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Speaker: The Honourable Donald Taylor

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Whitehorse, Yukon Territory
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Mr. Speaker: I will now call the House to order.

We will proceed with prayers.

Prayers

Mr. Speaker: The Honourable Member from Mayo.

Mr. McIntyre: Mr. Speaker, I rise on a Point of Personal Privilege. The Commissioner attended Assembly recently to tell us that he had been instructed by the Minister, to refuse assent to a Bill.

We have since had these instructions confirmed in writing by a message from the Commissioner. Would the Speaker please advise me when the Commissioner will now attend this House, to actually, in his own proper person, refuse assent to the Bill in question?

Mr. Speaker: I thank the Honourable Member for his Point of Privilege.

In reviewing the letter, which was read into the record last night, the Chair did note the fact that, in the literal sense, that the direction is unclear and, if it be the wish of the House, I could determine from Mr. Commissioner as to his disposition in this regard.

Some Members: Agreed.

Mr. Speaker: We will now proceed to the Order Paper. Are there any Documents for Tabling? The Honourable Member from Ogilvie.

TABLING OF DOCUMENTS

Ms Millard: Mr. Speaker, I have for tabling this morning, research materials pertaining to a proposed animal protection bill, which I intend to table within the next two weeks.

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

Are there any Reports of Committees?

Hon. Mrs. Whyard: I am sorry, Mr. Speaker, I have a document for tabling.

Mr. Speaker: The Honourable Member from Whitehorse West.

Hon. Mrs. Whyard: I have for tabling, a Green Paper on Gambling in the Yukon.

Mr. Speaker: Are there any Reports of Committees?
Petitions?

Introduction of Bills? The Honourable Member from Whitehorse Porter Creek?

BILLS: INTRODUCTION AND FIRST READING

Hon. Mr. Lang: Mr. Speaker, I move, seconded by the Honourable Member from Whitehorse North Centre that a Bill entitled: *Electoral District Boundaries Ordinance* be now introduced and read a first time.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse Porter Creek, seconded by the Honourable Member from Whitehorse North Centre, that a Bill entitled: *Electoral District Boundaries Ordinance* be now introduced and read a first time.

Motion agreed to

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

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

Mr. Speaker: Are there any further Bills for Introduction?

Are there any Notices of Motion for the Production of Papers? The Honourable Member from Kluane?

Mrs. Watson: No, Mr. Speaker.

Mr. Speaker: Are there any Notices of Motion for the Production of Papers?

Notices of Motion or Resolution? The Honourable Member from Kluane?

NOTICES OF MOTION

Mrs. Watson: Mr. Speaker, I would like to give Notice of Motion, seconded by the Honourable Member from Riverdale, that White Papers re: The Arctic Winter Games and the Heating Fuel Equalization be moved into Committee.

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

Are there any Statements by Ministers? The Honourable Member from Whitehorse North Centre?

STATEMENTS BY MINISTERS

Hon. Mr. McKinnon: Mr. Speaker, as Honourable Members all know, during his recent visit to Whitehorse, the Minister of Indian Affairs and Northern Development received strong representations from members of this Assembly and from the Executive Committee for the immediate establishment of a fourth position on Executive Committee for an elected member of this Assembly.

Subsequently, the Commissioner has communicated to the Minister his unequivocal support for such a request.

Mr. Speaker, I am extremely pleased and gratified to be able to advise this Assembly today, that the Minister has now indicated that he is prepared to recommend such a move to the Prime Minister, should he receive clarification as to how such an expansion of Executive Committee would relate: one, to this Government's immediate and critical need to plan for the pipeline; and, two, to reflect the needs of the Yukon Indian community in Government processes, policies and programming.

This clarification was sent to the Minister last night in a communication from this Government. Mr. Speaker, we have every indication to expect that an early and favourable response will be forthcoming from this communication.

Mr. Speaker, we will be presenting a Green Paper, outlining the final details of the addition of a fourth elected member, from this Assembly, to the Executive Committee, at the earliest opportunity.

Thank you, Mr. Speaker.

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

This brings us then to the Question Period. The Honourable Minister of Education.

QUESTION PERIOD

Hon. Mr. Lang: Mr. Speaker, I have for tabling an answer to an oral question, asked by the Honourable Member from Kluane, regarding the customs building at Beaver Creek.

Mr. Speaker: The Honourable Member from Pelly River.

Question re: Commissioner's Residence Subsidy

Mr. McCall: Yes, Mr. Speaker, I have a question addressed to the Commissioner, with respect to the last budget estimates, Vote 1, Establishment 120, Primary 52.

A subsidy figure of \$3,000 was budgeted to subsidize the Commissioner's residence. In view of the fact that the Federal

Government pays the Commissioner's salary, why are the taxpayers in the Yukon being asked to subsidize the Commissioner's residence and which other government civil servants are getting the same benefit, Federal and or Territorial?

Mr. Speaker: Are there any further questions?

The Honourable Member from Hootalinqua.

Question re: Teslin and Carcross Health Centres

Mr. Fleming: Yes, Mr. Speaker, I have a question for the Minister of Human Resources, this morning, regarding the Teslin Health Centre and the Carcross Nursing Station, or whatever.

Approximately a year ago, in the House, I asked if there would be some change made so that the nurse would not have to travel back and forth, and was informed that when the Skagway Road was built, this would be a possibility, that there would be full-time nurse in Teslin and the situation in Carcross may change. Is this still in the offing?

Mr. Speaker: The Honourable Minister of Human Resources?

Hon. Mrs. Whyard: Mr. Speaker, the Honourable Member is aware these facilities have not yet been transferred to this Government by the Federal Department of Health and Welfare. They are still within the Federal jurisdiction.

I would certainly expect that with the increase in traffic coming through Carcross, there would be requirements for full-time staffing. However, I do not have the financing and man years of that department under the control of this Government, and I cannot specifically say that this will be so.

I would certainly expect that we would be prepared to increase the requirement for nursing service at Carcross from its present part-time one to a full-time one, Mr. Speaker.

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

Question re: Man Year Increase

Mrs. Watson: Yes, Mr. Speaker, I have a written question for the Commissioner. In 1976-77 fiscal year, 1,280.74 man years were voted. In 1977-78, 1,298.62 man years were voted. As of to date, in November of 1977, there are on staff 1,314.12 man years. My question: how have the people of the Territory been better served by the Yukon Government with the increase of 33.38 man years over a period of approximately 12 months?

Mr. Speaker: The Honourable Member from Pelly River?

Question re: Commissioner's Entertainment Fund

Mr. McCall: Yes, Mr. Speaker, I have a further question for the Commissioner with respect to the last budget estimates. Vote 1, Establishment 120, Primary 99, could the Commissioner give me a complete breakdown expenditure of the Commissioner's entertainment fund to date?

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

Question re: Temporary Medical Permits

Mr. Hibberd: Mr. Speaker, I have a question probably for the Commissioner this morning, regarding the *Medical Professions Ordinance* and I would quote for background. "The Commissioner may, after consultation with the Yukon Medical Association, issue a temporary permit to practice medicine in the Territory, a person who is a graduate of Medicine from an approved university or school of medicine, and who complies with provisions as subsection (3)" et cetera.

My question Mr. Speaker, is this the method by which a temporary medical permit is granted in the Territory now? Is the Government following the procedure of consultation with

the Yukon Medical Association before issuing permits?

Mr. Speaker: This is directed to Mr. Commissioner? Mr. Commissioner?

Mr. Commissioner: Mr. Speaker, the answer is an unequivocal, yes, to that question. We do consult with the Yukon Medical Association.

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

Question re: Plants in Government Building

Mr. Hibberd: Mr. Speaker, I have a question for the Government, this morning, concerning the plants in this beautiful building of ours.

It was quite noteworthy that, during the first year that this building was in operation, the plants were certainly an attractive feature of the building, but I have noticed quite a deterioration in the quality of care for the plants, recently.

I am wondering: 1). how much these plants cost?

2). what is the cost of upkeep on them, and what has happened to it in the meantime?

Hon. Mr. McKinnon: They are dying from hot air.

Mr. Speaker: To whom would that question be directed?

Mr. Hibberd: To any one who is able to answer it, Mr. Speaker.-

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

Hon. Mr. McKinnon: As the Member in charge of gardening, Mr. Speaker, we will take that question as notice, and try and provide the answer to the Honourable Member.

Mr. Speaker: Are there any further questions?

The Honourable Member from Whitehorse Riverdale.

Question re: Extra Pipeline-Related Costs

Mr. Lengerke: Mr. Speaker, a question for the Commissioner: in reply to my question of November 7th, with respect to the \$200 million line of credit to finance pipeline related, or pipeline impact costs, I was advised that there has been considerable planning and projecting of possible extraordinary pipeline related costs by Departments.

So, my question, this morning is specifically what Federal and Territorial departments are involved and what specific possible extraordinary pipeline related costs have been identified, to date?

Mr. Speaker: Are there any further questions?

The Honourable Member from Kluane.

Question re: Program Financing Act/Health Services

Mrs. Watson: Yes, Mr. Speaker, I have a written question for the Minister of Human Resources.

My question: would the Minister provide this House with a synopsis of the details of the established *Program Financing Act*, as it applies to Health Services, in the Yukon?

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

Question re: Industrial Lots in McCrae Area

Mr. Hibberd: Mr. Speaker, I have a question for the Minister of Local Government, this morning, regarding the sale of industrial lots, particularly with reference to the McCrae area.

My understanding is that these lots have, recently, in any event, gone to tender for sale and I understand that the basic price of these lots has increased some three-fold. As an example, from \$3,000 to \$9,000.

I am wondering, Mr. Speaker, why the dramatic increase in

the space of one or two years, in the price of the lots and, two, is it going to be the policy of this Government to continue to put these industrial lots out for bid, rather than the other schemes that have been used for the sale of lots, in other areas.

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

Hon. Mr. McKinnon: Yes, Mr. Speaker, the bid tender for industrial lots has worked extremely well. The original upset price is the cost of development, then, under the terms of the *Lands Ordinance*, when they come up for sale again, they have to be appraised.

That appraisal is done at market value, so, if they are not sold at the original upset price through the bid, and they come back to Government over a period of years, then they are appraised, as per the *Lands Ordinance*.

Of course, an appraisal takes in the market value. The one thing that isn't clear in policy and should be written is, at what point in time, dates, specific dates in policy as to when the appraisals will take place, if there are lands sitting in government, so that people will know that, if they don't bid, before such a date, that there will be an appraisal and the price, knowing the market value of land, will subsequently escalate.

So, that is one thing that I would like to see in written policy and regulation, is the actual dates when appraisals will be made on property.

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

Mr. Hibberd: Supplementary, Mr. Speaker, it is my understanding that the policy of this Government was that the development of the lots was going to be on the basis of the cost to the government in their development. Am I now led to believe that that is not the policy, that the market value will be a criteria by which that lot will be priced?

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

Hon. Mr. McKinnon: It has always been a firm policy of this Government that that is exactly the policy that is for residential lots. That has not been, up to this point, except for the initial sale with the disposition on an upset price by bid for the cost of development on industrial lots. There is nothing new that has been changed in the relationship of the development of residential lots and the sale of industrial lots, Mr. Speaker.

Mr. Speaker: The Honourable Member from Whitehorse Riverdale?

Question re: Community Pastures

Mr. Lengerke: Yes, Mr. Speaker, a question for the Minister of Local Government. My question is prompted by a story in the newspaper last night with respect to the control of animals on our highways, specifically cattle and horses. I am wondering if the Minister could advise me, what were the results of the meetings and the visit of the DREE people this summer with respect to that problem in setting up of community pastures? Can he advise me as to some of the details?

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

Hon. Mr. McKinnon: In one word: negative, Mr. Speaker, but I will provide further details for the Honourable Member.

Mr. Speaker: Are there any further questions. We will then proceed at this time to Orders of the Day and Motions.

ORDERS OF THE DAY

MOTIONS

Madam Clerk: Item Number 1, standing in the name of the

Honourable Member Mr. Hibberd.

Mr. Speaker: Is the Honourable Member prepared to deal with Item 1?

Mr. Hibberd: Yes, Mr. Speaker.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse South Centre, seconded by the Honourable Member from Whitehorse Riverdale, THAT a special committee of this legislature be established to deal with matters related to projected northern pipeline construction. To liaise with 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 on pipeline construction and management.

THAT the said committee have power to call for persons, papers and records; to sit during intersessional periods; and to report from time to time.

THAT the Clerk of the Legislative Assembly be responsible for 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 said committee.

The Honourable Member from Whitehorse South Centre?

Mr. Hibberd: Mr. Speaker, I think that the motion is self-explanatory. There has been a good deal of concern amongst the Yukon population regarding activities of this Government with regard to the pipeline, and even more concern about the lack of activity.

It is particularly noteworthy after all the input this summer during the inquiry, it is evident that a very large number of Yukoners are concerned about the pipeline construction, and many individuals and groups have continued to agitate to ensure that the best deal possible is obtained for Yukon and that there is the least possible in the way of detrimental socio-economic side effects.

I can think of two examples, Mr. Speaker, as examples that have come to my attention. One is, I know that the Labour Federation has attempted to have input into Government, regarding local hire policy. They made representation to Government, to the Executive Committee, and I do know that they felt very frustrated that they were having no effects whatsoever on government policy, and were told, in effect, that there were no such thing as government policy.

Another example, Mr. Speaker, is that even since this motion was proposed, I have received communication that the *Medical Post* in Toronto, which is a prominent Canadian medical journal, has approached the Yukon Medical Association on the basis that they want to know what the doctors in the Territory are doing, with regard to preparation for this pipeline. The YMA shares the frustration of every other group in the community, in that, to give an honest reply, they are doing very little because they are able to do very little.

They have tried to find out what the company is doing, with regard to setting up medical facilities and other health facilities. They get answers which are, to say the least, incomplete and inadequate to meet the circumstances. They have been unable to find out what Government intends to do, so what are they to tell the Canadian Medical Association about their endeavors to prepare for the pipeline?

In other words, Mr. Speaker, it would appear that all these interest groups have been blocked out of having influence on how guidelines are to be developed, with regard to the pipeline construction, and during the pipeline construction.

So, their second response, Mr. Speaker, is to sit back and wait and see what Government is going to do, what policies have they evolved, what are they doing on their behalf.

I share their frustration, Mr. Speaker, in that I do not see that Government has come up with very much at all, in the way solid policies that will be implemented to prepare for construction of the pipeline.

This committee is suggested, Mr. Speaker, so that these same interest groups will have that opportunity to have some influence on that Government policy, which should be present now.

I cringe at the idea of forming another committee, but I think we have been forced into the position of having to take some action, because of the inaction, on the part of the Government.

Mr. Speaker: The Honourable Member from Pelly River.

Mr. McCall: Yes, Mr. Speaker, I would move that this particular motion, dealing with a special committee on pipeline construction, be moved into Committee of the Whole, for further discussion.

Ms Millard: I second that.

Mr. Speaker: It has been moved by the Honourable Member from Pelly River, seconded by the Honourable Member from Ogilvie, that Item 1 be referred to Committee of the Whole for further consideration.

I am afraid the motion is not debatable.

Motion agreed to

Madam Clerk: Item 2, standing in the name of the Honourable Member, Ms Millard.

Mr. Speaker: Is the Honourable Member prepared to discuss Item 2?

Ms Millard: Yes, Mr. Speaker.

Mr. Speaker: It has been moved by the Honourable Member from Ogilvie, seconded by the Honourable Member from Whitehorse 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.

The Honourable Member from Ogilvie?

Ms Millard: Mr. Speaker, this very responsible organization needs no introduction to the Members of this Assembly. The Consumers' Association of Canada, local branch, has been operating for twelve years in the Yukon and has been doing some very important work. They have assisted many government departments and private organizations in research help, and they have an education role in helping people in the Yukon to understand nutrition and other consumer concerns.

They have been getting ideas across to people in the Yukon through radio, TV, advertising, and a local weekly column, but their most important work in the last couple of years has been the Consumer Help Office, where they have a telephone reception to assist with complaints about consumer problems. A lot of these inquiries are covering subjects about product safety, cost of living, purchasing items, comparison shopping, how to pursue complaints, and so on. They have had calls from all over the Territory.

So far, they have been operating on the grant from the Department of Consumer and Corporate Affairs, which amounted to less than \$200 a month, and they have been operating for fourteen months on that, which seems to me remarkable.

They have also been operating on a trying to sell a cookbook which they published and other sales and operating under their memberships. I would like to emphasize to members

that with the pipeline coming, the Consumers' Association will be taking an even greater leading role in consumer affairs in Yukon.

Mr. Speaker: Is there any further debate?

The Honourable Member from Kluane?

Mrs. Watson: Yes, Mr. Speaker, the spirit of the motion I certainly agree with. I feel that private organizations such as the consumers' organization of the Yukon do a valuable service to the community, and I feel that they are getting assistance from a government agency, from the Federal Government, and now they are coming to the Territorial Government and asking for some assistance from them.

The motion doesn't give any indication at all to the type of grant, the amount of grant, the Legislative Assembly would be looking at, it doesn't give any indication of the basis for the grant, how it is to be calculated on an ongoing basis. I would hope, Mr. Speaker, that when the government sets up its consumer affairs department, within the Government of the Territory, that at that time, that department of the Government would be working with organizations such as consumer affairs and could even be looking at having this organization perform some of the functions the government feels they should be performing, contracting out to these people.

I have rather misgivings about voting for this Resolution, at this time, because I think you might be limiting yourself to, say, a grant, just across the board, say, if they come and ask for a grant of \$500, okay. Next year they might come and ask for \$2,500, okay. The year after that it might be \$5,000, okay. Is this what we are doing with this motion? Or is there some basis for the grant.

If you are giving the grant, are you then proposing not to utilize an organization such as this, by your Department of Consumer Affairs.

I will be supporting the motion, but I do feel that there are a lot of deficiencies in the motion, and that a little more time should have been spent on it, so that we could address the many questions that need to be addressed, with this type of a decision that is being made in this House today.

Mr. Speaker: Is there any further debate? The Honourable Member from Hootalinqua.

Mr. Fleming: Yes, Mr. Speaker, I will be rising in support of the motion, although I do have some misgivings, as I have always had misgivings when there is a possibility, as it says here, of monies being given to any private organization.

Although the Consumers' Association has and is doing one of the best jobs, I think, of any association I know of, for the people of this Territory and also for all over Canada.

I have some of the same misgivings as the Honourable Member from Kluane has, and I think that the Motion, the way it reads, would be proper, but, if we go to far in it, and start speaking of any amounts of monies or anything, then we would be out of order, or whatever, as we usually are.

So, I think that with the wording that the Government should investigate the possibility of considering an annual grant, that the Motion is in order and I would be voting for it. I would hope that the Government does do something for themselves, along the lines of the Consumer Association, as I think they should have been doing a long time ago, so that this private organization wouldn't have to deal with this type of thing.

So, I will be supporting the Motion.

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

Hon. Mr. Lang: Mr. Speaker, for Members' information, the Deputy Commissioner has received a letter from the Consumer Organization, requesting funds and, at the present

time, it is my understanding that he is investigating it and I am sure that, once he has investigated it, that we can probably work out something that is advantageous to both parties, the Government and the Consumer Association.

Mr. Speaker: The Honourable Member from Whitehorse Riverdale.

Mr. Lengerke: Yes, Mr. Speaker, in seconding the Motion, I am certainly in favour of it and it is an opinion motion. It is asking that this House do give some consideration to the funding of the Consumer Association and, as we all know, we have been told of plans to create some sort of consumer affairs department or whatever. I do not know where those plans are at this point in time, or how far they have proceeded. As the Minister of Education just replied, that, certainly, they are taking that into account, but, the Member from Kluane mentioned one thing, that I think is important, is the type of activity or association that the consumer association local group could have, with respect to a department that is set up.

Certainly we have a precedent for this type of activity with our Department of Tourism, where they do fund and provide dollars to the private sector in order to carry out some of their work. I think it is a positive motion, and I am totally in support of it.

Mr. Speaker: Is there any further debate? The Honourable Member from Whitehorse West?

Hon. Mrs. Whyard: Mr. Speaker, we asked that such a motion come forward. We have all been circulated with the letter from the Consumers'. We are all in support of what they are doing, and we ask for this support from members to the Government so that we could justify consideration of making this grant. I don't need to belabour the point, we all know that they are working hard, and that they are doing it on a shoestring and are pretty good penny pinchers, and they are leading the way for others in the Yukon to watch for economic trends, and I would think they would be a very valuable part of any impact centre that we do establish for the pipeline. I am counting on their support in that area as well.

Thank you, Mr. Speaker.

Motion agreed to

Madam Clerk: Item Number 3, standing in the name of the Honourable Member Mrs. Watson.

Mr. Speaker: Is the Honourable Member at this time prepared to deal with Item 3?

Mrs. Watson: Yes, Mr. Speaker.

Mr. Speaker: It has been moved by the Honourable Member from Kluane, seconded by the Honourable Member from Pelly River, that it is the opinion of this Assembly that the Commissioner cause an inquiry to be made forthwith, pursuant to the *Public Inquiries Ordinance*, into a matter connected with the conduct of the public business of the Territory and of public concern, namely the matter of certain actions taken by the Commissioner of the Yukon Territory with respect to certain proceedings initiated on the 18th day of July, 1977, in the Supreme Court, concerning the alleged professional misconduct of one Allen Lueck, Esquire, a barrister and solicitor of the Court, to resolve the following:

1. What were the factual circumstances leading to the discontinuance of proceedings in the Supreme Court in the aforementioned matter and who were the persons involved?
2. Under what lawful authority were the persons involved acting or purporting to act?
3. What measures should be taken to resolve this matter and to prevent similar matters from occurring in the future?

THAT the Board appointed for the purpose of making the inquiry consist of Messrs. J.J. Stratton, Q.C., of the Alberta Bar, as Chairman.

THAT the Board be constituted within five days of the passing of this Resolution.

THAT the Commissioner cause the report of the Board, after receipt thereof by him, to be laid forthwith before this Assembly, if the Assembly is then in Session, or, if the Assembly is not in session, then forthwith cause the report to be made available to the Clerk of the Assembly, who shall transmit copies of the report to each member of the Assembly.

The Honourable Member from Kluane?

Mrs. Watson: Mr. Speaker, this Resolution has been talked about for quite some time, and it has had rather a stormy life until it has come before this House.

When the amendments to the *Inquiries Ordinance* were before this House, the question was asked why the necessity for the amendments to the *Inquiries Ordinance*, and the question was asked of me, whether the intention was to use the amendments for the *Inquiries Ordinance* to, in fact, cause an inquiry to be made.

At that time I indicated, yes, the amendments would be used for that, but not just for that. I indicated that the amendments to the *Inquiries Ordinance* would permit this body to call an inquiry, sharing powers with the Commissioner, under the *Inquiries Ordinance*, as the Medical Association of the Yukon shares powers with the Commissioner now, under the *Medical Professions Ordinance*, as the judge and the legal profession now share powers with the Commissioner of the Territory.

I was only asking that we be allowed to share powers with the Commissioner of the Territory, to determine whether an inquiry should be held and to determine the terms of reference, the type of inquiry, who should hold the inquiry and how the inquiry should be held. That is all that we were asking.

I wanted us to have that authority, because it could well be, in the future, that occasions would arise where political pressure in the Territory would be such that the necessity of an inquiry would have to be considered seriously.

If such an occasion arose again, the pressure, under the existing Ordinance, would be on the Commissioner and the Commissioner alone. He would have to make a very, very sensitive political decision.

With this Assembly sharing that power with the Commissioner, then he could well say, see your Members, your elected Members, let them determine. That is where the determination should be. It should be from the people who are answerable to that public that is sitting out there.

Unfortunately, we were denied the right to share that power with the Commissioner, by our Minister, a power that we, this Legislative Assembly, originally gave to that Commissioner. The Commissioner cannot call an inquiry because he wants to, there has to be a law which enables him to do it and this House, whether it was these Members or not, years ago gave him that power. All we wanted to do was share it.

That right has been denied us, therefore, an occasion has arisen in the Territory, some people, maybe all people don't share this opinion, feel that there are enough unanswered questions, there are enough legal points, here are enough constitutional points to warrant an investigation, or an inquiry into. Hints have been thrown around and this should not continue. Somebody should be finding out the facts.

Because we weren't allowed the right to share that power to call an inquiry with the Commissioner, I now have to come forward with this Resolution to you people and if this Resolution should pass this House, we go, cap in hand, to the Commissioner and say, please, Mr. Commissioner, please do what we want you to do, and what we state in this Resolution. That to me is extremely demeaning to the people of the Territory. We should have the ability to decide by this Resolution whether ir

ract the situation, the matter of public concern that is outlined in the Resolution is concern enough to warrant an inquiry.

Right now, we are being pushed and having to wonder whether in fact the inquiry will even be held. We have no guarantee, we have no guarantees whatsoever what kind of inquiry it would be. So, by Resolution, I am putting down some of the terms and conditions that I would like to see, so that we could have an impartial, unpolitical type of inquiry into facts.

Under the *Inquiries Ordinance* as it exists today, the Commissioner could have called an inquiry into the situation himself, another argument why we should have been given the right to share that power. No matter what terms and conditions the Commissioner would have written, no matter who you would have called upon to have or appointed to have the inquiry, he would always have been criticized, because it was an inquiry into the administration of his government, of his administration, an untenable position, whether an intent would be there to write the terms of conditions to make it a nothing inquiry or not. He would always be taunted with that intent by some people. So it would have been much cleaner, much cleaner for us to write the terms and conditions, for us to suggest who should hold the inquiry, and for us to suggest the type of inquiry it should be.

It would have been much better, if we could have considered the resolution on its merit and if we passed it, know that, in fact, this is the kind of inquiry we are going to have. But that isn't the case now, we are going to have to ask the Commissioner and hope that he does hold an inquiry.

Mr. Speaker, I would also like to consider the question, the terms of reference of the inquiry. One, what were the factual circumstances leading to the discontinuance of proceedings in the Supreme Court, in the aforementioned matter and who were the persons involved? We know that the matter that is being discussed, under the *Legal Professions Ordinance*, the *Legal Professions Ordinance* only gives the Legal Advisor to this Assembly, to this Council, the right to initiate the actions that were initiated. There is no provision for any involvement in that Legislation by the Commissioner of the Yukon Territory, even though he has the management and administration of the Yukon Territory as one of his functions and even though, the Legal Advisor to this Assembly is the Director of Legal Affairs.

Mr. Speaker, in the Sessional Paper, or the Legislative Return that we have in this House, there was an indication that the Commissioner felt that he did have a right, because of the Government's position, to discuss the case that was before the courts, and their decision, the administrative decision, was that the case should be taken back from the courts.

There are a lot of questions still unanswered and I think one of the biggest ones is, why did the Administration feel they could weigh the facts of the case that was before the courts better than the courts?

I think that is the question all of us are asking. Who did the Commissioner, the Commissioner and the Executive Committee Member in charge of Legal Affairs, and the Legal Advisor or the Director of Legal Affairs, did they feel that they were in a better position to judge the merits of the case than the court itself, when the court had already said, yes, there are enough facts in this case that we shall hear the case and I believe a date had even been set.

So, there are a lot of things that still have to be answered and then, Mr. Speaker, number two: under what lawful authority were the persons involved acting or purporting to act? Again, we have to look at the *Yukon Act* and again, whether we like it or not, it is a constitutional and a legal question.

I have great misgivings after the decision that was made about the amendments to the *Public Inquiries Ordinance*

when the Commissioner could be directed by the Minister not to assent to a Bill. Under what authority? Under Section 4 of the *Yukon Act*.

I wonder, Mr. Speaker, whether Section 4 was invoked to have this action withdrawn from the courts. Doesn't it make you wonder? Was it a Ministerial direction from Ottawa? Doesn't it make you wonder? Doesn't it make everyone wonder? Don't the circumstances regarding the refusal to assent to the *Public Inquiries Ordinance* the amendment, does not that say Section 4 of the *Yukon Act*. Why? Why is somebody being given directions not to proceed? Did the direction originally come from Ottawa not to proceed against this action against Mr. Lueck? I think it makes every person in the Yukon Territory wonder. Mr. Speaker, this is an interference with our judicial system.

Mr. Speaker, if a Commissioner is exercising the power he has under the *Yukon Act* to direct the Director of Legal Affairs and in this case, it was an action which the Legal Advisor had the sole authority, but also, look at it. The Director of Legal Affairs has the authority to lay actions to enforce laws, and if an action had been taken by the Director of Legal Affairs against some member of the public, because of an infraction under the *Labour Standards Act*, would the Commissioner still have the same power to call that Executive Committee member in and the Director of Legal Affairs and say, "We don't think that it would be advisable, under the circumstances and the political situation, for you to proceed with that action against that person who had made infractions against the *Labour Standards Ordinance*."

That's how far it could go. That's why this has to be looked at, and you have to look at what lawful authority. The last term of reference: what measures should be taken to resolve this matter? Should there be amendments to the *Yukon Act*? Should there be amendments to our *Public Inquiries Ordinance*? What actions? You get someone to look at it from outside the Yukon, he gets the facts, he looks at the laws and how can we correct it.

Mr. Speaker, the person that I am suggesting as a one man board, is a very reputable lawyer from Edmonton who has had no involvement in the past with the Yukon Territory, who would be a very objective type of person. He has agreed to let his name stand on the Resolution. He has agreed to that, and I think that we would be wrong if we did not use someone who is separate and apart, someone who is with a very well known law firm, has a very reputable reputation, who is a senior member of that firm and realizes that it is more or less a legal and constitutional question and who has agreed to let his name stand.

In the resolution, I have also provided that when the report of the Board is received by the Commissioner, because the *Inquiries Ordinance* requires the report to be given to the Commissioner, that also, that report, that a copy immediately or forthwith be given to the Speaker and to the Clerk. The Clerk should see that the report goes to every Member of this Assembly, and then it becomes public.

It is absolutely necessary that a mechanism is established to make sure that the results of this investigation are made public. We are investigating a public matter. We are paying for it with public funds. The public has to be assured the right to know what is in the results of that inquiry and the results of that investigation.

So, Mr. Speaker, I would certainly hope that the Members of this House give this resolution the consideration that it deserves and looking at it from, not a short-range, tomorrow type of thing, but the implications for the future, if we do not have this inquiry.

Mr. Speaker, I would hope that this resolution has the support of this House so that we can, with cap in hand, go to the

Commissioner, and say, please, Mr. Commissioner, do what we think needs to be done.

Thank you, Mr. Speaker.

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

Hon. Mr. Lang: Mr. Speaker, in respect to this Motion, I would like to refer Members back to the Legislative Return that was tabled in this House in response to a question by Councillor Hibberd, on November 8th, which, the question said: Would the Commissioner advise this House on the circumstances surrounding the withdrawal of the charges of professional misconduct against a local lawyer and of the Commissioner's role in that matter?

First of all, Mr. Speaker, I do not think it has ever been made clear to the public that the Members, elected Members of the Executive Committee weren't knowledgeable of, first of all, the laying of that charge, and, secondly the withdrawal of that charge.

I want to make it very clear that none of the three Members in the Executive Committee elected, were aware that the charge had been laid and, secondly, that the charge had been withdrawn. In fact, in my tenure on the Executive Committee, I would say that it had never come to my attention that a charge had been laid against anybody in the legal profession.

Mr. Speaker, there is one concern that I do have in respect to the Legislative Return that was tabled in the House. In it, it implicates the Executive Committee in respect to this case, and I think it should be clarified it states in the Legislative Return: "I think it is also fair to observe that Mr. Bell has felt constrained in discussing the case publicly by the views, supported by the Executive Committee, that to do so would be unfair to all individuals and organizations involved, and would amount to an improper trial".

Well, Mr. Speaker, when this particular case was made public, the question was raised in the Executive Committee. The question that was asked: what was going on because we had had no knowledge of what was going on? At that time, we assumed that it was a routine matter, we sought advice in respect to making public statements, and it was our opinion that we should not be discussing the conduct of any professional in the public domain, because you are talking about a man's career, whoever that individual is.

Since that time, Mr. Speaker, obviously, there has been more and more coming out in respect to the situation that took place and has developed since, and obviously in order to clarify it, I think there has to be an inquiry. I think, as the Honourable Member from Kluane said, it has to be somebody that is not from the Yukon, it has to be somebody that is objective and non-political, because you are dealing with judiciary.

I would also like to observe, Mr. Speaker, that the Commissioner has stated that he is prepared to have an inquiry and that statement was made apparently to the press, it was written in the press yesterday evening.

Mr. Speaker, there is a very basic principle involved here in respect to the case in hand, and I know that it causes me great problem, and I told the Commissioner that, you know, and that is in reference to the composition of the Executive Committee and the concept of Executive Committee.

As you know the constitutional committee put in a report in last session in respect to changing the directive to the Commissioner, the present directive reads that the Executive Committee is to be consulted by the Commissioner in the exercise of his responsibilities and the advice of the committee will be given full consideration in determining the course of action to be followed in a given situation. Well, Mr. Speaker, this wasn't done, and, Mr. Speaker, it is a very difficult situa-

tion for the Executive Committee if we don't know what is going on.

I have made it very clear in respect to this particular case. I believe there should be an inquiry, and once that report from the inquiry is tabled in this House, and the Minister, I think should get a report of that inquiry as well, then the merits of the case are going to have to be considered at that time.

At the same time, Mr. Speaker, I think it is fair to say that in respect to the Session that it is presently on, I think it is time that the members in this House get down to the work at hand. I think that the public is looking for some leadership here, and we do have some Bills before us, and I think it is time that we started getting down to work. I have had numerous people come up and say what is going on up there, nobody seems to be doing any work, all they seem to be doing is bickering. Mr. Speaker, as far as I am concerned, we had better get on with the work at hand.

In respect to the pipeline, we do have papers coming in. The housing policy will be in here probably within the next week, the land development policy, the rent stabilization, all these are in conjunction with the pipeline.

Mr. Speaker, with those words, I would just like to say, let us get to the business at hand and let us start doing some work. If we can get a fourth elected member, that gives us that much more authority in this Assembly.

Mr. Speaker: The Honourable Member from Whitehorse West.

Hon. Mrs. Whyard: Mr. Speaker, I have no problem with this Resolution. It is the resolution that should have been tabled the first day this Session opened. The delay has made conditions worse. The speeches which are being made here this morning should be made at the time of a public inquiry. There is nobody in this Executive Committee objecting to having a public inquiry, including the Commissioner of the Yukon, and, the quicker we get on with it, the better.

Mr. Speaker: The Honourable Member from Klondike.

Mr. Berger: Yes, Mr. Speaker, I have absolutely no objection to this resolution and I don't even want to go into details on what the resolution is concerned about.

But, Mr. Speaker, I have to point out to this House that this resolution is concerned with a refusal of a federal civil servant, of the Commissioner of this Territory, to give assent to a Private Member's Bill.

To me, Mr. Speaker, this to me, is a serious erosion of the democracy in the Yukon. I would like to take it one step further, Mr. Speaker, by linking it with what happens right now in Canada.

We have a federal minister in Ottawa, stated yesterday, and this was on the news, Mr. Speaker, demanding the stop of a provincial inquiry in the police matter in Quebec. I would like to link those two together, Mr. Speaker, by saying isn't it that the federal Government seems to say to us, because you are dealing only with provincial matters, you have no right to look in the federal government matters.

The federal government matter, in the Yukon, Mr. Speaker, is the Mr. Commissioner and this, to me, is really a serious erosion of democracy. We have twelve elected members in this House and shouldn't we have the right to demand a public inquiry?

I leave this question with this Assembly.

Mr. Speaker: The Honourable Member from Pelly River.

Mr. McCall: Thank you, Mr. Speaker. As Members are aware, I seconded this particular resolution for many reasons. My greatest concern is, as the Honourable Member from Klondike has pointed out, that the Chief Executive Of-

ficer of the Government of the Yukon, appointed by a federal Minister of Indian Affairs, has suggested that his office is being eroded by the democratic process of this House.

I think the shoe is on the other foot, Mr. Speaker. I think the democratic process of this Legislative Assembly, is in serious jeopardy because of the action that has been taken by the Chief Executive Officer of this Government.

A moment ago, Mr. Speaker, the Minister for Education made a suggestion that all we are doing is bickering. He further suggests, Mr. Speaker, that we should get on with the work of this House. He further suggests that there will be green papers coming in dealing with the pipeline. If the Minister, with all due respect, Mr. Speaker, is doing his job, without being left in the dark, we wouldn't be dealing or waiting for green papers on the pipeline, approximately three weeks after the beginning of this Session, and still waiting.

Maybe, Mr. Speaker, that is why we are so frustrated, because of the lack of initiative by the leadership of this Government under the head of the Chief Executive Officer, which is the Commissioner of the Territory. Maybe that is why they are kept in the dark, because they are not to know, Mr. Speaker, just what is going on.

If there is a cover-up, the inquiry, Mr. Speaker, will hopefully help to resolve some of the many questions that I think the people of the Yukon are asking right now. I think it is very tragic when an elected person, duly elected by the public at large in the Yukon, puts forward a Private Member's Public Bill and then it is literally taken away from them by an order from a person that is appointed, and not elected, to this Assembly.

I think, Mr. Speaker, that this is setting back the true democratic process that I believe in as an elected person. I think it insults the integrity of the judicial system, which we all should have faith in, because it is there to protect us in more ways than one.

I am very, very concerned as an individual who comes from a country that we all know democracy, in all probability, had one of its beginnings.

We are now flogging that. We are insulting that principle and I, as a person, cannot accept that. I am hopeful that this resolution goes through with unanimous consent.

Mr. Speaker: Is there any further debate? The Honourable Member from Whitehorse North Centre.

Hon. Mr. McKinnon: Mr. Speaker, I think there are probably a few suggestions I would have to make the Resolution Number 5, perhaps a bit stronger and broader than I see it, if we are going into the aspect of a public inquiry. I think that the public and all Members want the whole, clear, unvarnished story and the whole relationships of events, because the matter has reached such a significance and I think that we don't want to make the commitment, rightly or wrongly, because that is up to the public inquiry to make.

It has reached such a significance that there is no doubt that the whole aura that surrounds it is harming the work of this Assembly, the emergence of responsible government, and the credibility of Government.

I would like to make one point, Mr. Speaker. I was in disagreement on a broad principle of constitution, on the *Public Inquiries Ordinance*. The political decision of the elected Members of the Executive Committee, once that principle was fought and lost in the House was, of course, that the Commissioner should assent to the *Public Inquiries Ordinance*. There was no doubt about that, it was the wishes of the elected Members of this House and that is the way it should be.

Mr. Speaker, there was a great interference and I spoke

about it before, what I called an unwarranted intrusion by the legal beagles, in the Department of Justice in Ottawa, towards the development and the evolution of constitutional advancement in the Yukon Territory. They are scared witless that the people of the Yukon Territory, particularly at this time, are actually going to take affairs into their own hands and have a responsible system of government.

Now, Honourable Members know, in every instance, whether it is the most senseless argument, or whether it has nothing to do with, really, the running of the everyday business of the House, that they are getting their fingers and their toes involved, and the federal presence is trying to strengthen in the Yukon, rather than diminish.

The Commissioner knew full well, in this instance, what the reaction would be, and accepted the political advice that the Minister should go with the *Public Inquiries Ordinance* and, of course, it was, and I said, to tell you one thing, if the Justice Department and the Minister do not agree with the acceptance of it, you had better get it in writing, upon instructions from the Minister of Indian Affairs and Northern Development, upon the advice of the officials of the Department of Justice, that you cannot, as an employee of the Federal Government, give assent to the Bill.

Of course, those instructions are written, they were given, and those are the facts of the matter, not only in this instance, which happened to be in a centre of controversy, but in other instances that we all know of and are going to meet, as this Session progresses, that that is what is happening, that the Federal Government is very jealous of their powers that they have in the last of the Crown colonies. Of course, they are going to do everything in their power to embarrass and upset the evolution of responsible government in the Yukon.

Now that is why I think it is of such significance that the members were able, and the Executive Committee were able to get to the Minister with his announcement of the fourth elected member this morning, which I find very significant that we were able to get around the bureaucrats and the legal beagles, and get directly to the Minister and get some true and meaningful advancement in this issue.

Mr. Speaker, the motion directly, and I have, as I say, support the concept of a public inquiry to clear the air. In paragraph number one, suggests that "it is the opinion of this Assembly that the Commissioner cause an inquiry to be made forthwith, pursuant to the *Public Inquiries Ordinance*, into a matter connected with the conduct of the public business of the Territory and of public concern namely the matter of certain actions taken by the Commissioner of the Yukon Territory."

Mr. Speaker, I think the intent of paragraph one would be strengthened, because I think that there could be broader aspects to the whole of the issue and I would like to know whether there are broader aspects to the whole of the issue, by either removing the words "by the Commissioner of the Yukon Territory", so it would be the matter of certain actions taken with respect to certain proceedings, so if there was other persons, if there was other involvements, that the inquiry would have the ability to range quite freely in this regard and bring the total and complete story to the members of this Assembly, or if that wouldn't be acceptable, taken by the Commissioner of the Yukon Territory or any other persons involved.

I don't know at this point in time whether there were or whether there wasn't and I don't want to know, I think that is the job of the inquiry, but I think all members have said that the one thing we want to do is make sure that we don't look as if we are in the position of attempting to put a witch hunt upon one person, I believe them when they say that, and I think that this should be the broadest type of inquiry if there were other persons, places or things involved, other than the Commis-

sioner of the Yukon Territory, then the public and the Members of this Assembly should have the right to know that.

I would suggest, Mr. Speaker, in point one which was made "What were the factual circumstances leading to the discontinuance of proceedings", well Mr. Speaker, I think that I am in as much in the dark as other members as to what were the circumstances leading to the initiation of the proceedings as well as the discontinuance of the proceedings, and it would seem to me that if members of the public and members of this Assembly want the total picture, and allow Mr. Stratton of the Alberta Bar to have the free-ranging latitude to bring the total picture before the members of the Assembly and the members of the public, then those suggestions would strengthen, Mr. Speaker, rather than weaken any such motion, and I think would certainly give Mr. Stratton the ability of having the far-reaching inquiry and terms of reference that all members of government said that they would like to see through this Resolution.

Once again, Mr. Speaker, I can only say that it will be my political advice that the motion, with the changes, which I think would add and strengthen the Resolution that this motion to this public inquiry should be accepted in order to take away the stagnation, if I can use that word, which is, I believe, having a very harmful effect because of suspicions that have been raised with the work of this Assembly, and particularly with the credibility of this government at a particular time in the development of the Yukon constitution, and at a particular time in its economic development that we can't afford to have these things hanging over members of the Assembly and members of the public.

Just one final word, Mr. Speaker, that really isn't directed to the resolution, but I see that all Members ranged pretty broad in their discussions of it and I would like the same latitude.

I agree with Honourable Members when they seem to indicate that they are frustrated with the lack of action and planning on pipeline. I just attended a meeting of Subcommittee on Finance before coming into this House, trying to get a handle and grasp a handle on the question of the \$200 million dollars, which is there for socio-impact funding if it is needed.

There are many more questions than there are answers to that question, at this time. There are so many more questions than there are answers in the formation of the regulatory agency.

We have our man in Ottawa, as you know. I think we all trust him and know him well and he is perplexed because the whole of these questions, they say, are tied up in the concept of the legislation which is being prepared, that we are not having any part of forming, before it comes to the House of Commons.

At that time, then, supposedly without our input, all these questions will be answered and everything will flow merrily along.

Well, I don't believe that, Mr. Speaker, and with the added responsibilities of manpower, housing, immigration, heritage fund, a regulatory authority, impact centre, any number of these problems, it is imperative, it is critical and it is essential that all of these matters, which are additional portfolio responsibilities now of these elected Members, be put in the hands of a fourth elected member who can work with the Members of the Legislature and members of the public, to at least be able to politically stand up and say, this is where it is at this time, this is why it is not going any further, this is what has to be done, and these are the facts of life, at the moment, and this is what the Government is doing, cannot do, or will be doing.

I believe that this is so important, the fourth elected Member, to be able to have the political ability to maneuver in the halls of Ottawa, and also to provide answers for Members

at this Assembly, that I think that this is extremely important to get the Government moving, and, with the leadership that is needed, that that fourth elected member be positioned in Government as quickly as possible.

So, Mr. Speaker, with those remarks, I have no objection, and, in fact, welcome, because of the air-clearing which I think it can provide, the resolution which is proposed by the Honourable Member. I do not know whether she intends this Commission, or this motion to go into Committee for further debate. I would like to know the feeling of the House on this, because I think that there are, with the suggestions I have made, and I think Honourable Members know that we just saw this Resolution as of 10 o'clock this morning, that those suggestions, in whatever manner Committee or this House would accept, would strengthen the resolution. While we are passing the resolution, I think we should have it broad enough and flexible enough so that after Mr. Stratton does his inquiry, that there will be no questions left unanswered to the public of the Yukon, or to the Members of this Assembly.

Mr. Speaker: Is there any further debate?

The Honourable Member from Kluane.

Mrs. Watson: Yes, Mr. Speaker, as the person put the resolution before the House, I believe I have an opportunity to speak again before—

Mr. Speaker: That is quite correct.

Mrs. Watson: I was very interested in the remarks that the Honourable Member regarding expanding the terms of reference so that it would be sure that the Commissioner or the Board would have, and if it ever is initiated would have the right to get at all of the facts. I think we all share that concern, and a great deal of time has been spent on the wording in this Resolution. I think we have to be very careful. We don't want an inquiry into the actual Lueck affair, and when the Honourable Member suggested we should also be inquiring into the proceedings which initiated the action within the court, that is not for us to establish an inquiry on. That is a court situation. The Resolution of the misconduct of the lawyer in question is not to be determined by this inquiry. We must be very, very careful of that. That is a question that should go to the courts if someone wants to initiate the action.

In our new *Legal Professions Ordinance* there is provision for the Yukon Bar, the Yukon legal profession, to initiate an action to their disciplinary committee if they warrant, if they feel it is warranted. So we must be very, very careful not to infringe upon that case with our inquiry, the rights and wrongs of laying the charges of misconduct in the court would be determined by the court, under the *Legal Professions Ordinance* that was in force at that time.

We ourselves don't want to be accused of, or even do, what we feel the administration did before, was to interfere with the judicial process. I share everyone's concern that this has to be broad, and I hope I can reassure the members that a great deal of time was put into the wording of the terms of reference of the inquiry, and we were assured, and I have been assured that this would be broad enough to give us the authority to inquire into what we really have the authority to inquire into and not get into the judicial process.

So, Mr. Speaker, I would certainly hope that the Resolution does go through and that we be very careful and not upset that balance of what area we can inquire into.

Mr. Speaker, I feel that, to some degree, the need for the inquiry has had some effect on the workings of this Assembly, but I cannot accept the fact that this incident can be blamed for the lack of direction that this House has been suffering from.

So, I think, let us get our priorities straight. We are going to

lay this one to rest, then let us get the direction and then let us proceed.

So, I do not like to have this used as a whipping boy for the inertia and the lack of leadership that seems to be apparent within the Government ranks.

Mr. Speaker, one other point I would like to bring up and that is the role of the Commissioner in assenting to the Bill, or, not assenting to the Bill, and having to adhere to the instructions of his Minister, under Section 4.

This is very true, as the Commissioner of the Territory, he does have instructions, has to accept instructions from his Minister. However, he also has a quasi lieutenant governor role and, in that role, in assenting to Bills, he is answerable to and his connection is with the Governor General of Canada.

All matters of constitutional, such as assenting and not assenting to bills, must be reviewed by the Governor General, and not just be a mere Minister of the Crown.

I am sure that, eventually, this is going to cause our Ministers a great deal of difficulty, both within its Cabinet and with the government structure, because the direction was given, under administrative authority, rather than to let the normal route of royal assent to bills flow through the normal route to the Governor General.

Mr. Speaker, I would hope very much that we could have unanimous consent to this resolution.

Motion agreed to

Mr. Speaker: We will then 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: Is the Honourable Member prepared to deal with Item 1?

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.

Bill 10: Second Reading

Hon. Mr. Lang: Mr. Speaker, I move, seconded by the Honourable Member from Whitehorse North Centre, that Bill Number 10 be now read a second time.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse Porter Creek, seconded by the Honourable Member from Whitehorse North Centre, that Bill Number 10 be now read a second time.

The Honourable Member from Whitehorse Porter Creek.

Hon. Mr. Lang: Mr. Speaker, I would like the opportunity to speak, at this time, in respect to the *Elections Ordinance* I would like to give a brief history of how elections were conducted prior to 1958 and up to now.

Prior to 1958, Mr. Speaker, elections in Yukon were conducted by the Territorial Government, administered by the Territorial Secretary, and the initiative to transfer the elections function was taken by the Commissioner Brown in 1954.

The *Elections Ordinance* at that time was archaic as it originated in 1919, and it was proven to be an unworkable piece of legislation in the year of 1954. In view of the long and difficult task of writing new legislation, Commissioner Brown suggested that the conduct of elections be transferred to the Chief Electoral Officer of Canada, and the *Canada Elections Act* apply to elections in Yukon.

This suggestion was accepted, and the machinery to effect the changes put into motion. In 1957, an acceptable *Elections Ordinance* cleared the Yukon Assembly and the amendments to the *Canada Elections Act* were proclaimed into force. One important point in all this was Commissioner Brown's assumption that the *Canada Elections Act* would apply *mutatis mutandis* to Yukon elections. This simply was not the case. The Act had to be adapted to fit Yukon's situation. Elections in Yukon were therefore presently conducted pursuant to the *Canada Elections Act* and multiplied or adapted by agreement between the Commissioner and the Chief Electoral Officer into our present *Elections Ordinance*.

Yukon input into the modifications agreement is limited and restricted as to how much the Act, the present Act, can be modified to meet all local contingencies. The Chief Electoral Officer must be consulted in scheduling elections, to set a date convenient for him and to allow adequate preparation time.

The Chief Electoral Officer, Mr. Speaker, provides the administrative personnel and financing of Territorial elections. Elections officials, from returning officers, to poll clerks are local residents. The system applied has served as purpose, however, and has been creating problems, and some encountered in 1974 when we ran for election where the deadlines for enumeration, printing of voters lists, filing of nomination papers, et cetera, dictated by the *Canada Elections Act*, which were just found not to be compatible with northern mail service or patterns of settlement.

The three hour time difference between Yukon and Ottawa also posed an inconvenience. Every question or problem of large or small importance had to be directed or referred to the Chief Electoral Officer.

Besides these administrative problems I have just mentioned, we have a present concern. Since 1974, this government has been working towards providing the legislation that is now before you. As early as May 1975, it was noted that Section 113 of the *Canada Elections Act* overrides Section 16(d) of the *Yukon Act*. Section 113 of the *Canada Elections Act* requires either repealing or amending. Correspondence has taken place between the two governments on this problem. The past Minister of the Department of Indian Affairs and Northern Development, Judd Buchanan in June 1976, supported an amendment to the *Canada Elections Act* which would allow Yukon to conduct its own general elections with no possibility of being impaired by the federal *Canada Elections Act*. He accordingly informed his colleague Mr. Sharp, the then President of the Privy Council of the need for the amendment and offered his wholehearted support.

In July of 1977, the Commissioner wrote Mr. Allmand informing him of the need for the amendment. No reply was received from the Minister except an acknowledge receipt from a special assistant.

On October 3rd, of this year, the Commissioner wrote, again to Mr. Faulkner, outlining our concerns, and, once again, there was no direct reply from the Minister but an acknowledgement by a special assistant.

Last week, another dex has gone to the Minister and we are still awaiting a positive reply from Ottawa.

There is an urgency for the necessary amendment to the *Canada Elections Act*. It is interesting to note that, presently, the *Canada Elections Act* is in parliament for amendment and does not contain the required amendment that would clear the way for Yukon to administer its own elections.

However, Mr. Speaker, returning to the principle of the Bill, the legislation before you today is a very comprehensive approach to the administration of elections in Yukon. It has been structured in such a manner to provide for the Yukon situation, to provide for local general elections, as well as by-

elections. There a number of principles in the legislation, Mr. Speaker, which I think should be highlighted.

First of all, there are provisions for an elections board. The principle authority for the proceeding of elections is vested in the election board. The board proposed is composed of three persons and is given responsibility similar to those provided to Canada's Chief Electoral Officer.

An administrator will be engaged as a Senior Executive Officer to convert board policies and directions into effective action.

The writ of election, the main principle, is the authority in providing to the Commissioner, upon certification by the elections board, to withdraw and re-issue writs in response to extreme weather, natural disaster or civil disturbance believed likely to prevent the orderly and successful procedure of an election.

In the area of the electorate qualifications, the general qualifications are Canadian citizenship, twelve months previous residence and 19 years of age. The resident's qualifications are invariably complex and no attempt is made to elucidate them.

Of particular concern is the frequency of temporary residents, occasioned by the staffing requirements of Yukon Public Works projects. An attempt has been made to accommodate the extraordinary prevalence of this feature of Yukon's economy.

Candidate qualifications: a candidate is qualified to be nominated if he is an eligible elector and sustains his eligibility within 30 days after polling date, if successful. Failure to comply with such a declaration not only voids a candidate's election, but is set out as an offence under the *Elections Ordinance*.

Final date for acceptance of nominations is the 26th day, after the date of the writ.

Nomination of candidates require the support of 25 qualified electors and a deposit amounting to \$200. The deposit is returnable to candidates who subsequently receive no less than 25 per cent of the number of votes received by the winning candidate and who files the required statement of elections expenses.

In the area of the polling day, the polling day is the 42nd day after the day of issue of the writs of election. Polling shall be on a Monday, unless Monday happens to be a public holiday, in which case, polling shall be on the following Tuesday.

There has been a change in the hours in respect to the *Canada Elections Act*, the polls would be open from 8 a.m. to 8 p.m.

Another interesting concept in the Bill is the concept in the broadening of proxy voting. A proxy voter may be appointed by an eligible elector who has reason to believe that he will be unavoidably absent from his polling district on polling day or who, by reason of illness or physical incapacity, is unable to reach his polling place.

A proxy voter must be an eligible elector whose name is on the list of electors for the same polling division as the elector that he represents.

An elector may appoint only one proxy voter, and the latter may only represent one elector. The introduction of a more lenient proxy voting system in the *Elections Ordinance* dispenses of the need for an advance poll. Provision is made for the cancellation or withdrawal or proxy certificates and the re-issuance to new proxy voters. On arrival at the poll, proxy voter may cast his own ballot, as well as that of the electorate whom he represents at the same time.

In the area of offences, corrupt practices and penalties, there is a general section which is a noteworthy feature of the

Elections Ordinance and the way I understand it, one, unfortunately are not common to other elections statutes. It is a delineation of all but a few offences and corrupt practices at once place in the Ordinance and the provision of only broad parameters for penalties by way of fines and imprisonment.

There are several other features in the Bill, Mr. Speaker, in enumeration revision, ballots, candidates expense claims are all outlined in the synopsis report which has been attached to your Bill. I trust, Mr. Speaker, that the Bill will be the basis for an exciting debate by members, for I feel it is an interesting subject and represents, in my view, a constitutional step forward for us.

The *Elections Ordinance, 1977*, is one more matter where authority does exist in the *Yukon Act* and where we can assume responsibility. If everything goes well, Mr. Speaker, I think it can be said that we are bringing the elections process home where it belongs.

Mr. Speaker: The Honourable Member from Kluane?

Mrs. Watson: Mr. Speaker, I am certainly not going to speak at length at all. My comments are going to be very brief. I think the government of the Territory should be commended for undertaking such a mammoth task, because if anyone has ever run for election under the *Canada Elections Act* or if anybody has been an officer, enumerator, returning officer, or whatever under the *Canada Elections Act* in the Yukon Territory, or if anybody has had some problem regarding residency under the *Canada Elections Act* for voting at a Territorial election, you know the problems that are being faced with.

It was getting almost impossible to conduct good elections in the Territory under the *Canada Elections Act* and when you read the *Canada Elections Act* and read the details that you have to go into, and to think that our government undertook to rewrite and prepare their own *Elections Ordinance*, certainly they should be congratulated and commended for it. I certainly hope that the Federal Government sees it within their powers to put the necessary amendments to the *Canada Elections Act* so that we can adopt this Ordinance and run our own elections in a realistic manner, in a manner that conforms to our Yukon living so that we can make sure that they are good elections and people are given the opportunity to vote and are given the freedom that is required in an election.

So, Mr. Speaker, I am certainly going to be supporting this Bill.

Mr. Speaker: Is there any further debate?

Motion agreed to

Mr. Speaker: Shall this Bill be referred to Committee of the Whole?

Some Members: Agreed.

Mr. Speaker: So ordered.

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.

Bill 11: Second Reading

Hon. Mr. Lang: Mr. Speaker, I move, seconded by the Honourable Member from Whitehorse North Centre, that Bill Number 11 be now read a second time.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse Porter Creek, seconded by the Honourable Member from Whitehorse North Centre, that Bill Number 11 be now read a second time.

Motion agreed to

Mr. Speaker: Shall this Bill be referred to Committee of the Whole?

Some Members: Agreed.

Mr. Speaker: So ordered.

We will now proceed to Private Members Public Bills.

PRIVATE MEMBERS PUBLIC BILLS

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

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

Mr. Hibberd: Next sitting, Mr. Speaker.

Mr. Speaker: The Honourable Member from Pelly River.

Mr. McCall: I would move, Mr. Speaker, 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.

Perhaps we could recess for just a moment or so, while we are collecting our witness, and perhaps we could finish with dealing with what the witnesses have to present to us this morning, before we recess.

I will now declare a recess.

Recess

Mr. Chairman: I call Committee to order.

We have for consideration this morning, the White Paper on Workmen's Compensation Rates and the Report from Crawford E. Laing.

First of all, while our witnesses are with us, if we could deal with the White Paper, which I believe now all members have. Instead of reading it through, I have asked Mr. Laing to summarize it for us and then we can ask some questions afterwards.

Mrs. Watson?

Mrs. Watson: Mr. Chairman, with respect, I have problems, and if the witness could define, and I know they are in the sections in the legislation, but if he could give it to us in lay terms. The pension fund is quite obvious. Define disaster reserve, the necessity and rehabilitation reserve, enhancement reserve, and silicosis reserve. If you could tell us how much money you would need to have in these reserves, why you need these reserves? I think that would help a great deal, because it is hard to interpret exactly the need for these funds from the actual legislation. That's where my problem is.

Mr. Chairman: Mr. Laing?

Mr. Laing: Yes, Mr. Chairman, I will try to do that as we go through, the White Paper gives some background on these aspects, and I would be happy to try to explain it to members and to answer their questions as we come to these sections in the White Paper if that would be in accordance with your wishes.

This is a very technical subject and it is quite understandable that there is some confusion. Could we be sure that we are looking at the right pieces of paper, for my own satisfaction, as well as everybody else's. We are talking about a White Paper on Workmen's Compensation Rates, which starts off with paragraph one, "Introduction", which takes up the whole of the first page and runs into the second page because there are two White Papers, one dealing with the amendments and one dealing with the rates.

We are dealing with the White Paper on rates, at this point, and the exhibits attached to that are the report which you got last evening, by my company, dated June 2nd, 1977, as Exhibit A.

Exhibit B is a Commissioner's Order, giving effect to the new rates and Exhibit C is a draft of the system, of the merit rebate system, that would be introduced if that is the wish of the Members.

Mr. Chairman: I am not sure Members have a copy of that Exhibit C, Merit Rebates System, Mr. Laing.

Mr. Booth, you have some copies there, do you?

Thank you.

Mr. Laing, perhaps you could summarize this first page for us, regarding the introduction of Workmen's Compensation rates.

Mr. Laing: Well, this is a general introduction to the picture as it stands at the present time. The Ordinance was revised in 1973, at which point the separate accident fund was set up for the Yukon, so, there wasn't really any experience separate for the Yukon, as to what the accident rates would be, under the new legislation. Prior to that time, coverage had been given by insurers, and, of course, their experience wasn't available to the Compensation Board, and is not really relevant to determine rates.

However, the consultant, at that time, proposed some rates, based on his experience of the Alberta system, which was largely copied for the Yukon and it was anticipated, at that time, that these rates would be, would have to remain the same for about three years, until sufficient experience was built up to do a meaningful study to see what the correct rates should be for the experience in the Yukon, which is a very different economic climate and has very different conditions from Alberta and from the other provinces.

So, now, at the end of 1976, we had the necessary experience under our belts, so that we could take a look at the claims experience and the data of payrolls and all the claims payments and administrative costs, for the period up to that time and separate it down, by classes, and had a look at the classifications and do a full-scale study on the rates that ought to be applied to conditions in the Yukon, so that is what the report, dated June 2nd is all about. It is taking the data, analyzing it, determining the basis for the calculations of rates and coming up with some recommendations to the board.

Because of the size of the increases that appeared to be necessary in some circumstances, it was very important that there should be consultations with employers to explain the background, explain the need for increases, and that's why this has been done. It was necessary to get the Commissioner's Order so that the Board could start to communicate these rates with the employers to get feedback from them.

So I think that's all I have to say on Item 1. If there are any questions of a general nature.

Mr. Chairman: Thank you, Mr. Laing. Mr. Fleming?

Mr. Fleming: Yes, Mr. Chairman, it is a very small question, and not to do with very much money. On the merit rebate

amounts considered were amounts less than \$10 and I am wondering if this fits in with the \$25 payroll assessment? It is a very small figure, but does it fit in with the \$25 minimum assessment, and then when you could get a rebate of only \$10.

Mr. Laing: No, this fits in with just a policy of where we do not adjust an account. If there has been an error in the reporting if it is less than \$10, we don't bother adjusting it one way or the other. The idea is to fit in with that.

Mr. Chairman: Mr. Lengerke?

Mr. Lengerke: Mr. Chairman, the other day I asked a question that was deferred to when we were discussing this report. I was asking how does the Yukon Territorial Government, as an employer, fit into this scheme with respect to deposits and assessments. I realize the Territorial Government now is on a deposit system, and what would happen if it was done by an assessment of classifications. Would there be a great increase in the fund, or would it have any effect on the need to increase it, or decrease it totally?

Mr. Laing: There will be two effects, Mr. Chairman. The first effect would broaden the payroll base for the whole of the fund by about 25 per cent which would be a very substantial increase in the payroll base. The payroll base is important in that it is the base on which the risks are established, and the broader the base, the better averaging process to stabilize the reserves.

The second effect is that there would be— if the Government of the Yukon were not on a deposit basis, the rate that would be charged to them would include the contribution to the contingency reserves which would help to bolster the contingency reserves.

Mr. Chairman: Mrs. Watson.

Mrs. Watson: Mr. Chairman, I would like to refer to your collective liability system, which you talk about on page 2.

You say that "purpose of pooling all of the risks in connection with all compensable accidents", and, "that the pooling or sharing of risks among employers is an annual calculation" and it is not an averaging of risks over several years.

So, you have to have an accident fund which would provide for payment for all accidents that occur in that year. You can't, even though the money goes out, you don't pay all of it. If a person is hurt in November, and you are not going to pay all of the bills, you are still going to charge the costs of that accident to '77 year, is that correct?

Mr. Laing: That is right.

Mrs. Watson: All right. Now, how much, if a person is killed, in November, or anytime in 1977, and there is a pension set up for the widow and the children, how much of that is charged to the 1977 year?

I understand some of it will come from a pension fund, but will any of it be charged to the 1977 year?

Mr. Laing: The whole of the cost, on a capitalized basis, will be charged to their class, for the year 1977 and that amount, the capitalized amount necessary to provide all future payments of the pension, will be transferred over to the pension fund, so that all future payments of pension will be secure and will be paid for out of the pension fund.

There is only one qualification of that and that is if it is a small class, with a low retention, it couldn't possibly carry the cost of even one death claim. So, some part of that cost may, in fact, be recouped by the class, from the disaster reserve.

Perhaps I should try to deal with your question about the disaster reserve at this point, because disaster, as used in this connection, has a very technical sense and it does depend on the point of view, what is a disaster. One death may well be a disaster to a small class with a small assessment income,

because the capital cost of providing a pension to the widow and the children may be many times the assessment income of that class.

But, one death alone would not be a disaster to the whole fund, because it would be a very small part of the total assessment income.

So, we have devised a system of re-insuring, if you like, with the contingency funds, with the disaster fund in particular, the excess cost of claims, so that we don't cripple a small class with charging to it the whole cost of a serious claim, whether it is a permanent disability, one hundred per cent permanent disability, or a death claim.

By that means, by making a contribution from the class for the protection of the contingency and disaster fund, think of it like a re-insurance company that is picking up the excess claims in their turn for a premium. We can stabilize the claims experience of the class in return for a level premium on an ongoing basis.

Because of that system, we have used two methods to look at the rates that should be charged to make sure that that system is in fact fair working out fairly between the classes, because in my report you will see we have dealt with the two alternative ways of calculating the rates. One on the gross incurred claims, before taking account of either the claims that are charged to the contingency funds or the premiums that are paid to the contingency funds. In the second place, on a net incurred claim basis, where you do take account, both of the premiums and of the protection given by the contingency funds.

Mrs. Watson: Mr. Chairman, what approximately would be the capitalized base for a death and a pension. I know it depends on the ages of the persons and so on, but—

Mr. Laing: Roughly about fifteen times the annual amount of the pension would be a ball park figure, on a general average sort of basis.

So, for a pension of, if we are talking about \$275 to a widow per month, that's I think \$3,300 a year. Fifteen times that is about \$50,000.

Mrs. Watson: Mr. Chairman, doesn't that create a very significant problem in the Yukon, because I think we have quite a number of small classes?

Mr. Laing: Yes, it is a significant problem in the Yukon and that is why the determination of rates is such a difficult question. We have to be very careful in setting rates, based even on three years' experience and why it is so important to get classifications where there is a similar level of claims experience so that employers with similar levels of risks are brought together in the one classification.

Mr. Chairman: Obviously we are going to have to take some time to go through this, so we will continue this afternoon at 1:30.

Recess

Mr. Chairman: I call Committee to order.

We will continue with consideration of the White Paper, on Workmen's Compensation Rates.

Mr. Fleming:

Mr. Fleming: Mr. Chairman, just before we broke for recess at lunch, I think the question was asked and answered, but I am still a little bit confused at just how it works, in the way the merit system is used to rebate the employer, or the client, in this case, you would, in the different classes, such as construction, truck driving, hotel, motel, whatever there are, of course, different payments to be made. They are not the same. One might be eight per cent, two per cent, and so on.

Now, is the demerit that is given back, if you give any back

on the merit system, would it be balanced across the board, as a percentage, or will it be a different figure for each one of those categories?

Mr. Laing: The merit rebate system that is proposed depends on the employer's own experience in detail. If he has a light experience of claims and his claims are less than 75 per cent of his assessment for the current year, and if he has had an account for three years and several other qualifications, then he will get a merit rebate himself.

Even if the class, as a whole, has got some bad experience, the good employer, who has got very low accident experience, can obtain a merit rebate on the basis of the system that is proposed.

Mr. Chairman: Mr. Fleming?

Mr. Fleming: Yes, I understand that, however, when you do base that say for a person that has—I will give you an example—a person that has paid into the program say \$20,000, and he is allowed a rebate of so much because of behavior or whatever, and a person that is paid \$500. Now this person may receive back a percentage at any rate of that \$500. Now is that percentage rate, and the percentage rate of the fellow that paid a lot into it, would that be the same? That's the question I have.

Mr. Laing: The percentages are quite likely to be different because their experiences are different, but if they had the same experiences, the same proportionate claims experience, they would get the same percentage back of their assessment.

Mr. Chairman: Mr. Fleming?

Mr. Fleming: Yes, Mr. Chairman, one other question on the Commissioner's Order there. I am just wondering regarding the safe conduct of his operation, conducting his operations in a manner which in the opinion of the Commissioner are under such employees disentitled to a merit rebate, whose account with the Commissioner or any part of it was in default at the end of the current calendar year, and so forth and so on. Now I am agreement with that, in default of anything, or so forth, however, I find it all boils right straight down to the Commissioner in any way, because if I am clear on this, and I should ask this question, if the employer is not at fault, but he can still have accidents, but he is no way at fault, the employee is at fault that had somebody working over there. There is some reason that that employer is not at fault, then as I read it here, the Commissioner could still take that right away from him through his demerit system and say no you can't have a any. I think it is a little broad in that manner of not laying it out.

Mr. Booth: That would, I think, to answer your question there, that is the reason we put that other section into the Ordinance, was to cover this. We would, under that new Section, if he was negligent, the other employer, we would transfer the costs from your experience to the negligent employer. So, therefore, it wouldn't affect his merit rebate and wouldn't affect this particular item, because the cost wouldn't be charged against your account, your experience account.

Mr. Laing: But, Mr. Chairman, once the claims experience has been established for that employer, with or without that particular accident that was somebody else's fault, once that has been established, then there is nothing arbitrary about the merit rebate. It depends upon the figures after that. It is not an arbitrary decision of the Commissioner or anyone else, under this system proposed. It would just depend on the figures.

Mr. Fleming: Mr. Chairman, if I may, one more question: when this is established, will that be an on-going thing or will it be for that year that this is established? Or will it carry on.

Mr. Booth: This will be carrying on every year.

Mr. Fleming: Mr. Chairman, it will be changed every year, in other words?

Mr. Booth: The only way it could change would be if your accident experience changes.

Mr. Fleming: Thank you.

Mr. Chairman: Mr. Lang.

Hon. Mr. Lang: Mr. Chairman, I would like to ask Mr. Laing a question in respect to the legislation as it now stands. If the fund were to stay in the same situation as it exists today and there were no changes made, what would evolve in the future here, in respect to that fund? The way I understand it, we are in a deficit position already, if there is no rate increases.

Mr. Laing: The overall situation is not a deficit. There are a number of classes. I think 18 out of the 29 classes are in deficit, but the total class balances are positive, or were positive at the end of 1976. We do not know the position for 1977, at the moment, but the indications were that if we continued without changing the rates in 1978, then we would go into deficit and there wouldn't be enough money there.

Mr. Chairman: Mrs. Watson.

Mrs. Watson: Mr. Chairman, a question regarding classes: I believe your classes are established by industry rather than by occupation. Is this correct?

Mr. Laing: Yes, that is correct.

Mr. Chairman: Mrs. Watson.

Mrs. Watson: Mr. Chairman, I would like to then quote, and I think it ties into the legislation, too, a working paper that we received, page 3, under Classification of Industries: "Employers and industries which have in the past..."

Mr. Chairman: Mrs. Watson, just a minute, Mrs. Watson. I think it might be easier if we went through this section by section and dealt with them as we came to them, because, perhaps Mr. Laing would have some explanations as we went along.

Mrs. Watson: Very well.

Mr. Chairman: We were just dealing with the first page, at this time, or trying to.

Mrs. Watson: No, no, that is fine, Mr. Chairman.

Mr. Chairman: Perhaps, then, we could go on to Section 2, Collective Liability Systems.

Mrs. Watson:

Mrs. Watson: What would be the difference? We call this a compensation and we call this a type of insurance. I have always looked at it as an insurance, but the more you get into it, I am beginning to feel that now what we are doing is asking the employers to post a bond, is that not what we are doing? They have to post enough money in their premiums in order to cover certain expenditures which may arise within that year, is that not the principle?

Mr. Laing: I suppose you could look on it that way to the extent that they are paying the assessment rates, and if they have good experience they will get a rebate back, but it's not really a bond posting, it is really an assessment contribution which is more in the nature of an insurance premium. It is a contract of insurance in which there is a profit sharing element, if you like. If the employer's experience is good, then he gets something back in his premium, so it is an experience rebate system. The employers who have good experience pay less than the employers who have bad experience within limits.

Mr. Chairman: Mr. McCall?

Mr. McCall: Mr. Chairman, I was wondering, wouldn't this encourage a company to discourage a person applying for.

workmen's compensation by asking him to consider alternatives so that the record is kept clean?

Mr. Laing: The employer is not allowed by law to do that. He can't discourage an employee from claiming compensation.

Mr. McCall: Mr. Chairman, I beg to differ, there are alternatives, and the law does not compel them to go through workmen's compensation. We have alternatives in our collective agreement with Cyprus Anvil Mining Corporation, which would be whereby a person would not have to go through a request for workmen's compensation.

Mr. Laing: The Ordinance says that every employer must report an accident. The Ordinance spells this out, the *Workmen's Compensation Ordinance*, and also the responsibility is on the worker to report any accident arising out of or during the course of his employment.

Mr. Chairman: Mr. McCall?

Mr. McCall: Accepting that fact, Mr. Chairman, I don't dispute that point, what I am saying, Mr. Chairman, is that an industry or company will encourage or discourage an employee from applying for workmen's compensation in order to maintain a good record, and he gives him alternatives, so there is no actual record on workmen's compensation that that person has put in a claim, because he is given alternatives to consider, and he is encouraged to take alternatives.

Mr. Booth: There has been experience, in the past, my experience in Alberta, it hasn't been brought to my attention up here, but I know this sort of thing has happened and there is penalties for this. If they are brought to our attention then an investigation can be carried out on this and we know that the employer is withholding back, then penalties can be levied.

I know of a particular instance in Alberta, where one company was putting all their workers' compensation cases in white smocks and have them walking around the job as supervisors, to prevent them from putting in a compensation case, so that they could get the merit rebate back. But, this was investigated in a court and the employer was severely penalized for it.

Mr. Chairman: Mr. McCall.

Mr. McCall: But, this is what I am trying to say, Mr. Chairman, we are considering introducing a merit system, where this will even encourage a company even more, to maintain a clean record, with alternatives, which is a discredit to the employee.

Mr. Laing: The intention, of course, is, Mr. Chairman, that they will be encouraged to maintain a clean accident record by not having accidents, not by failing to report the accidents that have happened. As such, it is a very good move forward, to try and improve the accident record, because, surely, this is what it is all about, to try and cut down in these unfortunate accidents, which can be quite traumatic for a worker and his family.

Mr. Chairman: Mr. McCall.

Mr. McCall: Well, I believe the merit system, Mr. Chairman, is based on the principle that if there is no claims made by a company, then he has a clean record in which he will be considered under the merit system. That is the principle that is being employed.

Mr. Chairman: Mr. Laing.

Mr. Laing: With respect, Mr. Chairman, it is if there are no accidents, not if there are no claims.

Mr. McCall: I hope you are right.

Mr. Fleming: Mr. Chairman, I sympathize with the Member from Pelly, in this respect, that I really can see where it could happen, it definitely could happen.

I am wondering, is there no way, has there been no way found that you can, the penalty may be there, but it is not in here. We have no idea of what, or why, or how, or which, or anything that you might penalize the employer for doing this type of thing, and, the employee, of course. Is there not a section in the Act, in there? I do not think I have found it, that really sets it down and makes it stiff enough so that they don't want to do anything like this?

Mr. Booth: There is a section in the Ordinance, there are sections, in fact, which gives the worker or the employer, must report the accident, in one section, within 24 hours. Second, within one year, and the second time, for a case of industrial accident, or industrial diseases, three years. The penalties are applied there.

The experience is, in most employers that do get a merit rebate, you find put them back into an accident prevention program. They will put that money back into educate the workers into prevention, rather than to not report accidents.

Mr. Chairman: Mr. McIntyre?

Mr. McIntyre: Mr. Chairman, Section 13.(2), an agreement by a workman to waive or give up any benefit or any part thereof to which he or his dependants may become entitled under this Ordinance is void. In the case that Mr. McCall mentions where there is a union agreement to subvert the Ordinance, that agreement is void by virtue of this Section and the workman can claim under both. Well he can claim under the union agreement, he can also claim under this. Both will work.

Mr. Chairman: Mr. McCall?

Mr. McCall: Mr. Chairman, I think Mr. McIntyre is missing the point. If you look at this Commissioner's Order here, it is based on the principle of merit rebate will be allowable for industry that has a claim cost or none at all. It does not say anything about safety records, and safety records are covered in a number of ways. I read through this and it says all the way through, it makes reference to claims, and this is a Commissioner's Order, although it is not signed, it gives you some description about what will be applied under the merit rebate system. There is no reference at all to what the witness pointed out a moment ago about safety record, and there are alternatives.

We have an alternative in the collective agreement where a choice is given to the employee. He is not waiving anything, it is a choice he is given and does not really necessarily have to apply for workmen's compensation.

In this particular reference to the demerit system, Mr. Chairman, the principle established in here is based on the claims costs. Claims means a lot of things, but it does not mean the safety record, and that could be distorted, very distorted in order to keep a record clean.

Mr. Chairman: Mr. McIntyre?

Mr. McIntyre: To follow up this particular Section, all I am saying is that whatever deal the union has with the workman, he can still claim under this Ordinance. So any workman that takes advantage of this company sweetheart deal, still can come under this Ordinance and collect workmen's compensation.

Mr. Laing: I know it is the long way around, Mr. Chairman, but could I ask the Honourable Member, Mr. McCall, what precise alternative he has in mind, because if it is a long term disability plan or a weekly indemnity plan where the worker could claim indemnification because of accidents, I don't think it is a real alternative, because all the long term disability plans that I know of in Canada, the insurance company has specifically excluded absence which is compensable under the *Workers' Compensation Act*, and they won't pay a

claim if it is a compensable act, so there is no real alternative if that is the kind of thing you have in mind of being able to choose whether you will take the benefit under long term disability or weekly indemnity, or whether you will take the benefit under compensation.

If it is an industrial accident, you have got to take workers' compensation and there is no way the insurance company will pay out under the LTD program.

The only other alternative I can visualize is, perhaps, taking early retirement, or something like that. Could the Honourable Member explain what alternatives he has in mind? It is something that should be cleared up.

Mr. McCall: The alternatives, Mr. Chairman, as far as I am concerned, I don't run our safety department at the mines, but I know that there has been many employees at Cyprus Anvil Mines have been discouraged from applying to Workmen's Compensation. We are not talking about permanent long-term disability, we are talking about accidents. An accident where a person is eligible to claim Workmen's Compensation.

He has been discouraged in a number of ways and one of them is he continues to work, in light duties, and there is no record whatsoever that that person has applied for Workmen's Compensation. He is paid a full salary and wages and he is given full consideration under his welfare or medical benefits. There is no record of that person claiming, under Workmen's Compensation.

That is one of the major alternatives, which is advocated by the industry in which I work and this distorts the view of the clean record. I am not talking about long-term disability, I am talking accidents where there is a consideration maybe given for application for Workmen's Compensation.

This is one of the most serious fact is, where a company can demonstrate that they have absolutely a clean record, through the Workmen's Compensation Department, or Board, and yet, in essence, it is not really accurate. But, to go under a merit system, which is being suggested, this is what they could probably do and probably will do. Which distorts the picture and is unfair to the employee, because they discourage a person going to Workmen's Compensation.

Mr. Laing: I think, Mr. Chairman, the Board will have to take that under advisement, because that is a very serious charge that has been laid, as to avoiding the provisions of the Ordinance and they will have to take a very serious view of that.

Mr. McCall: Mr. Chairman.

Mr. Chairman: Mr. McCall.

Mr. McCall: Further, under the Collective Agreement, which is negotiated on behalf of the employees in the particular company I work for, there is a provision in there, where a person who will be provided a light duty job is, if he is suffering from an industrial disease or an accident, and he has full wages while he is on light duties. That is being applied. That was negotiated for that purpose.

Mr. Chairman: Mr. Fleming.

Mr. Fleming: I would have to rise, Mr. Chairman. I would think that would be illegal to have in the agreement under our laws, or anywhere.

Mr. Chairman: Mr. Laing.

Mr. Laing: The proper way of handling a situation like that, and it is quite open for an employer to be generous and to say, well, you tough out an industrial disease or an industrial accident, nevertheless, we want to continue, at full salary, and not just get the 75 per cent benefit from Workers' Compensation.

But, the way that is handled is for the accident to be reported properly, for the Worker's Compensation Benefit to be assigned, by the worker, to the company, in return for getting full salary, and that is reimbursed to the company.

Mr. Chairman: Is it possible to assign it?

Mr. Laing: It is mandatory.

Mr. Booth: This happens in a lot of cases where the medical doctor where say that he is fit for light duty, but he cannot go back, so the employer very generously has kept him on full compensation, and will take him back and put him on as a 10 per cent or 20 per cent partial, temporary disability, and the employer will make up the full salary, and he will assign the temporary total compensation over to the employer.

Otherwise, if we didn't encourage this, we would be having the worker sitting at home receiving full compensation when he could partially work.

Mr. Chairman: Mr. McCall?

Mr. McCall: I mean even that is doubling back on what the intent of the Ordinance is, Mr. Chairman. I have a lot of concern because when we are considering implementing or looking at the merit system which would advocate this type of a set up, I have a lot of reservations, because not everybody is covered by a collective agreement. There are a lot unorganized people that are encouraged not to go to workmen's compensation in order to show that that industry is clean. We are encouraging this with this merit system.

Now if everybody followed the letter of the law, we wouldn't have any problem, but that is not just quite kosher. They are laws being bent quite considerably continuously, perhaps by myself, I don't know. The point is, when we are advocating a merit system like this, Mr. Chairman, I have a lot of reservations, because there are alternatives, and I don't have all the alternatives, but I can soon get them for you.

Mr. Chairman: Mr. Lang?

Hon. Mr. Lang: Mr. Chairman, I just want to say in my experience in the construction field, which isn't the mining field, but those are pretty strong accusations to make in respect to the employers in the Yukon here. In my experience I have never run across that, at least in the areas that I have worked.

I have been on jobs where people have been hurt.

Mr. Chairman: Mr. Fleming?

Mr. Fleming: I'm not quite through yet, because I understand the member's dilemma that he is in, and I can also see it. Maybe we are not quite clear, everybody, on what we are talking about. The fact remains that maybe somebody didn't do it, but the fact remains that it can be done, and of course there is a penalty that will make them think twice before they do it, I don't think that penalty is big enough there for this kind of an act, but it can be done, and it can be a big saving to an employer where he has a chance, through the demerit system, to get back. I figured my own out the other day, and it looks very good and I am just a little employer of half a dozen people. But it is a very, very nice profit if you can get away with it. You know, we wouldn't have had an Al Capone if he wasn't there and didn't try to get away with what he did get away with. It will be tried somewhere.

My concern is why don't we try to see in here that it cannot be tried. The witnesses have said, Mr. Chairman, that this can be done, that you can have an employee go back to work and then draw full wages and not get compensation, saving our fund, is fine and dandy.

In this case, though, in every case, are they not obliged to...

Mr. Laing: No, they are not saving the fund, sorry.

Mr. Fleming: Well, it would save, wouldn't it?

In any case, are they not obliged, even though this may be a, you know, between the employee and the employer, they are, are they not obliged to report every little accident?

Mr. Laing: Yes.

Mr. Fleming: And the penalty is big if they don't? That is what I would like to see.

Mr. Chairman: That has nothing to do with the payment of compensation, though, Mr. Fleming.

For clarification, this is news to me, after dealing with the Compensation Board for so long, am I to understand that if a person goes back to work not on a full time basis, and yet if he was on a partial disability pension, if he is taken back by the company and paid full wages, his pension then, is paid to the company?

Mr. Booth: No, we are not talking pensions, we are talking temporary, partial compensation.

Mr. Chairman: That is what I am talking...

Mr. Booth: Not pensions.

Mr. Chairman: No, I am sorry, that is what I meant.

So that is assigned to the company?

Mr. Laing: It can be, if the company is willing to take him back to work and pay him full salary, because you cannot draw compensation and draw a full salary.

Mr. Chairman: I am aware of that, but my understanding....

Mr. Booth: ...the worker can assign it over to his employer, the compensation, on this.

Mr. Chairman: My understanding was that if a workman did go back to work, even though he wasn't working under full capacity, if the company was paying him his full wages, naturally he was receiving no money from the compensation fund, and, therefore, it was just stopped. There was no compensation paid.

But, what you are saying is that it is still paid, but it is then assigned to the company.

Mr. Booth: Providing the medical profession has said that he is 10 per cent, 20 per cent, or whatever, still disabled.

Mr. Chairman: How often does this happen?

Mr. Booth: Pardon?

Mr. Chairman: How often does this happen?

Mr. Booth: I would say, possibly, you would have about, maybe, two dozen claims a year, out of our 1,500.

It is mostly the larger employers, such as the mines, and the larger employers that will take these people back on, because they want to assist them. They are good workers, they want to assist them to get them back and keep them on, their position open for them.

Mr. Chairman: There is a lot of smaller employers, also, would put that person back to work and pay them full salary, but I really wonder whether they are collecting that pension, that money from the Compensation Board, themselves? I wonder if they are aware that they can?

Mr. Laing: The may not be aware of it, but it is a very important point that should be brought out, because this is part of the principle aspects of rehabilitation, is to get the injured worker back into the workstream at the earliest possible time. The longer you leave him sitting at home, doing nothing, the more difficult it is for him to get back into the workstream, and so it is a humanitarian thing to provide him with light duties, in order to help him rehabilitate himself and get himself back into full working order again.

So, it is an important part of the whole concept of Worker's Compensation, that the Board should assist these cases and should assist the employers, if the employer is generous enough to take him back on full salary, even although he is not medically able for his own job, then there is an element of partial disability which can be assessed, and the employer can be helped through getting that benefit back.

That is what compensation is all about is getting the employee back into the work force.

Mr. Chairman: Well of course I am acutely aware of what that is, I am very intimately involved with it, but I still do not think that most employers would be aware that they have this recourse, and therefore they are permitting them to stay at home, because they can't afford to bring them back.

Mr. Booth: We do have a handbook out that covers this. Now I am not saying that every employer reads it, but the handbook does state this as well.

If we do communicate, if we get a letter from a doctor saying that this man is fit for light duty, then we will follow up with his employer to see if he can find him light duties, and at the same time advise him that we will make up the deficiency of his salary, up to the maximum compensation, or if he is going to keep him on full salary, that we will, if the worker is willing to assign his compensation over to his employer, then the employer will receive that amount.

Mr. Chairman: Mr. Lengerke?

Mr. Lengerke: Mr. Chairman, I can appreciate your concern, but there is one thing that I think you have to take into consideration. I am quite certain that a lot of small employers are aware of the benefits under the compensation fund and they would love to be able to put an employee on at 100 per cent salary again, but the thing is that the scope of the work within a small employer is just limited. If a guy is doing a certain job and he has been hurt, he cannot fulfill those duties in that total job, so the employer is forced to let that person get the compensation that is provided under the compensation board. He can't have him do his duties in a light-mannered way, if you like.

I think this is part of the problem with respect to a small employer.

Mr. Chairman: Mr. McCall?

Mr. McCall: I am still not clear on many points dealing with this merit system, Mr. Chairman. My concern is that, am I to understand that an individual that is encouraged to go back to work irrespective of his percentage of disability, he goes back to work on full wages or salary, I would like to know his position under workmen's compensation in case any complications should set in?

Mr. Booth: He would be completely covered and the employer would not be, if it is a recurrence of this particular injury that causes another accident because of his disability, the employer, we relieve the employer of those costs and charge it to the contingency fund. So the employer does not get penalized, the worker doesn't get penalized, and he is completely covered again.

Mr. Chairman: Mr. McCall.

Mr. McCall: Let me try this again, Mr. Chairman. If, for example, an employee had an accident and he never lost one day, lost time, he was encouraged to go and stay at his job, full wages, put on light duties, perhaps, depending on his disability, what is that person's position, under Workmen's Compensation, as far as is allowable consideration?

Mr. Laing: In the first place, there would be an accident report filed to document the fact that there had been an accident.

In the second place, if at some later date, he was so disabled that he couldn't even do the light duties, then he would be eligible to claim benefits, just as if he had been absent from the first day. On any recurrence of his disability, he would be entitled to claim benefits.

The critical thing is that that accident is reported within 24 hours of it happening, and that the medical profession can determine that the disability, later on, is tied in and related to that accident.

Mr. Chairman: Mr. McCall.

Mr. McCall: Okay, my next question, Mr. Chairman, for example, would be, assuming that that procedure was followed, and the individual, or the employer, followed the appropriate procedure under the Act, the individual still worked, without any loss in pay, would that not have some effect on his claim, under Workmen's Compensation, when one considers: one, he has not received one penny of compensation. Two, if complications should arise, with that person having worked through the period of disability, would jeopardize any proper claim that person would have, because, once it is heard, the case, then the deliberation would be vastly different, as though he had not worked.

In other words, you have two different areas there. Two very great areas which are utilized. I am saying again, one, if the employee did not lose one day, he had full wages, although he had a disability, he did not make any claims to Workmen's Compensation for any benefit whatsoever at that time, and, if a complication arose later, and then it would have to be determined by the Workmen's Compensation, because of that person having worked in that period of disability, it would jeopardize his total benefits allowable to him under the Act, simply because he had worked, and it could be determined that perhaps could have aggravated the original disability.

Mr. Booth: He has reported this incident at the first instance of this accident, although he has no disability but he has reported it to his employer at that time.

Mr. McCall: All the procedure has been followed, and he has worked through that disability, whether he broke a leg or whatever, what is the—

Mr. Booth: Oh, he has a disability now.

Mr. McCall: And he worked through that period.

Mr. Laing: I was having difficulty visualizing what kind of accident this could be that was causing a disability and yet he was able to work 100 per cent of the time all the way through. I was trying to visualize a whiplash or something like that that didn't appear, but if you are talking about a broken leg, then he would have had to have some time off, even just to have it set, and he would have to have had medical treatment for it. In nearly all cases, except perhaps industrial diseases, which are at the other end of the spectrum and fits your case almost exactly, there is some evidence of the accident having been disabling, and that evidence can be established, and his claim will not be prejudiced later on, because he didn't claim all the way through.

Mr. Chairman: Mr. McCall?

Mr. McCall: Let me give you a good example, Mr. Chairman, to help clarify the picture. Dealing with a broken leg, an individual broke his leg at 9 o'clock in the morning on a Monday morning, he gets paid for the whole day. He goes to the hospital, gets the x-rays, was found to be broken, is thrown in a cast, the following morning he reports to work on light duties because the company asked him to. He has not lost one day's pay yet, he has not lost one day's work, and he carries on through that disability until the cast comes off or whatever, then complications set in. He is in a position where he will be denied total claim allowance or consideration—oh yeah, that

has happened.

Mr. Laing: I can think of two cases; one at either end of the spectrum. The fact that he was in hospital and he did have the leg set in a cast is evidence of fact that there was an accident and it was disabling, and if in some way complications arise, then it would be a question of fact to be established, was the complication arising out of the original accident, and therefore was it an industrial accident, arising out of and in the course of employment. If that link is established, then he would be entitled to benefits later on.

The other end of the spectrum is the industrial disease case, and the fact that a man who has got silicosis and goes around with silicosis for twenty years without being disabled does not prejudice his eventual claim to a disability when the silicosis becomes disabling to the point where he can no longer work.

Mr. Chairman: Mr. Lang?

Hon. Mr. Lang: Mr. Chairman, in the first case that the Member from Pelly River cited, when the Workmen's Compensation Board found that this claim was put in, would the employer be penalized for not reporting that accident initially?

Mr. Booth: It is my understanding that the accident was reported in the proper channels, although he did not, according to the medical profession, he could still work in his capacity at his position, with this broken leg. So, therefore, he wouldn't be paid compensation, but, if he got where there were complications set in, and he went back to the doctor and the doctor says, you now cannot work, then we would put that man on compensation because the doctor has said he is disabled from work. He cannot work for another seven days, another fourteen days, or whatever the case may be.

But, he hasn't jeopardized his claim, because he has worked for a week or so prior.

Hon. Mr. Lang: Mr. Chairman?

Mr. Chairman: Mr. Laing.

Mr. Laing: And there are two different conditions, even before you get to that point. One is that he is disabled from doing his own job, but the employer is willing to take him on and has some light duties that he can perform, in which case he ought to report the facts properly and there would be a partial disability payment to offset some of the salary cost.

The other condition is that he is, that it is a finger, or something, rather than a leg, and that he is not disabled from doing his own job, so that he can go back and do his own job. In which case, then, he is not disabled and he is not losing any earnings and he is not being put on to other duties.

All of these stages have got to be established very carefully as to what the facts are, before you can hypothesize and generalize.

Mr. Chairman: Mr. McCall.

Mr. McCall: My concern with this point, Mr. Chairman, is not to dispute the point of whether the individual has a right to claim or not. That is not my argument on this point.

My concerns is this: that my encouraging an individual to work with the disability or not, whether it be a sliver of steel in his finger or a broken leg or whatever, when he comes down to an assessment, after the claim has been processed properly by the company, and there are no hang-ups there whatsoever, when it has been processed, because of that individual working through that period of disability, he has put his claim in jeopardy, because he would not get the full, total assessment, under a proper procedure, for the simple reason because he has worked with that disability and will be taken into account, because a moment ago, it was you were suggesting that because he may have worked through that period of disability,

he could have aggravated the situation to such a degree that he would not be assessed properly under compensation.

Mr. Chairman: I think it is a fairly common occurrence, in compensation injuries, where a person is seen, goes back to work, and then it does develop that the situation is either worse or it deteriorates and then they are put on compensation and they they are given full credit for that.

I think, in terms in particular, they have a torn meniscus in a knee, where they very often work well after the injury, that, with gradually increasing disability, they are forced off work for a couple of months.

Those claims are handled without prejudice, in my experience.

Mr. Booth: This is correct, Mr. Chairman.

Mr. Chairman: Mrs. Whyard?

Hon. Mrs. Whyard: Mr. Chairman, I have listened with great interest, because I take these matters very seriously, and I need further clarification from the Honourable Member from Pelly as to how the employer would benefit in dollars and cents from carrying through in the manner which he alleges they may be doing.

I would think they would have to do this kind of manipulating many, many times in order to make any particular difference in the assessment rate that you imply is so important to them. I really cannot understand how any responsible employer would take such a risk of flaunting a law and breaking all the requirements, or not meeting all the requirements of this Ordinance, for the safety and care of their employees, for what I must assume is not going to be that large an amount of dollars. I cannot understand the financial basis of your argument, Mr. Chairman, that is what I am asking.

Mr. Chairman: Mr. McCall?

Mr. McCall: Perhaps it leads me to the next bone of contention, Mr. Chairman. Setting aside a moment the accident, we go to the principle dealing with diseases. We have reached a stage in time where individuals will have to be given the full opportunity to apply under Workmen's Compensation for diseases are being terminated without a proper and full investigation under Workmen's Compensation. This is the other area of concern I have.

We have some very recent cases where this has taken a twist around, which is like I say, I am setting the accidents to one side for a moment. We are dealing with industrial diseases or diseases related to the industry we are talking about. I have on my desk right now three cases, very serious cases, where they have been actually denied the opportunity to go through this process, whether they be valid or not, and one of them is a recent termination. We don't know. This is the other area of concern I have, that's why I was seeking clarification on the merit system, as to how alternatives can always be considered without actually breaking the law to produce a clean record.

Mr. Chairman: Mr. Booth?

Mr. Booth: This particular case that the Honourable Member is referring to, who is the person that has said they have the industrial disease, Workmen's Compensation or the Department of Mines' medicals. Is this derived from the Department of Mines' medicals?

Mr. McCall: Mr. Chairman, they are going through the Chief Inspector of Mines office, which would come under that jurisdiction.

Mr. Chairman: Mrs. Whyard.

Hon. Mrs. Whyard: Mr. Chairman, I think we need some assistance here in how these two things inter-relate. If you have an inspector of mines and he is in charge of the medical

records of mining employees, because of the x-rays, and so on, which they must have for a valid miner's ticket for employment, what is, to use a popular government word, what is the interface between them and Workmen's Compensation. Is there any communication, unless there is a report of disability or claim?

Mr. Booth: No, there isn't any. This is why I was trying to find who has said that these people are unfit to work in the mines, and then, therefore, he must have an industrial disease, so should report this to the Workmen's Compensation Board for adjudication.

Then, the Workmen's Compensation can look into the case.

Mr. Chairman: How could they report to the Workmen's Compensation Board, if it is the mining inspector that has decreed that they cannot work?

Mr. Laing: Well, ipso facto, somebody has said that he is no longer able to work in the mines because of a disabling disease, therefore there is a disability and therefore there is a liability on the worker and the employer to report it to the Compensation Board.

Mr. Chairman: Saving that the disease might have been incurred before he took employment in that mine. I expect that would be the usual case, what we are talking about, and therefore doesn't come under the jurisdiction of the Compensation.

Yet, he has been denied employment on the basis of an occupational disease.

Mr. Laing: You are postulating the case of somebody who has been working in a mine somewhere else and has come into the Yukon and is prevented from working in a mine here, is that correct?

Mr. Chairman: That would be...

Mr. Laing: And then he has a claim against the Board in the last jurisdiction in which he worked.

Mr. Chairman: Mr. McCall.

Mr. McCall: There are some cases, Mr. Chairman, where this person could have come in contact, prior to his employment in the Yukon, but, two of the cases I am handling right now are not. This is the first mine they have ever worked in in their lives. They have come into contact, we assume, with problems dealing with a disease related to this type of industry, which has denied them any further employment.

One of them has already worked in a mine for two years, in the Yukon, which now has put him in a position of limbo. As the Chairman pointed out a moment ago, he is not in a position to claim Workmen's Compensation, because he is coming under the *Mining Safety Ordinance*, which, if he is denied the right of employment, he cannot justifiably claim compensation for the simple reason, the argument would be that he could have come into contact with that disease prior to him working in the Yukon. So, his case would be dismissed.

This is the problem.

In another case where an individual has never worked in a mine before, has been denied employment for a single reason, He cannot, from what we understand at this point in time, claim Workmen's Compensation, but this is under investigation right now. But the tragedy that we have in the mining industry is we have two pieces of legislation governing the number one industry in the Yukon.

One has jurisdiction over the other. If you don't make it through that first bill, you will never make it through the second one.

This is the difficulty we had, and it is a very hard pill to swallow, when we do have accidents where shall I say alternatives are considered to prohibit, not necessarily prohibit, but

perhaps prevent justification with a claim through Workmen's Compensation simply because the *Mine Safety Ordinance* has jurisdiction. There are no ifs and buts about it, let's not kid ourselves. We are in essence, asking the employer to contribute a substantial amount of money for his employees when they will never be in a proper position to claim that proper compensation simply because there are various angles or stop-gap measures in the main Bill that governs the mining industry. This is a great, great tragedy, and why I am really concerned with this merit system.

Mr. Chairman: Mr. Booth?

Mr. Booth: I do sympathize with you on the jurisdiction there, but this is strictly on accident and occupational health safety. As far as Workmen's Compensation goes, there is no down-the-line division. We have cases all the time where we will get a claim in here from a worker that has moved up from the east, working in a mine down east, and we have gone through the process of adjudicating that claim, and certainly it has been discovered that he didn't contact that disease here within the Yukon. We have just simply sent the file on to the Workers' Compensation Board of Ontario or wherever, suggesting that maybe this should be their claim, and they have adjudicated it, on behalf of the worker, and the worker has ended up with a compensable disease.

I think that this, it seems to me unless I am misunderstanding the Honourable Member, but these industrial diseases should have been reported to the Workmen's Compensation Board, if they have, fine.

Mr. Chairman: Mr. McCall?

Mr. McCall: My greatest concern here, I don't want to go on much longer, my greatest concern here, Mr. Chairman, is this: in most cases, if not all, an individual working in the mining industry never reaches the point for Workmen's Compensation for the simple reason I have mentioned before a couple of times, there are alternatives that could be considered, and with the *Mining Safety Ordinance* being the chief Bill, there is also areas in there which creates an obstacle course.

Mr. Chairman: Mrs. Whyard?

Hon. Mrs. Whyard: Mr. Chairman, I was wanting to make a point that Mr. Booth has now explained, which is that there is no barrier to compensation to a worker in the Yukon, simply because the origin of his disease was elsewhere and at an earlier time. Compensation is still provided through the proper procedures here, and I would like to make that very clear.

The second thing, Mr. Chairman, I would like to ask the Honourable Member from Pelly, because he has considerably more expertise in this Bill than I will ever have and I must rely upon his judgment and advice because of his experience, I would like to ask him, in view of the recent change in the Northwest Territories where they are negotiating to have their own territorial mines safety inspector and have the enforcement of their *Mine Safety Ordinance* under their own supervision and authority, which I gather is imminent but not yet concluded, how would he see the working, the terms of reference perhaps between that mines safety inspector and a Territorial Workmen's Compensation authority? Would there be a closer relationship? Would there be more cooperation? Would there be better results for the employee?

Mr. Chairman: Mr. McCall.

Mr. McCall: Well, I will try and answer the first question from the Minister, Mr. Chairman.

To answer it very quickly, I believe in all provinces, they have their own mines inspection branch, dealing with their own legislation and this is what we should have in place in the

Yukon.

I am one of the first advocates to press that forward, that our own Inspections Branch, I mean, i.e. the Chief Mines Inspector and his department, should be under the Government of the Yukon, along with the *Mining Safety Ordinance*, which they are enforcing.

The greatest difficulty we have and it isn't when you have a federal civil servant, which we have presently, who has just replaced the past one, being paid by the Yukon Government to enforce Yukon legislation, it creates a substantial difficulty to try and seek, perhaps, proper communications, with a Workmen's Compensation department.

Secondly, I believe that the occupational and health procedures should be inter-related with both these pieces of legislation, in the Yukon, for the simple reason that mining is the number one industry.

While it is going to be maintained as number one industry, it has to be given priority consideration, because that is the larger work force dealing with a production type industry, other than government employees.

My greatest concern, there is a lot of discrepancies when you are trying to seek resolutions under the *Mining Safety Ordinance*, a federal civil servant can adopt his own policy, which has been displayed in recent times, which is creating great difficulties when you come down to argue with Workmen's Compensation as to what is a disease, can it be a claim under Workmen's Compensation. Mines Inspection Branch, perhaps, says no, because he caught that out of the province or out of the Territory, which puts a difficulty on Workmen's Compensation.

Hon. Mrs. Whyard: Mr. Chairman, we have already cleared that point.

Mr. McCall: Yes, but why? I am trying to answer you question. Do you want me to answer it or not?

Hon. Mrs. Whyard: Well, Mr. Chairman, with respect, they do get compensation, wherever they got the disease.

Mr. McCall: I am trying to display the inter-relation between two piece of legislation, this is what I am trying to do and the difficulty we have.

As far as I am concerned, and go back to the Mines Inspection Branch, I don't think they are really interested in Workmen's Compensation because it doesn't in their bailiwick. Their concern is the *Mines Safety Ordinance* and nothing else.

But you see, an employee working in the mining industry can only get that far. He can't go any further if the Chief Mines Inspector makes a decision, and I have evidence to display that. He can't go any further, he can't put in a claim, he is restricted, he's terminated, he's gone, finished, kaput. His rights are taken away. So, to get a better co-ordinated system: (1) the Chief Mines Inspection branch should come with the Ordinance, that would be one of the first major steps, which is being discussed right now. The next point would be to have the proper health and safety regulations perhaps interrelated to both those pieces of legislation so that we know where we stand, but that is going to be a difficult job to try and interrelate to major pieces of legislation like that.

But they should be brought closer so that you get better communication. I am hoping I have answered your question.

Mr. Chairman: Mrs. Whyard?

Hon. Mrs. Whyard: Mr. Chairman, the Honourable Member knows that we have been attempting to move in this direction and that a year ago, we added a man year to the Workmen's Compensation staff so that we would have an Inspector working under that Ordinance, who is not called an Inspector, but is rather called an Accident Prevention Officer.

But he is on the ground and is available, and is, I would think, a very valuable tool for what the Honourable Member has just been describing. I really, Mr. Chairman, cannot accept the statement that a Mining Inspector can stop any mine employee from ever obtaining compensation. Is that what the Honourable Member is saying? That a Mine Inspector can effectively end the career of a miner who will be barred from getting any compensation?

Mr. McCall: Yes, Mr. Chairman, exactly, that is what I am saying. He has that right. He can make that decision under the *Mining Safety Ordinance*. He can make that decision. He can end a person's career just like that. The person has no recourse.

But there is a third principle involved here, which we are overlooking, dealing with another major piece of legislation, which is also interrelated, which also has its own branch, is the Labour Standards. So now you have got three pieces of legislation dealing with the same, perhaps the same problem in an industry. You know, the cob web gets bigger, and it gets more horrendous. It grabs you in the face, and a lot of people have a lot of difficulty because they are not interrelated. Somebody will run behind one piece of legislation to avoid using another piece of legislation and this is very, very dangerous, and a lot of people are having a lot of concern.

Now you know why I am so frustrated with the Labour Standards.

Hon. Mrs. Whyard: Mr. Chairman, I would like to give the witness an opportunity to reply to that point about the mining inspector.

Mr. Laing: Well, I might have to get confirmation on this, but, to my knowledge of Workmen's Compensation throughout Canada, there is no way any mining inspector anywhere, even in the Yukon, can stop a claimant coming into the Compensation Board and saying, I am no longer able to work at my job, for whatever reason, and I want to claim Compensation.

The mining inspector has no jurisdiction whatsoever over the Worker's Compensation referee and if there is an impression abroad with workers that this is the case, then it is important that this should be clarified and it should be corrected, because it certainly is not true. The claimant who is out of work because of an industrial accident or disease has every right to come and see the Worker's Compensation Board and no mining inspector can stop him.

Mr. Chairman: What would happen, Mr. Laing, if there was, a workman was disabled, either through injury, disease, under the *Workmen's Compensation Ordinance*, and then was returned to work by medical permission, would it not be possible for the mines safety inspector to step in, at that time, and say that that employer is not eligible to work for medical reasons. Would that not be possible?

Mr. Laing: It would.

Mr. Chairman: I think this is one of the problems that Mr. McCall was alluding to.

Mr. Laing: Then he would have a new claim with the Compensation Board.

Mr. Chairman: The point is, under the *Workmen's Compensation Ordinance*, he has been granted permission to return to work and that has been done on the basis of medical examination, but he has refused to return to work because the mining inspector, as an individual in his office as mining inspector, has said that he cannot work.

Hon. Mrs. Whyard: As a mining inspector.

Mr. Chairman: That the medical opinion is such that he is able to work, under whatever the job might be, but does not the mining inspector have the authority to step in at that time and say that he is not fit for work?

Mr. Booth: Only on the basis of the medical opinion. He would have to—As the miners have an annual medical and the medical profession says that no, you cannot work in the mine, then, therefore, he cannot, the mining inspector cannot give him that certificate to work in the mine.

But then he is entitled to have a claim adjudicated and, if we feel, and if the compensation board finds that this is a disease or a disablement through his employment, and he cannot go back into the mines, then we have a contingency fund which is rehabilitation, and this is what this is used for, is to rehabilitate that man and retrain him into some other line of employment, that his medical condition allows him to go.

Mr. Chairman: That is all well and good, Mr. Booth, that is excellent, but the point remains that he has been refused permission to return to his old work and medical opinion is such, even by your own medical referee as the Compensation Board might use, he is fit to return to that work.

Whereas, the mining inspector, who can have recourse to an entirely different medical referee of his own, and it can be his own, it is not so tied down as it is in the *Compensation Ordinance*, can have a different opinion and there is no appeal from there.

There is an appeal from the Compensation point of view, but not from the mining inspector. His authority would overrule.

Mr. Booth: Yes, because the Mining Inspector comes under the Department of Mines, and yes, he says that he can't work in the mine. That is true. Yet if he has no industrial disability and we can't assist him then either.

Mr. Chairman: So I say that the Mining Inspector can interfere with the *Workmen's Compensation Ordinance*?

Mr. McCall:

Mr. McCall: Mr. Chairman, this is exactly what I am trying to say, Mr. Chairman. The poor employee is in limbo, and I have good examples to show that, where a person has no disability, he's not really in a position to claim compensation, but perhaps he went and had a medical, and the Mines Inspector turns around and says sorry, Joe, you ain't going to work, because I am not going to give you the authority to go to work. So, when you look at that simple example and then expand upon it perhaps, whether a man can physically or cannot physically work, he goes through the process of Workmen's Compensation. He can still be vetoed to work in his own career, doing the job he has been doing perhaps for twenty years, and this is the tragedy. The individual is in limbo, so Workmen's Compensation can't happen, because it only assists so much, and then they stop there. Then we have this larger force come along and says no dice, you can't, sorry.

Mr. Chairman: So you feel, Mr. McCall, that you are saying that the Compensation Board is living up to their obligation?

Mr. McCall: Partially.

Mr. Chairman: Committee will have a brief recess.

Recess

Mr. Chairman: I call Committee to order. We intend to continue with the consideration of the White Paper on Compensation Rates, and, in view of my increasing involvement in the debate, I have asked the Speaker to have someone else take the Chair.

In view of Mr. McCall's involvement, he obviously cannot take the Chair, either, so, the Speaker has named Mr. Lengerke to take the Chair for the moment.

Mr. Acting Chairman: Thank you very much. I must indicate that I was not involved in any way with this.

Did Committee wish to have the Legal Advisor here for the continuance?

Mr. Hibberd: Mr. Chairman, the Legal Advisor is standing by, if we need him at a moment's notice, he is just around the corner. It would appear, from the debate that has been going on this afternoon, that he really isn't required, at the moment.

Mr. Acting Chairman: Okay, we will just mention that somebody wanted him, so that is fine.

Okay, I think we are in the section of the Collective Liability System. We were somewhere in that Section when we recessed for a moment, so we can continue with that.

Any further comment?

Mr. Fleming.

Mr. Fleming: Yes, Mr. Chairman, one question in regards to the matter which we had been discussing at considerable length, on the other side of the coin, however, where this same principle comes up. The injured worker who is being hired back by his employer, rather than take compensation, because of the fact he is only, maybe, partially disabled and so forth, and, there is no compensation actually paid out right direct to him then, in this case.

Now, does that affect the rebate to the employer? Will that, in this case, reflect on his rebate?

Mr. Laing: Yes, it will. The costs paid to the employer, on behalf of his temporary partial compensation, will be charged against the employer's experience.

Mr. Fleming: Thank you, Mr. Chairman.

Mr. Acting Chairman: Further comment?

Mr. Hibberd.

Mr. Hibberd: Mr. Chairman, perhaps it is not appropriate at this time, but what I would like to ask the witnesses, what is to be done by the Compensation Board, or what recourses do they have to take action, in the case of an employee who is laid off because of a compensable injury and is either completely disabled or partially disabled for a fairly protracted time, so that the employer has had to hire someone else and, as a result of that, has terminated the injured employee?

Is that injured employee just out of his job? Does he have any recourse by the fact that he was fired because of his injury?

Mr. Acting Chairman: Mr. Booth?

Mr. Booth: Not under the *Workmen's Compensation Ordinance*, and very few employers will say that that is the reason of releasing them. The only thing we can do, and we do have a policy where we will pay re-employment allowance and attempt to find, through Manpower and our own rehabilitation consultant, to find him other work.

Mr. Acting Chairman: Mr. Hibberd?

Mr. Hibberd: Mr. Chairman, there is no action that can be taken against an employer who blatantly abuses this?

Mr. Booth: Not under the *Workmen's Compensation Ordinance*.

Mr. Acting Chairman: Mr. McCall?

Mr. McCall: So I take it then, Mr. Chairman, that there are respects to an individual who may have lost his employment, but perhaps the reasons like Mr. Hibberd has pointed out, we have no provisions whatsoever that takes that particular thing into account, the termination. There is no provisions in place where the *Workmen's Compensation* could perhaps advise the employer after a full investigation that that person should be reinstated in the course of his job.

Mr. Booth: No, there isn't. As I say, we do, through our rehabilitation officer attempt to have the employer rehire him back, and if we know if it's going to be of long duration, we will

contact the employer as soon as possible and advise him of this fact, that he will be disabled for a length of time, can you guarantee the job back? In most cases, I think we have had very, very few in the four years that I have been here where the employer hasn't taken the worker back.

Mr. Acting Chairman: Mr. McCall?

Mr. McCall: Yes, Mr. Chairman, taking that into account that it is not possible under the present language of the Ordinance, do you not think that that would create, you mentioned a moment ago, the rehabilitation process or retraining, okay, a re-job allocation. Doesn't that put a lot of pressure economically on the *Workmen's Compensation* when you are faced with cases where you have no provisions to have that individual reinstated in his original job. But we have to go through costs to rehabilitate this individual under this Ordinance. This puts a horrendous pressure, I am not saying greatly horrendous but puts pressure economically on the funds of the *Workmen's Compensation*, simply because we don't have that type of provision.

Mr. Acting Chairman: Mr. Booth?

Mr. Booth: Yes, I have to agree, it does. It usually involves approximately two or three month's compensation, but as I say, the instances are very few and far between. We have never felt a need to put it into the Ordinance. As I say, to prove something like that, the employer will not say that he is releasing that employee for that reason, it will be because he has no work, it's not just because he was on compensation. It is the case of a person with a disability. Some employers are a little leary to hire a person with a disability, because of the fact that they think that the disability could cause another accident and then he is going to get charged with the costs.

We have a provision for this, where, if this type of thing happens, where his disability does cause another accident with a new employer, we will again charge that to this other contingency reserve and relieve the employer of the costs, to encourage him to take these disabled people.

Mr. Acting Chairman: That is the only mechanism you have got to get back on the original employer?

Mr. Booth: Right.

Mr. Acting Chairman: Mrs. Watson.

Mrs. Watson: Mr. Chairman, my question was about the rehabilitation reserve. Is it not there for people who have a disability, to retrain them for other work or to, primarily retrain them for other work rather than retrain them to go back on to their old job. When do you use the rehabilitation fund, for the first or for the second?

Mr. Acting Chairman: Mr. Booth.

Mr. Booth: We, it is mainly for the first, or for the second, where the injured worker ends up with a permanent disability and cannot go back to his original employment at the time of the accident.

For example, a truck driver who injures his two legs, there is no way he can go back driving truck. He has to have an office job, something of this type, we will re-educate him, if he needs it, to upgrade him, and train him in some other line of work.

This is where it is mostly used for.

Then, as I say, we have this policy, rehabilitation policy, or re-employment policy, where it is limited to three months, providing the worker has attempted to register with Manpower and follow-up on jobs to enable him to find another job, if he has lost his original position.

Rehabilitation is basically for the injured worker who cannot go back to his original employment.

Mrs. Watson: Thank you.

Mr. Acting Chairman: Any further discussion on that

point?

If not, we will move to point three, Future Claims Provisions, and I think we have partly discussed that, but if there is anything else that comes out of that.

If not, we will move to page three, the point four, Pension Fund. Possibly, Mr. Booth, or Mr. Laing, if there are any comments you would like to make, with respect to that?

Mr. Laing : Well, I think I commented briefly on that this morning, about the Pension Fund. There didn't seem to be any great misunderstanding there. The capitalized amounts are transferred to the pension fund and charged to the classes in the year of accident and the pensions are thereafter paid out of the pension fund.

Mr. Acting Chairman: Thank you.

Mrs. Watson.

Mrs. Watson: Mr. Chairman, so, as a result of the legislation increasing the basic pension available, would then affect, and the Minister said that it means about \$12,000 more, as far as increasing. This \$12,000 would then be charged to specific classes, where the pension originated from, is that correct?

Mr. Laing : Well, that \$12,000 was increased pensions payable to widows as a result of the increase, so that will emerge as a further liability of the pension fund, when we do our evaluation of liabilities at the end of the year.

It will be a matter for recommendations to the Board and for the Board to decide how it is going to fund any deficit that may arise, because of that additional liability that is put on the fund.

It should be pointed out that the reserve that is set aside at the time of the accident has made some provision for future increases, because the Ordinance allows for future increases and therefore a provision has been made, albeit, we haven't got a crystal ball to provide exactly for all future increases, so it will all come out in the swings and roundabouts at the end of the year how much extra liability has been created by the changes in the Ordinance, and then it will be a matter for recommendation how that is to be funded and whether it should be charged back to the classes that year, or whether it should be funded over a period of years, and so on.

Mr. Acting Chairman: Mrs. Watson?

Mrs. Watson: Mr. Chairman, this morning it was my understanding, and I could be wrong in the explanation that when there is a pension of, for example, again to the widows, that you capitalize that pension and charge it to the class that a claim arises from. Now, when you increase the pension, as we are, significantly, are you changing the capitalization to charge back to specific classes or are you going to charge it to the pension fund now, and then determine how you are going to charge it back to the classes?

Mr. Booth: In most instances it will be as you see in 1976 annual report, that there was \$86,000 deficit, or insufficient into that fund. What we did was charge it to the classes that gave rise to the capitalized awards. So then class 1.1 had three pensions in there, the increase would be charged to class 1.1.

Mrs. Watson: Mr. Chairman, you would be doing the same thing then with this extra funding required for the—I see. So, Mr. Chairman, some classes could find their assessment rising quite a great deal because of this new policy that we are adopting?

Mr. Acting Chairman: Mr. Booth?

Mr. Booth: Not too much, when we are only looking at \$12,000 a year increase and spreading that over the life tabled. It doesn't amount to too much.

Mr. Acting Chairman: Mrs. Whyard?

Hon. Mrs. Whyard: Mr. Chairman, it isn't that particular point that gives me pause, it is the fact that we have tied our

benefits into an escalation attached to the consumer price index, which leads us no one knows where in future years, and I would be interested in hearing the witness expand a little on that one, because I understand there is a growing body of opinion elsewhere in Canada, supported by at least one legal decision that feels that for such purposes it shouldn't always be just the assessments that provide us money.

Mr. Acting Chairman: Mr. Laing?

Mr. Laing: Yes, this is a very generous provision of your Ordinance. It's only duplicated in BC, where there is an automatic escalation of benefits with the cost of living. It is expensive, and it is one of the problems that has given rise to the deficits that have appeared in the BC fund. In Alberta, there is a review of pensions from time to time in the light of cost of living changes, on what you might call an ad hoc approach to the situation, and if the review committee, there is a special committee that reviews these things for the government, if they make recommendations for increases, then the general revenue of Alberta picks up the tab for the increases.

Not so in B.C., and not so here. This matter is still under review in Ontario, but it is quite a big tab, and it is an open-ended tab, as the Honourable Minister has said, and it can be quite onerous on the employers in the Territory.

Mr. Acting Chairman: I wonder if the Minister could answer this. What other considerations did you give to that? How did you arrive at using the B.C. system on that, or, it is not identified as the B.C. system, but tying it to the Consumer Index, how did that occur?

Mr. Laing : That is before the Minister's time, I think.

Mr. Acting Chairman: No, but in our proposed legislation.

Mr. Booth: It was given my understanding that the Commissioner didn't want the responsibility of the Commissioner setting, each year, the amounts of increases. If they tied it into Statistics Canada, then it was up to whatever the cost of living increase was. That is the decision here.

Mr. Acting Chairman: Mr. Hibberd.

Mr. Hibberd: In view of what the witnesses have said, Mr. Chairman, has it been considered that the funds that will be necessary for these escalating costs, has the suggestion been made that we might have to resort to general revenue funds to supplement the Compensation funds?

Mr. Acting Chairman: Mr. Laing.

Mr. Laing : No, that wasn't my suggestion, but, I am saying that, in other jurisdictions, there has been recourse to the general revenue funds, and it is something that was raised by the Minister's question.

Mr. Acting Chairman: Mr. Hibberd.

Mr. Hibberd: Mr. Chairman, what was said was, there was only one other jurisdiction that uses this escalating clause as an automatic thing. That only one other jurisdiction is supplementing it from general revenue fund.

Mr. Laing : No, that is not what I said. B.C. has the automatic escalation and the cost there is paid for by the employers entirely, without any help from the general revenue.

Alberta does not have automatic escalation, it has ad hoc escalation, and the cost is met from general revenue.

Mr. Acting Chairman: Mr. Hibberd.

Mr. Hibberd: Well, then perhaps you could tell me how the deficit in the B.C. funds was met?

Mr. Acting Chairman: Mr. Laing.

Mr. Laing : I wish you could tell me how it was met. I have made recommendations for it to be met by a funding over ten years but, as yet, the Board has not implemented that recommendation.

Mr. Acting Chairman: Mrs. Watson.

Mrs. Watson: Mr. Chairman, but unless there was some indication from the Government, the funding will have to be from the people who use the plan, won't it?

Mr. Laing: Correct.

Mrs. Watson: Yes, and this is the same situation we are in. If you remember three years ago, or, in 1973, when the Bill was brought in, and I was part of the Government at that time, and we were being criticized very much, the Government, because the compensation, the maximum had been left static for quite a number of years, within our legislation, and rather than open the Bill every year, to try to bring that maximum up, it was decided to go for a cost of living clause, which would automatically make it roll.

But, this was the thing that was being done quite liberally across the country at the time, it was being done with salary negotiations and this type of thing. Remember, we hadn't had any experience at all in Workmen's Compensation.

I think, right now, aren't we, in 1978 going to have the highest maximum of any province in Canada as a result of this clause?

Mr. Acting Chairman: Mr. Booth?

Mr. Booth: No, in August, when I was at the Association Conference, this matter was brought up and they were all forecasting that the maximum wage rate would be in the range of seventeen to eighteen thousand. We are recommending seventeen if the amendment to Section 80 goes through. If it doesn't, then you are looking at 15,000 and you are still going to be 3,000 below the other jurisdictions.

Mr. Acting Chairman: Mrs. Watson?

Mrs. Watson: We are recommending, may I have that repeated again?

Mr. Acting Chairman: Mr. Booth, if you would?

Mr. Booth: One of the recommendations to the Ordinance is that Section 80 be amended to make the maximum wage rate 100 per cent of the average industrial composite of average weekly wages in the Yukon, instead of 90 per cent. This way, it will bring it up to 17,000 as a maximum wage rate, which is what I am saying the other boards across Canada are forecasting will be for 1978, 17 to 18,000.

Mr. Acting Chairman: Mrs. Watson?

Mrs. Watson: Mr. Chairman, the other boards across Canada, they can do it by Regulation can they, or do they have to change their legislation? Apparently only BC has an automatic increase built into their legislation.

Mr. Booth: The other boards just do it by board direct.

Mrs. Watson: By board direct.

Mr. Acting Chairman: The board has that power, yes.

Mr. Hibberd?

Mr. Hibberd: Concerning this questioning, Mr. Chairman, if we are going to be facing this increased cost that we are all talking about, which are going to quite possibly escalate out of our control, I am asking where these funds are going to be coming from to meet that deficit. Is this Assembly going to be faced with a big bill at some time to bail them out.

Mr. Acting Chairman: Good question, Mr. Hibberd, Mr. Booth?

Mr. Laing?

Mr. Laing: Well, that's the job of the actuary, is to home in on a moving target, and that is why it is necessary to keep a very close check on these rates and provided the rates can be kept in line with the experience, we don't fall behind the level of assessments that we should have, then we can keep on track, but if there is a political pressure to keep back the rates and be kind to the employers, because it is too big an increase for them to suffer at any one time, then of course, we are going

to get into a political situation that there is a big bill to be met, as has happened in other provinces, but the thing to do, and why I emphasized in my paper that it's an annual calculation of pooling of risks is that if you start to say, well okay, over the last three years or last nine years or something like that it has been going up, so let's not go all the way to the top right now, let's just go do it gradually, then you are going to get into the situation of falling behind.

It's a matter for consideration by the advisory board as to how they adjust the rates in the light of the conflicting elements of the employer's desire not to have too large an increase at any one time, and that could be damaging to the right to raise assessment rates, because it could reflect adversely on the whole operation of compensation. On the other hand, they have to keep abreast of the changing costs that are arising from year to year in the experience.

It is a very difficult thing to balance these, and that is one of the reasons the Compensation Advisory Board has to have the authority to get on and do this very difficult financial balancing act.

Mr. Acting Chairman: Thank you, Mr. Laing, I wonder if we can move on, then, if there is no further comment there to the Classification Section, six, which, I am sure is going to bring further comment.

Hon. Mrs. Whyard: Wait a minute, Mr. Chairman, were we not on Contingency?

Mr. Acting Chairman: Oh, okay, if you want to carry on with the Contingency Funds. I thought we were fairly close to...

Further comment there, Mr. Laing?

Mr. Laing: Yes, there was a question this morning, I think, from Mrs. Watson, about that. Perhaps I should try to explain the different contingency funds again, or have we covered them in other questions?

Mrs. Watson: Mr. Chairman, I think they have been fairly well covered and the one that I had some concern about was number four, the Enhancement Fund, but after the discussions that have been going on, I realize now what you are referring to.

Have you established a percentage that has to be taken out of the contribution of each member of each class, or the percentage that has to be taken from the contribution of each class that goes to each of these various funds, and what percentage goes to administration?

Mr. Laing: Yes, we have. There are percentages...

Mr. Booth: We have five per cent to rehabilitation and silicosis and, of course, only Class 1.1 contributes silicosis, which is mining.

Three per cent to rehabilitation and 20 per cent to disasters. That was the figure for the 1976.

The year, for this year, again, will depend upon the revenue. We have to look at the revenue and the classes.

Mrs. Watson: Is that 20 per cent for disaster?

Mr. Booth: Yes. On the point about administration costs, we looked at that on two different bases. One was that it was 15 per cent of assessment income, or it was point three per cent of assessable payrolls.

Apportionment of expenses that we use to set the rates, was that half of the expenses came from claims administration and, therefore, it was allocated in proportion to claims expenses and the other half was allocated in relation to collection expenses, and, therefore, to assessable payroll.

That is in the June 2nd report, if you would like to go into that one in detail.

Mr. Acting Chairman: Mr. Berger.

Mr. Berger: Yes, Mr. Chairman, I certainly like what Mr. Laing was telling us about increased cost insurance. I was wondering is there any thought given in Canada, in provincial jurisdictions, of doing away with Workmen's Compensation altogether, and have the coverage on the general insurance scheme, like Medicare.

At the present time, we are actually having an overlapping jurisdiction in illnesses and sicknesses, and I think it is an increased cost, actually, to everybody.

Mr. Laing : The trend is away from private insurance, into Worker's Compensation plans. The Northwest Territories was the last jurisdiction to use the private insurance system and, it has now got its own accident fund.

So far as I know, there has been no direct move in Canada to go a further step towards taking over responsibility for all kinds of sickness, whether industrial, job-related or not.

Of course there have been studies in Saskatchewan and Manitoba on that approach following on the practice in New Zealand where New Zealand already has a comprehensive accident compensation commission which has three different types of benefits. One is the earner's scheme, which is very parallel to the worker's compensation system in Canada, the other is the motor vehicles scheme, which has its parallel too, and the third is a general scheme for everybody, even if they are not earners. So the first thing you get when you fly into New Zealand is a little notice to say that the moment you land you will be covered in the event of an accident that happens to you while you are in New Zealand territory, even though you haven't paid a penny in premiums.

Mr. Acting Chairman: Yes, Mr. Berger?

Mr. Berger: Mr. Chairman, I am not from New Zealand, but it has been in operation in Austria for many, many years, and the thing is that I think all that parley we had about the mine safety rules, inspection service and so on, we could do away with this kind of mess we are finding ourselves in right now, because everybody would be covered if he falls off the chair here in the Assembly, or if he falls of the chair at work, or if he falls off a chair in the mine. This is, I think what I am really getting at. I think it is time for us to look at something like this.

Mr. Acting Chairman: Mrs. Whyard, did you have a comment?

Hon. Mrs. Whyard: Yes, if Mr. Berger is through with that point. We are on contingency and there is a provision here for disaster, and I was going to ask the advice of the witnesses. I understand that our neighbour constituency, the NWT is pretty concerned about the possibilities of the penalty of a very large disaster on their fund and are approaching the Federal Government regarding some kind of guarantee in such an event. I wonder if he would like to explain to us how this would work?

Mr. Acting Chairman: Mr. Laing?

Mr. Laing: I will explain it as far as I can. It's not a current thing, it happened last year, when they were putting in the new Ordinance to take over the risks and one of the recommendations that I made in my feasibility study was that in order to protect the fund from a disaster, they should seek re-insurance. The reason they hadn't gone that route previously was because it had been suggested they weren't big enough to do it on their own, but really all that was missing was the thought that they could re-insure the larger disasters.

When I investigated it, I discovered that Nova Scotia had two mining disasters, two Springhill disasters which were twelve years apart, and I was told that they are, although they were quite alarmed to begin with, they discovered that the cash flow was such that they could cope with both disasters without recourse to any other outside financing.

The Saskatchewan Government had a re-insurance policy for aircraft disasters, which they subsequently discontinued, because they found they didn't need it. However, while we were investigating the market for this, we had a meeting with representatives from Ottawa who said, no need for you to go out and get re-insurance in the private insurance market for this kind of thing, we will arrange a facility from the Treasury Board, through the Minister of Northern Affairs, so that if there is any funding needed, this will be provided from Ottawa and we did have that assurance before we went ahead with setting up the accident fund for the Northwest Territories. Does that answer your question?

Mr. Acting Chairman: Thank you, Mr. Laing.

Mr. Berger, you had a follow-up?

Mr. Berger: Mr. Chairman, just one more question on the question I raised before, like, I was wondering, like Mr. Booth mentioned meetings of all provincial jurisdictions in Workmen's Compensation. I wonder what the feeling would be to raise a question like this in a meeting like this and what the feeling would be from the Federal Government side of it.

I realize there is a jurisdictional dispute would be coming up right now that if we come up with something like this in the Yukon, because of the funding sharing between the Federal Government and provincial jurisdictions.

Mr. Acting Chairman: Mr. Laing.

Mr. Laing : I think, so far as the provinces are concerned, there would be no way in which it would be conceived as a federal responsibility to set up an overall sickness, compensation fund of this sort.

So, it is a matter for political determination in each province, whether any move is made towards the New Zealand or the Austrian model.

Mr. Acting Chairman: Mrs. Watson.

Mrs. Watson: Mr. Chairman, I think I can feel quite free, after how many years, to state that the Territorial Government sought for two years to get that specific reassurance from the Federal Government, that, in case we did have a disaster, that they would be prepared to back our disaster fund and we waited for more than two years before we proceeded without that reassurance from the Federal Government. It is most interesting to see that they would be prepared to come forward and provide this assurance for the Northwest Territories and completely turn their back on us for two years.

I don't know whether anyone has pursued it at this time.

Mr. Acting Chairman: Mrs. Whyard.

Hon. Mrs. Whyard: Mr. Chairman, that is one reason I raised the point, because we have gone through three Ministers, since then, I believe. There may be a change of attitude or something.

In reply to Mr. Berger, though, I would like to say that we may not be near the millennium that he is proposing, but I think there has been enough debate here today to indicate that there is a pretty general wish on the part of most Members to do a little consolidating and I am sure we will get to that in later discussions of this Ordinance.

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

Mr. Booth, do you have a comment?

Mr. Booth: Yes, in answer to Mrs. Watson, we have pursued this again. Two weeks ago, the Deputy Commissioner wrote a letter pursuing this catastrophe.

Mrs. Watson: Then I hope we get an affirmative reply.

Mr. Acting Chairman: Yes.

Mr. Booth: So do I.

Mr. Acting Chairman: Okay, I wonder if we can move or

then to Item 6, Classification of Industries? If you want to take a look at that for a minute, then we will entertain some questions.

Mr. Fleming.

Mr. Fleming: Yes, Mr. Chairman, in the Classifications, I am quite concerned as to how they came about, actually, in some ways, because I am looking at the Canadian National Telecommunications at a \$1.50, and I am looking at a union office as a dollar, and you know, maintenance and repair costs five dollars.

I am just wondering, the Canadian National Communications and the Government of the Yukon Territory, when they come to those classifications, are these the classifications for the total payroll of the Yukon Territorial Government and the Canadian National Telecommunications, separately, of course, or is there somewhere else in the compartments, that they are classified higher such as wherever there is vehicles being driven and this type of thing. How do they come up with the \$1.50?

Mr. Acting Chairman: Mr. Laing?

Mr. Laing: Well, in the first place there is no rate for the Government of the Yukon Territory. It is on a deposit basis, so it pays its own claims. It is just a trading of dollars. There is no assessment rate for the government. That's what the word deposit means in that rate schedule.

Mr. Acting Chairman: Mr. Fleming?

Mr. Fleming: Yes, Mr. Chairman, that's what I am very interested in. The Yukon Government, also Canadian National Telecommunications under the same scheme? Is there other large companies that are under this same thing, under the depository system, or is it just the Yukon Territorial Government.

Mr. Acting Chairman: Mr. Laing, Mr. Fleming, is referring to the rate schedule that was appended to your report.

Mr. Laing: Oh, I see.

Mr. Acting Chairman: It's the last page of that rate schedule, under Public Administration. Is that right, Mr. Fleming?

Mr. Laing: That was my recommendation that it should be \$1.50 for both, but as a result of public discussions, the Government of the Yukon Territory is on a deposit basis still, which means that it pays the claims as they arise, rather than paying an assessment, but Canadian National Telecommunications is recommended to be on a \$1.50 basis, and that covers all the types of occupations within CNT in the Territory.

Mr. Acting Chairman: Yes, Mr. Fleming?

Mr. Fleming: Yes, I will repeat my other question again. The other one was, is the Government the only one that is on the depository system, or is there other large companies in the Yukon that are able to support themselves on this system too?

Mr. Laing: No, the Government is the only one that is on the deposit basis.

Mr. Acting Chairman: Mrs. Watson?

Mrs. Watson: Mr. Chairman, then because the Government is only on a deposit basis, and pays their own claims for their own employees, then the Government is not contributing to their pension fund, to the rehabilitation fund, to the silicosis fund, or the rate stabilization reserves?

Mr. Acting Chairman: Mr. Booth?

Mr. Booth: They do contribute to the pension fund. What we do, we do capitalize the pension award and bill the Territorial Government for that, and it is put aside and we pay the pension payments out monthly. But they do not contribute to the other reserves, no.

Mr. Acting Chairman: Any further discussion?

Mrs. Whyard?

Hon. Mrs. Whyard: Mr. Chairman, I don't know if all members are aware that there are no other governments in Canada who do pay premiums to compensation funds. They are on the same system as we are, which is a deposit system. The NWT now does, yes, that is the only jurisdiction. During the most recent discussions of whether we should or should not be assessable participants, it was drawn to our attention that the additional cost of premiums would be in the area of \$125,000 or more annually, and it was the opinion that YTG should continue to self insure, except for major liabilities.

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

Mr. Fleming.

Mr. Fleming: Yes, Mr. Chairman, to carry on with that same section, on the last paragraph where you cannot transfer to another industry class with a lower rate system. A rate, so the system of merit rebates is being developed.

I am some concerned. I would like to have more clarification before actually voting that a merit system might come into effect at all. One of my concerns is the classifications, whereas an industry, such as, as I said before, motel, hotel, or something that is not dangerous, is classed at a \$1.50 and something such as guiding, possibly, is classed at \$8.00, and trucking is classed at \$7.50, this is a fair assessment, according to the type of work they do.

Now, we come up with a merit system which gives people back some money if they are good boys and I can see a situation could arise that, for instance, if we, as a group here, at this job that we are doing, probably under the Territorial Government, but say we were a concern of our own, doing something like this and we had gotten compensation and, of course, we were interested in the rebate system because we would get a bunch of our money back at the end of the year, three years, if we were good fellows and didn't have accidents and also filed our reports and everything. Very fine, our possibility of getting that money is absolutely the best in the world, because as the Member said before, we would have to fall asleep and fall off our chair to get hurt, so we have the system beat.

Whereas, the people, that are in, the people, though, that are, Mr. Chairman, in dangerous occupations, you know, the employers that are employing people in dangerous positions, do not have that same hope, whether they are good or bad, the accident, they are accident prone, you might say, it is going to be there.

It is pretty hard to have a big corporation or anything and not have an accident or the cause of this problem. So, I am wondering if the system is as fair as it sounds, you know, when you look it all over.

Mr. Laing: I think so, because in the sedentary occupation that you describe, where you have got to fall asleep to come to any grief, obviously that fact would have been taken into account into assessing the rate, so the rate for that class would be very small indeed, possibly 50 cents, or something like, not to be compared to the \$8.00 for the hazardous occupation.

So, to get 25 per cent rebate back on your small assessment would not amount to very much money, whereas, to get back 25 per cent for a hazardous occupation is quite a lot of money. I agree that it is more difficult for an employer in a hazardous industry to stop having accidents, but the reward for not having them is greater and I think this incentive is a very important thing to build in, in order to encourage them to stop the accidents, which are a very traumatic thing for the worker and his dependents.

Mr. Acting Chairman: Thank you, Mr. Laing. Mrs. Watson?

Mrs. Watson: Mr. Chairman, with the merit rebate system, it almost assumes that the employer is in a position, because

of safety in the working conditions, it also is in the control of the employee, but the merit rebate system puts it at the employer. Are there any statistics to say where negligence of employees can cause accidents and can cause them to be hurt on the job?

Mr. Acting Chairman: Any comment there? Mr. Booth?

Mr. Booth: The Accident Prevention Regulations put the onus, not just on the employer, but the employer, the supervisor, and the worker. Each one is responsible for safety. Under the proposed safety regulations, the penalties can be levied against either three. It is not always the onus on the employer.

Mr. Acting Chairman: Mrs. Whyard?

Hon. Mrs. Whyard: Mr. Chairman in that regard, how much assistance is the Compensation Board's Accident Prevention Officer to employers? Is he available to them, or does he just do things on his own schedule? Can an employer, clerk, for example ask for his assistance in a training program for his employees, or if he knows there are particular hazards that the men aren't really giving much concern to, can you get some help from that man, or how does that work?

Mr. Acting Chairman: Mr. Booth?

Mr. Booth: Yes, the Accident Prevention Officer is trained to go in and work with that employer in setting up safety committees, accident prevention programs, education, whatever, and that is all it takes, is a telephone call to the Inspection Services branch, and he will go out and assist them in any way they wish.

Hon. Mrs. Whyard: This is at no cost, Mr. Chairman?

Mr. Booth: No cost, this is paid out of the Compensation Fund.

Mr. Acting Chairman: Good, I wonder then if we could move on. Mr. Fleming, I'm sorry?

Mr. Fleming: One more, go back to Canadian National Telecommunications again, for a moment. Whoever did bring up this classification to decide on the \$1.50? And, I would just question that \$1.50. I could be wrong, but I think myself in this one instance maybe there are others, but in this one instance, but I do believe that they are doing some work that is quite dangerous in many ways, and I am sure they haven't been accident free for hundreds of years or anything. I am wondering just how you could balance them off and bring them down to just about the lowest rate, not quite, in the classifications? Just how you could get the figure that low when they do have quite a bit of work outside, and so forth?

Mr. Acting Chairman: Are you saying that there could be some higher risks in there that is not reflected in the \$1.50?

Mr. Fleming: It is not reflected here.

Mr. Acting Chairman: Mr. Laing?

Mr. Laing: Yes, but it is an averaging of risks in the industry and there are people in clerical and operators' jobs who are not exposed to these high risks.

However, there is a problem in raising CNT because over the years, there has been the practice in other jurisdictions of allowing them to be on a deposit basis and to be self-insurers so that we have not got as much statistical evidence as to the proper rate for them that we would like so we have just got to try it out and see how it goes for a year or two.

Mr. Fleming: Mr. Chairman, I would hope that we don't let them get away with anything.

Mr. Laing: No, we want to get their contribution to the contingency funds first.

Mr. Chairman: Seven, Basis of 1978 Rates.

Any comments, Mr. Laing?

Mr. Laing: I don't think any comment is needed there. It seems to be pretty straight forward unless there are any questions.

Mr. Chairman: Mr. McCall?

Mr. McCall: Mr. Chairman, I was wondering if perhaps Mr. Booth or Mr. Laing could give me a clarification to the following question. In considering the basis of 1978 rates, have you taken into account any over-run that perhaps may take place at the period at the end of 1978 and into the period of 1979, how the oncoming project that we all so aptly know now.

Mr. Laing: Well, we can't foresee the future there in regard to accident costs but we have tried to get all of the rates onto a basis that is accurate in relation to the past experience and that is one of the reasons for the change in rates is to bring them up to a suitable level so that if there is an expansion of the economic activity within the territory, then those employers will be paying the proper rate to cover the accidents that they are going to have and that the fund will not be depleted further, because of the accidents happening and there being inadequate rates to cover them.

Whether there will be different incidents of accidents in the different types of occupations is a point that we will have to be very careful about in classifying these new employers as they come into the Territory.

We will be looking at the experience elsewhere, including Alaska, to try and gauge the expected experience in order to get appropriate rates.

Mr. Chairman: Mr. McCall?

Mr. McCall: My concern here, Mr. Chairman, the way it expresses itself in the explanation here, the Board has recommended that where possible these deficits should be recovered over the next three years. My concern, Mr. Chairman, is that if we, hopefully we don't, hypothetically speaking, with this factor that is going to come on stream, I say a factor when you work out your bases, do you not find it would be difficult to pick up those losses if there is an over abundance of accidents over the short span of time? Is it taking into account as a factor, like to trigger this mechanism to offset that problem that may arise?

Mr. Laing: Yes, well of course the increased payrolls will be a help in meeting the deficit payments, and that's one of the reasons that we kept the period for recovering the deficits as short as possible, so as to be able to collect it back by a few cents on the large payrolls, while they are here, rather than a lot of cents on the smaller payrolls after all the activity is over and done with.

Mr. Chairman: Mr. Berger?

Mr. Berger: Yes, Mr. Chairman, I would like to refer the Committee to Mr. Laing's report, on the past page, page 42, and he states that if there is an influx of new industry, industrial activity to the Yukon, as the result of any pipeline decision handed down and the rates for the such industries must be increased immediately, for new employers at least.

I was wondering, how you could explain this. To me this sounds like discrimination, that because I am starting a new business here, I am going to be charged higher rates.

Mr. Laing: I think that has been met by the merit rebate system. If an employer has been in the Territory for three years and has had good experience, then he will get the benefit of the merit rebate system, and could get as much as 25 per cent back, whereas a new employer coming in without any experience in the Territory would be charged a full rate right at the beginning.

My concern when I was writing this in June was that if the rates were left at an inadequate level, it was one thing to say, well, we musn't increase them for existing Yukon employers, it was another thing entirely to say that we should allow these

inadequate rates to be applied to new employers who were coming in, who have no experience to go on within the Territory.

Mr. Chairman: Mr. Berger?

Mr. Berger: Mr. Chairman, I could see a great big argument and hassle starting up with the companies coming up from the outside, and referring to the Workmen's Compensation Board that they had a good record in Alberta, or BC, or in Louisiana, or wherever they came from, and all of a sudden here we get penalized for being an outside company. Wouldn't that be the result of this?

Mr. Booth: We have had this argument for three years, or from the start, because we have not had this merit rebate.

People coming in from B.C. have said, well, why can't we have a rebate, because this is what we are paying in B.C., and they are quoting a rate which is the \$3.00 less their 25 per cent rebate and they are saying, well, our rate is lower, whereas, in fact, it really isn't, it was on par with ours, but we didn't have the merit rebate.

You will always get this from any new employer coming in, even a Yukon employer, who has just started up in the last year or two years, won't qualify for a rebate because we are saying that they should have three years experience.

We've been able to convince them of this when we said, well, there is provisions to bring in the merit rebate system, so it seems to have satisfied them when they have said, well, we will work on a good experience then, until our three years is up.

Mr. Chairman: Mr. Lengerke.

Mr. Lengerke: Mr. Chairman, I have an actual case here before me. Representation has been made, and it does deal with assessments, and I would just like to get the comments of the witnesses on it, because it does refer to 1978 rates.

It is with regard to the Commercial Travellers Industry and they are suggesting, of course, that they are classed in the wrong category and, to the best of their knowledge, there has been very little claim for compensation for Commercial Travellers resident in Yukon, and, by being placed in the present category, they feel they are being penalized by others who are of high risk.

Also, because their business requires travelling in British Columbia, they are also covered by the B.C. Compensation, on a pro rated basis with Yukon, and it is very interesting to see the assessment rate for B.C. is 70 cents per hundred and our rate is considerably, or, the proposed rate, is considerably higher than that.

So, my questions to the witnesses would be, how do you arrive at putting, in checking the classifications, I see, commercial salesmen lumped in with manufacturers of clothing, operation of wholesale and retail lumber yards, auctioneers, manufacturing of explosives, and I was just wondering what the rationale was in classifying those people there.

Mr. Booth: Again, initially, they were based on classifications in Alberta, because this is the grouping that they had. We have taken the accident experience of these different types of industries and fitted them in. I have had representations from these commercial salesmen, and the matter is to go before the Board at the next meeting, and we have done an actual study of their experience.

Mr. Lengerke: Yes, I don't want you to comment on what the Board may advise.

Mr. Booth: Yes, I cannot comment on the individual employer's experience. That's confidential between the employer and the Workmen's Compensation records, but the industry as a whole has been looked at, and it is being put back to the Board. The same with Game Guides, as well.

Mr. Chairman: Mrs. Watson.

Mrs. Watson: Mr. Chairman, because we have such a small base, our assessment revenue for 1976 was only \$1,979,000.00. Are our administrative costs higher than another jurisdiction?

For example, we are over a quarter of a million dollars, 274, for the administrative expenses, on an assessment revenue of only \$1,939,000. Now that works out to over 14 per cent. How do other provinces with administrative expenses compare in percentage-wise, if you have those figures, to the assessment revenue of their fund?

Mr. Laing: Mr. Chairman, I can't give exact figures for all the provinces but my recollection from the studies that I have done is that it is very much in line with the level of costs in other provinces and other territories. I could do a calculation quickly on BC, but I think BC is very much higher.

Mrs. Watson: No, Mr. Chairman, I just thought because of the small base, you have to have a structure whether you serve 200 or 2,000, but I guess your administration is also tied in with your number of claims. So if it isn't out of line at all then that is fine.

Mr. Laing: No, it is very much in line and of course there is an advantage in efficiency in a smaller organization that can get out of hand with much bigger organizations in the bigger provinces.

To follow up on that point, you did ask a question yesterday about the number, or somebody asked a question about the number of claims in BC. I could answer that one now.

In 1976 there were a total of 119,000 claims in BC of which 63,644 were medical aid only, leaving a total of 56,000 for a temporary total of permanent disability and fatals. There were 150 fatal claims, there were 2,000 permanent disabilities, and 54,000 temporary total, so 120,000 compared with about 1,500 or 1,600 here.

Mr. Chairman: Mrs. Watson?

Mrs. Watson: Mr. Chairman, having a small base certainly does have its advantages when you can control it better, can't you.

Mr. Chairman: Yes. Mr. Fleming?

Mr. Fleming: Thank you, Mr. Chairman. I don't know exactly the right place here, but I think I might have passed it a moment ago when I was up on the floor, but I wonder in the case of the Yukon Territorial Government and our fund, if the Territorial Government had been paying, for instances, into the fund, the actual assessment rate, and what the difference would have been to our fund today had they been doing this instead of being on the deposit system? I wonder if anybody would have the answer yet?

Mr. Booth: You are talking about the YTG?

We are getting and the staff was working on it this afternoon, I was hoping it would be here before now, of the total compensation days paid out on behalf of government employees.

YTG employees are kept on full salary so we don't record the number of compensation, the amounts of compensation paid out. It is just medical aid and pension awards that we bill.

So, we are going through the files to find a number of compensation loss days and we will be able to come up with an actual cost.

The actual costs expended, to date, on medical aid and pension awards, so far, was \$65,000, since October 1973. Yes, temporary disability.

But, we require the other figures, we require the estimated amounts to be paid in future years before we can come up with a proper answer to this.

Mr. Chairman: Mr. Laing.

Mr. Laing: There is a point to be made, there, that, although there would have been an assessment income from the Territorial Government, if it had been on assessment rates like all the other employers, there would have been an offsetting item so far as the Territorial Government's funds were concerned, in that they would have recovered the compensation payments for these people whom they kept on full pay.

So, that it is that calculation that we are trying to do in order find the real net cost to the Territorial Government, if they came on the full basis.

But, of course, the difference in the funds would be in the amounts that could have been transferred to the contingency funds, had they been on an assessment basis, and that would be about 20 per cent off the assessment income, maybe \$100,000 more in the disaster fund, to meet disasters across the Territory, if they had been on an assessment basis.

Mr. Chairman: Mr. Fleming.

Mr. Fleming: Yes, further to that, Mr. Chairman, they are on a contingency fund so therefore, when there is a worker, they pay their own. How long, you know, how long do they pay for the claim, before it reverts over to our fund in some way, as a pension, I presume, would. How long would they carry this themselves?

Mr. Booth: They will keep it until they are fit to return to work. There may be a maximum days for injury leave on duty leave and I would have to check with the Public Service Commission on that point, I couldn't say for sure, because, as I say, we don't get involved in the days in compensation. We just pay out medical aids and pension costs on behalf of the YTG employees that are injured on duty.

I could get that question for you from the Service Commissioner if you require it.

Mr. Chairman: Maximum Assessable Earnings.

Mr. Laing: The only comment I have on that one is one that I perhaps made already and that is that an increase in the maximum assessable earnings has two effects. It increases the maximum benefits payable and it also increases the assessment income, and hopefully these two things will increase in proportion so that there is no change in the rates needed as a result of that change in the maximum.

Mr. Chairman: Mrs. Watson?

Mrs. Watson: Mr. Chairman, I note that in your report you are recommending that the Government and the CNT come under the collective liability system there, as defined in the Ordinance, and the rate of \$1.50 is established because there is no experience with them as part of the system, so you are recommending that the Government in fact do become a contributor under the compensation.

Mr. Laing: I did so recommend.

Mr. Chairman: Future Increases in Benefits.

Mr. Fleming?

Mr. Fleming: That last paragraph, maybe I am reading it wrong. "Safety practices and accident prevention programs, established by employers will prevent further increases in Workmen's Compensation cost. Agreed, and subsequently increases in assessment rates.

It says it increases it and I am wondering why.

Mr. Chairman: Mr. Lengerke?

Mr. Lengerke: Mr. Chairman, just to follow up on Mrs. Watson's comment with respect to the Territorial Government, and the recommendation of that they are under the collective liability system at a \$1.50. As I understand it then, the \$1.50 applies to all the employees, but there is no classification, there is no category there. What would happen, what

would the effect be, if we took the Government of the Yukon Territory employees and applied them in their proper classifications, could you do any calculations on that as to the dollar or the increase or deficit or whatever would appear with?

Mr. Laing: No, I haven't because it is not part of the system to classify it by occupation, you classify it by industry.

Mrs. Watson: Do you mean to say the Yukon Government is an administrative industry?

Mr. Chairman: Comparison With Other Jurisdictions.

Any comments or questions.

Mr. Chairman: We also have your report here on Assessment Rates, 1978. Would you wish to make any comments on that?

Mr. Laing: Would I like to make any comments on this? No, I don't particularly want to make any comments on it. I hope it is readable and self-explanatory.

Mr. Chairman: Mr. McCall.

Mr. McCall: Have we concluded the reading of this material?

Mr. Chairman: As far as having the witnesses present, yes. We will be going back over it when the witnesses have been excused.

Are there any further questions for the witnesses while we still have them with us?

Thank you Mr. Laing and Mr. Booth. You have been most helpful. I am sure we would have got into a lot more trouble if you hadn't been here and we really appreciate it.

Mr. Laing: Thank you, Mr. Chairman and thank you Members for your courtesy.

Mr. Chairman: Tomorrow Committee will further consider Bill Number 9, the same Bill that we have been considering today and we will also consider Bills Number 2 and Number 11.

Mr. McCall.

Mr. McCall: Yes, Mr. Chairman, prior to our going back through Bill Number 9, I wonder if the Minister would oblige the Committee with providing us with the second draft of the Regulations, in order to assist the Members when they go through Bill 9 again.

Second draft of the Regulations pertaining to the Workmen's Compensation legislation.

Mr. Chairman: Mrs. Whyard.

Hon. Mrs. Whyard: No problem, Mr. Chairman. I am just trying to think if we have them available now, or whether I have to get them overnight. I think we do have to get them overnight.

Mr. Chairman: Mr. McCall.

Mr. McCall: Mr. Chairman, they are available, from what we understand. The Committee on Statutory Instruments have gone over them once, but I think they should be made available.

Mr. Chairman, I move that Mr. Speaker do now resume the Chair.

Mr. Fleming: I 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

Mr. Speaker resumes Chair

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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, and may I have your further pleasure?

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 Return was Tabled (November 23, 1977)

77-2-20

Beaver Creek Customs Facility
(Oral Question - Page 215 - November 21, 1977)

The following Sessional Papers were Tabled (November 23, 1977)

77-2-24

Research Material for Proposed Animal Protection Bill

77-2-25

Green Paper on Gambling in Yukon

LEGISLATIVE RETURN
1977 (Second) Session

LEGISLATIVE RETURN NO. 25

GREEN PAPER ON

Gambling in Yukon

1977 (Second) Session

Mr. Speaker,
Members of the Assembly

On November 21, 1977 Mrs. Watson asked the following question:

"Re Commissioner's statement regarding customs building (Beaver Creek) being replaced in fiscal year 1978/79, has the Intergovernmental Affairs department been instructed to indicate support of YTG in this matter to Department of Indian Affairs and also Minister of National Revenue?"

THE ANSWER TO THE ABOVE QUESTION IS AS FOLLOWS:

Correspondence between the Commissioner, both as Commissioner and as Chairman of FICC, with the Department of National Revenue regarding the need for a new customs facility at Beaver Creek dates back to 1972.

On June 30, 1976 the Directorate of Intergovernmental Affairs prepared a strong letter for the signature of former Commissioner James Smith to the Regional Collector of Customs, stating in part: "Both as Chairman of FICC and as Commissioner of the Yukon Territory, I must express my grave concern on the announced deferral of adequate facilities for the Canada Customs station at this location."

On July 30, 1976 Intergovernmental Affairs prepared a telex which was sent by myself to Deputy Minister Arthur Kroeger, urging in part that: "Every effort should be made to have Canada Customs re-examine their priorities in order to proceed without delay with the original plan for construction of the new facility." "Firm and prompt action at departmental level will be necessary to resolve this matter."

On Monday November 21 the Directorate of Intergovernmental Affairs prepared a letter for my signature which was sent to the Regional Director of DPW Vancouver, with copies to the Regional Officer of both the Ministry of Transport and the Department of National Revenue (Customs and Excise). This letter urged that favourable consideration be given to the co-location of the new customs facility at Beaver Creek with an MOT Airport Terminal Building which has recently been proposed under the Arctic Airports Program.

Finally, a letter is being prepared to the Hon. Joseph Guay, Minister of National Revenue, which will urge that his department re-evaluate their priorities in order to ensure that a new customs facility be provided for Beaver Creek in fiscal year 1978/79.

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Joseph Guay
SIGNATURE

Mr. Speaker
Members of the Assembly

On March 24, 1977, during the 8th session of the 23rd legislature, the Yukon Legislative Assembly passed the following motion:

"THAT WHEREAS a unique opportunity exists for the strengthening and stabilizing of Yukon's economic future, BE IT RESOLVED that this House recommends to the Yukon Territorial Government that the Socio-Economic Planning Unit examine in detail the feasibility and appraise the economic benefits of legalized gambling in Yukon, and in particular the question of full-time commercially-operated enterprises in the City of Dawson and seasonally-operated enterprises within other appropriate areas of Yukon, AND THAT the report prepared by the Socio-Economic Planning Unit be tabled in this House for the Fall Session."

The Economic Research and Planning Unit has complied with the request of the legislature and produced the report, "Gambling in Yukon - An Impact Study" which appears as Appendix A of this paper.

The report considered five possibilities for increasing gambling activities in Yukon:

1. extend the existing operation in Dawson City
2. develop a seasonal operation in Whitehorse
3. develop a year-round operation in Whitehorse
4. develop several gambling halls throughout Yukon
5. develop a seasonal or year-round operation in a small Yukon town.

The first alternative is considered unacceptable because it is not economically viable and because it is not wanted by a large majority of Dawson City residents.

The second alternative is also considered unacceptable because 1) a gambling hall in Whitehorse would have a substantial adverse effect on the gambling hall in Dawson City; 2) the net economic benefits compared to existing revenues would be minor and; 3) the potential social costs, given the size of the local population, are too high. Thus Yukon's economic future would not be strengthened

and stabilized.

The third alternative is not acceptable because, in addition to the reasons discussed under alternative 2, a year-round operation would not be economical. It could, however, be made economical by attracting to Whitehorse, persons primarily interested in gambling but the resulting social disruption would be extensive and undesirable.

The fourth alternative is considered unacceptable because of all of the reasons discussed under alternatives 2 and 3.

Only the fifth alternative, namely development of a seasonal or year-round operation in a small Yukon town would be acceptable under certain conditions. The conditions to consider are: 1) location in relation to Dawson City; 2) size of local population; 3) recreational potential; 4) location in relation to major population areas and most importantly; 5) the degree of acceptability by local residents.

Since the benefits and costs that would result from this alternative accrue mainly to the gambling community, it is the community and not the Yukon Territorial Government that must initiate action regarding gambling in that community. An application for a gambling licence should be considered in light of the above five conditions. In addition, the community should be required to establish a major economic need and/or an historical precedence within the community.

We hope these conclusions meet the desires of the Assembly.

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Joseph Guay
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