention of it.

**Mrs. Watson:** Well, Mr. Chairman, if a person is referred outside to Edmonton or Vancouver, the employer is responsible for the airfare.

**Mr. Booth:** No, just to provide the initial transportation at the time of the injury to the nearest hospital, medical practitioner, or home of the worker, or as you suggested, nursing station, which I feel should be in there. That is as far as he goes, after that it is the Workmen's Compensation responsibility.

**Mrs. Watson:** What does subsequently mean?

**Mr. Chairman:** I think we have the intent of what Mr. Booth is saying, and I think perhaps we can reserve further debate on it until after the witnesses are not present.

**Mr. Booth:** There is a difference in wording here from the Northwest Territories, as a matter of fact. The thing that I see as a problem is that it doesn't say who is going to determine what is such place as his condition requires him to be taken, and that should really be determined by the Board or the Commissioner, not by the employer. The wording in the Northwest Territories says as soon as reasonably possible to a hospital or physician, a worker's home, or to such other place,

as in the opinion of the Board, the condition of the worker requires him to be sent. Now there is no "subsequently" clause in that wording, which is the most recent wording that has been established, to my knowledge.

**Mr. Chairman:** Mr. Fleming.

**Mr. Fleming:** That is the reason I am not standing up many times, because I think that we are going through this just to get the witnesses in and we will be going back through it. Yes, if I may have that assurance, because there are some sections, other than this one, I am not going to go along with.

**Mr. Chairman:** Quite right, Mr. Fleming.

*On Section 14*

**Mr. Chairman:** Mr. Lengerke.

**Mr. Lengerke:** Mr. Chairman, I wonder if the witnesses could give us a practical example of that?

**Mr. Booth:** As you know, the trend today is to subcontract most work out and, on one job site, you could have a number of employers and their workers. We are bringing in, or are recommending, that a merit rebate system be brought into effect.

What this does, if a worker of another employer is negligent and causes that worker to have that accident, we can then charge the cost of that claim against the negligent employer. Why should we charge it against the injured worker's employer and deprive him of his rebate money, when the accident wasn't caused by his fault. That is the purpose of this new section.

**Mr. Chairman:** Mr. McCall.

**Mr. McCall:** Well, I would like some clarification, Mr. Chairman, on this Section 14.(1)(1). It starts off, "the costs of any claim respecting that worker suffering injury or death shall be included in the experience account..." I take it that is a new form of calculation or deliberation.

Then it levels off and backtracks a little bit, down at the bottom it goes on, "where the employer is classified, may be charged for..."

First we start off, "shall be included in the experience account", and then "may be charged". Does it mean to say it is going to be totally utilized?

**Mr. Chairman:** Mrs. Whyard.

**Hon. Mrs. Whyard:** Mr. Chairman, I think the Honourable Member needs to slow down a little when he is charging through these sections, if it is going to be a question. Could we ask him to give us the question?

**Mr. McCall:** Mr. Chairman, I didn't ask a question. I just asked for clarification.

**Hon. Mrs. Whyard:** On the whole section, Mr. Chairman.

**Mr. McCall:** That is correct, Mr. Chairman.

Perhaps the Minister could give us a clarification.

**Mr. Booth:** I think we, again, have to go into the merit rebate system, and I do believe you have a Commissioner's Order on that rebate system?

If you understand the merit rebate system, then you realize that it is based on the costs charged against that employer's experience account.

This section here is saying, okay, if it is negligence on another employer, we can then transfer the costs of that claim against the negligent employer, which will then, in some instances, deprive him of that merit rebate, because he was negligent and shouldn't be entitled to the rebate. You can't change the costs of that claim against the injured worker's employer and deprive him of the merit rebate, because it wasn't his fault or his negligence. That is the intent of that Section, Mr. Chairman.

**Mr. Chairman:** Mr. Lengerke?

**Mr. Lengerke:** My problem with that is who is going to determine the negligence and how is this answer going to be determined, because that could be quite a lengthy process and much appeal on that too.

**Mr. Booth:** From the accident reports filed, we can determine in instances, because on the accident report form we ask for the cause of the accident, and from this, and if there is any indication that there is negligence there, then the claim would be investigated fully. The assessment section would decide and then the employer can appeal that again and it goes to the referee. They still would have their right of appeal, if they are not satisfied that there is any negligence, and the Board can call a hearing under the Ordinance and call in witnesses on behalf of both parties.

**Mr. Chairman:** Mr. McCall?

**Mr. McCall:** Thank you, Mr. Chairman. Accepting the witnesses' clarification on the first part of this Section (1.1), but it still does not clarify the latter part of the same subsection, because it weakens itself, accepting the principles governing the negligence that may include all considerations when you are making a deliberation, which expresses itself in the first part of the subsection. I go on "suffering injury, death shall be included in the experience account". That's full deliberation. Then it goes further on at the bottom, as I pointed out a moment ago and the Minister wasn't listening. It says that the employer is classified, may be charged, may be charged. That actually is weakening the intent, and maybe that should be shall and not may.

**Mr. Booth:** Mr. Chairman, it is "shall" on my copy. I don't know what other copies there are around.

**Mr. Booth:** It has been changed to "may", I am sorry, for the simple reason that if we said "shall", we have no right of appeal. If we say "may" then the employer can appeal it, or it can be waived, there is insufficient evidence. If you say "shall", you have had it. This is the reason we say "may be concluded".

**Mr. Chairman:** Mr. McCall.

**Mr. McCall:** It generally adds to confusion, Mr. Chairman, and I am having a lot of reservations of that latter part of this section, because it gets very contradictory.

**Mr. Chairman:** Mrs. Whyard.

**Hon. Mrs. Whyard:** Could you ask the Honourable Member to say what he would like in there then? If he doesn't like what is in there.

**Mr. McCall:** Mr. Chairman, as I pointed out, maybe it should be "shall" and not "may".

**Mr. Chairman:** Mr. Booth.

**Mr. Booth:** It has been my understanding from our Legal Advisor, that once we put "shall" in there, you are obliged to do that and that is the end of it. If the word "may" goes in, then, if there is sufficient evidence then we may charge it against the negligent employer, Mr. Chairman. If you say "shall", you have to do this.

There has got to be sufficient facts and proof that this was negligence on the part of an employer, before you can do it, and you would charge it automatically.

**Mr. Chairman:** Mr. Fleming.

**Mr. Fleming:** Yes, Mr. Chairman, as I see it, in the first instance, it shall be included in the experience account of that employer. Now, if we could have some explanation, myself, I think it would clarify it for me, anyway. In the experience account of that employer, and then it goes down to say, "it may be charged to the class in which the employer is included".

Now, could I get a little clarification on the difference between the experience account and then this employer's class may be charged. That is all.

**Mr. Laing:** Mr. Chairman, can I try and answer that one?

The employers are all classified into categories according to industry and all the employers in one category form a class or a sub-class. It might be heavy construction, for example. In addition to keeping records for that class, as a whole, the Board has to keep records for each individual employer, and keep an experience account for that employer, and it is required under the Ordinance.

One of the purposes of keeping that experience account is now to provide the basis of data on which to calculate the merit rebate. But, if it is possible, I suppose, for the employer's experience account to be charged because he was negligent, and yet not to charge it up to the class and penalize all of the other employers in that class.

There are two different things and one is the employer's individual experience account and the other is the overall experience of that class.

**Mr. Chairman:** Mrs. Whyard.

**Hon. Mrs. Whyard:** Then one of the determining factors here is the degree of negligence, is that not correct, Mr. Chairman? So that an employer who is taking reasonable steps to enforce safety on the job is not going to be penalized under this Section.

**Mrs. Watson:** Mr. Chairman, I would like to go into this further, but I think I will withhold my question until we go into the assessment of the demerit system.

*On Clause 15*

**Mr. Chairman:** Mrs. Watson?

**Mrs. Watson:** Mr. Chairman, this is probably small potatoes to everybody, but to a lot of people it isn't small potatoes. I am constantly being asked, we have wage and price controls, and we have the levels of wages, increases in wages set at certain levels, and yet we have governments almost ignoring this. Now I can see the increasing of the minimum level for assessment, because you justify the values in your cost of living and building up to it. This is quite under this legislation, but here we go, we had a \$10 minimum, which wasn't very much, and you made a good argument, but you are increasing it to \$25. It makes one wonder about those restrictions, and keeping your levels of costs to 6 per cent this year. So really, by that same token, we should add 6 per cent, or whatever, over the past three years to the \$10. We might arrive at the \$25, but at least you are justifying it.

It's a real good argument, and it's used by a lot of people these days, and they have a lot of right to use it too.

**Mr. Chairman:** It's a good argument, Mrs. Watson. I am wondering why you didn't bring it up when you looked at the increase the schedule of payment for widows and dependant children?

**Mrs. Watson:** Mr. Chairman, I believe there is some basis in formula and calculation for that.

**Mr. Chairman:** Well you asked that question and there was no answer forthcoming.

**Mrs. Watson:** Yes, yes there was. Yes there was.

You have to use your cost of living.

**Mr. Chairman:** I just had a quick look at the previous payment and that sounds very difficult to relate. I just meant at the time that—

**Mrs. Watson:** You can use your widow's pension as part of your calculation. You can raise it to that.

**Mr. Chairman:** But that was for subsequent increases,

that wasn't the same as now named.

**Mrs. Watson:** Well if I didn't get a good answer, maybe I should.

**Mr. Chairman:** Mr. Lengerke?

**Mr. Lengerke:** Mr. Chairman, just a question about assessment, that I am interested in the answer to. How does the government, YTG as an employer, fit into the scheme. In other words, is their contribution to the fund based on an assessment basis per classification, or is it done on a deposit basis, or what. How does that work?

**Mr. Booth:** They are on a deposit account.

**Mr. Chairman:** Mr. Lengerke.

**Mr. Lengerke:** Are any calculations ever done to what would be the difference in the dollar as contributed by the Government if they wanted deposit versus an assessment basis?

**Mr. Booth:** I think that question could be answered when we get in the assessment rates, and Mr. Laing's report covers that.

*On Section 16*

**Mr. Chairman:** That time we went from \$500 to \$1,000.

**Mrs. Watson:** Mr. Chairman, that is exactly what I was going to ask. It is because a person has defaulted in paying their assessment and one of their employees has, in fact, had an accident.

You are not only giving them a penalty for not paying their assessment, but you are also making them pay to the Commissioner, one half of the amount of compensation payable and not more than \$1,000. Is that correct?

**Mr. Chairman:** Mr. Laing.

**Mr. Laing:** I think the employers in the Yukon, if this goes through, will be very lucky. In other jurisdictions, the whole cost of an accident that occurs while the employer is, in effect, uninsured, has to be borne by the employer. It would be very difficult to go to an insurance company, after your house had burned down, and say, I would like to pay the premium now, would you please cover me for fire insurance.

It is equally inappropriate to come to the Compensation Board after an accident has occurred and say, I want to pay my \$25 or my \$10 now, so that I can get \$150,000 in benefits out of the Board.

So, it is quite appropriate to charge that employer with the whole cost of the accident, if he is not insured. So, we are being very lenient in only limiting that to \$1,000, or a half of the cost of the accident.

**Mr. Chairman:** We certainly don't apply that principle to our Medicare scheme.

**Mrs. Watson:** Mr. Chairman.

**Mr. Chairman:** Mrs. Watson.

**Mrs. Watson:** Mr. Chairman, I can understand that, where a person refuses to transmit their payroll or to apply, but, where a person does not, who refuses or neglects to pay any assessment or provisional amount of any assessment, does that mean the entire assessment charged to them for the year, or just the provisional amount?

That is the part that concerns me a little bit. Some times the smaller employers don't have enough money to pay the whole thing. Are they going to be penalized because they haven't got it all paid up to date?

**Mr. Booth:** Not under this Section. They are penalized for non-payment penalty, which is under Commissioner's Order separately.

**Mrs. Watson:** But, Mr. Chairman, that is what that pen-

alty means, right? It says, "in addition to any penalty or liability".

Now, how far do you go? When do you interpret it that a person does not want to pay compensation or when do you interpret it that he has made a payment and it is in good faith and he will pay the rest of it?

**Mr. Booth:** This section is strictly to do with where the person has not really registered, and has an accident. This is the first time we have discovered he has been an employer in the Yukon.

**Mrs. Watson:** That's not what you are saying.

**Mr. Booth:** If he has then registered, and he refuses to pay his assessment or neglects to pay it, he may be subject to this additional.

**Mrs. Watson:** Mr. Chairman, I agree with the concept. If he refuses and it is mandatory to have compensation, you have to have some sting to it, and if he refuses in one of these, what you are saying, any employer who refuses or neglects to transmit any payroll, or who refuses or neglects to pay any assessment - Shouldn't we be saying if an employer refuses to submit the payroll and refuses to pay an assessment, then this is your intent, I believe, that guy who is saying I don't need compensation.

Not the guy who has put down a deposit of \$50 and he still has \$150 owing, I don't want him, but what we are saying here, because you say or, you could go after him for that \$1,000. and I don't think that is the intent.

**Mr. Booth:** If he had paid his installments, we wouldn't, because he has already got the other penalties for his assessment.

**Mrs. Watson:** Right, that's what I mean.

**Mr. Booth:** And that's all we would levy would be the non-payment penalty. This is basically to cover us for the case of where he has never registered, and we have to go back and assess him, and this class has lost all this revenue, plus the interest on this revenue, and certainly we are having to pay out costs on this claim from some other employer, which is unfair, so therefore, this employer should have an additional penalty, by paying 50 per cent of the costs of the claim.

**Mrs. Watson:** I understand that.

**Mr. Chairman:** Mr. Fleming?

**Mr. Fleming:** I need a little clarification on line 25: "in addition to any penalty or other liability", well what, if he has been penalized, what other liability would there be. What do they mean by any or other liability?

**Mr. Deputy Chairman:** Mr. Booth?

**Mr. Booth:** It could be the interest on the overdue payment, the penalty. They are allowed four installments a year, and if he has been paying the first installment and he has got the additional penalty and he keeps refusing to pay that penalty, this is additional.

**Mr. Deputy Chairman:** Mr. Lang?

**Hon. Mr. Lang:** Mr. Chairman, I can see what the Honourable Members are getting at. This section is designed specifically for people who come into the Yukon and do not register under the Compensation Plan. So in other words, what the Honourable Members are getting at, then it should be stated that any employer who refuses or neglects to register with the Workmen's Compensation Fund in Yukon.

**Mr. Deputy Chairman:** Thank you for the clarification, Mr. Lang.

**Hon. Mr. Lang:** Well, I just wanted to clarify it. I hear three or four different opinions floating around.

**Mr. Booth:** Under Section 17.(1), this gives us the author-

ity to, the Commissioner, the authority to issue the Commissioner's Orders for non-payment penalties, for late filing penalties, and also for penalties if the worker has an accident, and all these are made from Section 71.

*On Section 17*

**Mr. Deputy Chairman:** Mrs. Watson.

**Mrs. Watson:** Mr. Chairman, if you recall this morning, I said that I thought there might be conflict with that exemption section.

**Mr. Laing:** I will try to answer that, Mr. Chairman. By way of example, perhaps, the section 77 one is perhaps a case of an employer who has got somebody who is working for him that is slack and he asks him to go and do something at his home that is not part of the work of that industry. Then, to protect that worker while he is mowing the lawn or repairing the roof of the employer's home, he has to be covered and assessment paid, so that if an accident happens he is covered.

When we are dealing with 5, about the casual employment, that was if I employed someone as a casual typist in my business, to do casual work, they have to be covered. But if I employ somebody of a casual nature to help me do some panelling in my rec room, then that is not part of my business and that is something outside of my business. I have the option to cover the carpenter who does a little bit of work for me, if I want him covered and he is not registered himself, but I don't need to cover that person.

If I say to one of my employees, go and do some panelling at my home, then he has got to be covered.

**Mrs. Watson:** I see. Thank you.

**Mr. Deputy Chairman:** Mr. Berger.

**Mr. Berger:** Mr. Chairman, I would like to carry this a little further, and I was just thinking in particular, when the witness mentioned about sub-contracting, and it is quite common up here for outside firms coming up here to do work in the mining industry. Now, that is a different jurisdiction altogether.

How would the workman would be covered under those things, then? He may be a carpenter, he may be a labourer, he may be anything.

**Mr. Booth:** He would become an employee of the principal or if he is a subcontractor, individual, he would be covered under the contractor or principal, which ever the case may be under Section 67 of our present Ordinance.

*On Clause 18*

**Mr. Deputy Chairman:** Yes, Mr. Booth, go ahead.

**Mr. Booth:** The intent of this change, what we are doing here is previously it was 90 per cent of the average weekly earnings. We have found that by doing this, we are so far behind other jurisdictions. For example, in 1977, this year we were only 13,000, compared to the other Boards which is Alberta - 15,6; BC - 15,6; we were the lowest except for the eastern provinces, New Brunswick, Prince Edward Island, and Nova Scotia. The reason being was it came to my attention from Statistics Canada where these figures are released, is that no administrative, public administrative salaries are reported to Stats. Canada, and they, as we know the government of the Yukon is one of the large payrolls, and therefore this was pulling the statistics down. Therefore, we are asking that it would be based on 100 per cent and then we are forecasting it will come up to 17,000 and this is what all the other Workers' Compensation Boards are estimating that the maximum will be in 1978 will be between 17,000 and 18,000, and it will pull us up to other jurisdictions.

This will also increase the amount of compensation payable to claimants injured during 1978, it increases those benefits also.

**Mr. Deputy Chairman:** Mrs. Watson?

**Mrs. Watson:** Do the other jurisdictions use the 100 per cent or the 90 per cent?

**Mr. Booth:** Other jurisdictions: Alberta do not use the Statistics Canada, they come out with their average weekly earnings of workmen who are on compensation. They are computerized and they record all the yearly wages reported that these workers on compensation and they arrive at the average this way. BC, would you elaborate on that?

**Mr. Laing:** BC is based on an indexing factor, based on the Consumer Price Index from a starting level that was fixed by the Legislature.

**Mrs. Watson:** The same as we are, and they use the 100 per cent or the 90 per cent.

**Mr. Laing:** Well, they don't tie it to the industrial composite, they set the original level some years ago, and it has been escalated ever since by the Consumer Price Index.

In the Northwest Territories it is left to the Commissioner, on the recommendation of the Board, to set it each year.

**Mrs. Watson:** Mr. Chairman.

**Mr. Deputy Chairman:** Mrs. Watson.

**Mrs. Watson:** Mr. Chairman, how will this reflect then, and maybe my question should come when we are dealing with report, Mr. Laing, on the assessments. How would this boast affect the assessments and the costs of the employer?

**Mr. Laing:** Well, hopefully, it won't affect the rates of assessment, but, of course, these rates will be applied to higher assessable payrolls, and, therefore, the income of the fund will be increased and the out-go of the fund in benefits, will also be increased. Hopefully, they will be increased in the same proportion.

**Mrs. Watson:** Mr. Chairman.

**Mr. Deputy Chairman:** Mrs. Watson.

**Mrs. Watson:** But then the rate won't be affected, but the actual amount the employer pays, certainly could be, if you have employees in the range between what we have now, 13,000, and upwards.

**Mr. Laing:** Yes, and it would also affect the amount of the assessment, rather than the rate for all these employees who are earning more than the maximum.

**Mr. Deputy Chairman:** Mrs. Watson.

**Mrs. Watson:** Mr. Chairman, and possibly I shouldn't ask this, have you done some calculations on how it will affect some of the industries within the Territory, by doing this? In the amount of contributions they pay to the Compensation Fund on an annual basis?

**Mr. Deputy Chairman:** Mr. Laing.

**Mr. Laing:** It's not possible to do detailed calculations, because we don't have individual data on the salaries of the individual employees. It is a total payroll that is reported and, of course, we can't foresee what it is going to be in 1978. Obviously, there will be increases in Faro, and we won't know until the returns are sent in for 1978, what their assessable payrolls will be.

But, for those employers who are paying salaries and wages in excess of the maximum, of course, it is easy to say that the increase will be in the ratio of \$17,000 to \$13,000. For those who are earning less than \$17,000, it won't be quite such a high increase.

**Mr. Deputy Chairman:** That concludes the first review of this Ordinance, with the assistance of the witnesses.

Yes, Mr. Berger.

**Mr. Berger:** Mr. Chairman, before you conclude, I have a

question. Under which section of this Ordinance is the Territorial Government bound by this Ordinance?

**Mr. Booth:** I am sorry, Mr. Berger, I couldn't hear your question.

**Mr. Berger:** My question, Mr. Chairman, was, under which section of this Ordinance is the Territorial Government by this Ordinance?

**Mr. Chairman:** Mr. McIntyre?

**Mr. McIntyre:** In the interpretation section, employer includes the Commissioner.

**Mr. Chairman:** Mr. Lang?

**Hon. Mr. Lang:** Mr. Chairman, it is the intention of Committee to go into the assessment report now, or I am just wondering what the position of Committee is at the present time?

**Mr. Chairman:** I was going to ask Committee if they did wish to go into the assessment report now. Perhaps it would be valuable as we have the witnesses here, Mr. Lang. I would suspect members don't have their assessment report with them.

**Mrs. Watson:**

**Mrs. Watson:** May I have a question answered regarding the existing legislation and its interpretation from the witness.

**Mr. Chairman:** Please do.

**Mrs. Watson:** I refer to Commissioner's Order 1977/06 and this is one the amount of compensation to be paid during 1977 shall be set out as below, and it gives the section. I can't quickly find the section that provides the cost of living increase, the composite. What section—79, okay. Now, I would refer you to Section 38, subsection (1) in the existing legislation.

Where a workman is entitled to compensation and so on and so on, an amount to be determined by the referee equal to 75 per cent of the average weekly earnings of the workman. Right? Employed at work similar.

Now, under your Regulations, you apply the 7.5 per cent increase, the composite increase to the 75 per cent. Mr. Chairman, I really doubt the interpretation of applying in Section 31, subsection (1). A percentage of the amount, so you apply the 7.5 per cent to 39.(1). Forty, subsection (1), 75 per cent of his average weekly earnings calculated in accordance with Section 43, and again you apply the 7.5 per cent increase. How can you apply an increase on a percentage?

It was always my understanding of this legislation that this consumer, or whatever it is called, the average annual Consumer Price Index established by Statistics Canada, right. And that the static amounts within the legislation amounts of money, would be raised according to that index.

It was never my interpretation that the percentage would be raised also. So, 75 per cent, plus the 7.5 increase is not 75 per cent anymore?

**Mr. Laing:** No, it is not increasing the 75 per cent figure. It is increasing the earnings figure to which the 75 per cent is applied. The 75 per cent is still 75 per cent and it is applied to a higher earnings figure, a higher average earnings figure, because the average earnings figure has increased by the Consumer Price Index.

**Mrs. Watson:** Mr. Chairman, I just don't agree with that. I am very happy to hear that 75 per cent is 75 per cent.

I think the average weekly earnings of workmen, because that increase is already built in at the other level and you are averaging it out, because it is not a static amount. You are giving that double increase there.

**Mr. Laing:** The 75 per cent of the maximum is what you are seeing under Section 80, for the current claims. In other words, the 7.5 per cent increase comes into effect the first of January, 1977, but it is only on the amount of compensation payable, shall we say, on claims opened as of December 31st.

Your new claims that opened up would be based on 75 per cent of the maximum, \$13,000, which is declared under Section 80.

**Mrs. Watson:** Yes, but, that doesn't make any difference. You don't have any authority to do that.

**Mr. Booth:** Under section.

**Mrs. Watson:** Under any of it.

**Mr. Booth:** Under Section 79, we do.

**Mrs. Watson:** No.

**Mr. Booth:** It will increase the amounts of compensation payable under this Ordinance, and that is every amount that where, all the way through this Ordinance, the amount of compensation is set, we can increase by that amount of the Consumer Price Index.

**Mr. Laing:** Mr. Chairman, could I clarify the question. Is the Honourable Member saying that the Commissioner's Order applies to Section 38.(1) and provides a 7.5 per cent increase to something in that section and that the only thing that is an amount in that section is 75 per cent and that therefore the fact of the Commissioner's Order is to increase 75 per cent to 82 and a half per cent?

That is not the intent, but it may be the effect of that particular wording in the Order.

**Mrs. Watson:** ...that is exactly what it says.

**Mr. Laing:** I do not think it is the intent to increase the 75 per cent to 82 and a half per cent. We could ask the Legal Advisor, who drafted the Commissioner's Order, but..

**Mrs. Watson:** Mr. Chairman, I do not believe that was the intent when the Legislation was put in because the wage rate would increase, would it not?

Your percentage is static, but your average weekly wage that the 75 per cent is of, is going to increase because of the cost of living -- that section that we have in there. You are giving it a double increase by increasing your 75 per cent to 87.

If you continue on this way you are going to be over 100 per cent.

**Mr. Laing:** It is something that will have to be looked at.

**Mrs. Watson:** I think so, yes.

**Mr. Chairman:** We have before us the report from Mr. Laing regarding assessment rates, and while Mr. Laing is here, perhaps members would like to ask questions on it, or perhaps Mr. Laing could give us some comments on it.

**Ms Millard:** Mr. Chairman, I am so confused because at the bottom of this White Paper it says the full details of the changes are contained in the report by the consulting actuaries, attached is exhibit A, and I have never found exhibit A. Some of us do, and some don't.

**Mr. Chairman:** You are being discriminated against.

**Ms Millard:** Yes.

**Hon. Mr. McKinnon:** There was a mistake in the distribution, Mr. Chairman, because that's exactly what was intended.

**Mr. Chairman:** I know it was intended, and I know I received one myself. If possible I would like to deal with it tonight, because Mr. Laing has been good enough to be here with us, and he has been here all day, and I would hate to have him to stay over.

**Mr. Laing:** Mr. Chairman, it is in my plans to stay, over, so if you want to distribute the report tonight, then we can discuss it when the members have had a chance to go through it.

**Mr. Chairman:** Very well.

**Mr. Laing:** It would be very difficult to ask them to consider it if they haven't had copies distributed.

**Mr. Chairman:** They probably won't have any questions, but thank you anyway, we will take advantage of that.

The witnesses are excused, and thank you very much.

**Mr. McCall?**

**Mr. McCall:** Yes, Mr. Chairman, I would that Mr. Speaker do now resume the Chair.

**Mr. Fleming:** I will second that.

**Mr. Chairman:** It has been moved by Mr. McCall, seconded by Mr. Fleming, that Mr. Speaker do now resume the Chair.

*Motion agreed to*

*Speaker resumes the Chair*

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

May we have a report from the Chairman of Committees.

**Mr. Hibberd:** Mr. Speaker, the Committee of the Whole have considered Bill Number 9, *An Ordinance to Amend the Workmen's Compensation Ordinance* and directed me to report progress on same, and asked leave to sit again.

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

**Some Members:** Agreed.

**Mr. Speaker:** Leave is so granted.

Before we conclude this evening, I would like to draw to your attention a piece of correspondence which I have received from Mr. Commissioner.

It is addressed to the Honourable Don Taylor, Speaker, Yukon Legislative Assembly, Whitehorse Yukon.

"Dear Mr. Speaker: This will acknowledge your letter of this date concerning the message that I brought to the Assembly regarding the Private Member's Public Bill 102, *An Ordinance to Amend the Public Inquiries Ordinance*. I am sorry if there was confusion over the intent of my statement. What I meant to say was that I have been instructed to refuse assent to Private Member's Public Bill 102. I trust this will clear the record and provide the exact direction that applies to this matter. Yours sincerely, A.M. Pearson, Commissioner."

The Honourable Member from Whitehorse Riverdale?

**Mr. Lengerke:** Mr. Speaker, I move that we do now call it 5 o'clock.

**Ms Millard:** I second that.

**Mr. Speaker:** It has been moved by the Honourable Member from Riverdale, seconded by the Honourable Member from Ogilvie that we do now call it 5 o'clock.

*Motion agreed to*

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

*Adjourned*

**The following Legislative Returns were tabled (November 22, 1977)**

77-2-13

Whitehorse-Skagway Pipeline Tax  
(Written Question No. 7)

77-2-14

Assessment Services Taxes  
(Written Question No. 15)

77-2-15

Wolf Creek Subdivision  
(Oral Question - Page 115 - November 14, 1977)

77-2-16

Pipeline Fund Allocation  
(Written Question No. 1)

77-2-17

Housing Corporation in Teslin  
(Written Question No. 14)

77-2-18

Selkirk Street School Gymnasium  
(Oral Question - Page 88 - November 10, 1977)

77-2-19

Health Services Transfer  
(Written Question No. 12)

**The following Sessional Papers were Tabled (November 22, 1977)**

77-2-17

White Paper on Heating Fuel Equalization

77-2-18

Electric Franchise Agreements for Destruction Bay-Burwash Landing, Beaver Creek and Haines Junction

77-2-19

White Paper on Arctic Winter Games

77-2-20

Yukon Teachers' Staff Relations Board Third Annual Report, 1976-77

77-2-21

Cyprus Anvil Mine Accidents

77-2-22

Transport Public Utilities Board Report, 1976/77

77-2-23

Correspondence from the Commissioner  
re: refusal of assent for Bill 102.

LEGISLATIVE RETURN #13  
(1977 Second Session)

Mr. Speaker,  
Members of the Assembly

On November 10th, 1977, Mrs. H. Watson asked the following question:

What property tax revenue pursuant to the Taxation Ordinance for taxation year 1976 was paid to Y.T.G. for that portion of the Whitehorse-Fairway Pipeline which crosses the Yukon Territory?

The answer to the question above is as follows:

White Pass & Yukon Route was taxed \$13,018 in 1976 by the Commissioner for that portion of the Skipsay-Whitehorse Pipeline lying outside the City of Whitehorse and within Yukon.

November 21st, 1977.

*J. McMillin*  
Signature

LEGISLATIVE RETURN #14  
(1977 Second Session)

Mr. Speaker,  
Members of the Assembly

On November 16th, 1977, Mrs. H. Watson asked the following question:

1. What fee for assessment services has the Gov. of Yukon received from each of the municipalities for the taxation years of 1976 and 1977?
2. What was the taxable property tax assessment for each of the municipalities for the taxation years of 1976 and 1977, and what will be the taxable property tax assessment for the municipalities of Dawson and Faro for the taxation year 1978?

The answer to the above question is as follows:

1. Assessment Service Fees:

Municipalities	1976	1977
- Whitehorse	36,607.59	76,370.13
- Faro	2,411.89	1,104.08
- Dawson City	4,280.06	3,360.12

2. Taxable Property Tax Assessment:

Municipalities	Tax Year	Taxable Assess.
- Whitehorse	1977	57,642,800.
- Faro	1977	6,550,400.
- Dawson	1977	1,216,295.
- Whitehorse	1976	50,376,890.
- Faro	1976	5,900,620.
- Dawson	1976	1,173,225.
- Faro	1978	6,554,440.
- Dawson	1978	1,682,840.

Nov. 21 1977  
Date

*J. McMillin*  
Signature

LEGISLATIVE RETURN #15  
(1977 Second Session)

Mr. Speaker,  
Members of the Assembly

On November 14th, 1977, Mr. Senperke asked the following question:

How many small acreage lots are included in the Wolf Creek Subdivision?  
Is there a second phase being worked on in this area, and when will it be ready?

The answer to the question above is as follows:

There are 119 lots ranging in size from two to five acres in the proposed Wolf Creek Subdivision. This land use capability is the only work planned and completed to this time.

Survey has been completed. Clearing and grubbing will commence early in December. Road construction will begin as early in 1978 as possible, and the anticipated sale date is July, 1978.

The adjacent lands appear to be capable of absorbing 200 - 250 more acreage lots in future phases. In respect to their development, we have had no requests as yet to plan for the further development of this area.

Nov 19 1977  
Date

*J. McMillin*  
Signature

LEGISLATIVE RETURN NO. 16 (1977 SECOND SESSION)

November 7, 1977.

Mr. Speaker,  
Members of the Assembly

On Monday, November 7, 1977, the Honourable Member for Whitehorse-Riverdale asked the following question:

"By Department or Activity, how many dollars of the \$200,000,000 Pipeline Fund has been allocated or earmarked in their 5-year forecast as a result of Federal/YTG intergovernmental discussions and negotiations with respect to the Pipeline project? In other words, what expenditures by Federal or YTG Departments that would normally take place through annual budget requirements have now been identified as "pipeline-related" and will be financed from the fund."

The answer is as follows:

There is no impact fund of \$200 million in existence and thus no allocations or appropriations against such a fund have been made.

What exists as a result of the Canada-U.S. agreement is a \$200 million line of credit from the pipeline applicant for use, if and as required, to finance impact costs which must be incurred before tax revenue is generated.

There has been considerable planning and projecting of possible extraordinary pipeline related costs by Departments. Regardless of the source of funding of these costs, however, all expenditures will be approved by the Legislative Assembly, in the normal budgetary processes.

*A. M. Pearson*  
A. M. Pearson, Commissioner.

**LEGISLATIVE RETURN # 17**

(1977 Second Session)

Mr. Speaker,  
Members of the Assembly

On November 16th, 1977, the Honourable Member from Hootalinqua asked the following question:

Re: Housing Corporation in Teslin Area

What to date has been paid out in wages on repair work to these homes this year? What to date has been spent on material for the work this year?

Could the Minister give me a breakdown on each of the ten low cost rental homes and also staff housing?

The answer to the above question is as follows:

In Teslin most contracts let to repair staff and rental/purchase housing included labour and materials. Nevertheless, it is reasonable to conclude labour costs were a substantial part of the monies expended. Expenditures on capital improvements to staff housing to date are \$28,820. Work included foundation repair, upgrading insulation, electrical, plumbing, heating and carpentry work, exterior work, interior renovation and decorating.

Rental/purchase housing - Teslin

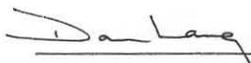
Maintenance and repair expenditures to November 2, 1977:

Unit #1	\$1,051.	Unit #6	\$ 273.
#2	1,813.	#7	294.
#3	5,020.	#8	272.
#4	1,045.	#9	91.
#5	2,316.	#10	294.

Staff housing - Teslin

Unit #761	\$32,289.	Unit #765	72.
#766	72.	#769	4,074.
#770	72.	#771	72.
#772	41.	#773	7,136
#784	98.		

21 November, 1977



## Government of the Yukon Territory

BOX 2703, WHITEHORSE, YUKON Y1A 2C6 TELEPHONE 403 66/5811 TELEX 0368260

DEPARTMENT OF EDUCATION

OUR FILE 1476-4 ✓  
YOUR FILE

October 31st, 1977

**LEGISLATIVE RETURN # 18**Selkirk Street School Gymnasium Additions

- August 25th, 1976 - Department of Education receives estimates for project from Department of Engineering and Public Works.
- August 30th, 1976 - Approval granted to:  
a) include costs in 1977-78 budget  
b) request Dept. of Engineering & Public Works to identify funds for pre-planning and sketch drawings.
- September 7th, 1976 - Initial contact made with Architectural firm of Wood & Gardener in Edmonton.
- November 12th, 1976 - YTG contract with Wood & Gardener signed to prepare sketch drawings.
- November 23rd, 1976 - Bernard Wood, of Wood & Gardener Architects visits Whitehorse to meet with representatives of Departments of Engineering, Public Works and Education, School Committee and Teaching Staff Committee.
- December 14th, 1976 - First set of sketch drawings received from Architect.
- January 12 & 14th, 1977 - School Committee and Teaching Staff representatives meet with Department of Engineering & Public Works and Education to review sketch drawings.
- February 22nd, 1977 - Revised set of sketch plans received from Architect.
- March 7th, 1977 - School Committee and Teaching Staff representatives meet with Department of Engineering & Public Works and Education to review revised sketch drawings.

- March 11th, 1977 - Contract with Wood & Gardener, Architects prepared to cover costs of working drawings, specifications, and detail drawings.
- March 30th, 1977 - Assent given to Bill No. 2 First Appropriation Ordinance, 1977-78 providing funds for the project.
- April 12th, 1977 - Contract with Wood & Gardener, Architects forwarded to their Edmonton office commissioning them to proceed with working drawings, specifications, and detail drawings.
- August 9th, 1977 - Working drawings received from Architect.
- August 11th, 1977 - Tenders called.
- August 26th, 1977 - Tender deadline changed to September 9th, 1977 from September 1st, 1977.
- September 9th, 1977 - Tenders opened.
- September 16th, 1977 - Contract awarded to General Enterprises.
- September 17th, 1977 - Construction started.

Respectfully submitted

D. A. Pritchard

D. A. Pritchard  
Regional Superintendent  
of Schools (Urban)

DAP/lc

**LEGISLATIVE RETURN # 19**

(1977 Second Session)

Mr. Speaker,  
Members of the Assembly

On November 14, 1977, the Honourable Member from Klunene asked the following question:

"In the agreement for the transfer of responsibility for the delivery of Health services:

- (1) What will be Yukon's share of the Health service costs?
- (2) What arrangements have been made for the responsibility of the costs that may be incurred in accommodating the health needs of an increased Yukon population?
- (3) What financial arrangements have been made for the delivery of health services to Yukon Indian people?
- (4) Who are defined as Indian people under the agreement?
- (5) Does the government plan on exercising its authority under the Yukon Act and govern the operation of Yukon Hospitals under a Yukon Hospital Ordinance?"

The answer to the above question is as follows:

General

Agreement between the Yukon Government and National Health and Welfare for the transfer of responsibility for the delivery of Health Services has not been finalized. The various aspects of the transfer are still under negotiation with the Federal Government.

Agreement has been reached between National Health and Welfare, the Yukon Government, and the Yukon Native Brotherhood under which the Yukon Government will, on behalf of National Health and Welfare, administer health care to Status Indians specifically provided for in the agreement.

Question #1

It is anticipated that the Yukon share of the cost of health care will not change after the transfer date. Funds to cover costs that are currently borne by the Federal government for health services will be received by the Yukon Government under the anticipated agreement. The exact amounts have not as yet been determined or agreed upon.

Question #2

Under the Established Program Financing Act the Yukon receives a cash contribution towards health costs based on population. Any increase in population will result in an increase in the cash contribution received under this program. The Yukon Government share of costs in excess of this contribution will be provided for by the Government through the normal budgeting procedure.

Question #3

Yukon Indian health care as provided for under the agreement mentioned above is 100% recoverable from the Federal Government.

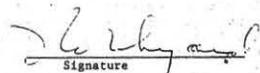
Question #4

In the agreement Indian means an Indian as defined by the Indian Act, 1970 R.S.C., C.1-6, who is resident in the Yukon Territory within the meaning of "resident" in the Hospital Insurance Services Ordinance and the Health Care Insurance Plan Ordinance.

Question #5

No. The Yukon hospitals will be operated by existing regulations under the Hospital Insurance Services Ordinance.

Nov 21/77  
Date

  
Signature

**SESSIONAL PAPER No. 17**WHITE PAPER ON  
HEATING FUEL EQUALIZATION

1977 (Second) Session

Mr. Speaker,  
Members of the Assembly

On March 22, 1977, in answer to a question on Heating Fuel Equalization, it was stated that the Government would review the administration of the Sessional Paper 11-1973.

The Government has completed the review and wish to advise as follows:

1. The "old" system of determining equalization payments utilized bulk plant and/or delivered prices in each community to determine an average price for each community. The average price for Whitehorse was calculated using all bulk plant prices. Comparison of the resulting average prices determined if a community was eligible for equalization payments. For example if the average price in the community was higher than Whitehorse then eligible applicants of that community received an equalization payment equal to the difference between the two average prices times the number of gallons purchased. This procedure did not take into account the effect that increasing fuel prices over short periods of time, would have on the system or the administrative complexities of administrating the system.
2. Under the revised system, which will come into use with the current fiscal year, the eligibility of an applicant will be determined by comparing the rate per gallon paid by the applicant with the rate per gallon paid in Whitehorse. If the applicant paid a higher rate, an equalization payment will be made equal to the number of eligible gallons times the applicable freight rate. The heating fuel equalization rate will be the freight cost per gallon of fuel between Whitehorse and the community of the applicant.
3. The foregoing is in accord with the original intent of Sessional Paper 11-1973, that is to assist in heating fuel costs due to freight costs between Whitehorse and the other communities of Yukon.

November 10, 1977

  
Signature
**SESSIONAL PAPER No. 19.**

## WHITE PAPER ON

## ARCTIC WINTER GAMES

1977 (Second) Session

Mr. Speaker,  
Members of the Assembly

The 1978 Arctic Winter Games will be held in the Northwest Territories' communities of Hay River and Pine Point during the period of March 19th to 25th, 1978.

In keeping with the Government's philosophy of assisting the growth of Yukon recreation associations, the Government has responded to the request of the Yukon Sports Federation to allow the Federation the opportunity to manage the Yukon contingent for the 1978 Arctic Winter Games. The Government believes the Sports Federation's organizing of the Games team will be complimentary to their objectives and will provide the Sports Federation the visibility they desire. In addition, this arrangement will result in a slight financial saving to the Government as outlined in the addendum.

To ensure the training and selection procedures used by the Yukon Sports Federation are complimentary to the community recreation efforts of the Recreation Branch, the Federation has guaranteed the Government three seats on the Games Management Committee. These seats are being shared by the Yukon Native Brotherhood, Y.A.N.S.I. and the Recreation Branch.

The Arctic Winter Games Corporation has invited the Government of Yukon to host the 1980 Arctic Winter Games. As the first step in this process, a letter has been sent to the city of Whitehorse, inquiring of their interest in co-hosting with the Government, the 1980 Arctic Winter Games. This letter was sent very recently, consequently, the city has not had ample opportunity to respond.

The Corporation has in addition, awarded the 1982 Arctic Winter Games to the state of Alaska. A letter of this Government's intention to participate in the Games up to and including 1982 has been forwarded to the Arctic Winter Games Corporation.

The commitment as outlined in this paper has been made, to ensure the continuation of the Arctic Winter Games. The Games then will become a most valuable developmental tool for the growth and coordination of competitive sport in this territory.


D. Lang  
Minister of Education

## ARCTIC WINTER GAMES 1978

## PROPOSED BUDGET

EXPENDITURE			
A)	Administration (Y.S.F. responsibility)	\$	8,200.00
B)	Leadership Development & Training		15,000.00
1.	Travel to clinics and trials in territory (50% Y.S.F. and 50% Y.T.G.)	\$	8,000.00
2.	Resource persons expenses (Y.S.F. responsibility)		2,000.00
3.	Rental of facilities and equipment (Y.S.F. responsi- bility)		5,000.00
C)	Dress of athletes		14,500.00
1.	Competitive dress (Y.S.F. responsibility)		2,500.00
2.	Ceremonial Dress (Y.T.G. responsibility)		12,000.00
D)	External transportation		45,500.00
1.	Positioning in Whitehorse (50% Y.T.G. and 50% Y.S.F.)		1,500.00
2.	Travel to Hay River return (Y.T.G. responsibility)		44,000.00
TOTAL EXPENDITURE			83,200.00

## SUMMATION:

Y.T.G. responsibilities		
Leadership		4,000.00
Dress		12,000.00
External travel		44,000.00
GROSS EXPENDITURE		60,000.00
Revenues		
Participation fees		
283 athlete x \$65.00		18,395.00
NET COST TO Y.T.G.		41,605.00

