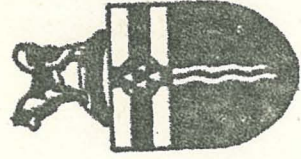


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PLEASE RETURN TO COUNCIL CHAMBERS

# YUKON TERRITORIAL COUNCIL

FIRST SESSION 1970

## Votes and Proceedings

Volume 1





Monday, January 12th, 1970.

3:00 o'clock p.m.

The First Session of the Council for the year 1970, being the Ninth Session of the Twenty-First Wholly Elective Council of the Yukon Territory, was convened in the Council Chambers at 3:00 o'clock p.m. on Monday, January 12th, 1970.

The Members present were:

Mr. John O. Livesey, Carmacks-Kluane  
Mr. John Dumas, Whitehorse West  
Mrs. G. Jean Gordon, Mayo  
Mr. George O. Shaw, Dawson  
Mr. Norman S. Chamberlist, Whitehorse East

Mr. Clerk reads the Proclamation.

Mr. Speaker enters the Council Chambers, announced by the Sergeant-at-Arms.

Mr. Speaker: You may be seated. Mr. Clerk, is there a quorum present?

Mr. Clerk: There is, Mr. Speaker.

Mr. Speaker: The Ninth Session of the Twenty-First Wholly Elective Council of the Yukon Territory will now come to order. At this time, I would like to express the apologies of the Honourable Member for Watson Lake and also the Honourable Member for Whitehorse North for being unable to be present with us. Mr. Clerk, would you please inform the Commissioner that we are now prepared to hear his Opening Address in the Court Room.

Mr. Clerk leaves the Chambers to advise Mr. Commissioner and returns.

Mr. Clerk: Mr. Speaker, the Commissioner will deliver his Opening Address in ten minutes in the Territorial Court Room.

Mr. Speaker: Thank you, Mr. Clerk. The House now stands adjourned in order that we may hear the Commissioner's Opening Address in the Chambers of the Territorial Court.

Mr. Speaker and the Councillors were escorted to the Territorial Court Room by the Sergeant-at-Arms.

The Commissioner of the Yukon Territory, Mr. James Smith, is ushered into the Territorial Court Room by the Aide-de-Camp.

The Commissioner gives his Opening Address. (Set out as Sessional Paper No. 6)

The Councillors return to the Chambers.

Mr. Speaker: I will now call Council to order and I would remind you that I have a copy of the Commissioner's Opening Address. You may proceed.

Mr. Shaw: Mr. Speaker, I would move that the Opening Address of the Commissioner be taken under consideration on a day following.

Mr. Chamberlist: I will second the motion, Mr. Speaker.

Mr. Speaker: Moved by the Honourable Member for Dawson, seconded by the Honourable Member for Whitehorse East, that the Opening Address of the Commissioner be considered on a day following. Is the House prepared for the question on the motion? Are we agreed? I will declare the motion carried.

MOTION CARRIED

MOTION  
CARRIED

Mr. Chamberlist: Mr. Speaker, I beg to introduce Bill No. 1, An Ordinance to Amend an Ordinance Respecting the Reciprocal Enforcement of Maintenance Orders.

Mr. Dumas: I'll second the motion, Mr. Speaker.

BILL #1  
INTRODUCED Mr. Speaker: Moved by the Honourable Member for Whitehorse East, seconded by the Honourable Member for Whitehorse West, for leave to introduce Bill No. 1, An Ordinance to Amend an Ordinance Respecting the Reciprocal Enforcement of Maintenance Orders. Is the House prepared for the question on the motion? Are we agreed? I will declare the motion carried.

MOTION  
CARRIED

MOTION CARRIED

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

Mr. Speaker: Are we agreed on the motion for adjournment?

Some Members: Agreed.

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



Mr. Speaker read the daily prayer. All Councillors, except Councillor Shaw, were present.

Mr. Speaker: Is there a quorum present, Mr. Clerk.

Mr. Clerk: There is, Mr. Speaker.

Mr. Speaker: I will now call Council to order. I have for your attention and notice this morning the tabling of Sessional Papers 1 through 6. Are there any Reports of Committee? Introduction of Bills? May I remind the House that the work today depends on the progress that we make with regard both to introduction and work on Bills and may I suggest that the House, in view of the fact that this is our first day of operation, look upon this as our first day and consider questions in relation to working on Bills now presently before us.

Mr. Dumas: Mr. Speaker, I'm not quite sure what you said, but I'd like to introduce Bill No. 2, An Ordinance to Provide for the Welfare of Children.

Mr. Chamberlist: Mr. Speaker, I beg leave to introduce Bill No. 3, An Ordinance to Amend the Municipal Ordinance.

Mr. Speaker: Order, please. Both forms of introduction will need motions by mover and seconder.

Mr. Chamberlist: I will second the motion of the Honourable Member from Whitehorse West.

Mr. Speaker: Moved by the Honourable Member for Whitehorse West, seconded by the Honourable Member for Whitehorse East, for leave to introduce Bill No. 2, An Ordinance to Provide for the Welfare of Children. Is the House prepared for the question on the motion? Are we agreed? I will declare the motion carried.

MOTION CARRIED

BILL #2  
INTRODUCED

Moved by Councillor Chamberlist, seconded by Councillor Dumas, that Bill No. 3, An Ordinance to Amend the Municipal Ordinance, be introduced at this time.

MOTION CARRIED

BILL #3  
INTRODUCED

Moved by Councillor Chamberlist, seconded by Councillor Dumas, that Bill No. 6, An Ordinance to Provide for Government Control and Sale of Alcoholic Liquors, be introduced at this time.

MOTION CARRIED

BILL #6  
INTRODUCED

Moved by Councillor Dumas, seconded by Councillor Gordon, that Bill No. 4, An Ordinance to Amend the Motor Vehicles Ordinance, be introduced at this time.

MOTION CARRIED

BILL #4  
INTRODUCED

Moved by Councillor Chamberlist, seconded by Councillor Dumas, that Bill No. 8, An Ordinance Respecting Co-operative Associations, be introduced at this time.

MOTION CARRIED

BILL #8  
INTRODUCED

BILL #9 Moved by Councillor Dumas, seconded by Councillor Gordon, that Bill  
INTRODUCED No. 9, An Ordinance to Amend the Labour Standards Ordinance, be  
introduced at this time.

MOTION  
CARRIED

MOTION CARRIED

BILL #10 Moved by Councillor Dumas, seconded by Councillor Gordon, that Bill  
INTRODUCED No. 10, An Ordinance to Amend the Workmen's Compensation Ordinance,  
be introduced at this time.

MOTION  
CARRIED

MOTION CARRIED

BILL #11 Moved by Councillor Gordon, seconded by Councillor Dumas, that Bill  
INTRODUCED No. 11, An Ordinance to Amend the Securities Ordinance, be intro-  
duced at this time.

MOTION  
CARRIED

MOTION CARRIED

BILL #12 Moved by Councillor Dumas, seconded by Councillor Gordon, that Bill  
INTRODUCED No. 12, An Ordinance Respecting Trailer Licencing, be introduced at  
this time.

MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker: Are there further Bills for introduction at this time?  
Notices of Motion or Resolution? Notices of Motion or Resolution?  
Notices of Motion for the Production of Papers? Under Orders of the  
Day, I wonder, Mr. Clerk, if we could have the Commissioner present  
for the Question Period? I will declare a five-minute recess.

RECESS

RECESS

Mr. Speaker: I will now call Council back to order, and the Chair  
has pleasure this morning in recognizing the attendance of Mr.  
Samuals from the Department of Justice, Ottawa. You may proceed.

QUESTION RE Mr. Dumas: Mr. Speaker, I would like to ask the Commissioner about  
SESSIONAL the fact that a paragraph seems to have been left out of Sessional  
PAPER #6 Paper No. 6 which was tabled today, the Commissioner's address to  
Council of yesterday. It was a twenty-five second statement on  
collective bargaining. I wonder if we could get that paragraph?

Mr. Commissioner: Mr. Speaker, this can be dealt with either as a  
correction or a redoing of the Paper, whatever is the acceptable  
thing. The reason for this was that the stencil was cut prior to  
the completion of my remarks.

QUESTION RE Mr. Dumas: Mr. Speaker, I have another question. Could the Admin-  
WATER istration ... could the Commissioner tell us what his Administration  
POLLUTION is doing or what the Department of Public Works is doing to correct  
the very serious problem of pollution in the water supply of Hillcrest,  
Valleyview, Takhini and the C.N.T. areas?

Mr. Commissioner: Mr. Speaker, I'm not aware of anything other than  
hoping for the best. I'm not aware of anything that we are doing,  
Mr. Speaker. I'm certainly quite prepared to ask our Medical Health  
Officer, Dr. Black, if anything is being done, but I have to say that  
I am not aware of anything, Mr. Speaker. Perhaps this is the best  
way of answering the question asked by the Councillor.

QUESTION RE Mr. Dumas: Mr. Speaker, supplementary, possibly the Commissioner  
WATER could tell me then, or tell the House, if there are any plans for  
POLLUTION anything to be done? It seems to me that it's a serious problem  
and some action should be taken. If it's necessary for the House  
to initiate the action, or the Commissioner's Department to initiate  
the action, possibly you could tell us if they have anything in the  
long range planning?



Mr. Commissioner: Mr. Speaker, to my knowledge, the ultimate answer to this is that the controlled water supply for the general Whitehorse area, namely that which is available from Schwatka Lake, would be made available in the Takhini, Hillcrest, Valleyview areas by the proposed extension of the city water system to those areas. The question of the city's boundaries comes in here and the availability of funds to make this extension, and also part of that same program is the provision of proper sewage treatment plants. Now, these are the long range plans, and I'm sure I am not telling Council anything that they are not already aware of in this matter. However, I think the Councillor's question really is, what, if anything, can be done or should be done in the interim, and I would have to ask if I could have the opportunity of seeking word from Dr. Black on this, Mr. Speaker, and I would be most happy to bring forward this as quickly as I can.

Mr. Speaker: Are there further questions?

Mr. Chamberlist: Mr. Speaker, a question addressed to Mr. Commissioner. I wonder if Mr. Commissioner could indicate whether he has heard from the Minister of Indian Affairs and Northern Development of any action that has been taken subsequent to the Council's meeting with the Prime Minister of Canada with reference to three Members of this Council forming part of the Executive Council for the Territorial Government?

QUESTION RE  
THREE MEMBER  
ON EXECUTIVE

Mr. Commissioner: Mr. Speaker, the answer is in the negative. I have not had any communication on this subject from my Minister.

Mr. Chamberlist: Supplementary, I wonder if Mr. Commissioner, Mr. Speaker, would ask of the Minister whether anything of this nature is forthcoming in the very near future?

QUESTION RE  
THREE MEMBER  
ON EXECUTIVE

Mr. Commissioner: Mr. Speaker, I will do this.

Mr. Speaker: Are there any further questions?

Mr. Chamberlist: Mr. Speaker, a question addressed to Mr. Commissioner. Mr. Commissioner, what protection is being given to coroners and coroners' jurors when examining deceased persons who have died from a communicable disease?

QUESTION RE  
PROTECTION  
FOR CORONERS  
AND JURERS

Mr. Commissioner: Mr. Speaker, this is bordering on a technical area. I wonder if I could have the privilege of having this as a written question so that I could have a written answer to it? Is this acceptable to the Councillor?

Mr. Chamberlist: Yes, Mr. Speaker, it is.

Mr. Speaker: I would suggest from the Chair that this is more properly a question for the Order Paper.

Mr. Chamberlist: Further, I wonder if Mr. Commissioner, Mr. Speaker, could indicate whether there has been any consideration given by the Administration to increase the payments to coroners for their duties?

QUESTION RE  
CORONERS'  
FEES

Mr. Commissioner: Mr. Speaker, there has been no consideration at the present time to this. I think that Council is aware that there was discussion along these lines, I believe, two Sessions ago. I think this question was raised and I believe the consensus arrived at at that time was that this should be left for the time being as it stood. If, however, Council feels that this is a matter that should be getting looked into, we would be very pleased to see whether or not these fees that we are paying are reasonably in line with what is going on in neighbouring jurisdictions. This has been the general criteria in the past, Mr. Speaker, for determining the compensation paid to this type of an officer.



QUESTION RE Mr. Chamberlist: Mr. Speaker, a question to Mr. Commissioner. Mr.  
TRAPPING Commissioner, what is being done with reference to altering or making  
RESTRICTED provisions for restrictions on the trapping in the immediate area of  
AROUND Whitehorse?  
WHITEHORSE

Mr. Commissioner: Mr. Speaker, there is nothing that I am presently aware of being done on this matter, but it is also my understanding that I was to be hearing from the Director of Game as a consequence of a complaint that was laid in this. It may well be that something will be forthcoming, or is forthcoming, that I am not presently aware of, and if I could be given a little time on this, I would be prepared to give a proper answer.

Mr. Speaker: Are there any further questions?

ANSWER RE Mr. Commissioner: Mr. Speaker, prior to the proroguing of Council  
MUGGINGS IN at the Christmas holidays, I was asked if I would have discussions  
WHITEHORSE with the R.C.M.P. about the incidents of muggings, perhaps is the term to use, that were taking place here in the city, and this I have done. I have had a written reply to my conversations with the R.C.M.P., and I would like to give Council the pertinent information from this if I may at this time?

Mr. Speaker: Please proceed.

Mr. Commissioner: The information that I have, Mr. Speaker, is that fourteen robbery with violence offences were reported to the Whitehorse Detachment during the year 1969 compared to five in 1968, and only two in 1967. Of the fourteen offences in 1969, ten occurred on the streets and alleys and two complaints were unfounded. Because of the increase in this type of offence during October and November, 1969, additional foot patrols were made in the downtown area. Extra manpower when available was assigned to patrol as a preventive measure, particularly on Friday and Saturday nights. As it was apparent that the modus operandi of the thugs was to wait in the bars and taverns while the potential victim drank himself into intoxication, members of the R.C.M.P. were instructed to enter the bars and taverns to take note of the patrons in order to keep track of the movements of known suspects. In several instances of robbery, the victim was assaulted immediately on leaving one of the taverns. In these cases, the victim was so intoxicated that he was unable to supply even the vaguest description of his attackers. No offences of this nature have been reported since December 10th, 1969. I may say that this report is dated the 9th of January, 1970. As you will appreciate, it is extremely difficult to prevent this type of offence. With the continued economic development in the Territory, it would seem that we can expect a continuation of this type of offence. I would like to add, Mr. Speaker, that I am perfectly satisfied that the R.C.M.P. are particularly aware of the public concern in this matter and are doing everything reasonable and prudent within their capability to prevent recurrences.

Mr. Speaker: Are there any further questions? If not, may we proceed to Public Bills and Orders?

Mr. Chamberlist: Mr. Speaker, I would move at this time that Standing Order 41 be suspended for this day's sittings only.

Mr. Dumas: I'll second the motion, Mr. Speaker.

Mr. Speaker: Moved by the Honourable Member for Whitehorse East, seconded by the Honourable Member for Whitehorse West, that Standing Order 41 be suspended for this day's sitting only. Is the House prepared for the question on the motion? Are we agreed? I will declare the motion carried.

MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker: You may proceed. Public Bills and Orders. May I remind the House that there are no Bills at this time that have received First Reading.

Moved by Councillor Chamberlist, seconded by Councillor Dumas, that BILL #1 Bull No. 1, An Ordinance to Amend An Ordinance Respecting the Reciprocal Enforcement of Maintenance Orders, be given First Reading. FIRST READING

MOTION CARRIED

MOTION CARRIED

Moved by Councillor Chamberlist, seconded by Councillor Dumas, that BILL #1 Bill No. 1, An Ordinance to Amend An Ordinance Respecting the Reciprocal Enforcement of Maintenance Orders, be given Second Reading. SECOND READING

MOTION CARRIED

MOTION CARRIED

Moved by Councillor Dumas, seconded by Councillor Gordon, that BILL #2 No. 2, An Ordinance to Provide for the Welfare of Children, be given First Reading. FIRST READING

MOTION CARRIED

MOTION CARRIED

Moved by Councillor Dumas, seconded by Councillor Gordon, that BILL #2 No. 2, An Ordinance to Provide for the Welfare of Children, be given Second Reading. SECOND READING

MOTION CARRIED

MOTION CARRIED

Moved by Councillor Chamberlist, seconded by Councillor Dumas, that BILL #3 Bill No. 3, An Ordinance to Amend the Municipal Ordinance, be given First Reading. FIRST READING

MOTION CARRIED

MOTION CARRIED

Moved by Councillor Chamberlist, seconded by Councillor Dumas, that BILL #3 Bill No. 3, An Ordinance to Amend the Municipal Ordinance, be given Second Reading. SECOND READING

MOTION CARRIED

MOTION CARRIED

Moved by Councillor Dumas, seconded by Councillor Gordon, that BILL #4 No. 4, An Ordinance to Amend the Motor Vehicles Ordinance, be given First Reading. FIRST READING

MOTION CARRIED

MOTION CARRIED

Moved by Councillor Dumas, seconded by Councillor Gordon, that BILL #4 No. 4, An Ordinance to Amend the Motor Vehicles Ordinance, be given Second Reading. SECOND READING

MOTION CARRIED

MOTION CARRIED

Moved by Councillor Dumas, seconded by Councillor McKinnon, that BILL #6 Bill No. 6, An Ordinance to Provide for Government Control and Sale of Alcoholic Liquors, be given First Reading. FIRST READING

MOTION CARRIED

MOTION CARRIED

Moved by Councillor Dumas, seconded by Councillor McKinnon, that BILL #6 Bill No. 6, An Ordinance to Provide for Government Control and Sale of Alcoholic Liquors, be given Second Reading. SECOND READING

MOTION CARRIED

MOTION CARRIED

Mr. Chamberlist: Mr. Speaker, I would move that Bill No. 7, An Ordinance Respecting the Expropriation of Lands and the Determination of Compensation for the Expropriation or Injurious Affection of Lands, be given First Reading.

Mr. Speaker: Gentlemen, I wonder if Bill No. 7 ...

Mr. Chamberlist: It was not introduced. I beg your pardon, Mr. Speaker, I'm in error.

BILL #8 Moved by Councillor Chamberlist, seconded by Councillor Gordon, that  
FIRST Bill No. 8, An Ordinance Respecting Co-operative Associations, be  
READING given First Reading.

MOTION CARRIED MOTION CARRIED

BILL #8 Moved by Councillor Chamberlist, seconded by Councillor Gordon, that  
SECOND Bill No. 8, An Ordinance Respecting Co-operative Associations, be  
READING given Second Reading.

MOTION CARRIED MOTION CARRIED

BILL #9 Moved by Councillor Dumas, seconded by Councillor Chamberlist, that  
FIRST Bill No. 9, An Ordinance to Amend the Labour Standards Ordinance, be  
READING given First Reading.

MOTION CARRIED MOTION CARRIED

BILL #9 Moved by Councillor Dumas, seconded by Councillor Chamberlist, that  
SECOND Bill No. 9, An Ordinance to Amend the Labour Standards Ordinance, be  
READING given Second Reading.

MOTION CARRIED MOTION CARRIED

BILL #10 Moved by Councillor Dumas, seconded by Councillor Gordon, that Bill  
FIRST No. 10, An Ordinance to Amend the Workmen's Compensation Ordinance,  
READING be given First Reading.

MOTION CARRIED MOTION CARRIED

BILL #10 Moved by Councillor Dumas, seconded by Councillor Gordon, that Bill  
SECOND No. 10, An Ordinance to Amend the Workmen's Compensation Ordinance,  
READING be given Second Reading.

MOTION CARRIED MOTION CARRIED

BILL #11 Moved by Councillor Gordon, seconded by Councillor Dumas, that Bill  
FIRST No. 11, An Ordinance to Amend the Securities Ordinance, be given  
READING First Reading.

MOTION CARRIED MOTION CARRIED

BILL #11 Moved by Councillor Gordon, seconded by Councillor Dumas, that Bill  
SECOND No. 11, An Ordinance to Amend the Securities Ordinance, be given  
READING Second Reading.

MOTION CARRIED MOTION CARRIED

Mr. Speaker: May I have your further direction?

Mr. Chamberlist: Mr. Speaker, I would move that Mr. Speaker do now leave the Chair and that Council resolve itself in Committee of the Whole to discuss Bills.



Mr. Dumas: I'll second the motion.

Mr. Speaker: Moved by the Honourable Member for Whitehorse East, seconded by the Honourable Member for Whitehorse West, that Mr. Speaker do now leave the Chair for the purpose of convening in Committee of the Whole to discuss Bills. Is the House prepared for the question on the motion? Are we agreed? I will declare the motion carried.

MOTION CARRIED

MOTION  
CARRIED

Mr. Speaker: Before rising, I would like to express to the House the wishes of the Honourable Member for Dawson and his regrets that he cannot be here with us today due to sickness. The Honourable Member for Watson Lake will please take the Chair in Committee.

Mr. Taylor takes the Chair.

Mr. Chairman: At this time I will stand Committee in recess until further notice.

RECESS

RECESS



January 13, 1970.

4:00 o'clock p.m.

Mr. Chairman: At this time I will call Committee back to order BILL #1 and we have before us Bill No. 1, "An Ordinance To Amend An Ordinance Respecting The Reciprocal Enforcement of Maintenance Orders". Now I will proceed with the Reading of the Bill.

Mrs. Gordon: Mr. Chairman, is there a redundancy in Section 3A, the conflict of laws rules of the Territory.

Mr. Legal Adviser: No, Mr. Chairman. I've checked it out. It's the conflict between two different laws. It's a conflict of laws rules.

Mr. Chairman: (Reads Sections 4 to 7). It seems to me there was an amendment Mr. Legal Adviser to the original bill of the last session. What was the amendment?

Mr. Legal Adviser: The particular amendment that was sought was to put the word Legal Adviser for the word Commissioner. I really think that the type of government we have now, the Commissioner would be the proper person to insert here.

Mr. Chamberlist: Well Mr. Chairman, in view of the possible future changes to the constitution of the Territory Government, I'm satisfied with how it is at the moment.

Mr. Chairman: Are we clear? Anything further on this Ordinance?

Mr. Chamberlist: Mr. Chairman, I would move that this Ordinance be passed out of Committee without amendment.

Mr. Chairman: It has been moved by Councillor Chamberlist, seconded by Councillor Dumas, that Bill No. 1 be reported out of Committee without amendment. Are you prepared for the question? Are you agreed? I will declare the motion carried.

MOTION CARRIED

MOTION CARRIED

Mr. Chairman: Is it your wish to proceed? The next bill will be Bill No. 2.

BILL #2

Mr. Dumas: Mr. Chairman, I am wondering on this. We went through this whole Bill and I realize it has to be read again, but if the Legal Adviser or possibly the Clerk could point out the changes that we requested as we come up to them, it might save us a lot of time.

Mr. Chairman: May I proceed? (Reads Bill No. 2). I will declare a brief recess.

RECESS

Mr. Chairman: I will call Committee back to order. (Reads Section 2 (b)through to 6 (e)).

Mr. Dumas: Mr. Chairman, is the twelve year standard in most of these laws..?

Mr. Legal Adviser: .....

Mr. Chairman: (Continues to read sub-sections (f) to (i)).

Mr. Chamberlist: I wonder if Mr. Legal Adviser would express an opinion on this (h). Now whether he is under the pretext of selling or offering anything for sale. Now why should a young



BILL #2 Mr. Chamberlist continues.....  
person be in need of care of attention because he is offering something for sale. It's just like a kid that has a shoe shine place, so he is offering a service for sale. Does this make him in need of care and protection?

Mr. Legal Adviser: No Mr. Chairman, the key word here is pretext. If the child is going on say selling matches or something or other, or whatever it may happen to be, it's a common method of avoiding prosecution of begging because it is a difficult case to prove. For this, they satisfy the court that the pretext, it's a genuine selling, fine, but it's a pretext, then .....

Mr. Chairman: (Continues to read sub-sections (j) to (l)).

Mr. Chamberlist: What is the situation with regards to certain religious organizations who do not allow their children to have the attention of a medical practitioner? This would be the Jehovah Witnesses and the Seven Day Adventist.

Mr. Legal Adviser: This over-rides the religious aspect. The child's material care is the dominant factor.

Mr. Chairman: (Reads sub-section (m)).

Mr. Livesey: Mr. Chairman, who is going to be arbitrary as to how much affection is necessary?

Mr. Legal Adviser: It's not the deprivation of affection heresay. It's deprivation of affection to a degree which will affect him emotionally and of course would be careful to see that adequate evidence almost usual of a psychiatric nature would be given. This is in a case of a child incurring grave damage by reason of this particular continued lack of affection.

Mr. Livesey: Mr. Chairman, would it be sufficient for the child to tell the authorities that the foster parents keep him.

Mr. Legal Adviser: I don't think so, Mr. Chairman.

Mr. Chairman: (Reads sub-sections (n) to (q). Is this clear? Reads Section 7 (1) and (2).

Mr. Legal Adviser: Mr. Chairman, that is the point where I think there was some debate and we changed the word to read in addition to Director has reason to believe and does believe.

Mr. Chairman: (Reads sub-section (3) of Section 7, sections 8, 9, 10, 11 (1)).

Mr. Chamberlist: Mr. Chairman, I had asked when we had dealt with this before and I would like to ask the same question and I would like to ask the same question, whether the religion of a child or the religion of parents who wish to adopt this child is a reason for barring parents from adopting a specific child?

Mr. Legal Adviser: Not in this Ordinance. It is useful to know what the religion is in case of different opinion or a doubt, but it is one factor in which the Director or the Court would take into consideration in placing a child but it is not the determining factor. Different religion is or takes bar.

Mr. Chairman: Clear? (Reads Section 11 (2), 3, 4, 5, Section 12, 13 and 14, and 15.

Mr. Dumas: In sub-section (1) of Section 15, is that a mis-print, the Director shall make arrangements as soon as may be for placing the child in a foster home? BILL #2

Mr. Legal Adviser: It is just an alternative method for saying as soon as possible.

Mr. Chamberlist: Mr. Chairman, at this time I would move that Mr. Speaker do now resume the Chair.

Mr. Dumas: I will second the motion Mr. Chairman.

Mr. Chairman: Do you wish I report progress on this bill? It has been moved by Councillor Chamberlist, seconded by Councillor Dumas that Mr. Speaker do now resume the Chair. Are you prepared for the question? Are you agreed? I declare the motion carried.

MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker: I will now call Council to order. May we have a report from the Chairman of Committees?

Mr. Taylor: Mr. Speaker, Committee convened at 10:45 a.m. to discuss Bills, Committee recessed at 10:50 a.m. and re-convened at 3:50 p.m. this afternoon. I can report progress on Bill No. 2 or pardon me, it was moved by Councillor Chamberlist and seconded by Councillor Dumas that Bill No. 1 be reported out of Committee without amendment. This motion carried. I can then report progress on Bill No. 2 and it was moved by Councillor Chamberlist, seconded by Councillor Dumas that Mr. Speaker do now resume the Chair and this motion carried.

Mr. Speaker: You have heard the report of the Chairman of Committees. Are we agreed? May I have further indications of their thoughts for tomorrow for the agenda?

Mr. Taylor: Mr. Speaker, I believe tomorrow we will be proceeding with Bills.

Mr. Speaker: May I have your further pleasure at this time?

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

Mr. Speaker: Are we agreed? The House now stands adjourned until 10:00 o'clock a.m. tomorrow morning.

ADJOURNED





Mr. Speaker read the daily prayer. All Councillors were present except Councillor Chamberlist.

Mr. Speaker: Is there a quorum present, Mr. Clerk?

Mr. Clerk: There is, Mr. Speaker.

Mr. Speaker: I will now call Council to order. I have for tabling this morning all regulations pursuant to the Regulations Ordinance, and Sessional Papers No. 7 to 10 inclusive. Are there any Reports of Committee? Introduction of Bills? Notices of Motion or Resolution?

Mr. Taylor: Mr. Speaker, this morning I would like to give Notice of Motion respecting Sessional Papers 29 and 38 of the 1969 - Third Session. MOTION #1

Mr. Speaker: Are there any further Notices of Motion or Resolution? Notices of Motion for the Production of Papers? Orders of the Day are clear. I wonder, Mr. Clerk, if we could have the Commissioner here for the Question Period. I will call a five-minute recess.

RECESS

RECESS

Mr. Speaker: Order, please. Are there any questions?

Mr. Dumas: Yes, Mr. Speaker, I would like to find out from the Commissioner if there are at present any plans to put a water system for the purpose particularly of fire prevention in the Services area just outside of Whitehorse? QUESTION RE WATER SYSTEM FOR SERVICES AREA

Mr. Commissioner: Mr. Speaker, the question raised by the Honourable Member is one again which concerns the extension of the boundaries of the City of Whitehorse, so that the sewer and water system which belongs to the city and which they have control over may be extended for the benefit of other areas here in the generally referred to lower metropolitan of Whitehorse. Certainly the plans are only done insofar as they can be roughly estimated as to what the cost would be, but as far as the implementation of them is concerned, it is an extension of the city sewer and water system; the policy of the city, which I personally heartily concur with, is that they will not extend services of the water and sewer system beyond their own boundaries. That is where the matter rests at the present time.

Mr. Dumas: Supplementary, Mr. Speaker, I intend to put a motion forward on this, however, prior to that and in preparation for it, I wonder if the Commissioner could tell us if there has been any type of survey whatsoever done by his Engineering Department as to the costs that might be entailed in putting a water system in that area? QUESTION RE WATER SYSTEM SURVEY FOR SERVICES AREA

Mr. Commissioner: Mr. Speaker, I'm sorry, I can't tell you to what extent that this matter has been looked into, but there has been some work involved and the ballpark figures are available in this matter. But, I would again, Mr. Speaker, indicate that the questions raised by the Honourable Member yesterday with regard to the purity and the clarity of the water in the surrounding area of Whitehorse, the matter of fire protection that he has raised at the present time in the Services Area which is a very heavily industrialized area as well as there being a lot of people living in that area, are part and parcel of the question that I raised at the last Session of Council, namely, that these are problems that can only be properly resolved when we have come to grips with the boundary question of the City of Whitehorse,

and when I state that this is a matter of the greatest public urgency in this general area, Mr. Speaker, the very questions that are being raised now as a consequence of certain events which have taken place simply fortify and reiterate the position that my Administration takes in this matter and I am very happy that these questions are being raised at this time. I am not happy about the circumstances that are causing the questions to be raised, but they simply underline the problem which we have brought forth and which I think we all recognize exists.

QUESTION RE APPOINTMENT OF DEPUTY JUDGE Mr. Chamberlist: Mr. Speaker, I wonder if Mr. Commissioner could confirm or otherwise that a judge of the Supreme Court of Saskatchewan has been appointed Deputy Judge of the Yukon Territory for the purpose of holding trials in French in the Yukon Territory?

Mr. Commissioner: Mr. Speaker, I am unable to confirm this.

QUESTION RE APPOINTMENT OF DEPUTY JUDGE Mr. Chamberlist: Supplementary, Mr. Speaker, it's my information, Mr. Speaker, that an appointment was made a week ago. I wonder if Mr. Commissioner would inquire of the officers of the Department of Justice whether in fact this is not so?

Mr. Commissioner: I will be pleased to do so, Mr. Speaker.

QUESTION RE MORTUARY FACILITIES FOR OUTLYING COMMUNITIES Mr. Taylor: Mr. Speaker, I have a question I would like to address to Mr. Commissioner this morning, and ask him if provision has been made finally, at long last, in the forthcoming estimates for this year for mortuary facilities in the small outlying communities, that is mortuary slabs and so forth? We've asked for this for years and years and some how this gets sloughed off until you've had a few tragedies in a community and you find that you require these facilities. I'm wondering if our more, so called, progressive Health and Welfare Department has finally got around to looking into this matter and providing relief in this regard?

Mr. Commissioner: Mr. Speaker, first I would say that the lack of the provision of money so far in the estimates for mortuary facilities is not the fault of the Department of Health. It is definitely the responsibility of the Administration because the information that has been given to the Administration certainly would indicate that these are necessary. The only problem is that we seem to have several hundred other things that seem to be more necessary, Mr. Speaker, and I cannot assure Council at this time that there will be provisions in the estimates for this in the forthcoming year, but I will say this, the problem has been brought to our attention as a consequence of a question raised by the Honourable Member at the last Session of Council and all I can state is that I am optimistic that something will be forthcoming in the reasonably near future in this regard.

Mr. Speaker: Are there any further questions?

QUESTION RE TAKHINI ACCOMMODATION Mr. Taylor: Mr. Speaker, I have a further question. I'm wondering if Mr. Commissioner could report to Council this morning as to whether there has been any new development in respect of the accommodation problem at Camp Takhini for the Territorial employees?

Mr. Commissioner: Mr. Speaker, I would like to be able to report that private enterprise has forty-five empty housing units in Whitehorse here that would permit us to direct our Territorial employees to rent so that we could remove ourselves completely from the necessity of occupying crown housing here in the Whitehorse area. The situation is that Council in the supplementary estimates saw fit to take care of the rental increases that otherwise would have been effective for our employees up until the end of March. We are assured by the local Department of Public Works that they are reviewing a section of the rent that is termed the utility section, and we are

hopeful that there will be substantial alleviation in this area in the near future that will permit us to retain the rental level chargeable to the employees where it is at the present time, however I can give Council no assurances of this at the moment, but we will certainly be bringing forth information on this as it occurs. I would like to assure Council that we are doing everything in our power to retain the rental levels where they are at the present time, however, I would say one further thing, Mr. Speaker, and that is this, it will be the happy day indeed when the Territorial Government finds itself completely out of the shelter business here in the Whitehorse Metropolitan Area. I think this is what we should be striving for and there is never going to be any satisfaction on the part of our employees, or the part of Council or the Administration, so long as we find ourselves attempting to provide not only good working conditions for employees, but at the same time controlling the roof over their heads. I think this is an outmoded concept which may still be necessary for us to maintain in the remoter parts of the Territory, but it is something that we should be working as rapidly as possible towards extricating ourselves and our employees from here in the Metropolitan Area.

Mr. Chamberlist: Mr. Speaker, I wonder if Mr. Commissioner could indicate that when the Minister of Indian Affairs and Northern Development arrives in the Yukon for the opening of Anvil, will he be making a statement of any description to Territorial Council with reference to changes in the constitutional form of our Government?

QUESTION RE  
A STATEMENT  
BY MINISTER

Mr. Commissioner: Mr. Speaker, I'm afraid on this matter I cannot answer on behalf of my Minister at this time.

Mr. Dumas: Supplementary, Mr. Speaker, I wonder if there are any plans for the Minister to meet with the Territorial Council at all?

QUESTION RE  
MINISTER TO  
MEET WITH

Mr. Commissioner: Mr. Speaker, I am not aware of any plans, in fact, at this moment the Minister's own travelling plans have not been finalized insofar as the actual time that he will be here in the Territory for the Anvil opening. When this has been done, I will be in a much better position to answer the question that has been raised by the Honourable Member.

COUNCIL

Mr. Dumas: Supplementary once more, Mr. Speaker, if Council indicated a wish to meet with the Minister, would the Commissioner pass this on to the Minister?

QUESTION RE  
MINISTER TO  
MEET WITH  
COUNCIL

Mr. Commissioner: Yes, by all means, Mr. Speaker, and my Minister has always made himself readily available to Members of Council at every opportunity, and I'm sure he has no desire to be any less available in the future than what he has been in the past.

Mr. Taylor: Mr. Speaker, I have a further question in relation to the forthcoming budget. I would like to ask Mr. Commissioner this morning, Mr. Speaker, if he could advise me as to whether or not there will be matching grants for museums, small museums throughout the Yukon this coming season, and if so, on what matching formula would these be provided?

QUESTION RE  
GRANTS FOR  
MUSEUMS

Mr. Commissioner: Mr. Speaker, we're having a difficult enough time taking care of the living without worrying about the dead, and I cannot assure Council at this time that there will be funds available or matching grants available for museums, but I will say this, that as per the policy followed by Council, there will... Council's concurrence with monies being provided under the Historic Sites program will be sought and it may well be that Council, in their wisdom, would like to consider as to whether some of this money might rightfully be directed towards historical type museums. Now, this is a question for Council to decide, it is not for the Administration to

decide, Mr. Speaker, but I would say this, that the attempt has been made in close co-operation with the Budget Programming Committee to come forward with a budget for this coming year which is going to be a reflection of current taxation levels in the Territory, and as a consequence there may be many things, particularly in the operation and maintenance side, that as desirable as they may be, the only way to have them financed would be to consider further taxation and I am sure that Council has stated very clearly, and the Administration has the message loud and clear, that Council is not interested in increasing rates of taxation and quite frankly, the Administration agrees entirely because we also are taxpayers. Many of the things, no matter how desirable they may be, are simply ... will be a reflection of our ability or inability within present financial capabilities to either perform them or not perform them. As to what will transpire within programs, this is the prerogative of Council, Mr. Speaker.

QUESTION RE  
VOCATIONAL  
ADVISORY  
BOARD

Mr. Chamberlist: Mr. Speaker, I wonder if Mr. Commissioner could advise, subsequent to a question I put to him at the last Session, whether or not the Vocational Advisory Board is to continue and, if so, is it going to have meetings.

Mr. Commissioner: Mr. Speaker, I want to recognize my failure to answer this question properly. It was asked of me at the last Session. I'm very sorry ... could I have the opportunity of checking with the Clerk on this matter, please, Mr. Speaker, so that we can have a proper answer for this?

QUESTION RE  
PROPOSED SIZE  
OF FARO MUNI-  
CIPALITY

Mr. Taylor: Mr. Speaker, I have a further question to direct to Mr. Commissioner this morning related to Municipal Affairs. I would like to ask Mr. Commissioner this morning that inasmuch as the proposed extension of city boundaries in Whitehorse provided 180 square miles of Territory for the new proposed city, and inasmuch as 208 square miles were proposed for the village of Watson Lake, I am wondering if Mr. Commissioner could inform me how large the proposed municipality of Faro is?

Mr. Commissioner: Whatever area a circle ten miles in diameter will include, Mr. Speaker. I'm not a very good mathematician but I understand that the ... our quasi Legal Adviser is good at mathematics and he may have the answer to this. Whatever it is, Mr. Speaker, this is the picture. However, Mr. Speaker, in answer to this question, the whole concept that I am sure that Council in their wisdom are going to ultimately embrace is to establish regional type governments no matter whether they be called municipalities, cities, village municipalities, improvement districts or by what other name, that are of sufficiently large a land area to permit their proper and controlled development. Certainly, if we have not had a classic example of the error of our past ways exhibited to us here in the completely and totally inadequate, improper and utterly stupid boundaries that were originally given to the City of Whitehorse, I think that this should be a lesson for all of us to see for the future. I am sure that Council in their wisdom is going to see that we do not create any type of local government anywhere in the Territory in the future that has got unrealistically small boundaries. It is far better that the boundaries be too large, to allow for later consolidation, than it is to start out too small to begin with and then find that you cannot extend them except at great political and economic cost at a later date. I would be very hopeful that there would be ample opportunity, Mr. Speaker, for us to discuss these problems, areas, etc., with Council at a time of Council's choosing so that we can completely clear the whole theory that is in my opinion and those of my officers in Municipal Affairs and Engineering with regard to the delineation of these boundaries.

Mr. Dumas: Mr. Speaker ...

Mr. Speaker: Order, order. The Honourable Member for Watson Lake.

Mr. Taylor: Mr. Speaker, I have a question to the last question addressed to Mr. Commissioner this morning, and I'm wondering, in light of the policy reflected in his reply, if he could inform me if the Administration will indeed be bringing down as well proposals to the people as to how to find money enough to pay the taxes in order to fill the program as outlined by Mr. Commissioner?

QUESTION RE  
MONEY FROM  
TAXPAYERS

Mr. Commissioner: Mr. Speaker, this is a question that will be decided on the floor of Council. It will not be decided by my Administration, and the fact remains there is no service being provided to the public anywhere, be it in the Yukon or within a municipality or outside a municipality, that the taxpayers are not paying for. It may well be that Council in their wisdom will make a decision that is going to see that these services are not spread over so thinly over such vast areas that they cost as much as if there is some means of consolidating in the smaller areas, Mr. Speaker. But, there are no secrets about where money comes from. In any public service, they come from the taxpayer, Mr. Speaker, and this is going to be decided by this Council, not my Administration.

Mr. Dumas: I just wanted to point out the answer to the question ...

Mr. Speaker: Order, order. Is it supplementary? It's supplementary from Watson Lake.

Mr. Taylor: Mr. Speaker, I have one final supplementary question. Am I to assume from the replies to both questions this morning by Mr. Commissioner that the Administration would not hesitate to shove this down people's throats whether they wanted it or not?

QUESTION RE  
MORE RESPON-  
SIBILITY FOR  
COMMUNITIES

Mr. Commissioner: Mr. Speaker, we have no ability to shove it down people's throats whether they want it not. This is something that transpires right here. We're not shoving it down anybody's throat that I'm aware of. If we are doing something that is contrary either to the Ordinances or to Council's subsequent wishes, I think we should be informed of it and that is where the matter will rest, Mr. Speaker.

Mr. Speaker: The Chair recognizes the Honourable Member for Whitehorse West...

Mr. Chamberlist: Mr. Speaker, I wonder if Mr. Commissioner could, now that he has perused the Sessional Paper here, answer the question with reference to Vocational School Board ... the Advisory Board?

QUESTION RE  
VOCATIONAL  
ADVISORY  
BOARD

Mr. Commissioner: Mr. Speaker, the question from the Honourable Member, if I remember it correctly, and I am subject to correction on this, is as to whether or not it is the intention of the Administration to call meetings in the future of the Vocational School Advisory Board. Am I correct in this?

Mr. Chamberlist: Well, that will be satisfactory. That's my question now.

Mr. Commissioner: Could I say this, that I think that the question as to whether or not there is still a function to be performed of a beneficial nature in connection with the Vocational Training Program of the Territory by this Board, is something that had best be decided by the Board, and I feel that the proper thing to do would be to arrange to have an Advisory Board meeting called at an early date,

and the terms of reference of the Board could be examined and examine those things supplementary to this Board's work which are presently going on and see whether or not the Board still has a function of value that can be performed. If it is the Board's decision that it can, certainly I think that we should have it properly reactivated in a similar manner to what we did here several months ago with the Whitehorse General Hospital Advisory Board. If it is the Board's decision that other means are underway that more or less, should I say, usurp the good that this Board conceivably could do, and they decide they should be disbanded, this will be their decision. I would hope that this would be a satisfactory manner of dealing with this problem, Mr. Speaker.

QUESTION RE  
VOCATIONAL  
ADVISORY  
BOARD

Mr. Chamberlist: Mr. Speaker, supplementary, I would like to inquire of the Commissioner why this thought wasn't given in June of 1968 when the last meeting was held. I would ask that question and at the same time, perhaps Mr. Commissioner could answer why, when there are still six members of this Board left, why hasn't this Board been assembled and why hasn't this Member been advised of any particular situation with reference to the Vocational Advisory Board so that I could advise Members of Territorial Council what is happening in the Vocational School.

Mr. Commissioner: Mr. Speaker, to be blunt and honest about it, I don't have the ability to answer these questions because I really don't know what the answers are. I would be very hopeful that the suggestion that I have made would be acceptable to Members of Council. If it is, I will give instructions that this Board be brought together immediately and let the Board itself decide as to whether or not they could carry on. As to the questions that the Honourable Member has asked, I'm sorry, I just simply do not have the knowledge or the ability to answer them in anything less than to say that I do not know.

QUESTION RE  
VOCATIONAL  
ADVISORY  
BOARD

Mr. Chamberlist: A further question, the Vocational School Advisory Board is a part of our legislation. Now, the question I asked is when Mr. Commissioner ... when you say, Mr. Commissioner, that you would ask the Board, but if seven of the Board have disappeared, how can the Board be asked. Would it not be right to have all the representatives or new appointments made, and then the Board decide whether it is right or not, and then it would be Council, Mr. Speaker, that will decide. Would you agree with that, Mr. Commissioner.

Mr. Commissioner: Mr. Speaker, I am as flexible as can be. I am perfectly prepared to go along with any situation at all in this particular regard. Could I suggest that the Honourable Member who has raised the question, who is the Council representative on this Board, give consideration to meeting with myself so that a course of action that he feels would be satisfactory to himself and Members of Council, would be embarked upon in this regard. This might be the answer to getting this sorted out.

QUESTION RE  
BREAKDOWN OF  
HISTORICAL  
SITES' VOTE

Mr. Dumas: Mr. Speaker, I wonder if the Administration could table before Council a breakdown of the dispersement of the \$10,000 that was granted to the Historical Sites and Monuments Board in the past year?

Mr. Commissioner: Yes, I may say it is not a grant, Mr. Speaker. It is a straight-forward vote which is paid out on the basis of recommended expenditures, and we will be very pleased to have this information brought forward.

Mr. Speaker: Are there any further questions?



Mr. McKinnon: Mr. Speaker, I'd like to address one question to the Commissioner. Now that it appears that Justice is coming to the Yukon, I wonder how our fish are coming along.

QUESTION RE  
TAKEOVER OF  
FISHERIES

Mr. Commissioner: It would appear that the fish are taking second place to human beings, Mr. Speaker. I am very gratified and I am very pleased at the attitude that Council has seen fit to take concerning the proposals made with regard to Justice, and all I can say is that the Fisheries aspect of things is still seen lost in the bureaucratic maze that resulted from a Paper being presented to the Federal Cabinet but was not dealt with when our own Minister and the Minister of Fisheries were present at the particular time that it was dealt with. Perhaps we could say that the human miscalculation that happened at that time has been a source of considerable embarrassment to my own Minister, when he spoke privately with Council I think he told them exactly what the situation was. Maybe now that we have Justice wheels moving and on the tracks, perhaps the next thing to do is to get the constitutional matter on the tracks and then maybe we could deal with Fisheries, in that order, Mr. Speaker, if this would be permissible.

Mr. Chamberlist: There's not much meat in that answer.

Mr. Speaker: Order, order, please. Are there any further questions?

Mr. Taylor: I have one final question, and that is related to the fiscal agreement with Ottawa. I'm wondering if Mr. Commissioner could tell me this morning as to whether or not we have been asked in negotiating this agreement, whoever negotiated it, asked to increase revenues in the Territory by any manner of taxation or otherwise for the forthcoming year?

QUESTION RE  
INCREASED  
TAXATION

Mr. Commissioner: Mr. Speaker, the levels of taxation presently existing in the Territory are what the budget has been designed around.

Mr. Taylor: I don't feel that my question has been answered, Mr. Speaker. I wonder if I could ask if the Federal Government has asked the Territory to increase its revenue in this coming year?

QUESTION RE  
INCREASED  
TAXATION

Mr. Commissioner: The levels of taxation have not been asked to be increased, Mr. Speaker. The one situation with regard to taxation that is before Council is a matter that is within Council's prerogative to deal with and this has to do with the removal of exemptions as far as the mining industry is concerned, from local taxation. I am certainly not aware of any indications in the proposed fiscal agreement for this coming year that changes anything to do with the levels of taxation, Mr. Speaker. The total revenues from taxation certainly are anticipated as being greater than they were this past year, but this from natural growth, not from increased levels.

Mr. Taylor: I wonder if I might direct the same question to the Honourable Member from Whitehorse North inasmuch as he is the Chairman of the Financial Advisory Committee, to see if he could add anything?

QUESTION RE  
INCREASED  
TAXATION

Mr. McKinnon: Mr. Speaker, the comments that I made last fall at a press conference still hold true. One, there was no negotiated agreement for 1970/71; two, we were told that if we did not hold the line, that if we wanted to expand programs or bring in any new programs, we would have to find the money for these programs by an increase in taxation amongst the people in the Yukon Territory. So, Budget Programming Committee has taken the line that we would hold the line on the programs and not initiate any new ones in the current fiscal year.

Mr. Speaker: Are there any further questions? If not, would the Honourable Member for Watson Lake please take the Chair?

Mr. Taylor takes the Chair.

QUESTIONS  
NO. 1 & 2

Mr. Livesey: Mr. Speaker, I have two warm-hearted questions this morning, both on fire. Question No. 1, addressed to the Administration, "What department of government is responsible for the provision of fire protection services to rural communities, and can the Administration explain why no fire protection services have been supplied for the community of Burwash Landing?". My Question No. 2, Mr. Speaker, addressed to the Administration, "How many registered letters demanding in some cases, thousands of dollars worth of fire protection improvement, with a deadline of May, 1970, were sent out to small businessmen in the hotel/motel business during the month of November, 1969, in the Electoral District of 1. Carmacks-Kluane Lake, 2. Mayo, 3. Dawson, 4. Watson Lake, 5. Whitehorse North, 6. Whitehorse East, and 7. Whitehorse West?" Thank you, Mr. Speaker.

Mr. Livesey resumes the Chair.

Mr. Speaker: May we proceed to Public Bills and Orders? May I have your direction?

BILL #1  
THIRD  
READING

Moved by Councillor Chamberlist, seconded by Councillor Dumas, that Bill No. 1, An Ordinance to Amend An Ordinance Respecting the Reciprocal Enforcement of Maintenance Orders, be given Third Reading.

BILL #1  
TITLE  
ADOPTED

Moved by Councillor Chamberlist, seconded by Councillor Dumas, that the title to Bill No. 1, An Ordinance to Amend An Ordinance Respecting the Reciprocal Enforcement of Maintenance Orders, be adopted as written.

MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker: I will declare that Bill No. 1 has passed this House.

Mr. Dumas: Mr. Speaker, I would like to move First Reading to Bill No. 12, An Ordinance Respecting Trailer Licencing.

Mr. Shaw: I'll second the motion, Mr. Speaker.

BILL #12  
FIRST  
READING

Mr. Speaker: Moved by the Honourable Member for Whitehorse West, seconded by the Honourable Member for Dawson, that First Reading be given to Bill No. 12, An Ordinance Respecting Trailer Licencing. Is the House prepared for the question on the motion? Are we agreed? Mr. Clerk, the Chair is unaware of the division.

Mr. Clerk: The Member for Whitehorse North?

Mr. McKinnon: Yea.

Mr. Clerk: The Member for Whitehorse East?

Mr. Chamberlist: Nay.

Mr. Clerk: The Member for Dawson?

Mr. Shaw: Yes.

Mr. Clerk: The Member for Whitehorse West?

Mr. Dumas: Yea.

Mr. Clerk: The Member for Mayo?

Mrs. Gordon: Yea.

Mr. Clerk: The Member for Watson Lake?

Mr. Taylor: Nay.

Mr. Clerk: The division is four yea, two nay, Mr. Speaker.

Mr. Speaker: I will declare the motion carried.

MOTION CARRIED

MOTION  
CARRIED

Mr. Speaker: When shall the Bill be read for the second time, now?

Mr. Dumas: Now, Mr. Speaker. I would like to move Second Reading to Bill No. 12, An Ordinance Respecting Trailer Licencing.

Mr. Shaw: I'll second the motion, Mr. Speaker.

Mr. Speaker: Moved by the Honourable Member for Whitehorse West, seconded by the Honourable Member for Dawson, that Second Reading be now given to Bill No. 12, An Ordinance Respecting Trailer Licencing. Is the House prepared for the question on the motion?

BILL #12  
SECOND  
READING

Mr. Taylor: Mr. Speaker, inasmuch as it is possible to speak at the Second Reading in respect to the principle behind the Bill, I would like to say that I oppose this Bill. I feel the Government has failed in presenting this piece of legislation to face square on the problems of taxing trailers. Inasmuch as the licencing of trailers is a tax or an impose in essence, I feel that it is an unfair piece of legislation and I feel that the Administration should in deference to this legislation, be talking about making land available for trailer owners upon which to put their trailers and become taxpayers here in the Yukon Territory. It is for this reason I won't support this legislation in any way, shape or form, and it is for that reason that when this legislation was discussed at the last Session, and thoroughly discussed at the last Session, that I was opposed to it at that time. For these reasons, I oppose it again.

Mr. Chamberlist: Mr. Speaker, I wish to speak on the principle. The licencing of a home such as a trailer is, a person's home, to me is most improper. For a person to have to have a licence to live in a home seems to be ludicrous. I have no objection to trailers having a tax basis as an improvement to the land once it is settled on proper blocks and becomes part of the land, it should be taxed as an improvement, but to licence people to live in a trailer, this I am totally opposed to and I cannot follow the reasoning of this legislation because of that particular reason.

Mr. McKinnon: Mr. Speaker, if I may speak on the principle behind this Bill, subsequent to the debate that was held in Council on trailer licencing at which I was unfortunately not present, there was a meeting between the trailer court owners in the Whitehorse Metropolitan Area. Three of these trailer courts are in my constituency, the constituency of Whitehorse North. There was no objection whatsoever to having a tax or a licence, call whatever you want ... what's in a name ... imposed on the trailers and the trailer owners were the first to agree; they do not object to paying for the services that the Government gives to them. The only objection that they have is in the amount of money that they feel they should be paying for the minimal amount of services that the Government does provide these people who live in trailer parks at the present time. They are not hung up at all on whether you call it a tax or a licence, and I think this semantic difficulty that we get into time and time again in Council is just superfluous to the real argument.

Do people and should people pay for the services that government provides them. The trailer court owners say "yes", and they are willing to pay, and the only difficulty is arriving at an equitable price for the services that are rendered to these people living in trailers.

Mr. Speaker: Is there further discussion?

Mr. Dumas: Yes, Mr. Speaker, I can only add to that that I have met with many, many trailer owners since our last debate and I can assure you that what the Honourable Member for Whitehorse North has said is essentially true. Trailer owners themselves realize that they must pay for the services they use, and those services primarily are concerned with the education of their children ... I think in one trailer court alone, there are 68 children attending schools in this area. These people are willing to pay, Mr. Speaker, and this Bill will enable us to pass legislation that will allow them to contribute their fair share towards the community.

Mr. Speaker: Order, please. Order. Is there any further discussion?

Mr. Shaw: Mr. Speaker, I did second this motion. I have not met with any trailer court owners, but I do feel that when people live in a community, they are ... it is their right to pay their share towards the cost of services in that community. Whether you call it a tax or whether you call it a licence is a matter of semantics. I can see the difficulty if you call it a tax. Just before the tax man comes around, they can move their trailer over to another lot and then bring it back after the man has been around. Therefore, we must have another system. What difference does it make whether you call it a tax or whether you call it a licence? We must have some means whereby these people must pay their share of the cost of the particular services. In fact, the other day, yesterday or the day before, I think the Fire Department went out to put a fire out in a trailer. They expect these services, they expect their children to go to school, they expect to have roads going in to their community and various other things and matters that pertain to living, in which case there is no justification whatsoever that there shouldn't be some form of money arrived at from these units, whether you call it licence or whether you call it tax. It all boils down to the same thing. It's paying for services which the people receive, and if we have to call it a licence, then what difference does it make. I think we should go ahead and see that these people pay their fair share.

Mr. Speaker: Is there further discussion? Question has been called. Are we agreed? Mr. Clerk?

Mr. Clerk: Whitehorse North?

Mr. McKinnon: Yea.

Mr. Clerk: Whitehorse East?

Mr. Chamberlist: Nay.

Mr. Clerk: Dawson City?

Mr. Shaw: Yea.

Mr. Clerk: Whitehorse West?

Mr. Dumas: Yea.

Mr. Clerk: Mayo?

Mrs. Gordon: Yea.

Mr. Clerk: Watson Lake?

Mr. Taylor: Nay.

Mr. Clerk: The division is four yea, two nay, Mr. Speaker.

Mr. Speaker: I will declare the motion carried.

MOTION CARRIED

MOTION  
CARRIED

Mr. Speaker: May I have your further pleasure?

Mr. Shaw: Mr. Speaker, I would move that Mr. Speaker do now leave the Chair and that Council resolve itself in Committee of the Whole to discuss Bills and Sessional Papers.

Mr. Dumas: I'll second the motion?

Mr. Speaker: Do I understand the motion to be correct with the inclusion of the words Sessional Papers?

Mr. Shaw: Mr. Speaker, in making this motion, I wasn't here yesterday, so I'm not sure but if we have no Sessional Papers we have nothing to worry about because we've nothing to discuss.

Mr. Speaker: The Chair will correct the motion to read Bills. I don't believe there are any Sessional Papers in Committee. Moved by the Honourable Member for Dawson, seconded by the Honourable Member for Whitehorse West, that Mr. Speaker do now leave the Chair for the purpose of convening in Committee of the Whole to discuss Bills. Is the House prepared for the question on the motion? Are we agreed? I will declare the motion carried.

MOTION CARRIED

MOTION  
CARRIED

Mr. Speaker: The Honourable Member for Watson Lake will please take the Chair in Committee.

Mr. Taylor takes the Chair.

Mr. Chairman: At this time I will declare a short recess.

RECESS

RECESS

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that this is crucial for ensuring transparency and accountability in the organization's operations.

2. The second part outlines the various methods and tools used to collect and analyze data. This includes both traditional manual processes and modern digital technologies, highlighting the benefits of automation and data-driven decision-making.

3. The third section focuses on the challenges and risks associated with data management, such as data security, privacy concerns, and the potential for data loss or corruption. It provides strategies to mitigate these risks and ensure the integrity of the information.

4. The final part of the document discusses the future of data management, including emerging trends like artificial intelligence, cloud computing, and big data. It offers insights into how these technologies will shape the way organizations handle their data in the coming years.





Page 24.

Wednesday, January 14, 1970

11:00 o'clock a.m.

Mr. Chairman: At this time we'll call Committee back to order. BILL #2  
We were discussing Bill #2, page 6, Section 16. Bill #2. (Reads  
Section 16 (1) (2); 17 (1) (2) (3) (4). I believe, Mr. Legal  
Adviser, the changes here were again for protective care?

Mr. Legal Adviser: It was made for protective care. I don't know,  
was there any other change? I don't know of any other change in  
that Section.

Mr. Chairman: This appeared that it was retyped of subsection (b)  
of subsection (1) of 17. Are we clear?

Some Members: Clear.

Mr. Chairman: (Reads Section 18; 19; 20 (1) (2) (3) (4); 21 (1)  
(2) (3); 22 (1) (2) (3).

Mr. Livesey: Question.

Mr. Chairman: Councillor Livesey.

Mr. Livesey: Is the word "committal order" used, Mr. Chairman, in  
sub (3)?

Mr. Chairman: "Committal order"? I wonder if you could clarify  
your question.

Mr. Livesey: Yes. In the previous one we discussed under sub (3),  
of Section 22, "Every order of wardship of a child made according  
to the laws of any province of Canada or any other country or part  
thereof shall for all purposes in the Territory have the same effect  
as a committal order made pursuant to this Ordinance..." Has there  
been another change?

Mr. Legal Adviser: It is not always possible to avoid using the  
word "committal" but wherever it has been possible to avoid it we  
have done it and this is one of the places where we have avoided it.

Mr. Chairman: Are we clear?

Some Members: Clear.

Mr. Chairman: (Reads Section 23; 24; 25 (1) (2); 26; 27 (1) (2);  
28 (1) (2). Section 29. "Where an order is made for any payment  
for the maintenance and supervision of a child, the period for which  
the payment shall be made commences at the time the child was  
apprehended, irrespective of the date of the order for protective  
care or the date of the order for payment, and continues so long as  
the child remains in the protective care..." "of the Director"..  
make a note Mr. Clerk ..." and continues to be an expense to the  
Director." (Reads Section 30; 31; 32 (1) (2) (3); 33 (1) (2); 34  
(1) (2); 35; 36; 37; 38 (1) (2); 39; 40 (1) (2).

Mr. Chamberlist: Question.

Mr. Chairman: Councillor Chamberlist.

Mr. Chamberlist: Mr. Chairman, in Section 40 I have raised strong  
opposition before .. in the last time we went through this Bill; my

BILL #2

Mr. Chamberlist continues.....

reasons being, and they must apply again, is that if the Director can make available information to the Commissioner or the Commissioner's solicitor, surely there's reasonable merit in the information being made available to the solicitor or a person who might be involved in defence of a particular action. Now, it might be said, well, this information might not be used correctly, but you will note that in subsection (2) (a), it can be the information is made public in any event at a trial. So it would appear that although you can make the information public at a trial or hearing or proceedings under Parts I, II and III of this Ordinance, the defending lawyer would be unable to obtain that information pertaining to his client's case until the date of the hearing or trial, so that it may well be that the court would rule that he has been taken unawares because the information has been refused him. I would agree that this type of information must not be given out indiscriminately. I think that there is a necessity to protect certain confidential information, but at the same time we must protect any individual who may be involved in a litigation where his lawyer wishes to obtain certain information so that he can advise his client how to act and how to proceed - whether to contest a claim against him, but he wouldn't be able to have that information made available. I'm therefore suggesting, Mr. Chairman, that this Section be worded in such a way that a discretion is given, not by the Commissioner, because the Commissioner says "in any other case, except with the consent of the Commissioner", because really it's the Commissioner who's giving his consent even to the Director. This is a little bit of a switcheroo here, where it says the Director can't disclose to any other person but the Commissioner; it's the Commissioner saying really that the Director won't disclose it to anybody but who the Commissioner says he will disclose it to. I think there should be a discretion given to the Director specifically as to whether or not information be given to a...and I think we should say a legal adviser of any person who may be prosecuted or where there is a civil action pending in any matter of Parts I, II and III of this Ordinance. There is a necessity to make available information that can't come out in open court prior it goes to open court. I wonder if Mr. Legal Adviser could comment on that particular aspect.

Mr. Legal Adviser: Mr. Chairman, this Section has been studied and studied thoroughly, not only here but at different levels of government and in different courts throughout Canada and the United States and many other places and the consensus of opinion is that information which comes in the hands of the Director of Social Welfare concerning a child's antecedence, personal history and so on, should be locked up and not available except in a very, very special case. A case occurred in Alberta where a man died and it was suspected that a certain boy was his illegitimate child. This particular person had been adopted and the court in that case opened up the file to ascertain in fact whether that person was the adopted illegitimate son of the deceased, and this was thought to be in the best interest of the child; but it was then considered throughout Canada and the various legal departments - and I'm not talking about the Department of Social Welfare - but legal departments considered and they all started to introduce special Sections to make sure it couldn't happen again. This is considered very, very special information that will destroy the confidentiality. As I understood it the objection the Honourable Member had the last time this was being proceeded with was that we would redraft the Section to make it clear that the Director of Social Welfare alone would have control of these files - they would not be departmental files in the express sense of the word, available to anyone to have them. If we had a different Constitutional form you could have in paragraph (b) "in any other case, except with the consent of the Attorney-General" and it would be a qualified judicial decision in each case as to when he would give the information

Mr. Legal Adviser continues.....  
 and when he wouldn't. But I think that the Commissioner has many BILL #2  
 times said that he does not act without advice, and he was satisfied  
 that it was a proper case, on advice, he would give the information  
 out. I can tell you, it would be a very, very rare case that this  
 would happen. Notwithstanding anything the Section says, it is available  
 for the court at a proper court hearing in relation to this action,  
 that is, in relation to where the child is. But where there is an  
 action taking place quite apart from the child, not in a form of  
 action or even a defence, the information would not be available.  
 Certainly not as a matter of routine unless a Court Order would  
 compel the Commissioner to do so. You get in to a very, very touchy  
 area with this kind of information sometimes. A case occurred in  
 England where a man was charged with incest and it turned out that the  
 particular girl involved was his own daughter. Now this in theory  
 could happen; but, nevertheless, knowing this, every Deputy Attorney-  
 General in Canada has come up with the united opinion that the  
 type of Section that is desirable and that they are putting in is  
 this type of Section to keep this type of information locked up.  
 You've got to ignore occasionally the particular interest of a  
 particular child, or a person, and take the broad structure as a  
 whole and view all the children of the Yukon who may be affected  
 with this action and not just one particular thing. I would  
 deprecate broadening the information. The escape clause is there -  
 "in any other case, except with the consent of the Commissioner" and  
 as I say, this is a suitable thing for our particular form of  
 government. Under another statute it might be the consent of the  
 Minister or the Attorney-General. I would beg the Honourable Member  
 to accept it as it is and accept that the Commissioner does act on  
 advice and it is advice that is, at least sometimes, reasonably sound.

Mr. Chamberlist: Mr. Chairman, I have no argument with the suggestion  
 that is made by Mr. Legal Adviser, but I do feel that if we look at  
 Section 40, subsection (2), where we say that "no person appointed  
 under section 3 or 4 shall disclose or be compelled to disclose any  
 information obtained by him in the course of ...his duties under  
 this Ordinance", that's his duties,"(a) except at a trial, hearing  
 or proceedings.....", now, the point that I make, and the point that  
 Mr. Legal Adviser has taken, Mr. Chairman, differ in as much as Mr.  
 Legal Adviser has made reference to the information being given by  
 the Director or the Commissioner with the Commissioner's discretion,  
 but there's no room for the Commissioner's discretion at a court  
 trial, because in a court certain information, as Mr. Legal Adviser  
 knows, Mr. Chairman, can be asked for and this information will  
 invariably be ordered by the court to be brought forward if it is in  
 the interest of Justice that all information comes before the court  
 because the court could not adjudicate properly. Now, my point is  
 that if this can take place on a specific day when a trial or hearing  
 takes place, it places a defence lawyer or his defendant in the  
 position of having not had time to study the documentation which  
 accuses him of an act that he says he's not guilty of, or of a debt  
 that he says he's not guilty of. This is the thing that concerns me.  
 The Commissioner may when in his opinion, promptly say no, we cannot  
 open this file, but when it comes to court, the court says, well,  
 the man's entitled to see what it's about. But he has to wait for  
 three months before he comes to trial to find out whether or not he  
 can get this information that's run him into thousands of dollars  
 in legal expenses when the information itself will disclose in court  
 that there was no reason for the court action in the first place.  
 You see, this is a penalty given people that shouldn't be given, and  
 this is the reason why I feel that there should be a discretion to  
 the Director - or I don't mind if the discretion is to the Commissioner,

Mr. Chamberlist continues.....

BILL #2 as long as it says that the discretion is there for a specific purpose in a legal action where a legal officer who also is an officer of the court - the very fact that he can practise in the jurisdiction of the Yukon Territory makes him an officer of the court. Surely, if there's enough confidence to give information to the solicitor acting for the Commissioner, who I take it is also an officer of the court, therefore, why not give this information to another officer of the court, which is also confidential? Of course, most lawyers have ethics and most lawyers follow their ethics, so I see nothing wrong why this direction to the Commissioner cannot be expanded in that particular area so that a person who is concerned that information might come forward in court, and does come forward in court, would not be given him at an earlier date. This is the point that I strongly make in this, Mr. Chairman.

Mr. Chairman: Mr. Commissioner.

Mr. Commissioner: With respect to the point that the Honourable Member makes, I see the point that he is getting at, and I must admit that it has a certain amount of validity; but, I would personally be very much inclined to what the Legal Adviser has to say here and I would be personally very much disturbed if the Commissioner, no matter who he may be, or who his advisers may be, had a discretionary power in the particular matter that is referred to here. Many, many things for which legal advice is retained and which are designed to come to trial, never come to trial. Many, many things start out at certain levels in the courts - I am not as familiar with them as the Honourable Member who has raised the question is - but many, many things get to certain levels in the court and they do not proceed any further. I think if there is to be anything that is not implied here that I am not aware of that did not indicate, and I am sure that it does indicate, that if a person was called upon to defend someone in a court action which was active, not a proposed one, but in the court action which was active, I certainly would feel that at some point here they could appear before the court and get a court Order to have this information released to them. Now perhaps the Legal Adviser will comment on my question here, but anything other than this, I would very, very much question the advisability of having this discretionary power made available here. I agree entirely with the point that the Honourable Member makes - it is a well taken point, Mr. Chairman - but believe you me it is something that should ...there should be as few loopholes as possible in a Section of this nature.

Mr. Chamberlist: Mr. Chairman, I can't really see the objection to this being put in - something to this effect being put in - because what the important factor is, not whether somebody can go to the court after an action has started and say that I want certain documents and the court cannot order those documents because the court is only there to interpret legislation, not to make legislation, and if the legislation says it.. unless the Commissioner gives.. "except with the consent of the Commissioner" the court can't order the Commissioner to do so, because the legislation says "except with the consent of the Commissioner". So the court would not take the attitude, well, I thing this person has a right to this information, because, as I say, he cannot go beyond what we, as legislators, have put forward, but he would be able to say that if the court could order it; but, the way this is written, the court cannot order it, and this is where I say there is protection needed. Now, I'm

Mr. Chamberlist continues.....

BILL #2

quite happy to accept that it not be a discretion of the Commissioner but that it be a discretion of the court, but as long as it says it in the legislation the court can in fact say, well, there is reason to believe that the information that is required is in the interest of this person having proper defence. Now, I wonder, Mr. Chairman, if Mr. Legal Adviser can just cover that particular area there.

Mr. Legal Adviser: Mr. Chairman, we are what is in admittedly the area, and an area that in Canada at the moment is in a constant state of change; that is, as to what official information in relation to a government department may be made available to the public and under what conditions, and the cases are beginning to differ in the various provinces as to what should be done. At the moment the position is that so far as a statement made by a witness to a police officer is concerned it can in certain forms of criminal cases be ordered to be disclosed and in others it cannot. But a report by an officer to his superior can never be forced to be disclosed, and he cannot even be cross-examined about it, in a sense that they can demand a copy of it and ask him questions about it - they just cannot get it. Now, we're making a distinction here between files documents and papers kept by the Director and people including the Director who come in possession of this information. We are really talking about asking them questions and forcing them to give that answer, in the first place, and forcing them to give an answer in the presence of other people during a trial. Now in a hearing or a proceeding which includes all the preliminary aspects of it, which is held under any portion of this Ordinance, I, II or III, which is the main portion.. the only portion, then he can be forced to answer questions. In other words, a defence person can call him as a witness and ask him questions and he can be forced to disclose relevant information with the Commissioner's permission; but not in other files or other proceedings. Now, this is a different thing from the document itself. Supposing there even existed a birth certificate - under certain circumstances the court may order them to produce a birth certificate - to produce a consent to adoption .. you know, the various forms of documentation can be called for by the court. Under the relevant proceedings they usually aren't an order and the person defending him saying, the proceedings are bad, then call for these documents during the course of the hearing and can ask questions of the people involved. But there's not absolute prohibition on the ordinary person employed in the department on disclosing information. This is not only just the Director, this is persons appointed under sections 3 or 4 including everybody who is coming into possession of the information - the clerks, the typists, the Director, the filing clerks, central registry, if they happen to have a file going backwards and forwards through that section - everybody is forced to hold their tongue. This is a basic tenet of Social Welfare Legislation that anybody can talk in absolute confidentiality to the Director or the Social Worker. They can, for instance, when a Social Worker is making inquiries as to how a child is being looked after in house A, they may visit house B next door and ask do they have anything to say as a complaint was made - is it true? They investigate just like a police officer and they must be assured that the woman next door should she answer the question, will be protected from all forms of action or annoyance when she makes a statement. It is very, very difficult to differentiate what information can be disclosed and what can not. The only thing I suggest is to leave it at the hands of the court to make the particular decision. This is what we set courts up for, rather than lay down the rules ourselves. This is why it's so broad and then just to give it an escape clause "in any other case, except with the consent of the Commissioner". As I said, and that consent will not be forthcoming.

Mr. Chairman: Order please. At this time I will stand Committee in recess until 2:00 this afternoon.

RECESS

RECESS

19

19



Page 29.

Wednesday, January 14, 1970.

2:30 o'clock p.m.

Mr. Chairman: At this time I will call Committee back to order and we are discussing Bill No. 2 on Page 12 and we are presently prior to rising for noon recess. We are dealing with Section 40. Have you anything further on this section.

BILL #2

Mr. Chamberlist: Mr. Chairman, the points that have been made by Mr. Commissioner, Mr. Legal Adviser do not coincide with the objections that I have read. There is certainly points dealing with the restriction of making available to others than those of the Commissioner or his Legal Adviser, documents that are of a confidential nature. Now I am not opposed to the principal that certain documents under this Ordinance should not be readily made available to protect the interests of the child, but I do believe that the interests of adults must also be protected where a child may give evidence in the court that certain things have taken place and the adult has no opportunity to defend himself or bring forward or examine documents that may be held in the custody of the Director of Social Welfare who will only, according to this Section 40 of the Ordinance only make those documents available to the Commissioner or his Legal representative. I am proposing and I wish to move an amendment to Section 40, it's moved by myself and seconded by Councillor Livesey, that where Section 40, sub-section (2) added to after sub-section (b) the following words be put in as a sub (c), "at any time when ordered by a Court of competent jurisdiction, so that the onus is then removed from the Commissioner but it is given to a court to decide whether or not in the interest of justice, the document should be brought forward and made available to another person". I will read the words again, it would be a sub-section (c) of Section 2 of 40 would be "at any time when ordered by a court of competent jurisdiction so that the preamble which reads, to no person appointed under section 3 or 4 shall disclose or be compelled to disclose any information obtained by him in the course of his performance of his duties under this Ordinance except and incidently I would suggest that where the word or where (a) is, the word except be prior and not in part of (a), because except at a trial and then in any case. So the word except should come out from there and be put ahead of the (a), (b) and the proposed (c), so then it would read "except at any time when ordered by a court of competent jurisdiction".

Mr. Legal Adviser: Without binding myself at this moment, Mr. Chairman, I would ..... that amendment and word it differently. "At any time in a proper case when ordered by a court of competent jurisdiction". I don't want to bind the Commissioner but it's not verbose to me, it has to be a proper case so that the court will actually consider it, not just casually do it because it happens to be a competent court.

Mr. Chamberlist: Well, Mr. Chairman, I take it that if the court is a competent court of jurisdiction, it's not going to grant that permission unless there was a proper case shown to the court. I don't wish to restrict in the Ordinance itself the right of somebody going before a court and asking that these documents be made available. This is what I want to do and I think with respect Mr. Chairman that the way Mr. Legal Adviser has put it, it would restrict as to what is a proper case. The court would have to decide in any event whether it is a proper case so that if you go to a court and somebody wishes to obtain an order, the court will say whether this order should be given or not be given. If in the opinion of the court, the learned Judge says well in my opinion, this is not a proper case for the information to be given. That's the end of it. If he feels it is a proper case, he is just going to give it. So, the words proper case, I would say, has no bearing on it at all because it would restrict and I don't want to see any restriction on this.



BILL#2 Mr. Dumas: Mr. Chairman, I'm inclined to agree with the Honorable Member from Whitehorse East because I think of specific instances where there may not in fact be a case involved and I use an example of, if I adopted an eight year old child say and in a couple of years after the adoption is legal and everything else, some problems arise with the child and a psychiatrist or a psychologist says, well there is obviously something in this child's background that has helped to create this problem and if I don't have access to the documents or can't go to a court and ask them or my psychiatrist who has access to these documents could create a bit of a problem. I don't see anything wrong with the insertion as suggested by the Honorable Member.

Mr. Legal Adviser: Then it would not be a proper case.

Mr. Dumas: In your opinion.

Mr. Legal Adviser: Well, of course in my opinion, but as the cases go, the court wouldn't open up a file for that reason because it would be creating a precedent. You know, it's hard to know exactly what a court will do. As I said earlier, the law is in a state of flux and you have got to sort of go from province to province, but the fashion is changing just at the moment and the court is getting tuffer and tuffer in these cases and following the trend of the legislatures in the various provinces closing down the opening of this. Now a case arose shortly before Christmas and it was a sensational case that occurred in Saskatchewan, where an adoption order was reversed and the Judge did it on the existing adoption Act in Saskatchewan.

Mr. Livesey: Mr. Chairman, to me the amendment is quite simple. It doesn't bind or assist the court, it merely provides an opening whereby the competence and jurisdiction of the court may be applied to a question or answer something that may be necessary, and as far as the court is concerned, the figure would be entirely out of place to even question anything they do in view of our understanding of the meaning of the court.

Mr. Legal Adviser: I have no objection basically to allow the court jurisdiction to anything at anytime, but the court will need some guidance. When I say a proper case, the proper case doesn't mean an action ....., but I think the judge would have to consider this and I think the judge should be the judge of the Territorial court. I don't think it should be power given to the court as the court is used in this section to mean Magistrates court but I think it should go to the Territorial court, so then I think we should use the discretion of the judge rather than the court.

Mr. McKinnon: Mr. Chairman, I can see once again that this is usually an exception but then again it's an exception, the two Legal Advisors are on the same track and the same train of thought. Could they get together and come up with an amendment that would be satisfactory to both of them to present to Council after coffee break.

Mr. Legal Adviser: I would like the opportunity to discuss it with the court.

Mr. Chairman: Well, is it your wish to withdraw the Motion as stated at this time?

Mr. Shaw: Well Mr. Chairman, I can see where this would be quite alright if it were in the right designation of the judge of the Territorial Court. Now, if we are going to give the power to which it appears it can be in many cases to justices of the peace and so forth, I would object to that. I think that this information would only be brought forth or given under extenuating circumstances,

Mr. Shaw continues.....  
perhaps that should be it and not something that it's just a matter where you get a court order and get all the information you want, because this is something that would have a great bearing on children and would disclose a lot of things that would just as well not disclose possibly with detrimental to the ward and therefore, if any information can be obtained, it should be only obtained from a very, very high judicial authority, namely the Judge.

Mr. Chamberlist: Well Mr. Chairman, I will withdraw the Motion that the Commissioner ....or why not leave it as it is until after we have a discussion on it.

Mr. Livesey: Yes with respect Mr. Chairman, the motion may be made from day to day waiting sub-amendment and if the new suggestion entirely eliminates the meaning of the present motion .... then of course we can not do .....

Mr. Chairman: I think that if this be the case then at this time the Chair would have to insist on the copy of the Motion so that it might be read. At this time I will call a five minute recess.

RECESS

Mr. Chairman: At this time I will call Committee back to order, and what is your pleasure in respect of a proposed Motion? Would Committee agree that this proposed Motion be withdrawn at this time? The Motion is so withdrawn. Would you proceed.

Mr. Chamberlist: Mr. Chairman, I will withdraw the Motion with the permission of my seconder.

Mr. Chairman: Does the seconder agree?

Mr. Livesey: In view of the explanation by the Legal Adviser, I will withdraw.

Mr. Chairman: Would Committee agree that this proposed Motion be withdrawn at this time? The Motion is so withdrawn. Would you proceed.

Mr. Chamberlist: Mr. Chairman, for the record now, could Mr. Legal Adviser indicate what will be added to section (d), sub-section.

Mr. Legal Adviser: What I propose to add is, to eliminate the period immediately after the word Commissioner in sub-paragraph (b) so that it would then read, "in any other case, except with the consent of the Commissioner or the order of a Judge.

Mr. Chairman: Does Committee agree? May I proceed? (Reads Section 41, 42, 43, 44 (1) (a)(b).

Mr. Livesey: In the opinion of the Legal Adviser to the Council, it is so deemed that this summons has legally been served irrespective of the fact that it was not handed to him personally.

Mr. Legal Adviser: Oh yes, this is a normal method of serving a summons.

Mr. Chamberlist: Mr. Chairman, there is an area that has been left out and I think we should lock this, you see, (a) left for him at his last or usual place of abode with some person. Now supposing, it happens to be a cabin, he lives in a cabin. Now it can't be left there, it has to be left with the person. We're just dealing with (a) now, so if he happens to be a person who lives in a cabin by himself and he is away from there, he cannot be served there. Now that's clear. When it comes to be sent to him by registered mail at

BILL #2 Mr. Chamberlist continues.....

his last or usual place of abode, now there is no mail delivery. Now this doesn't say at his last known address which may be a post office box number or general delivery. This specifically says, his last or usual place of abode which is his residence. Now how are they going to get that there? I think you should say, Mr. Chairman in the legislation, Mr. Legal Adviser should put in here, sent to him by registered mail at his post office, at his last or usual place of abode or his known post office address because without that, this leaves this area open.

Mr. Legal Adviser: Yes, I'll accept that, Mr. Chairman.

Mr. Chairman: Would Committee agree? (Reads Section 44 (2) and (3). I would like to direct a question from the Chair to Mr. Legal Adviser. Would this over-ride or have a tendency to over-ride any provincial order on some other jurisdiction?

Mr. Legal Adviser: No, the normal form whereby you serve under jurisdiction, you make an application to court and you get special leave because of the accomodity of courts to serve not the actual certain documents because sometimes you sent them notice of service and you include in this a copy of the writ that you intend to serve on it.

Mr. Chamberlist: Well, I think that Mr. Chairman has raised a good point because it is satisfactory for the purposes of our legislation to make it that service out of the Territory of a summons pursuant to section 43 may be made without an order. It's satisfactory to serve without a summons, but it is acceptable and legally served within somebody else's jurisdiction. If there is no provision in the jurisdiction in another province. Is it acceptable there? I think not because I know of one or two cases where courts have ruled in Alberta that this has not been properly been served because service was made without leave to the court in of the other jurisdiction on which to take the necessary action. It was done without the jurisdiction and it was set aside on that technicality.

Mr. Legal Adviser: It would depend on the form the proceedings would take but taking it by and large, if I want to serve somebody in Edmonton with a court document from the Territorial court here, I don't have to get leave of the court in Alberta but I have to get leave of my own court here. So, all we're doing really is eliminating a step here. We're not doing anything that a court or a state outside would in fact object to. Once we've served the document, it has no effect and we could do nothing much about it, but at least it is served for the purpose of the record or whatever goes on here and then the service would have to be approved to the justice or magistrate that the .....was served and it might be that time would commence to run from a certain point of time or a liability would be there. You would have to prove service so that an order can remain.

Mr. Chamberlist: Well Mr. Chairman, a further question. Perhaps Mr. Legal Adviser would indicate whether or not this would not conflict with the rules of court that are set out for the Yukon Territory mutatis mutandis, the B.C. court. Now, if there is a necessity under the rules of court for making an application for service outside of the jurisdiction, would we not be in conflict by having this section in here?

Mr. Legal Adviser: There is no conflict but it's slightly different. The rules of court apply to civil proceedings in the Territorial court and in the Magistrate's court, civil proceedings. They don't apply to criminal proceedings at all. The rules of criminal

Mr. Legal Adviser continues.....

proceedings are in the Canadian Criminal Code that we apply, and this is a quasi criminal. It is neither a fish, flesh, fowl or a red herring, so we are making our own rules as we go along and this is a convenient rule which is in operation in most places as far as I know of and I think we should adopt it here.

Mr. Chamberlist: Mr. Chairman, not being the smorgasbord that Mr. Legal Adviser has referred to, this piece of legislation covers not only criminal matters where individuals may have to be dealt with, but also civil matters where there might be a claim for dollars and cents. Now surely there must be a conflict when the court is being by-passed on other than a criminal matter although Mr. Chairman, Mr. Legal Adviser has indicated that the rules of court in B.C., of the Yukon Territory which as I say are the same, would be applicable for criminal matters. It is also applicable for in civil areas and civil matters. I'm just wondering so that it would be no possibility of somebody getting around any claim that they might have against them because of a fact that there might be a difference of opinion in this, why not have that at all. Why have it in there? It's quite simple to get an order here.

Mr. Legal Adviser: The summons can be served anywhere. Before rules of court were flexible the question of the services of a summons was a highly technical operation. This makes the thing simple and precise and one doesn't have to worry about where you serve it provided in the event you prove to the court that in fact it was served, so that's what makes it awkward. So, I think it's not being in conflict with any other rule or court that this is making it's own rules. We are in a quasi criminal area. Now, it's not civil and it's not criminal, it's quasi criminal. It's enforcing a civil process by criminal methods.

Mr. Chamberlist: Mr. Chairman, if perhaps Mr. Legal Adviser could answer this. If as a result of a summons being served without an order of the court being obtained and thirty days after there was a hearing, and a money award by way of judgement was given to the person who was served, it would not be enforceable outside this jurisdiction but if the or an order was obtained from a court here to proceed to serve the summons and there was a reciprocal order made in a court outside, then it would be within the outside's court jurisdiction to enforce that particular claim of money. Would this not be correct?

Mr. Legal Adviser: That wouldn't affect it. The question is whether it's reciprocation or not. The question to whether there was reciprocating judgement Ordinance or act enforced in Alberta and here and then you would move under reciprocal enforcement section of that Ordinance. It wouldn't depend on whether it was served or not served because the judgement is a final thing. You get a judgement if a judgement has been enforced outside, you can then register your judgement and you can then start from that point. You don't contest how it has been served or how it has not been served.

Mr. Chairman: (Reads Section 45, 46 (1) (a) (b)).

Mr. Chamberlist: Well, Mr. Chairman, this follows my questioning before. If a person is served outside of the Territory, certainly a hearing cannot go on if he doesn't propose to come into the Territory to be heard. Now a person that is in the Territory, he can be arrested and he can be held or held on a reconnaissance of a certain amount of dollars, but if he is outside the Territory, he can do whatever he likes about the matter. He can just keep away. So the man that is within the Territory gets penalized.



BILL #2 Mr. Chamberlist continues.....

Now, how is it possible on the basis of the summons being served outside the Territory, and Mr. Chairman, Mr. Legal Adviser might answer this. How can he be tried in absentia?

Mr. Legal Adviser: In some cases, the man can be carried in absentia but this is not one of them. This is section 43 (1), it says, upon filing of an affidavit a summons is issued, sub-section (2) says, where he doesn't turn up, then a warrant is issued. Now a warrant will be issued and it's unenforceable outside the confine of the state. Assuming that in Watson Lake, the policemen realizes a warrant for arrest and he holds the man as he comes out of the bar, then he is brought before a justice. This particular section deals with the question with a man who is actually arrested on a warrant. A warrant doesn't run into B.C. or Alberta but it does run here, and if he is caught, he should be brought before the justice and given an opportunity to get out of jail.

Mr. Chairman: I will declare a brief recess.

RECESS

Wednesday, 14 January, 1970.  
3.30 P.M.

Mr. Chairman: At this time I will call Committee back to order. We are dealing with 46(1). Have you anything further on Sub-section (1)? (Reads sub-section (2)). BILL #2

Mr. Chamberlist: Mr. Chairman, I wonder if Mr. Legal Adviser can advise what this means, 2(b)? Where the justice is satisfied that it is probable that the man will not appear at the hearing voluntarily, the justice may commit the man to a prison there to be kept until he does what is required of him or until the hearing. I wonder if we can get an explanation of that, that tricky one?

Mr. Legal Adviser: I think it appears very clear in language. This is a fairly normal method of ensuring, through the normal mechanics of the Criminal Code Procedure, .....

Mr. Chamberlist: It says here, where, but where he does not appear voluntarily, the justice may commit the man to prison; all he does is issue a warrant, but he does not commit him to prison, he issues a warrant for his arrest, but this is a committal order, is it not? Isn't that what it means?

Mr. Legal Adviser: No, this is a case where the man is brought before the justice and he has his bags packed and has his tickets for Fairbanks and he has sold his business and he is on his way out the door and he says he was going to stay for the hearing and he was just buying his tickets in advance. So the magistrate said "enter into a recognizance to appear or something like that and the man doesn't and he stays in jail until he does what is required of him....."

Mr. Livesey: Mr. Chairman, would this residence in jail carry on indefinitely?

Mr. Legal Adviser: No, he is kept there until the hearing.

Mr. Chamberlist: Which might take place when?

Mr. Legal Adviser: It would normally take place when a man is in prison; it takes place very, very promptly. It is one way to ensure a very quick hearing.

Mr. Chairman: (Reads 47(1),(2); 48(1). Councillor Livesey.

Mr. Livesey: The way I read Section 48, perhaps the Legal Adviser can assist me in my thinking, it says "where a justice, upon the appearance before him of a man either in person or by counsel and upon considering the evidence adduced before him, is satisfied that such man probably is (a) the father. Is.....the father?"

Mr. Legal Adviser: Sometimes yes but mostly no, otherwise I'd be.....

Mr. Livesey: That doesn't answer the question. Does this Ordinance apply to a father, that is what I am asking Mr. Chairman.

Mr. Legal Adviser: It only applies to what we would call a putative father.

Mr. Chamberlist: Mr. Chairman, there is 48(b), just before

BILL #2 Mr. Chamberlist continues..

(i) it says "he may, having regard to the number of possible fathers or men" now, what do we mean "possible fathers or men", are some women involved in this thing as well to possibly cause a pregnancy; fathers or men who possibly cause a pregnancy; what are we talking about?

Mr. Legal Adviser: .....in looking through this Section, of either using the word "man" throughout this part of the Ordinance or using the word "male person". The normal form appeared to be "male person", .....a man is a male person, so to make it simple I said "man and men" wherever in some of the Ordinances and Acts I was looking they used the word "male person" or "persons". Now the man is the cause of pregnancy when the woman is pregnant but has not brought forth the child; you can't call him a father at that particular point of time; he may never become a father. Something may happen in between conception and delivery.

Mr. Chamberlist: Very nice, but the point hasn't been got. I thought I would clarify this. That area says "having regard to the number of possible fathers or men who possibly caused the pregnancy". Now, when we are talking about a possible father don't we mean a possible man who causes the pregnancy?

Mr. Legal Adviser: The pregnancy may have terminated.....

Mr. Chamberlist: We are dealing with fathers or men.

Mr. Legal Adviser: Fathers or men who cause a pregnancy.

Mr. Chamberlist: And then made an Order requiring the man to pay the mother, not the father. Reading on this basis, if this is right, having regard to the number of possible fathers or men who possibly caused the pregnancy, then surely it should read make an order requiring the father or the man to pay the mother, because if you are using "fathers and men" certainly you should use father and man following it; otherwise you are just leaving the fathers right out.

Mr. Legal Adviser: No, Mr. Chairman, this is not so. It may, on a casual look, appear....but it isn't. It refers back to the first part of the legislative sentence where it says "where a justice, upon the appearance before him of a man either in person or by counsel and upon considering the evidence adduced before him, is satisfied that such man probably is", and then he makes an order requiring the man to pay the money. The man you are referring to is the man in the early part of the sentence.

Mr. Chairman: (Reads 48(2) to (7); 49(a),(b)).

Mr. Chamberlist: Does this therefore include that if the Director, he increases by bad administration or something goes wrong in his administration, contributory costs, he then has to pay the costs; does it not read like that?

Mr. Legal Adviser: As far as I can see, if the Director frivolously institutes proceedings, the Director should pay.

Mr. Chairman: (Reads 50(1),(2),(3)).

Mr. Chamberlist: I would like to see in there "in person, by agent or counsel".

Mr. Legal Adviser: I can see the point.

Mr. Chairman: Are we clear.

Mr. Legal Adviser: Well, I will include it with the other amendment earlier on. BILL #2

Mr. Chairman: Does Committee agree? (Reads 50(4)).

Mr. Livesey: Mr. Chairman, I would like to reiterate my absolute opposition to this Section. It is totally inconsistent with medical opinion and there can be no more than one father for one pregnancy.

Mr. Chairman: Clear? (Reads 51(1)).

Mr. Legal Adviser: Mr. Chairman, I accept the unspoken suggestion of my friend.....

Mr. Chairman: Question to the Legal Adviser from the Chair. Could not this be done by amending the Interpretation Ordinance so that it would affect all Ordinances.

Mr. Legal Adviser: It depends on how often it appears as to whether it is worth bothering about. It would need a subsection in the Interpretation Ordinance....

Mr. Chamberlist: Except, Mr. Chairman, that if it is, notwithstanding what the amendment says, as long as if in the legislation it says through counsel, the amendment would not change that unless it says where it says through counsel, it means agent or counsel.

Mr. Legal Adviser: I think it is only two or three times, Mr. Chairman.

Mr. Chairman: (Reads 51(2),(3),(4);52;53; 54; 55; 56; 57).

Mr. Chamberlist: Mr. Chairman, this is one section that I am unalterably opposed to. We are going back to the old. We are going back to the old Debtor's Prison system. I think that if a person hasn't got the wherewithal to meet his commitments he should not be placed in a position of having to serve time in jail. Where a person can show sufficient cause that he hasn't the money available because of his earning power, to meet the payments that have been declared against him, he should not be placed in a position by having to become a criminal, to go out and steal and have a possibility of break and entry charges put against him just simply so that he can pay a maintenance order because this is what happens under the threat of having to go to jail for non-payment. People have been forced to criminal activities because Courts sometimes - and you get justices who are very ancient in their outlook; they only know that somebody has got - that this particular man has got to pay for doing a woman wrong and if he does not pay, in the bucket he goes and no excuses asked for. So to prevent it happening, the man goes and does a break and entry job and he steals from somebody else to do it. Certainly, if a person who has the availability and the funds and can meet the commitment and he refuses to pay, after an order has been made against him, that can well be considered as a contempt of Court. He should go to jail for that! But this area, this Section 57 is far too wide and gives far too much scope to a Justice of the Peace who doesn't use the jurisprudence that a trained judicial officer would use in dealing with a matter of this nature. I would ask Mr. Chairman, if Mr. Legal Adviser somehow make this section palatable so that a person who comes before a Justice of the Peace will actually - that no person should be ordered into jail for non-payment other than a magistrate or a judge; to take it away from the possibility that the Justice of the Peace in a local area, a very good church goer, decides that this is the way that I have to deal with it because it is the will of the almighty that I

BILL #2 must see that this man gets punished and I am going to punish him and I am going to put him in jail and he gets in jail for three months; the payment is not extinguished so he comes out again and he has to try and make his payment again and he cannot make it because he has been in jail for three months. Bingo, he is in again and he is going to be in there for the rest of his natural life. He is not going to have the opportunity to even earn any money. This is where the injustice of a Section like that is and it galls me to even see anything like that being put into modern legislation. We hear so much about modern legislation; well let us be modernistic about this thing and recognize the necessity for a man to get a fair break and give him the opportunity to appear before a court where somebody knows what he is talking about. That is all that I ask about this legislation.

Mr. Legal Adviser: That is what this section actually does. It only allows the magistrate to commit him to prison in three separate instances; one is deliberate concealment to avoid getting papers to make payments; the second is he does not come to court when he is told; the third is that when he does come, but only when he does come and he has no excuse, no reasonable excuse for non-payment. Now, if he has no money that is a reasonable excuse. One doesn't try to squeeze blood out of a turnip, but if he has the money or it is proved he has sufficient means that he could make the money available, by staying out of bars it is hard to decide; I think it is crocodile tears....

Mr. Livesey: Mr. Chairman, this section seems to me, what this says is that a man can be put in jail for non-payment, it is not a question of crocodile tears or anything else. It is a question of fact. He either has paid or he has not paid and by putting him in jail we are, as the Honourable Member for Whitehorse East stated, we are going back hundreds of years....legislation. Let's get some cycadelic propulsion into some of this drafting so that we can get something that is living up to 1970 instead of going back into the dark ages. Committal to jail for debts, surely what are you talking about, debtor's prison. Surely this has gone by the board many, many years ago. There is no use listening to this stuff. I don't know exactly where it was over there but this is bound to be a great.... I am thinking that in Great Britain it was done away many many years ago. I don't understand why we have it here or even want to talk about it in legislation. Not only that, if a man hasn't got the money, he is not going to be able to pay the bills, naturally, without the funds so....apart from.....said to be made by a contributor under any contribution order made under this part..... any of the persons described in Section 42 may apply to a justice for an..... Now, if he doesn't pay, somebody can apply for an order to commit him to jail and if he gets into jail how is he going to pay - there is no job in there and surely he is not going to be able to pay the bill on whatever meagre pittance he gets while he is in there so I don't particularly understand this section at all, Mr. Chairman.

Mr. Legal Adviser: Mr. Chairman, I think the Honourable Member is misreading this section. You apply to the Justice for an order for committal; in other words you tell the Justice what you want. Then the Justice gives the order that the man is brought before him. When he is brought before him he then has to satisfy the Justice that he has a reasonable excuse for not complying with the order. Now, first of all.....then why didn't you contribute. Why didn't you make the payments and he said he has no money. That is good enough. In some cases it may not be because a man may have \$500 a month and say well, I have to have a Thunderbird to



Mr. Legal Adviser continues...

BILL #2

go to and from the Federal Building to my work and I must have a bottle of scotch a day, I must go to the Airport Inn and relax for my weekend. He can have a hundred and one excuses which may not be valid. If he has a valid excuse he will never go to jail and this is the present law in force for plenty of our laws here.

Mr. Shaw: Mr. Chairman, when I first looked at this it seemed pretty hard but then I note where we have failed to satisfy the justice that he has a reasonable excuse; in other words if he said he lost his job or something like that well it is understandable that he hasn't the money. I can hardly see the justice of putting him in jail because he happens to be out of work. There would probably be other arrangements made at that particular time. I was wondering, Mr. Chairman, just as a matter of- whether the Legal Adviser could let me know if in the case of alimony, do the same things exist as what is right here, because we are talking about very much the same thing. When a person has a judgment of \$100 a month against him, or whatever it is, if he cannot pay and can show reasonable excuse he is OK, otherwise he has to go to jail?

Mr. Legal Adviser: In the last resort, yes. ....contempt of court. Again, the judge would have to be satisfied he has the means to pay. Simply not obeying an order of alimony is not enough. A man might have a very big house and the judge may say to him, why don't you sell the house and move to a smaller house and then you will have money or he may be making payments on his house so in the High Court they would treat it just marginally different but the intent would be the same. He would be put in jail for contempt of court if it was shown he had the means and refused to pay.

Mr. Chamberlist: Mr. Chairman, when the question of alimony comes in, you are dealing with a superior court judge because he gave the original order in a divorce action. Divorce actions are heard by superior court judges and this is the difference I am making that here we are talking about a justice, that is an ordinary Justice of the Peace, not learned in the law, and not very learned psychologically about different people. He may, as I have already explained, may be a real miserable fellow who is just about ready to get himself buried and pensioned off. He is already pensioned off but he has been given this job as Justice of the Peace and he is living about sixty years in the past. This is the type of person that the young man has to come along to face and the Justice of the Peace says. That young punk there, I am going to teach him a lesson. He is going to jail, no excuses taken. Now, never mind whether this legislation says if the Justice of the Peace is satisfied; you can't satisfy some people. Mr. Commissioner is aware of this. You see, Mr. Chairman it is because of this that there must be a need for a person to be dealt with by somebody who has judicial knowledge in this particular area. Now, I am not saying, dispense with the Section. I am saying that instead of leaving it to just a Justice of the Peace, it should be that - where it says the Justice may order the committal of the contributor to prison for a period not exceeding three months, something to the effect that the recommendation be made for a hearing by a magistrate because I feel that there is a necessity to recognize that the man comes forward, perhaps he is willing to pay; he really is willing but perhaps he hasn't got those funds. Now, I wonder if Mr. Legal Adviser, Mr. Chairman, could indicate, with a few amendments that we had coming in this, whether another amendment cannot be made to this section, not altering it in the main, but at least allowing it that the person who has proper judicial practice

BILL #2 Mr. Chamberlist continues....

a magistrate or judge, be the only people who should commit a man to prison.

Mr. Legal Adviser: Mr. Chairman, I have no objection at all to saying, only a magistrate can make this kind of an order, in principle, but it is a self-defeating activity to pick out all these little picayune things; although they are important to the man who is going to jail....only a magistrate can make this kind of an order. We are attempting to bring justice to Burwash Landing and other places and if all we say is that only a magistrate can make this kind of an order, then it means that there is going to be delay and difficulties in administration of justice if certain particular types of this section can only be dealt with by a magistrate. It means that a justice may do certain things and may not do other things and if he does it then he is defeating himself. It is a self-defeating exercise. I think the best thing to do is that when one of the Honourable Members is Minister for Justice that he see that the justices are properly trained and that a handbook is issued and the handbook, in the course of preparation for issue to the justices in connection with this particular Ordinance and a section of the handbook has already been written on the assumption that the Honourable Members will pass all or some of this legislation.... specific instructions already in draft, typed ready to cut on a stencil. One of the instructions that is going out to the justices is that in most of these matters they should not act except in a formal matter. Now, beyond this, .....in the hands of the house, but I am prepared to see the thing taken on a broad basis that the justice means the justice who is actually handling the case. You have to trust them to some extent.

Mr. Chamberlist: Mr. Chairman, it amazes me that Mr. Legal Adviser has placed before this House here the delay, a possible delay in justice because somebody might have to be heard by a magistrate, is more important than that a person might have his liberty taken away from him for three months. This is the impression that I just got when I heard him say that there might be a possible delay in justice at Destruction Bay given as an example if a magistrate had to give a decision on that. I would rather have that delay than to see a man locked up simply because he could not afford to pay a maintenance order, much prefer to see the delay. Now if we are going to be interested in talking about the liberty of the subject and the liberty of the people, the people of the Yukon Territory, let us make sure that they get every break possible and if they don't comply, then lock them up but give them the break that they should have. The man working in Destruction Bay, as an example, might not have worked for the whole of the winter time. He might not have any work at all and you finish up by getting a guy...running him in the lake. We are going back to such an area now, we are going back to the..... I feel, Mr. Chairman, that there is a necessity to recognize that only those qualified to make a committal order for a debt of this description should have that power; to take away a man's liberty because on the simple basis - I know what this guy has been like. He has been terrible to all the girls in the district; we have him this time and I am going to lock him up and this could be the attitude that is adopted. I would ask, Mr. Chairman, that Mr. Legal Adviser do in fact make the necessary provision as has been made in another area, where it has been substituted that a magistrate could only do it, a certain thing. He has recognized the point Mr. Chairman, that there is a change and recognizing that point, why not go ahead with the same thing. Now, he is the Legal Adviser for Council, I don't think, Mr. Chairman, that we should have an administrative suggestion made by him but a legislative suggestion.

Mr. Chamberlist continues...

BILL #2

We have to think of the people. He doesn't have to get re-elected again.

Mr. Dumas: Some time ago I was going to rise to refute this suggestion of a debtor's prison idea in this section. It is just not there. The person is committed for concealing himself to avoid payment. Well, that is legitimate enough. He is committed for failing to attend in obedience to a summons. Well that is the same as contempt of court, I presume, so that's reasonable enough. He is not committed, if he satisfies the justice that he has had reasonable excuse as pointed out by the Honourable Member from Dawson City so that the fellow who is unemployed for the winter is not going to be committed because he doesn't have the money. Now, I do think that the Honourable Member from Whitehorse East has a point when he questions using J.P.s for this type of legislation. However, under this system that we have at present in the Yukon. We use them for a lot of things that we probably should not use them for and I suggest that the point made by the Legal Adviser that the J.P.s in the Territory should be upgraded in their qualifications in acting as justices, is probably the one that should be taken up and at this section I think, for the sake of the legislation should be left as it is, Mr. Chairman.

Mr. Chamberlist: I can't follow the Honourable Member's remarks because he failed to read all that was in subsection (c), subsection 2(c)(reads this subsection). Now, the person may feel that he had reasonable excuse and the justice doesn't want to accept what he says as reasonable excuse because the justice perhaps doesn't understand what is meant by reasonable excuse because he is not trained in the mysteries of the law. As I have already said, I am not against, in broad principle, the idea itself but I think it is so important that the power be given for a debt to a magistrate to decide. Somebody trained in the law not given to a person who is just a justice of the peace. Now, because he is not trained, and some of them try their best but some of them do not; they just don't care. But a man's liberty is at stake and I think that that should be protected. This is where we should be leaning. We should not be leaning towards the justice side of it, the convenience for a particular district, the time factor and things like that. It is such a simple, simple thing. Why should Administration, Mr. Chairman, even argue against the fact that we are not asking them to take it out, take out this piece from the legislation. We are just saying, protect the individual, it is as simple as that. I could not support, I would have to vote against the whole Bill, the Bill that is needed, just simply because I could not support the fact of the interference of the liberty of the individual.

Mr. Shaw: :Is there any difference between this and fining a man \$25 or thirty days in jail for any of these other things; is there any difference. You either pay up or you go to jail. This is the same thing. You either pay up or you go to jail. The only advantage of this is, if you have a reasonable excuse you can get away with it but when you are fined \$50 I don't think there is any such thing as a reasonable excuse. It is \$50 or you go to jail. Is there any difference. The same men have the same power to commit a person to a month in jail or whatever it is because they won't pay a fine for some breach of the law. This is a breach of the law. The only thing, if they can show a reasonable excuse they can get a little time on the proposition. I don't really see where there is very much difference. I cannot see the difference between these two matters.

Mr. Chamberlist: Mr. Chairman, with the utmost respect

BILL #2 Mr. Chamberlist continues...  
the Honourable Member from Dawson, now could one imagine, if the Honourable Member was a Justice of the Peace and he put his thinking forward in that manner, a fine that is imposed, is imposed as a penalty. An order for payment is not imposed as a penalty for say, according to law. This is the difference, that somebody that has to....this is not, well thank God we haven't got the Justice of the Peace, we are concerned about here but it is important, I think to recognize that you have to protect the individual and I don't think you would be doing it this way and I will say no more about it. I have told you what my feelings are.

Mr. Commissioner: Mr. Chairman, I wouldn't want to be ahead of the Councillor here but could I ask this: does this man not have an appeal from this order of the court?

Some Member: When he is in jail.

Mr. Commissioner: Well, at any time. I mean, as I understand it, you go before a Justice of the Peace and you have the same rights, do you not, Mr. Legal Adviser, as when you appear before any other court?

Mr. Legal Adviser: Yes, you have a right of appeal.

Mr. Commissioner: Mr. Chairman, could I ask one other thing? I think that in the context of this Ordinance that you have before you, what you are attempting to do here is to come up with a form of law that is for the protection and the welfare of the children. Now, at some point in time, with due respect, and I see the point that the Honourable Member is trying to make. I think that he has made it in his usual eloquent manner so that none of us are under any misapprehension as to what he is trying to say and I tend to agree in many aspects of it, but no one has said anything at all about the situation of the mother and the child which they may find themselves in as a consequence and not only that but who might be better equipped to be the proper judge of this man and his conduct but a justice of the peace who happens to live in the very community where the said offence is taking place. I think these are considerations, with respect Mr. Chairman, but my question is answered. The Legal Adviser has said that the right of appeal and the availability of bale is available. Well that answers my question.

Mr. Chamberlist: Mr. Chairman, what a joke this happens to be. Here we are talking about a man who hasn't got any money. So he is locked up in jail. Now, he is told he has the right of appeal. How does he get somebody to act for him in an Appeal Court if he hasn't got the money to do it. I am talking about the man who doesn't have money and is put in jail because he hasn't got the money. He tried to convince that Justice of the Peace. He has done all he can to convince that Justice of the Peace that the only reason I cannot pay it, and I owe it, is because I haven't got it. But supposing the Justice of the Peace states, notwithstanding what you say, I say, if you don't pay you go to jail. What do you do about that? This is where you are not looking at it. I cannot see any objection. What is the objection to saying in the legislation that before a committal order is made, that a magistrate hears it. I cannot understand why Mr. Legal Adviser, Mr. Chairman, is apparently opposed to this, or why the Administration is opposed to this? If I can get an explanation as to what the reason is perhaps I can follow their thinking because right now it is so far removed from



Mr. Chamberlist continues...

BILL #2

me that I cannot see even a glimmer of daylight as to what they are getting at and I am referring to Mr. Commissioner and his Legal Adviser because obviously this is the situation. I am not asking for any change in the principle of the section. The simplest thing I am asking for is that somebody be trained to hear it. It is as simple as that.

Mr. McKinnon: Mr. Chairman, I have the utmost confidence in the people in the Yukon Territory generally. I found that the leaders of the communities are those who are generally chosen as Justices of the Peace and I can see no qualms at all and have none whatsoever in allowing these people, knowledgeable in community affairs, knowing what is happening in the community, trained and, hopefully, better trained in the future, in making a decision on reasonable grounds and the Honourable Member from Whitehorse East used the example if the Honourable Member from Dawson were a Justice of the Peace. I think the Honourable Member from Dawson is a reasonable man and would not be afraid of going in front of him in this instance and pleading with him because I was unemployed for the winter, I don't think that he, being a reasonable man would put me in jail for the winter and I think the Honourable Member from Whitehorse East has not enough confidence in the Members of the community outside of Whitehorse in this respect.

Mr. Chamberlist: Well, that is true. I have watched them at work.

Mr. Chairman: Order, please. May we now proceed?

Mr. Chamberlist: I am not satisfied; I haven't got an answer from Mr. Legal Adviser as to what is his objection to seeing that a proper judicial officer is the only person who is responsible for committing to jail in a matter of this description. Now, I want to know what the objection is and I haven't heard if there is any objection and I would like to hear that.

Mr. Legal Adviser: My only objection is that the Ordinance has got to be administered in other places besides Whitehorse. The actual issue of the Order to come to Court, and asking the man for an explanation in ninety-nine cases resulted in the money being paid and we have to operate this Ordinance at Watson Lake, Mayo, Dawson and everywhere and not have everyone brought into Whitehorse to get justice done. The number of Orders that are ever made, I would not think average one a year made, but there are many threats and when there is a poor unfortunate man standing there, shivering in the middle of a cold Court House, he makes promises he will pay and he pays. We are trying to bring quick, cheap, efficient justice to the people and I think we should continue in that manner.

Mr. Chamberlist: Mr. Chairman, I have to insist that these answers that I am getting now in no way reflect on the question that I have raised. We are just getting the story about bring justice, cheap, efficient justice. We are not being told about how the individual is being affected by these things; I am absolutely sure that this is a cheap type of justice that you are trying to offer and I really mean cheap when you forget about the individual. There is no answer been given and as far as I am concerned, and notwithstanding the political affrontry that has been prepared by the Honourable Member of Whitehorse North, with due respect- there is no doubt about that, but the concern that I feel is a legitimate concern for the one individual that it might affect, the one individual. It would satisfy me completely if there was



BILL #2 Mr. Chamberlist continues... something put in there where before a committal was made, this is the only thing that I am trying to protect is before a committal is made that a Justice should not just go ahead and commit somebody because if you do that you just are saying that as far as we are concerned, we are only concerned about the convenience of our justice of the peace courts. You are not saying anything about the convenience to the people. This is what is really bugging me at the moment, the stress that is being put on the convenience of the court. Now, as I say, it is a shame that I would have to vote against a Bill of this description simply because I must stand up and say that Administration are refusing to give consideration to the people themselves. And I believe that the section itself is a good section otherwise.

Mr. Chairman: May I proceed? (Reads 58(1),(2),(3),(4)).

Mr. Shaw: Mr. Chairman, I wonder why it is necessary to wait two years after he gets back from wherever he was. Is that the limit and something can be done.

Mr. Legal Adviser: It is referring back to the Limitation Period, from the time of return there is a two year period. If the Director neglects, or whoever it is, neglects within the two year period, the thing is dead.

Mr. Chairman: (Reads 59).

Mr. Shaw: Question, Mr. Chairman, I wonder if say for example a person pays for the maintenance of that child; whose name would the child take, the father who was paying for the child's maintenance, or the mother's name?

Mr. Legal Adviser: By law the child takes the mother's name.

Mr. Chairman: I am wondering, under Section 59, question to Mr. Legal Adviser from the Chair, if any consideration has been given to an amendment which would provide for the native people along the lines suggested earlier in the last Session.

Mr. Legal Adviser: This is merely affecting the present package, this is what is happening at the moment but any person who is born out of wedlock, Mr. Taylor sends a notification to this effect to Mr. Murphy so that he would know and would investigate the circumstances. This is normal form. You see this form working throughout Canada; what they could do in the case of native people I just don't know. As the law stands, a large portion are in fact born out of wedlock. It gives the Director of Welfare a lot of extra work of course.

Mr. Chairman: I might say it was the decision of Council that we attempt to meet this problem headon and recognize some of the tribal procedures of native people.

Mr. Legal Adviser: At the moment, on the documents, when it's registered and there is no marriage, the mother is unmarried so far as our normal law is concerned.....carries on. Now, from a customary point of view of course, the two parents may regard themselves as married but in fact they are not. Have we any practical suggestions to get over it without amending our Marriage Ordinance or some other Ordinance to recognize native marriages. I don't know. I am a little lost for ideas at this point as to what we can do in practice.

Mr. Chamberlist: Mr. Chairman, it seems to me a little



Mr. Chamberlist continues...

bit contradictory; the Director may keep his files in confidence without turning them over to anybody. Now we have been through that before and I am not going to go into that again. It is very confidential but you can go to the Registrar of Births and Deaths any time and ask to see a copy of the registration of the death or birth of any person because they become public documents and as a matter of fact I am sure Mr. Legal Adviser, Mr. Chairman, will agree with me that there are two very prominent cases, one in his favorite Ontario which he keeps mentioning in various references. I think it is Hutchinson and Hutchinson. There is a legal action involved there where the document was asked for, a birth certificate was asked for and the Ontario, the Registrar of the Ontario Government refused to give it and the Court ordered that the Registrar of Births and Deaths is a public official with public records in his possession for availability to the public for search and he had to go and show it. This is where the hypocrisy of that piece of area of legislation is.

Mr. Legal Adviser: I'm not familiar with the case but I know that the practice here is, Hutchinson or no Hutchinson, Mr. Taylor does not give anyone a copy of the birth certificate in these circumstances.

Mr. Chamberlist: What circumstances?

Mr. Legal Adviser: Circumstances where a child is born out of wedlock and somebody casually wants to look at the Register. In England, yes. In Canada, no.

Mr. Chamberlist: I would like, Mr. Chairman, at this time to ask Mr. Legal Adviser to answer whether or not there is any legislation or any regulation under which the Registrar of Births and Deaths can in fact refuse to give a public document to anybody, to show a public document to anybody if they have paid the search fee that is specified in the Legislation.

Mr. Legal Adviser: Section 39 of the Vital Statistics Ordinance says that "a person, upon applying and furnishing satisfactory information to the Registrar General, and paying the fees, can get" and this is what he is entitled to "the name of the person, the date of the birth, the place of birth, the sex of the person who is born, the date of the registration and the Serial number".

Mr. Chamberlist: That is all that he needs.

Mr. Legal Adviser: It doesn't say about the father and mother. There is no way of knowing that the person is legitimate or not legitimate.

Mr. Chamberlist: But if you know the name of the mother and you go and find.....

Mr. Dumas: Mr. Chairman, getting back to the natives and children born out of wedlock, I wonder if we should not be taking a serious look at changing the Marriage Ordinance because I really think this is an archaic system, traditional system that we follow here where the only recognized marriage is that marriage performed within the Christian ethic whether it be a J.P. or whether it be a Minister and I think this is absolute nonsense and it is something that the

BILL #2 Mr. Dumas continues....

Legal Adviser might take under advisement, Mr. Chairman, for future reference and possibly come forward with some sort of amendment to the proper legislation.

Mr. Chamberlist: I think Mr. Chairman brought this up some time ago and it was very sound reasoning behind it and I think we should take a look at it and I agree with the Honourable Member from Whitehorse West as well. It is something terrible that we should allow our native people and I am not politicking, that we should allow our native people to be placed in a position of being pointed out as having illegitimate children but it is a way that they get married; just like gypsies who put their wrists together and they cut the skin and let a little blood run and in their eyes they are married people. In Kenya they rub noses.

Mr. Shaw: Mr. Chairman, the difficulty about this would be - the Honourable Member from Whitehorse West has brought up something that might have some validity but at the same time you have to have some source where a certain group of people accept a certain means of considering what is being married and what is not considered being married and I would imagine, to administrate something like that would be almost impossible because any group could say that was the way they got married and how is one going to resolve such things when it comes to a matter of inheritance or when it comes to a matter of responsibility. There is nothing to prevent - let us say this way - under certain customs, I don't know what the customs may be but they can get married today and be divorced next week and that could go on and on. Where do you start and where do you stop. You have to have something fairly solid to protect, and I repeat, Mr. Chairman, to protect the children of the unions as much as anything. I think that is one of the instruments of marriage, one of the reasons, is to protect the children. If we are going to be very lax in how people can get married and break the marriages off just as easily, what about the progeny, who is going to look after them? It is an institution that does protect the children; without it I don't know how you would protect them. I think that is a very important part. I would sooner protect the children than go and spread that all over the country in different ways and different means just because some people have an idea that is the way they want to do it. I have no objection to them doing it any way they want to do it, Mr. Chairman. I'm talking about marriage. The point is, Mr. Chairman, that is what you have to consider, the results of the marriages. How you are going to keep them together, how you put the responsibilities on people and if you are going to have all kinds of, what I might call "kooky" ways of getting married, that is fine and dandy, providing they are accepted by a group and they accept the responsibilities that go with it. The hippies themselves have a way of getting married; they get married today and get divorced tomorrow and so on and so forth. That is alright, that is fine and dandy, but I don't think it is something that I would personally care to accept as being a very valid and enduring union, let us put it that way.

Mr. Chairman: May I proceed? (Reads Section 60, 61, 62, 63).

Mr. Dumas: Mr. Chairman, going back to Section 62, if a woman, or if a man is making payments for a child that he has admitted is his, or has been proven is his, and the woman, who has the child with her, marries, then that man no longer has to make payment; is that correct, Mr. Chairman?

Mr. Legal Adviser: Mr. Chairman, when two people come together then that ends the contribution. This is a basic policy of the present people who deal with social welfare. Apparently it was found that when a woman who has an illegitimate child married a man who was not the father of that child it is a disrupting force within the marriage when a third person is continuing to make payments in respect of the child. It is better to cut off all previous contacts beginning with the new husband.

Mr. Dumas: Just as a matter of interest, Mr. Chairman, in the case of a divorcee who has a child and remarries, does the same thing apply?

Mr. Legal Adviser: I don't know. I think it depends on the court order but I think an application made, assuming it was kept open in the form of the original court order, an application to court was received with favour to terminate it.

Mrs. Gordon: I am thinking of other instances where the child is not with the mother; notwithstanding the mother has married, the child is not with her, is the contribution still maintained or does it cease at that point?

Mr. Legal Adviser: I don't know, I can't give you an answer to that.

Mr. Chairman: Speaking from the Chair, the father of the child must also be adopted by the new father in both cases.

Mr. Dumas: Excuse me, Mr. Chairman, what if the child is being maintained by a foster family or grandparents or the Department is receiving \$50 a month from the father, and the mother goes and remarries, under this legislation the payments would stop.

Mr. Legal Adviser: This is a very intelligent and perspicacious point. I will take it up.....

Mr. Chairman: (Reads Section 64, 65).

Mr. Chamberlist: Mr. Chairman, there seems to be a little bit of inconsistency between judge and judge and justice. Here we have in Section 64 (Reads Section 64), except with the leave of a judge who shall, etc. Now, further on in Section 55 it says "where it appears to a judge or a justice" now why in one section is it a judge or a justice and in another section only a judge can do it; and when we say a judge, we mean a judge of the Territorial Court. Now can we have an explanation for that?

Mr. Legal Adviser: The reason is because we are now dealing with an estates and estates come under the agent of the Territorial Court so you start with the Territorial Court so you have to use the phrase judge or justice .....

Mr. Chamberlist: But in Section 65, Mr. Chairman, we are still dealing with estates.

Mr. Legal Adviser: No, .....

Mr. Chamberlist: I am talking about Section 64 and 65 right now. Section 64 says No action shall be instituted without the leave of a judge, that is a judge of the Territorial Court. And then there is a variation in Section 65 which says "in any proceedings instituted under section 63; or upon any application made under section 53 it appears to a judge or a justice that the terms of the order or agreement", this is what I am getting at. A justice is then permitted, well I

BILL #2 Mr. Chamberlist continues...  
can't follow this.

Mr. Legal Adviser: If you refer back to the foot of page 16, you will see that an action, an application for variation under 53 to remit to a justice, under Section 63, to a Judge, so then you use the phrase.... judge or justice. This is combining, Section 65 combines the variation application which can be made either under 53 or 63 and gives power to a judge in one case and a justice in the other.

Mr. Chairman: Clear? (Reads Part IV, Adoption; 66, 67(1)(a).)

Mr. Livesey: Question, does this mean to say a husband, unless he gets the consent of the wife, cannot adopt a child, or a wife cannot adopt a child unless she gets the consent of her husband?

Mr. Legal Adviser: An unmarried person can adopt provided they are over twenty-one, or a husband and wife team, but it would be quite odd for a husband to adopt somebody....

Mr. Livesey: If they are separated, Mr. Chairman, but according to my thinking, still married.

Mr. Legal Adviser: This doesn't take care - if they wanted to do this they would have to get divorced....

Mr. Chamberlist: I agree with the Honourable Member from Carmacks-Kluane; he has really hit a good one. You see, here is a section that says "a husband and a wife jointly". Now, the husband and wife have been separated for seven years because of religious grounds. Now, they can't fall back on (a) because it says unmarried person may do this. Now, they are married persons, living apart for over seven years and they cannot adopt.

Mr. Legal Adviser: Mr. Chairman, as it happens, the Honourable Member hit on subsection (2) which provides for that case, that is a case not otherwise provided for by section (1) and I spent a long time wondering why that subsection existed because to me it seems that an unmarried person twenty-one years of age or over, or a husband and wife jointly was an exhaustive description of people; apparently it is not. I was wrong so subsection (2) explains to me why it is there now.

Mr. Dumas: It is covered, I think, in subsection (2). However, I do think that if a person has been separated for seven years there should be a divorce and they should become unmarried in order to adopt because of the legal ramifications if a separated died the child could then, and the estate could then be claimed by the separated wife you see; and there could be all kinds of problems involved I think in this.

Mr. Livesey: Mr. Chairman, there is a further complication here because in one part of the Ordinance, if they are separated, they are still married. If you go back to the beginning of the Ordinance, they may be separated but if the male co-habits with a female, they are unmarried, or the female is unmarried. I don't follow this, I never did. I did not understand this from the beginning of the Ordinance and I don't understand it now where it says in the beginning if a female has intercourse with a male, in the beginning of the Ordinance, she is unmarried if she is separated from her husband. So now, here, they can be separated and this doesn't happen so in other words the only difference between being married and unmarried is....intercourse. Ridiculous! I said



Mr. Livesey continues...  
so to start with and I still think so. I wonder, Mr. Chairman, if the Legal Adviser, in all the glories of Solomon, can give me the answer....

Mr. Legal Adviser: I could give a beautiful answer if I knew what the question was.

Mr. Livesey: ....an unmarried woman, even though she is married, she is classified as unmarried if she has a child, if she has intercourse three months after she has left her husband, or has become separated from her husband, she is classified as unmarried although she is still married to her husband. That is what it says in the Ordinance. I brought this up when we first started talking about it. Now, Solomon comes along and tries to tell me now that a husband and wife, for the purposes of adoption, can be separated and they are married - now the difference between one and the other is that one had intercourse and the other didn't. So we are saying the one that had intercourse is unmarried although married and the one who wants to adopt a child, is married. Now, that is totally ridiculous. I would say there is something wrong with his thinking, surely.....

Mr. Legal Adviser: In order to produce a child... At the beginning of the Ordinance a person is deemed to be unmarried if they are separated from the husband for a year and at the end of that period they have a child because it takes nine months to produce a child. Here we are dealing with a husband and wife making a joint application in a different part of the statute and the statute in that particular subsection does not provide for the case of a husband who wishes to adopt somebody when his wife disagrees or vice versa. That will be a special case ....special circumstances to the judge and get special permission to do this, not covered in the Ordinance, it would be an .....case, it would be a question of a difficult thing to satisfy a judge that a husband should be permitted to adopt someone when his wife, although married to him, disagreed with him.

Mr. Livesey: Well, it still doesn't answer the question, Mr. Chairman, as to why the question of intercourse decides between being separated or not, whether they are married or not. I cannot read the beginning of the Ordinance and then go on to something totally contradictory in essence in another part of the Ordinance and expect me to balance this thing as being something cohesive. There is no cohesion there. How do you explain that black is black in the front of the page and black is white at the back of the page. It doesn't make sense. I am asking the Legal Adviser to prove...

Mr. Legal Adviser: It is impossible.....same question. This question of intercourse is not intercourse with your husband, it is intercourse with a strange person three months after you leave your husband and must result in the production of a child. In that event then the woman is deemed to be unmarried and is treated as an unmarried woman. This seems to be reasonable.

Mr. Shaw: Mr. Chairman, I wonder, I see under subsection (a) of Section 67, an unmarried person may adopt a child. Now I think that is very good; it has a lot of good points to it and when there is husband and wife I also agree that unless they can jointly agree to it it is not going to be, generally speaking, to the benefit of the child but you do have another section that it would appear to me could be included, Mr. Chairman, and that is those who are legally

BILL #2 Mr. Shaw continues...

separated and when I talk about being legally separated I am referring to people of certain faiths who don't get along and they don't get a divorce, they get a separation and then these people, though married, may want to adopt a child. They may not wish to get married again. They may be extremely well qualified to look after a child and yet they will be excluded from such a situation. I wondered, Mr. Chairman, if the Legal Adviser has had any discussions with the Director in relation to situations such as this and the possibility of having good parents in such a situation. When I talk about legally separated I mean those separated by an order of Court.

Mr. Legal Adviser: I never said that there are such circumstances, Mr. Chairman. I think they are adequately covered for the special circumstances in subsection (2) if the Honourable Member would read subsection 2, it gives the Judge power, not only in the (a) or (b) case of subsection (1) but it gives him power in any other case where there are special circumstances and he considers it in the best interests of the child to do this. Now, a lot of these adoptions which will now be ....will be aunts adopting a child of a deceased sister, brother and so forth who may or may not be married, adopting their own nephew for succession purposes, ....purposes and I think the section could be better drafted I suppose, but I think it covers every case so far that has been mentioned by the Honourable Members by reason of this special case.

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

Mrs. Gordon: May I make a point before the Motion is put, Mr. Chairman? In this particular section on adoption and I still think it has not taken care of the case I presented, when this Bill came to us before, this deals with children alone, and at the last Session I raised the point where one adult could adopt another adult and we do not have legislation to cover this point.

Mr. Legal Adviser: I agree with the Honourable Member; there are special circumstances where this may be desirable. I can think of a person twenty-five years of age being adopted by somebody fifty or sixty or seventy for a special purpose. I can conceive of this happening. I would be prepared to discuss this with Mr. Murphy, if the Honourable Member would agree. It might be possible, on general policy lines, to put in a special section to deal with this kind of a case. It would not occur very often but it should occur.

Mr. Chairman: Is there a seconder to Councillor Chamberlist's motion?

Mrs. Gordon: I would now second the Motion.

Mr. Chairman: It has been moved by Councillor Chamberlist, seconded by Councillor Gordon that Mr. Speaker do now resume the Chair. Are you prepared for the question? Are you agreed. I declare the Motion carried.

MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker: I will now call Council to order. May we have a report from the Chairman of Committees.



Mr. Taylor: Mr. Speaker, Committee convened at 10:50 A.M. to discuss Bills. Committee recessed at twelve noon and reconvened at 2:30 P.M. I can report progress on Bill No. 2. It was moved by Councillor Chamberlist, seconded by Councillor Gordon that Mr. Speaker do now resume the Chair and this Motion carried.

REPORT OF  
CHAIRMAN  
OF  
COMMITTEES

Mr. Speaker: You have heard the report of the Chairman of Committees. Are we agreed? May I have your directions regarding the agenda for tomorrow.

Mr. Taylor: Mr. Speaker, we have for tomorrow Bills and possibly Sessional Papers.

Mr. Speaker: Are there any additions? Is there any more business to be taken care of today?

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

Mr. Speaker: Are we agreed? The House now stands adjourned until 10:00 A.M. tomorrow morning.

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Mr. Speaker read the daily prayer. All Councillors were present.

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

Mr. Clerk: There is, Mr. Speaker.

Mr. Speaker: I will now call Council to order. There are no Sessional Papers to be tabled this morning. Are there any Reports of Committee? Introduction of Bills? Notices of Motion or Resolution? Are there any Notices of Motion or Resolution? Notices of Motion for the Production of Papers? Under Orders of the Day, Motions, Motion No. 1, Moved by the Honourable Member for Watson Lake, seconded by the Honourable Member for Mayo, that Sessional Papers No. 28 and 38 (1969 - Third Session) be discussed in Committee. Would the Honourable Member be prepared to proceed with Motion No. 1 at this time? Are we agreed? I will declare the motion carried. MOTION #1

MOTION CARRIED

MOTION  
CARRIED

Mr. Speaker: I wonder, Mr. Clerk, if we could have the Commissioner here for the Question Period, please, and I will call a five-minute recess.

RECESS

RECESS

Mr. Speaker: I will now call Council to order. You may proceed with the Question Period.

Mr. Taylor: Mr. Speaker, I have a question to direct to Mr. Commissioner this morning, and it is relative to the Commissioner's Regulation issued on the 28th day of November, A.D., 1969, in which the people engaged in the business of big game guiding and outfitting have been exempted under this Regulation from Part I of the Labour Standards Ordinance. I'm wondering if Mr. Commissioner intends, or if the Administration intends to also exclude other areas of bush operations such as claim staking and this type of thing from Section I of the Labour Standards Ordinance? QUESTION RE EXEMPTIONS UNDER LABOUR STANDARDS ORDINANCE

Mr. Commissioner: Mr. Speaker, I think that at the time the Labour Standards Ordinance was passed, it was clearly intimated that the Board was set up under this Ordinance to be the instrument that we would look to for advice in these matters. This is precisely what happened in the case that the Honourable Member refers to, Mr. Speaker. The industry involved took their case to the Board, the Board saw fit to recommend that they be exempted, and the exemption was therefore granted. The same procedures should be followed by other industries or segments of industries in the same manner, Mr. Speaker.

Mr. Taylor: I have just one supplementary question, Mr. Speaker. I'm wondering if I might know the composition of this Board? QUESTION RE COMPOSITION OF LABOUR STANDARDS BOARD

Mr. Commissioner: Mr. Speaker, perhaps Mr. Clerk would be able to give us the names of the people who sit on this Board. I'm sorry, I don't know them off hand.

Mr. Clerk: Mr. Speaker, the Chairman of the Board is Mr. Bob Cousins Sr. The man who was appointed by the Commissioner upon the recommendation of the Chamber of Commerce is Mr. Bill Dean, the General Manager of New Imperial Mines. The gentleman appointed by the Commissioner upon the recommendation of the Whitehorse Labour Council is Mr. Harvey Painter, the Business Agent of the Carpenters' Union.

QUESTION RE Mr. Dumas: Mr. Speaker, I wonder if Mr. Commissioner could inform PARTICIPANTS as to whether those employees of the Territorial Government who OF ARCTIC will be participating in the Arctic Winter Games, will be given the WINTER GAME time off with pay?

Mr. Commissioner: Mr. Speaker, the question has not come before me and I would hesitate to answer until I've found out just what has transpired on the matter.

QUESTION RE Mr. Chamberlist: Supplementary, Mr. Speaker, I wonder if Mr. Commissioner can also indicate at the time that he looks into this matter, PARTICIPANTS whether or not all people who are connected with the Arctic Winter OF ARCTIC Games will have the opportunity by the Commissioner asking all employ- WINTER GAME ers to give their employees time off with pay for this particular purpose?

Mr. Commissioner: Mr. Speaker, the Commissioner's popularity rating is very difficult to maintain and I can well imagine that this would just be the finish of everything if I were to suggest to all employers that the Administration of the Territory was interfering in their affairs to this extent. While I would be very pleased to certainly strongly suggest to all concerned that this would be a very fine gesture, I would hesitate to go very much further, Mr. Speaker.

Mr. Speaker: Are there any further questions?

QUESTION RE Mr. Taylor: Yes, Mr. Speaker, at the last Session of Council, we L.P.R.T. & asked a series of questions relevant to the C.B.C. operation in the FRONTIER Yukon, and I am wondering if Mr. Commissioner could advise Council PACKAGE TV this morning as to whether or not he has received further information EXTENSION respecting the installation of an L.P.R.T. system at Ross River, and Frontier Package T.V. facility at the community of Teslin?

Mr. Commissioner: Mr. Speaker, I anticipate further information concerning C.B.C.'s total programming as far as both radio and T.V. facilities here in the Territory is concerned, within the next day or so, and as soon as I have this total amount of information, I will be tabling it for Council's information. I'm sorry, I cannot give any answer at this time, Mr. Speaker, but as soon as the total information is available, we will be tabling it for Council.

QUESTION RE Mr. Chamberlist: Supplementary, Mr. Speaker, I wonder if at the same FRONTIER time Mr. Commissioner would ascertain from C.B.C. whether or not it PACKAGE TV is proposed to have a Frontier Package T.V. in the Carcross area EXTENSION where people are just getting lines and nothing but.

Mr. Commissioner: Again, Mr. Speaker, I refer to my previous answer.

Mr. Speaker: Yes, I believe the answer has already been given by Mr. Commissioner. Are there any further questions?

QUESTION RE Mr. Taylor: Yes, Mr. Speaker, I have one further question relative C.N.T. RATES to communication. The question would be this, inasmuch as I viewed an ad a short while ago in the Klondike Miner which says "Talk is cheap and we aim to keep it that way", by Canadian National Telecommunications, I'm wondering if Mr. Commissioner could advise me this morning as to whether indeed there are going to be some massive rate reductions in C.N. tariffs in the Yukon?

Mr. Commissioner: Mr. Speaker, I think many people would be happy if they could get telephones and worry about the rates afterwards. Maybe I've got the thing backwards, but I think our most pressing need at the moment is this and I am certainly not aware of any efforts to reduce rates but I am aware of the program of C.N.T. to improve the quantity of communications equipment during the course of this next year or eighteen months, and in fact I would be very pleased to table the current information that we have on this for Council's information..

Mr. Speaker: Are there any further questions?

Mr. Chamberlist: Mr. Speaker, I wonder if Mr. Commissioner could indicate whether an invitation to Mr. Ron Basford, the Minister of Consumer Affairs, would not be in the interest of the people of the Yukon so that he can come here and examine the high costs of buying groceries for the average man on the street today? QUESTION RE INVITATION TO MR. RON BASFORD

Mr. Commissioner: Mr. Speaker, I can assure you that if Council were to wish such an invitation be extended, I would be most happy to see that it is extended. Certainly in my personal conversations with the Honourable Minister referred to, why, I'm sure that such an invitation would receive every consideration, Mr. Speaker.

Mr. Speaker: Are there any further questions? If not, would the Honourable Member for Watson Lake please take the Chair?

Mr. Taylor takes the Chair.

Mr. Livesey: I have one question, Mr. Speaker, this morning, addressed to the Administration, "Has the Administration discussed the question of co-operation with the Department of Public Works covering the dust control program projected for the summer season, 1970, and if so, what were the results?" Thank you, Mr. Speaker. QUESTION #3

Mr. Livesey resumes the Chair.

Mr. Speaker: If there are no further questions, may we proceed to Public Bills and Orders, and I await your pleasure.

Moved by Councillor Shaw, seconded by Councillor Dumas, that Mr. Speaker do now leave the Chair for the purpose of convening in Committee of the Whole to discuss Bills and Sessional Papers.

MOTION CARRIED

MOTION  
CARRIED

Mr. Speaker: The Honourable Member for Watson Lake will please take the Chair in Committee.

Mr. Taylor takes the Chair.

Mr. Chairman: We will proceed with discussions relative to Bill No. BILL #2 2. We left off, before we rose last, at page 20, and we were discussing Section 67.

Mr. Chamberlist: Mr. Chairman, the position wasn't made clear by Mr. Legal Adviser in my opinion yesterday as to that area of people who are not living together but are married, and wish to adopt a child. The suggestion that has been made by the Honourable Member from Whitehorse West that they should get divorced, notwithstanding their religious differences; sometimes their religion doesn't permit it. I think that there's a necessity to include or rather take out this (a), subsection (a), which says "an unmarried person twenty-one years of age or over". Should it not just be a person twenty-one years of age or over? This then, if we take out the word "unmarried", permits anybody to adopt a child. I wonder if Mr. Legal Adviser, Mr. Chairman, would comment on the removal of the one word "unmarried"?

Mr. Legal Adviser: I have no particular thoughts on the subject at all, Mr. Chairman. The intention of paragraph (a) is to make it quite clear that this is a new piece of policy because the courts up to now have not permitted unmarried persons to adopt children. This is, in effect, a direction to the courts to permit it. This is the main reason why you say an unmarried person, but so far as separated people are concerned, I think they are adequately covered in subsection (2),

BILL #2

Mr. Legal Adviser continued:  
as it is a special case for each one. I think the judge should have some discretion in this and the policy would evolve over a period as the judge decides in each case, then if he goes wrong, there's the Appeal Court. They will know what the current feeling is in Canada at any particular time, I think.

Mr. Livesey: Mr. Chairman, I wonder if the Legal Adviser this morning thought over the difficulties I had yesterday in Committee with the question of the husband and wife in the beginning of the Ordinance whereby if they're separated and there is a pregnancy, of course, the mother is unmarried, and in this one, they can be separated and still married because there's no pregnancy. Now, to me this just doesn't make any sense, and I'm just wondering if Mr. Legal Adviser, Mr. Chairman, has thought over this difficulty I brought to your attention yesterday, and can inform Committee this morning of his thinking on this so that I can perhaps consider that the Bill is not inconsistent to this extent where there is a contradiction in my thinking with regard to the two sections. Although he may think that legally there is not, to me, when I take this to an individual who is a layperson, who is not totally involved with all the intricacies of the law and the various and the accumulative and varied descriptions that can be given to words, I do feel, Mr. Chairman, that there definitely a conflict right here, in fact, to a layman, it appears to be I think, a laughable conflict.

Mr. Legal Adviser: Mr. Chairman, I can honestly say that I have thought of nothing else except this particular problem. One uses words as a tool in drafting and we're not saying people are married merely because we treat them as such in a section of the Ordinance. In a particular section of the Ordinance, we use a short phrase, we say "an unmarried woman", and we treat her in a certain way if she happens to produce a child. Now, there are other people who have to be treated in a similar way and for the purpose of the mellifluous and harmonious use of English, we just use the same phrase, "an unmarried person", because they get the same treatment as an unmarried person. This is not in anyway to say that they are not married. They are still married from the point of view of basic law, where a husband and wife, even though they are still married, and even though they are separated for a year before the birth of the child, it is basic law that that child is treated as a legitimate, not an illegitimate child. You have to get special action taken to illegitimize that particular child.

Mr. Livesey: Mr. Chairman, I have another question for this astute mind that is related to married people who are separated, and the mother and the father, both separated, wish to adopt a child. Now, if the mother adopts a child, though separated from her husband, is she married or unmarried according to the Ordinance. Now, this is the question I raise.

Mr. Legal Adviser: According to the Ordinance, and according to law, she is married. She continues to be married until a competent court pronounces a divorce or an annulment.

Mr. Livesey: In other words, Mr. Chairman, to get right back to the argument then, that all the Ordinance does then it says in effect that the difference between a married person who is married that we wish to describe as unmarried is that there ... if there is a pregnancy as far as the woman is concerned. This is what the Ordinance is saying. Absolutely. It must be saying this because if they are married and separated and can adopt children, they are still married, but if they don't adopt children and they are separated and there is a pregnancy, then after a due time of separation from the wife and husband, the wife is unmarried. I still can't see it and it's more than obvious to me that there is a conflict here.



Mr. Chamberlist: Mr. Chairman, perhaps I can just straighten this BILL #2 out real quick. I don't think that matters very much, I would suggest to the Honourable Member from Carmacks-Kluane. This section, and I see it very clearly now, that the judge ... we've come to the position now where, something that I'm always in favour of, Mr. Chairman, the courts have this discretion. In Section 67(2), the court has a discretion as to who may adopt a child notwithstanding whether they are married, divorced or separated, because the section is, "A judge, where by reason of blood relationship or ..." and this is the part that matters, "... other special circumstances he considers it to be in the best interests of the child sought to be adopted, permit an application for an adoption order to be made in any case not otherwise provided for in this Ordinance". I think that does really take care of all the arguments that the Honourable Member from Carmacks-Kluane puts up. It's a sound argument in other areas of the Ordinance where there certainly is, I believe, a conflict, but fortunately I don't believe there's any conflict in this particular section because it is the discretion of the court.

Mr. Livesey: You're quite right, and I'm not arguing against this section. What I'm arguing against, Mr. Chairman, is the fact that this section obviously isn't correct or the other is incorrect. This is what I'm arguing about. This is the point.

Mr. Shaw: Just one question, Mr. Chairman, I would like to ask the Legal Adviser. (1), we have an application for adoption made under these circumstances; (2), a judge may do this or do that. But, when a judge does these things, Mr. Chairman, it would appear to me that he would do things in context with the Ordinance only and not deviate from that. The judge can give it to an unmarried person, can allow adoption proceedings to proceed, with an unmarried person twenty-one years of age and over, or a husband and wife jointly, and it appears to me that to do otherwise would be contrary to the Ordinance. It maybe not as otherwise provided but it only provides a husband and wife and someone unmarried. Now, that is very clear in my mind. I don't happen to be a lawyer, Mr. Chairman, but it does appear to me that it specifies two types of people only. Now, if you get a person who is legally separated, I think it might be argued, Mr. Chairman, that many people obtain a divorce or obtain a separation by virtue of the fact that they haven't children, through one reason or another. They would be very desirable persons to adopt a child but through their reason, for one reason or another, they cannot have children. So, they get a separation, perhaps for that reason. Now, if they should want to adopt a child, it would appear to me that those persons, either one of them, would be ... could make very good parents. On the other hand, and I'm talking about legally separated people, through religion or some other factor, they don't get a divorce, now this would appear to me to exclude that because it only permits in the Ordinance an unmarried person or husband and wife jointly. I would ask the Legal Adviser, Mr. Chairman, if my assumption is correct in that, to have someone who is not unmarried ... it appears to me that that doesn't cover that phase.

Mr. Legal Adviser: With respect, Mr. Chairman, I would think that this is broad enough. The basic policy of the House will be set out in subsection (1), that is, an unmarried person or where people are married, they both must do it together. Then the third case comes in which is any other case, and any other case is a broad statement. It's any other special circumstances he considers in the best interests of the child to permit it, and he's not then bound by subsection (1). This is very, very clear where they're both in the same section. If this were at the tail end of the Ordinance, it would be something different, but this is a very clear direction to a judge, that he is not bound when special circumstances arise, by the provisions of paragraph (a) and (b). I think we must permit a judge to give effect to the clear words of an Ordinance. He must obey the law.

BILL #2

Mr. Shaw: I agree, Mr. Chairman, but I would ask the Legal Adviser, Mr. Chairman, I don't want to be sticky about it, but I'm just thinking if something happens, it's a good time to think of it, now, not after. For example, I'll use myself as an example, I want to adopt a child. I am not unmarried and my wife and I are separated so therefore, I can't get her jointly, I am in neither of these categories and these are the only categories that can adopt a child, and the judge says, "Well, I'm very sorry, you are not unmarried, it takes you and your wife jointly to do this, adopt this child, according to the Ordinance, and if I allowed you to adopt this child, I would be going contrary to the Ordinance because it states that only two categories can adopt children". Now, I just wonder about that.

Mr. Chamberlist: In any case not otherwise provided for in this Ordinance ...

Mr. Shaw: Mr. Chairman, I've heard that from the Honourable Member on my left and he on many occasions gets up and says "What is not written is not implied ..." and so forth and what not, so I feel that in this case it's specifically states who can and it does leave some other extenuating circumstances, but for the unmarried person, but a husband and wife specifically jointly. That is very specific. If you do permit a husband to adopt a child, or a wife only to adopt a child, I would say that you are going contrary to the Ordinance. That's the way it would appear to me, and I'm very serious about this. That's why you could put "(c) a person legally separated".

Mr. Commissioner: Mr. Chairman, could I ask a question. I think I see the point here. Basically, this is a different wording to section 4 in the present Ordinance and I'm just wondering, and maybe the Honourable Member has a case in point where this has presented a difficulty. I'm wondering if maybe this is the case.

Mr. Livesey: Well, Mr. Chairman ...

Mr. Chairman: Order, please. Councillor Dumas.

Mr. Dumas: I can't understand the problem at all, Mr. Chairman. It is very, very clear in subsection (2) and I'll read it, taking out a lot of the flowering, "A judge may ... by reason of ... other special circumstances ... permit an application for an adoption order to be made in any case not otherwise provided for in this Ordinance." That is very clearly, if I were a separated person, legally separated, I went to the judge and said that this is a special circumstance because it's not specific in the first section, but in that section you may, because of the special circumstances, allow me to adopt, I'm sure the judge would say "Fine, I agree with you", and it's covered.

Mr. Livesey: Mr. Chairman, I disagree with the statement of the Honourable Member for Whitehorse West. When a person is married and separated under this Ordinance, and he goes to the desk to make an application he'll be faced with, the clerk will say "Are you unmarried?". "No, I'm not, I'm married". "Are you husband and wife jointly?". "No, I'm separated". "Oh, well I'm sorry, there must be special circumstances involved, otherwise we can't be of assistance to you". Well, why should he have special circumstances, why can't it be spelled out where separated married people can adopt the same as you've got it spelled out that an unmarried person can adopt. Why don't you say that one of the special cases of course is because you're unmarried, here at the top. Now, you don't, you spell it out, and this is what the Honourable Member's talking about and this is what I was talking about yesterday afternoon. Why exclude ... Could I have order, please, Mr. Chairman?

Mr. Chairman: Yes, order, please. Order, gentlemen.

Mr. Livesey: Why exclude the fact that a separated married person BILL #2 is not included in (a) and (b) and yet they lump it all together with a conglomeration under Section (2) of 67. Why not put (a) and (b) in that category too and say, well, these are special circumstances. Of course, they are if you want to call them that. But, I think they should be defined so that an unmarried person may adopt a child, a husband and wife jointly may adopt a child, or married, though separated individuals may adopt a child. Why not put that in there and make it clear. If that's the intention of Committee, let's have it in the Ordinance.

Mr. Legal Adviser: It's quite difficult, once you go into a detailed examination of all the possible circumstances that can occur, to list them all. Now, it is not the policy that in the normal case, a separated person would be able to adopt a child because in this Ordinance we are changing the relationship between this person and all other persons for unless there are special circumstances, a person who is separated would not normally be permitted to adopt a child because without the consent of the separated spouse, whether it's the father or mother, a new relationship is created and the father will acquire a son or a mother will acquire a son without their consent, and this is an infringement on their rights which would need special circumstances. You've also got the circumstance where two people, one of whom is separated and one of whom is married, say, may be living together and seek to adopt a child, and you have, say, two separated people involved, you may suddenly find yourself creating odd relationships all over the place. So, I would ask that the section be left as it is and be left to court interpretation. We've already moved a considerable distance. I'm not sure how many other provinces or how many other states have actually got in their laws now a definite statement of government policy that they will permit the adoption of children by unmarried persons. This is fairly new. There is a certain merit in proceeding one step at a time in difficult legislation which is changing the status of people for a long time in the future. This I would ask. If any case arises, where these difficulties occur and the judge did not accept a case, well, then, if an appeal is not successful because of a misinterpretation of the statement of the policy here set out in this section, this could justify the Director of Welfare recommending to the Commissioner that legislation be brought forward to deal with this particular case.

Mr. Shaw: Mr. Chairman, these adoption proceedings, I think the first consideration must be given to the children. That is certainly the first consideration and the consideration in the past has always been, and I very much agree with the fact, that a child should have both a father and a mother. That's very, very important. However, it is better that a child have either a father or a mother than none at all, and there are, I think, as Mr. Murphy has pointed out, 150 children that we are looking after that are orphans in fact, and if unmarried people did adopt these children, there's no question that the odd one would go sour but generally speaking, it would be much to the benefit of the children rather than remain as orphans. To exclude a certain group, and believe me, Mr. Chairman, I very much believe that if these legally separated parties aren't put in, they will definitely be excluded and the judge will not have the power to change the context of the Ordinance regardless. Now, a judge, whereby reasons of blood relationship or other special circumstances ... now, special circumstances. Well, the normal person going up and saying I want to adopt this child, that's not special circumstances. If there is blood relationship there is, yes, but otherwise these special circumstances have to be special circumstances and there's no question about that. So, if a person has been legally separated, I'm referring to by law, not just leaving, then of course they are excluded. So, I won't harp any more on this situation. I've had my say in this, that's the way I feel and that's the way I think it is, with all due respect to the Honourable Legal Adviser and the quasi Legal Adviser on my left, that if you are legally separated, you cannot adopt a child unless it's blood relationship.

BILL #2

Mr. Chamberlist: Mr. Chairman, just a final word on this. The Honourable Member from Dawson stopped short at circumstances. He didn't read "... in any case not otherwise provided for in this Ordinance", and this is ...

Mr. Shaw: But not if it's contrary to the Ordinance.

Mr. Chamberlist: This doesn't matter, as long as it's not provided for. This is what the judge is there for.

Mr. Commissioner: Mr. Chairman, could I ask the Legal Adviser, further to the point that is made by the Honourable Member from Dawson, would he say that this could be read in a court that nothing is to be construed as preventing adoption by a single person. I mean, is this the way that it could be read in a court of law?

Mr. Livesey: No, no, there ...

Mr. Chairman: Mr. Legal Adviser. Order, please.

Mr. Legal Adviser: As I see it, I think that circumstances are broad enough to cover first of all the two cases, unmarried and husband and wife jointly, and then a third case, because the basic policy is not to permit separated persons in normal cases to adopt children. They have to show some special reason because of the relationship of other people up and down the line. Strange families are acquiring up and down the line so it's not unfair to suggest that a judge should have to see special circumstances, but nothing prevents it, if the judge wishes to grant this order and the people can ask him for it, then he will grant it. Nothing will prevent it.

Mr. Livesey: Mr. Chairman, the Commissioner was referring to I think, it would be more proper to say separated married people rather than single people, then he would have it right because quite obviously under 67(1)(a), that's clear, (b) clear, and in 67(2) you get a flaw in this position. But, if you put it away and say there's got to be special circumstances and you don't spell it out, you're placing more of a barrier in this particular area than you are in the other two areas. You can talk about all the special circumstances you like, but you are putting it into the power ... you're taking it away from the department and putting it into the hands of the court. The rest don't have to go into that order. It's obviously clear in the section as far as sub (a) and sub (b) and you are putting a block in front of these people. What you're saying is in effect, if they're married though separated, they're going to have trouble because they want to adopt but if they're married, separated and have illicit relations, it's okay, they can make the adoption. This is what you're saying in the Ordinance. It's clear as can be.

Some Members: Clear.

Mr. Livesey: It's clear to you but not to me.

Mr. Chairman: May I proceed? (Reads Section 67(2), 68, 69, 70, 71, 72, 73 and 74),

Mr. Chamberlist: Mr. Chairman, I think that the period of ten days is not sufficient. Many mothers, after birth of a child, are not in a mentally fit capacity to be able to make a decision to whether the child should go out for adoption or not. In some instances, the parent is under sedation, the mother is under sedation for two or three weeks, and I feel that this area should be extended for a period of at least three weeks. This is my feeling on this. It should be extended.

Mr. Legal Adviser: Mr. Chairman, if I may comment on that, we had BILL #2 been considering reducing the time to three days or possibly five days, but we felt unbalanced so it is better to leave it at ten days. Ten days is chosen as a period during which the girl concerned would be still in the hospital or still available without much difficulty. Once you extend it past this period, then you're making life very, very tough for everybody. She herself, burdened with a child, if she is worrying about bringing up the child, whether or not adoption is going to proceed, she is liable to get neurotic symptoms and she is liable to have a lot of worry and she'll make a better recovery if her particular problem were solved and assured that once she's given her consent it proceeds through. This ten days is not just a casual thing out of a hat. I know lots of times they are chosen out of a hat and it's arbitrary whether you pick twenty-one days or three months or ninety days or something. This is not that type of a thing. A lot of discussion has gone into picking ten days, with medical people, the Director of Social Welfare, and thought throughout. Our only thought was, we want to be as fair as possible, and we had thought for general purposes of the child itself and the general run of children, the shorter the time the better. But, we gave it ten days because that's the utmost you can do with reasonable convenience and balance to everybody concerned. I would request the Honourable Member not to interfere with the ten days because I assure him, this had a lot of thought.

Mr. Chamberlist: I wonder, Mr. Chairman, if the Legal Adviser could indicate what would be the position of a woman who had given consent during the first ten days and then afterwards, after she has left the hospital, she says, "what have I done, I didn't want to do this, I didn't know what I was doing, I was under drugs", what happens then. She wants that child. There's a case of where, you know, because of her medical condition at the time, she has given consent which she didn't want to do. This has happened on a number of occasions.

Mr. Legal Adviser: I'm not sure. I'd prefer to know the details of the particular case. I personally came with a case where I was about to go to court for an adoption here very recently, one of the last adoptions I did. One of the automatic routine checks when you are checking through the consents as you are walking, sort of dashing, through the halls, I suddenly pulled back. The consent had been given something like three or four days after the date of the birth, and it took until I got halfway down the stairs before it dawned on me and I came back to my office to check it. I had to cancel the adoption, then, on doing a bit of further research we found that in fact the law of the particular place had been amended. It was amended just before the consent was given, so that in the particular place where the consent was given, it was a valid consent. Now, if a person gives consent here, there's something which would say that it's an invalid adoption right from the beginning because the proper consent hadn't been given. The mechanics of it all is that it's supposed to be checked out. In theory, our office drafts these applications, and in practice they're machined into forms and what have you, but they are checked in my office, then they're checked by the Court Clerk, then they're checked by the Judge, and the final thing before the application is granted is, the Judge always says "Do you tell me that this is in order?", and I say "Yes", and then I'm laying my personal reputation on the line that this is so. Now, sometimes you can't check everything. You've got to rely on what somebody tells you. But still, you're laying your reputation on the line because you're asking the Judge to sign an order for which there is no opposition present and your duty is a higher duty. So, I couldn't exactly tell you, except the fact that it is checked. All the details of the forms are checked piece by piece and checked at least twice and probably three times, and they should be checked a fourth time because the Judge checks through it himself and reads it, and I will knowingly put the

BILL #2

Mr. Legal Adviser continued ... papers in the Judge's hands ahead of time. In any difficult case where you've got questions of crossing jurisdictions, ... a case is coming up in California. The marriage is to take place in odd circumstances, say, you've got a Scottish marriage or something. You have got to check this out, and then in the last resort, the Judge expects me to tell him of any difficulty which I think is in doubt even though I resolved it with my own mind, but in that particular case, I had to specifically draw to his attention the consent, being a short consent under our law, but being made in a different place because the original machinery of the adoption took place in the N.W.T. I had to draw attention to this fact. I think the Honourable Member knows that the procedure whereby when you're making these checks on applications, you're honour bound to tell the truth to the Judge, even though it might hurt you.

Mr. Chamberlist: Mr. Chairman, I appreciate the Legal Adviser's comments, but these are checks on documents. I'm not concerned with checks on documents, I'm more concerned with checks from the humanitarian point of view. I think, if you have a mother that is in the hospital, even before the actual birth takes place, she has perhaps decided and usually makes arrangements for adoption to take place after the birth. But, once she has had the child, she has a natural motherly instinct which perhaps she wants to keep the child, but during those ten days her state of mind is so disturbed, she might have had a very hard pregnancy, she might have had a cesarean pregnancy which is very, very damaging sometimes to the mind of some women, and found that ... these bachelors perhaps don't understand this. Take a bit of time on this, you know, it's very, very dangerous to the child bearing mother. The mother might not be in a state of mind to really recognize what she is doing when she is being asked for consent while she is in a hospital bed. It is just like a policeman carrying on an investigation of a motor vehicle accident in a ward of a hospital when the poor injured person has got fifteen ribs broken, he's got a fractured skull, he's bound up, and there's a policeman with a notebook taking notes from him. You know, would you sign this statement ... you know, this is the type of thing that I'm always opposed to and I'm opposed to this matter in this particular instance. Now, this is why I feel that a moral reasonable time should be given to a mother, and the question that I asked and was not answered was what if a mother, after realizing what she has done when she wasn't properly aware of what she has done, wishes to change her position. What is the law going to say about that? "Tough, baby, you've signed away that baby of yours, you can't have it", or do we look at it in a humanitarian point of view and try to understand that the mother was perhaps under the stress of medication. I wonder if Mr. Legal Adviser would tell Committee what would be the position in a case of that nature?

Mr. Legal Adviser: The overall consideration is the welfare of the child, not the welfare of the mother. This is the standard that the Ordinance adopts. Now, if the mother ... there's no question that the satisfactory solution to welfare or to anyone looking after a child, to have the mother take over the child and rear it herself. In some cases she cannot do this and it's known that she cannot do this. In such a case, she has time to consent and the proceedings have started to get a family, and there was a family available to take over the child, harsh though it might seem to the Honourable Member, I think the welfare of the child would dominate the situation even if the mother's wishes were not met. But, if she were in a position to take over the child, I think in that case, depending on the circumstances of each individual case, she would retain the child. They're not setting out to be harsh to people, they're setting out to be disinterested and seek the welfare of the child.

Mr. Chairman: At this time, I'll declare a brief recess.

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Mr. Chairman: At this time I will call Committee back to order. Are we clear on 74?

BILL #2

Some Member: Yes.

Mr. Chairman: (Continues reading Section 75(1),(2),(3),(4); 76(1),(2)).

Mr. Legal Adviser: That should be a small "p" and a small "r" in the second last line, Mr. Chairman.

Mr. Dumas: If the circumstances for dispensation of the six months period might be something where the parents want to move out of the Territory, is this the type of thing?

Mr. Legal Adviser: The usual cases are moving in or moving out. This is the usual reason. Now that one of the Honourable Members has joined the House, I would draw to his attention the fact that an adoption does not take place under this Section until the child has lived with the adopting parents for six months. This means the judge would not have made an Order. A lady who has given birth to a child and wants to change her mind she can move in Court and tell the judge. The judge would then hear it.

Mr. Livesey: Mr. Chairman, under Section 73, I wonder if I could ask if the regenerative theory of Frued under Section 3 had been ...vintage for those of the "perfumed Lepricon" where it says, "no persons can give his consent for adoption other than the child to be adopted." I wonder Mr. Chairman if I can get an answer?

Mr. Legal Adviser: Since it has been discovered that Professor Frued had an inceptuous relationship with his sister-in-law, for a period of some fifteen to twenty years, while she was living in his household, his theories have been somewhat discredited and Young and his successor would naturally tend to be the guiding influence in psychiatry and psychiatry knowled e, but Lepricons do not, as far as I know, have children, and don't adopt any.

Mr. Chairman: (Continues reading Section 77, 78, 79, 80 (1), (2); 81, 82(1), (2); 83, 84 (1),(2),(3), 85, 86).

Mr. Chamberlist: Mr. Chairman, I wonder if Mr. Legal Adviser could advise whether, where in this case, let us say Mexico, a brother can adopt a sister for legal purposes, that is a man at the age of 18 or above can adopt a sister under the age of 18, would that same adoption be legal then under this Section in the Yukon Territory?

Mr. Legal Adviser: It is not that the adoption would be legal so much as if it was legal under Mexican Law and therefore, these two people became father and daughter, and they came here, they would continue to be father and daughter.

Mr. Chamberlist: I am sure Mr. Chairman, Mr. Legal Adviser will understand that I am not referring to the adoption being legal because of father and daughter but because of the legal need for estate, where an estate has been passed down from parents to the oldest son who has to protect, of the Mexican law, the rest of the children of the parents that have made no provision for the rest of the children, then the main male over 18 may adopt his sisters. Now, this doesn't make them



BILL #2 Mr. Chamberlist continues...

father and mother, or rather, father and daughter but it gives them the adoption as the "guardian" of the sister. Now, would it interfere in any way with the estate distribution?

Mr. Legal Adviser: It is very difficult to answer a hypothetical question like that. The basic company of laws rules in relation to the transmission of property is that immovable property, land, mine, house, is transmitted according to the rules of inheritance in the place where the property is to be .... Money and movables, furniture, cars, are transmitted by the law of the domicile of the party. There are differences in different types of property, but for the safety's department you could not say exactly what had happened. All you could say what that we could recognize Mexican laws for adoption purposes. That is not to say if the two people came here and tried to machine through an adoption that it would be granted, but if it was done in Mexico, we would recognize that the Mexican Courts had done everything about it, exercise jurisdiction and power.

Mr. Livesey: Does that mean to say that people living in the Yukon, otherwise, living under the conditions and terms of the Ordinance, could not do a certain thing; may go to Mexico and get it done there and come back and it would be recognized by the Territorial Government?

Mr. Legal Adviser: If it is valid, under Mexican laws, the same situation has occurred very very commonly for many years in England and other places where a man could not marry his deceased wife's sister under English law from a statute of Henry VIII, but before it was withdrawn such a marriage would be a criminal offence; but he could go to Italy, establish a domicile there and then come back to England and England would recognize this because of commonalty of nations.

Mr. Livesey: There's a comedy of nations, Mr. Chairman.

Mr. Legal Adviser: Common.

Mr. Livesey: Oh, I thought you said comedy. It sounded more interesting.

Mr. Chairman: Order Please. (Reads Section 87(1),(2).)

Mr. Chamberlist: Should there not be an "s" after "adopting parent". Should it not read "adopting parents"?

Mr. Chairman: I believe this is covered under the Interpretation Ordinance, is it not? (Reads Section 88 (1),(2); 89 (1),(2).)

Mr. Legal Adviser: I think that it is possible that the "s" should be dropped where it first occurs in that Section. It should be "adopting parent".

Mr. Chairman: That is Section (2) of 87. Will you so note Mr. Clerk.

Mr. Legal Adviser: I think so, yes sir.

Mr. Chairman: (Continues reading 90(1),(2),(3).)

Mr. Chamberlist: Mr. Chairman, I want to move that that refers to 89. I wonder if Mr. Legal Adviser, Mr. Chairman, could explain why there is only in the penalty area the offense a fine of not more than \$100.00. Now, it cannot be charged in the maximum of the law, you

Mr. Chamberlist continues .....  
cannot be charged with the same offense more than once. Now should a person committ this offense, no notification of the placement, get fined \$100 that is finished with so they keep the child there.

Mr. Legal Adviser: It says nothing about that.

Mr. Chamberlist: Well, it doesn't say otherwise. It says, as I read it that "any person receiving a child into his home for the purposes of adoption other than through the Director, shall, within thirty days of receiving the child, notify the Director in the prescribed form." Now, if he doesn't do this, every person who fails to comply with this section is guilty of an offence and liable on summary conviction to a fine of not more than \$100. So, once he's been fined, the person he's been charged with the offence; he's paid up the \$100 and he's still got the child.

Mr. Dumas: He's committed another offence.

Mr. Chamberlist: But he doesn't commit another offence. I don't believe he commits another offence. Once he's paid that fine, unless it says that the ..."and the person shall immediately notify the Director..."

Mr. Legal Adviser: This is not testing whether it's a proper home or not a proper home. It might be an.....home to receive the child. The evil which we are attempting to cure is that fact that the Director doesn't know about it. So once he knows about it he can if he likes, prosecute the person for not notifying him; but he then knows. He knows whether he's been notified by them or not. Otherwise there would be no question.

Mr. Chamberlist: Under Section 92 in the whole of this Ordinance it is the Director who is the key person and the Commissioner gets put in the background. Now here, we have no prosecution for an offence under Section 1 shall be commenced without the leave in writing of the Commissioner. Now, if the Director is of the opinion that there should be no prosecution, why should he have to go to the Commissioner? to say whether or not the person should be prosecuted? If you give the power to the Director to do certain things, and if somebody is prosecuted because the Director doesn't know that a child is in somebody's home, why shouldn't the Director order the prosecution?

Mr. Legal Adviser: It's considered in normal practice that the Attorney-General of the particular jurisdiction should give his consent to these things. ....you don't give it in these cases to a Director. Now, if I was writing this Ordinance in a year's time, it is possible that I might have written without the leave in writing of the Attorney-General; but having regards to our particular constitutional framework at the moment the Commissioner is the proper officer to exercise this discretion and as I have often said, he exercises this on advice. Sometimes bad advice, of course. At least advice.

Mr. Commissioner: I question the propriety of these side remarks. I work on the advice that I receive from my officers as being very good advice.

Mr. Chairman: Order, gentlemen.

Mr. Shaw: Just one question, Mr. Chairman. Is there anything to prevent, Mr. Chairman, I would like this question to the Legal Advisor, Is there anything to prevent parent A wishing "Joe Blow" to adopt a child of theirs?

Mr. Legal Advisor: Now, this does not prevent it but the ....

Mr. Shaw: Is there anything to prevent it Mr. Chairman?

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Mr. Legal Adviser: No, but the machinery as such is designed that the Director of Welfare will be made aware of the circumstances.

Mr. Chamberlist: That leads to another question; supposing Mr. Joe Blow said to Joe Green, here you can keep my child and we will consider adoption at a later date; so the child is there for six months because Joe Blow has gone out in the bush or gone to sea or something like that. Is he going to be subject to the penalty just because there might be a possibility that in six months' time or a year's time the child might be adopted?

Mr. Legal Adviser: That then would not be for the purpose of adoption, it would be just to mind the child. One can always have a thought in the back of the head that maybe there will be an adoption. But if it is received for the purpose of adoption, you must notify the Director.

Mr. Chairman: Clear? (Reads Section 91).

Mr. Chamberlist: How could there be jurisdiction within the Territory over a child that is elsewhere? A child has not even been born in the Territory, never been in the Territory; how is this possible that there could be jurisdiction over the child. Certainly jurisdiction over the parents but not over the child. I wonder if an explanation could be given on that?

Mr. Legal Adviser: The explanation seems to be simple; a child is born in Edmonton and moves here is a child who is not born in the Territory.

Mr. Chamberlist: I did not ask that question. I asked that if the child is born outside of the Territory, has never been to the Territory, now how can the jurisdiction to a judge .... this is the part, you see. Any part to the proceedings or any child to whom the proceedings relate was not born in the Territory. Now it can be there can be an instance where the parents, or one of the parents wishes to give the child out for adoption and the parents have come to the Director and gone through the procedure of having the child adopted. The child is not here, it was not born here. Mr. Chairman, how then can the powers, duties and functions conferred on this Ordinance, on a judge, be exercisable as within the jurisdiction? This is what I want.

Mr. Legal Adviser: Mr. Chairman, there is no intention to give jurisdiction or grant jurisdiction to a judge or a court by reason of Section 91. What you are doing is excluding exceptions to the jurisdiction. It is the other sections that give the jurisdiction. This removes an exception. Under the common law changes of status other than the actual formation of marriages as such, or the undertaking of marriage, where limited to people who were domiciled in the Territory; without this particular section we might lose the right to deal with people who are here for say a two year visit because they were not domiciled. It could be argued later, with an invalid exercise of the jurisdiction of the court, and it could be argued that a child in certain circumstances has a domicile of his mother and the mother might not be in the Territory and may never have acquired domicile here. The child may be put out to fosterage,....the foster parents move with the consent of all concerned from say Alaska here, or Saskatchewan here, in which case we are giving the jurisdiction to the people who are residing in the Territory at the time the proceedings take place and we are eliminating the concept of domicile. This does not mean residence.

Mr. Chamberlist: Well, Mr. Chairman, I still haven't had my question answered, that this section still gives jurisdiction to a judge or justice to deal with a matter where a child is involved even though that child is not domiciled in the Territory, nor was the child born in the Territory. Now, I say how is it possible for a court to have jurisdiction legally over a person who has never been within that ... child is still ... within the Territory of where the judge and justice have jurisdiction. Now how can they have jurisdiction over that child? How can they give an order to somebody in Alberta or New Brunswick ordering the child to be taken into custody, for instance, because a judge has said that this child has been adopted. This is the question I want answered. BILL # 2

Mr. Legal Advisor: We're really making residence. The fact that they are there in the Territory we're making just the criteria. Now, most of the members of this house are now domiciled in the Territory and they weren't born in the Territory. That's not to say they can't make an application for adoption.

Mr. Chamberlist: No, domiciled in the Territory?

Mr. Legal Advisor: No, most of them are not domiciled here.

Mr. Chamberlist: Of course they are.

Mr. Legal Advisor: No, and most of them were not born here.

Mr. Chamberlist: Well, then in that case my interpretation of the English Language is from the interpretation English-Irish Language is about, because domiciled as far as I'm concerned is the place that you live in. This is your domicile. Well, we better read the Canada Elections Act because the Canada Elections Act distinctly and clearly says where a person is domiciled at the time of the writ of an election being called. Domicile This is a domicile .

Mr. Legal Advisor: A domicile residence.

Mr. Chamberlist: I am sure now that there is an easier way to look into this area, I don't know whether Mr. Legal Advisor has taken some advice upon this but I don't think a judge would exercise any jurisdiction of people outside the Territorial limits of the Yukon.

Mr. Legal Advisor: The judge is doing it all the time under a section that is identical in all terms elsewhere and here. Domicile is a very touchy and legal concept and perhaps the Honourable Member can get together over coffee and we will sort of discuss it, but it is a very abstruse legal thing, domicile. But residence is what we want here. We want the child and the parent to be here before the court and the court available to give jurisdiction. We're attempting to eliminate these highly technical legal concepts from the bill which would prevent the court giving a technically correct order.

Mr. Livesey: Mr. Chairman, what the legal department is getting at, as far as I can see, is where parents, Territorial parents, people who live here in the Territory are not going to the Welfare Department here in the Yukon because, I think in the past, it has been just a little bit too difficult, in their opinion it has been difficult, they go to Saskatchewan or Alberta or Manitoba or some where else because they found it easier to adopt children there than adopt them here. The law, to me, is attempting to, when those children are adopted in another area, and they bring them into the Yukon, the Yukon Territorial Legislation will be in effect as far as they are concerned, and they will come within the means and terms of this Ordinance. Am I correct, Mr. Legal Advisor?

BILL #2 Mr. Legal Advisor: The Commissioner mentioned to me that this Ordinance is designed to deal with cases concerning people who are here at the time they are here and not force them as was the case before the amendment to the Divorce Act of Canada. Prior to that time many women could not get a divorce here because of technical reasons of domicile. This concept was scrapped from the Act and made law available to people in the particular place in which they were living, regardless of this highly abstruse concept of domicile.

Mr. Livesfy: Well isn't that what I said, Mr. Chairman?

Mr. Legal Advisor: I agree that the Honourable Member of Carmacks-Kluane has the concept corrected.

Mr. Chairman: May I proceed? 92

Mr. Chamberlist: Question. Mr. Chairman, I feel that the word domicile has been improperly used. I would like to give what is in Black's Law Dictionary, as what is meant by domicile. That place where man has his true, fixed and prominent home and principal establishment and to which when ever he is absent, he has the intention of returning. Now that is everything in a nut shell, and to suggest that we are not domiciled here, you know that is an attack on the members of this house, that we are not domiciled here in the Yukon Territory. There is a whole page and one half on what is referred to as a commercial domicile, domestic domicile, domicile of choice, domicile of corporation, domicile of origin, domicile of profession, elected domicile, foreign domicile, matrimonial domicile, which is very interesting, the place where husband and wife have established a home in which they reside in the relation of husband and wife and where the matrimonial contract is being performed. This is another legal case, for legal definition. Municipal domicile, natural domicile, necessary domicile. There is so much on this that surely the position is quite clear that the members of this house are domiciled in the Yukon Territory.

Mr. Chairman: Counsellor Gordon.

Mrs. Gordon: May I ask that the Honourable Member from Whitehorse East also read the definition of residence.

Mr. Chamberlist: Exactly the same.

Mrs. Gordon: Are you sure?

Mr. Chamberlist: No.

Mrs. Gordon: Read it.

Mr. Chamberlist: Do you want it read?

Mr. McKinnon: It's an order.

Mr. Dumas: Oh no, oh Mr. Chairman, he would read the whole dictionary if you'd let him.

Mr. Chamberlist: I know half of it.

Mr. Commissioner: It's the half that you don't know, Norm, that we're intertested in.

Mr. Chairman: May I proceed gentlemen? 93; 94 (1) (2) (3); 95;

Mr. Chamberlist: Question. I wonder if Mr. Legal Advisor would agree that the court fees are set by the judge of the Territorial Court, and that is there any specific reason why these are being

Mr. Chamberlist continues.....

BILL # 2

set in this Ordinance, if just for the purpose for this particular ordinance?

Mr. Legal Advisor: I don't think so. It's possible they may allocate the cost when they do the case but, fees would always be essentially capable of being made by this house or by an officer to whom the authority is delegated. Judges don't set fees. I'm virtually certain of this, we may omit this in certain instances, but against the normal run of things, in that the court fees, that is the \$5.00 you pay on application form and this kind of thing.

Mr. Chamberlist: Mr. Chairman, what the summing up Mr. Legal Advisor said, in this particular instance I wager with him that the judge under the Judicature Ordinance, sets the fees and the costs and the charges for the court fees, costs and actions right the way through and they set it and its scale of fees that are paid by and to the legal profession in matters pertaining court fees and applications and everything to do with the court except by the judge of the Territorial Court

Mr. Legal Advisor: The judge may set the scale of charges that are loyally made to fit the circumstances. What we are talking about, basically here is that an adoption application need the \$5.00 fee. One of the things which is done when you process it is that you pin the \$5.00 bill onto it and it goes in. That's the kind of fees we are talking about here, a court fee. Court, not the lawyer.

Mr. Chamberlist: Exactly that's what I'm talking about. Court Fees. The judge has set the judicature ordinance, I wonder if Mr. Legal Advisor perhaps, would like to take a look at it. Why have it in here? Once we have already given the rights to the court to set up the fees and charges and costs in the Judicature Ordinance why should we have it in this Ordinance? There seems to be no reason for it. Why not just say that the fixing fees are what they have for the Judicature Ordinance? Why not do that?

Mr. Legal Advisor: I think the question should sit.

Mr. Chamberlist: But it was taken away from the Commissioner. The Council took the fee setting away from the Commissioner and put it in the Judicature Ordinance, now Mr. Legal Advisor and Mr. Chairman say that the Commissioner should study it. Backwards and forwards you know, roll the boat.

Mr. Legal Advisor: I'm not saying what Council did in the past, all I'm saying is, that in my humble opinion, for what it's worth, either the Council or an officer or an officer of the Council, should set fees, all fees.

Some Members: I agree.

Mr. Chairman: Reads 95 (d); 96. I believe there are some amendments forth coming to this.

Mr. Legal Advisor: A few small amendments that need 2 or 3 pages re-typed or words re-touched.

Mr. Chairman: At this time we will stand Committee and recess until 2:00 o'clock.

RECESS



1. The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry should be supported by a valid receipt or invoice to ensure transparency and accountability.

2. The second section outlines the various methods used to collect and analyze data. It highlights the use of both qualitative and quantitative approaches to gain a comprehensive understanding of the market trends and consumer behavior.

3. The third part of the report focuses on the financial performance of the organization over the past year. It provides a detailed breakdown of revenue, expenses, and profit margins, along with a comparison to industry benchmarks.

4. The fourth section addresses the challenges faced by the company in the current market environment. It discusses the impact of economic fluctuations, increased competition, and changing consumer preferences on the overall business strategy.

5. The final part of the document offers recommendations for future growth and improvement. It suggests implementing new marketing strategies, optimizing operational processes, and investing in research and development to stay ahead of the competition.



Page 69.

Thursday, January 15, 1969.

2:00 o'clock p.m.

Mr. Chairman: At this time I will call Committee back to order. Do you have anything further on Bill No. 2. Is it your wish I report progress on this Bill? Are you agreed? Then we will proceed to Bill No. 3, "An Ordinance to Amend the Municipal Ordinance".

BILL #3

Mr. Livesey: Mr. Chairman, I would move that Bill No. 3, "An Ordinance to Amend the Municipal Ordinance", has been read in accordance with standing order 78 rule 62, seconded by the Honorable Member for Whitehorse West.

Mr. Chairman: It has been moved by Councillor Livesey, seconded by Councillor Dumas that Bill No. 3, "An Ordinance to Amend the Municipal Ordinance", has been read in accordance with Standing Order No. 78, rule 62. I am wondering that before the question is put if firstly we could have a report from the Legal Adviser as to whether or not the amendments required by Committee when last recessed has been disposed of in this new Ordinance.

Mr. Legal Adviser: The main discussion that took place concerning this Bill was in Section 25, that is Page 3, the proposed Section 25. The discussion was whether or not this change in salary for Mayor, Reeve and Alderman would mean any diminution of the emolument to be paid to officers of the Municipal Council of the City of Dawson. Now it has been amended to enable the difficulty be overcome by saying where the population of the municipality is more than 500 and less than 5,000 and this I think, would cover the City of Dawson. Now I am not sure exactly what the other amendments were but the last section where there was a change in the boundaries has been completely deleted.

Mr. Chairman: Yes, Section 3 of the original Ordinance I believe, forcing the Municipal councillors to vote has been deleted as well.

Mr. Legal Adviser: Well, I drafted an amendment and I have checked to see that it is actually in. I was away during the week immediately preceding the session of Council.

Mr. Chairman: Councillor Chamberlist, would you take the Chair.

Mr. Taylor: Mr. Chairman, before we call the question on the Motion as presented by the Honorable Member from Carmacks-Kluane, I would like to at this time propose a further amendment to this Bill that I feel is very important at this time. The amendment involves the changing of Section 5 (a) as the existing Municipal Ordinance, and I had hoped to have a copy of this and in Section 5(a), we deal with the matter of a petition for a Village, and 5 (a) 1 reads, "where the Commissioner receives a petition containing the signatures of not less than 100 persons residing in an area in the Territory requesting the establishment of a Village and is satisfied that the proposed Village have not less than 50 rate payers, he may cause notices to be posted in at least three conspicuous places within that area, and shall cause a notice to be published in a newspaper circulating in that area stating that it is proposed to establish a Village in that area." Now, the sub-section 2 where I would like to propose an amendment and sub-section 2 states, "where the Commissioner receives no complaint or where he has received a complaint but is satisfied that the establishment of a village is desirable he may by order establish a Village and fix the name and boundaries thereof." Now as members know we just had a little difficulty with this section down in Watson Lake prior to coming to this session and it seems to me from all that has transpired in relation to the problem at Watson Lake, that the people in the Territory, no matter where a village is proposed should have the protection of Council at least in this time in their development. In sub-section 2 where

BILL #3 Mr. Taylor continues.....

it states that the Commissioner may by order establish a village, I would like to propose by Motion an amendment which would take out the word by order and would insert the words by and with the consent of the Territorial Council. So consequently, the Bill having been read, I would assume that once the vote is taken on the Motion as stated by the Honorable Member from Carmacks-Kluane that I would have the opportunity of proposing the amendment. Would this be agreeable, Mr. Chairman? I will resume the Chair.

Mr. Livesey: Mr. Chairman, just the fact that it has been read really doesn't conclude anything at all.

Mr. Chamberlist: I don't know whether we are doing this right. I don't see how we could ask for a question on that particular motion until there was discussion as to the correct legality of this thing. Now, I would like Mr. Legal Adviser first to give an opinion to whether or not we are acting properly in this matter if we approve that it has been read, because this Bill which is Bill No. 3 has not been read. Now, we can't go ahead and say that it has been read.

Mr. Shaw: A point of order Mr. Chairman, a request such as this I think is the prerogative of the House to decide on the order of the business of the House and the rules are established by the House in respect of such matters, and I think that a question should be directed to the Speaker in a matter such as this.

Mr. Chamberlist: Mr. Chairman, we are in Committee. We have a person who is supposed to be the Legal Adviser to the Council at a legal question that I am asking, not a rule of the House. I am asking about the legality and we should be careful and make sure that we don't get fouled up at some later date. There is also an explanation or explanatory note which says schedule B of the Ordinance is amended to extend the boundaries of the City of Whitehorse to bring into the City of the whole of the outside boundary of what is known as the metropolitan area. Well, we have spoken at some length on that and disagreeing with it so that the explanation then is there in excess of what the Bill actually reads. I would like to get the legal opinion of legal Council, not of Council.

Mr. Chairman: Well I believe that this is a matter that must be resolved by Council and I do not feel that the Legal Adviser at this time becomes involved in this matter. I think this is a matter for Council to decide.

Mr. Chamberlist: Well Mr. Chairman, in that case we have to keep to the strict if Mr. Chairman does wish to have the Legal Adviser answer a question of this nature. All I could say is I cannot support it. I would say that the Motion to my way of thinking is out of order because I am not going to move and agree that we have read a Bill in this session which is Bill No. 3, that we have not read and I am not going to participate in anything like that unless I know the legal status of it.

Mr. Chairman: Does the Honorable Member from Carmacks-Kluane have any comment on this?

Mr. Livesey: There is no legal status, Mr. Chairman. It is a well-known fact that any democratic .....to do that which they may wish to do without any interference from any outside body including the courts of the land or any other source, and may make their own decision and in fact they can do practically that which they shouldn't have to do or anything else. They can practically

Mr. Livesey continues.....

do anything as you want providing the House creates and provides, the majority rules on any of these questions and the questions we are talking about is a question of attempting to ..... work that has already been done or provide extra discussion where none is needed and where the Committee will decide in it's own good time, and through it's own wisdom whether this is the right procedure or not, but it is not the legal question or should not be placed to any other persons than the elected body of this House. This is where the elected body that makes the rules. No other person makes any decision in relation to those rules and this has been our prerogative and has continued to be our prerogative from the year 1958, when we first provided the rules for this Council and these have been handed down from session to session, election to election and are our rules and are the rules of the elected body of the House. It's up to the Committee of the whole to make a decision of this nature and in my view Mr. Chairman, the Committee has all powers necessary to make that decision without any question.

Mr. Chamberlist: Well Mr. Chairman, I am not disputing that there is a necessity to speed up during this session and not to repeat what Council has done in the last session, but I just want to be satisfied that there is not a question of legality that might arise at a later time and if, I am getting suspicious if there is an insistence that we do not pass the advice of the Legal Adviser. I think I will be quite content to rest at this time on the advice that he gives in this matter because I cannot argue this point myself, and if this Committee refuses to go along with the idea that the Legal Adviser to the Council should not give an opinion on this basis, then I think it's time that we said we can do anything we like, we don't need the Legal Adviser, he can go and be Legal Adviser to the Commissioner that he has been for so darn long and we don't need him. The Commissioner can go, the Administration can go and we can do whatever we like. This is nonsensical. Well, here I am a member of this Council and I am asking for legal advice and I am asking from the legal advice that we have here and I have a right to know that.

Mr. Livesey: Mr. Chairman, this is not a question of right, it is a question of privilege and not of legal advice. The questions of privilege are our own concerns and I would like to read from Page 94, Parliamentary Rules and Forms, sub-section 2 of Section 103, "The House has always asserted the right to provide for the constitution of it's own body, the right to regulate it's own proceedings and the right to enforce it's privileges and sub (3), it's always been admitted by the court that the House has the exclusive right to regulate it's own internal concerns. The House of Commons has the exclusive power of interpreting the Statute in so far as the regulations of it's own walls is concerned and even if that interpretation should be erroneous, this court has no power to interfere with it directly or indirectly".

Mr. Shaw: Mr. Chairman, I would agree very much with the Honorable Member from Whitehorse East if something was being pushed forward or some perhaps ulterior motive. All we are doing is accepting the sections, the amount we have read. The amendments that have come forth or that are coming forth are as debatable as ever they were. It is just that we are saving the time of reading pages and pages, but the amendments that have come through are mostly what Council requested, at least I assume they will be when we get to them and it's a matter of not repeating what has already been attended to by this Council. There is nothing that one cannot introduce further, there is nothing that one can discuss the changes that have been asked for.

BILL #3 X Mr. Livesey: Mr. Chairman, if I may add a few words. If the Motion is voted down of course, what the Committee is saying is that they are saying it has not been read and if they vote in favor of it, they are saying it can't be read. It is as simple as that.

HAS BEEN

Mr. Chamberlist: Mr. Chairman, it is not as simple as that and I repeat that it's not that I want to save time at this but when this particular Bill that we are talking about as Bill No. 3 is a new Bill in this session. I don't want it to be said that at some later date through a court action that this Bill has not been properly passed. Now, there seems to be no reason whatever why there should be stubbornness on the part of anybody in this Committee to seek from the Legal Adviser his advice in this matter. If his advice is that it is satisfactory and he sees no legal impediment, well then I raise no objection, but if in his opinion there may be a legal impediment to it, then I have to go along with what the Legal Adviser says because he is the Legal Adviser to this Council. I mean it is as simple as that and I think Mr. Speaker should be resting Mr. Chairman, on the Legal Adviser's advice, not opposing the advice that might be given. It might be fine, quite simple but you are objecting to being given advice by the Council's officer. I can't see that at all.

Mr. Livesey: Mr. Chairman, usually in a case like this the Council's officer gives legal advice quietly and in private, never rises and questions the matter in relation to the rules either in Committee or in the House, never, it is not done in any parliamentary legislative body that I am aware of and I don't understand how anyone can say that after a Motion has been passed in this Committee that something has been done that anybody, course or otherwise, could say that it has not been done.

IN COURT.

Mr. Chairman: Have you anything further on this subject?

Mr. Chamberlist: Mr. Chairman, I would like to suggest that we do not, that we recess for just a few minutes to give Mr. Legal Adviser the opportunity to speak to me privately and have a look at whether there is an impediment or not. I think it is important to this Council.

Members of Council agree.

RECESS

Mr. Chairman: At this time I will call Committee back to order. Have you anything further before I put the question on this Motion?

Mr. Dumas: Question.

Mr. Chairman: It has been moved by Councillor Livesey, seconded by Councillor Dumas that Bill No. 3, "An Ordinance to Amend the Municipal Ordinance" has been read in accordance with Standing Order No. 78, rule 62. Are you prepared for the question? Are you agreed? I will declare the Motion carried.

MOTION  
CARRIED

MOTION CARRIED

Mr. Chairman: It has been brought to my attention that in the current Bill, the numbering has in the taking out of Section 3 of the former Bill, the numbering has yet not been changed. Would Councillor Chamberlist take the Chair.

Mr. Taylor: Mr. Chairman, in relation to my remarks a few moments ago, I would like to at this time move, seconded by Councillor Livesey that Section 5A of the Municipal Ordinance be amended by deleting the words by order from line four in sub-section (2) and inserting therefore the words, by and with the consent of the Territorial Council. Section 5A was an amendment as of 1966 First Session.

Mr. Chairman: It has been moved by Councillor Taylor, seconded by Councillor Livesey that Section 5A of the Municipal Ordinance be amended by deleting the words, by order from line 4 in 2 and inserting therefore the words, by and with the consent of the Territorial Council. Is there any discussion?

Mr. Shaw: Well Mr. Chairman, that's rather unusual title. I've never seen that in any Ordinance. Would that not more properly read, Commissioner in Council, if intent was to change this?

Mr. Taylor: Mr. Chairman, in the prior section, Section 5 itself. The Territorial Council take a predominant role in that name form. Where the Territorial Council approves a resolution placed before it pursuant to sub-section (1), the Commissioner shall cause notices and so forth, and sub-section (4) of Section 5 states, where the Commissioner receives no petition of complaint or where a petition of complaint has been referred to the Territorial Council, the Territorial Council has not by resolution withdrawn its approval of the proposed village, the Commissioner may by order establish a village and fix the names and boundaries thereof. So in the usage of the or in the preparation of the amendment, I have used the usage of Territorial Council to conform with the other sections of the Ordinance.

Mr. McKinnon: Yes Mr. Chairman, I have really grave reservations about this type of an amendment. I had exactly the same problem as the Honorable Member from Watson Lake had in his constituency, where there was I think in some way an attempt by the Administration to convince the people of one of the areas I represent, that would be to their benefit to form some kind of a municipal status. I argued against the formation of this type of municipal status at the time because in my estimation, the facts and the figures of what it was going to cost the taxpayers of the community in relationship to what benefit they were going to receive by forming some type of self-government were not laid clear out before the taxpayers of the community at that time. The thinking that I had ruled the day and I challenge the Commissioner and I challenged him then and I challenge him again, that if he tried by Commissioner Executive orders to put something forward and place it upon people I represent without myself being involved, or the people of that community being involved, then I would be in my full power and full right and putting him forward as a petty tyrant dictator before the public of this Yukon Territory and enlisting and soliciting and gaining the help of every seven members of this Council in reneging what the Commissioner had done in a unilateral matter. I think that this same procedure is open to the Member from Watson Lake. I think that he can also challenge the Commissioner with a sure aid of every Member of this Council to try and put a village on any one of his constituents before the Member agreed that all the facts were known, and that his constituents wanted that type of government. Now there is a real danger in taking away the power of the Executive from the Ordinance particularly at this time, because it means when there are democratic institutions here and when an Executive that commands the majority of this House want to act on what they feel is the expressed desire and wishes of the people at every turn, they will have to go toward Council for every type of administrative matter. This is the complete antithesis of what Executive government is and what responsible government should be, because the government of the day should be



BILL #3 Mr. McKinnon continues.....

able to move. The opposition opposes and if the people disagree with what the government is doing, then they have the right to put those people out of the next election, but you cannot tie the hands of the government to be able to move and move rapidly when they want to make a decision. I cannot see how by leaving a Commissioner's order if the majority of people prove without a shadow of a doubt, and upon the expressed desire of the elected member from any constituency want to form some type of self-government. They have the opportunity immediately to be able to petition the government by Commissioner's order, be able to live under the type of government they want. This is a local matter that can best be served by having the ability to be able to act and to act instantaneously if you want, and the Honorable Member from Watson Lake feels that he is at a real danger, that the Commissioner is going to go out and say by order because I think that probably best for the people of Watson Lake that they have a village, and by Commissioner's order I am going to proclaim a village. I would challenge the Commissioner to do that. I don't think that he will, in fact, I think he would be insane to do it because I as a Member to a body would rise in this Council and condemn him for it, if it could be proven that what the Honorable Member was saying was true. I think it is superfluous, it's not needed, it's strenuous to this Ordinance and it would just take away from the Executive power of the elected people when they do finally get democratic institutions in the Yukon.

Mr. Taylor: Mr. Chairman, I can agree with some of what the Honorable Member has said but I can disagree with some of it too. I think I should in the first instance remind all Members that democratic institutions do not exist as such in the Yukon Territory as yet and the Commissioner is in office rather than an individual, and it may be said at this time we have a benevolent dictator for a Commissioner, and it may be that in the future we may have a not so benevolent dictator filling this office. I was clearly pointed out in the experience of Watson Lake that it was quite possible to create a village, whether the people wanted it or not and under this section of the Ordinance, this is the way it is, and it is the desire by this amendment to change this, to bring it in line with the other sections of the Ordinance, Section 5 of which this is 5A, so that the people have the protection of their elected Member by virtue of the Legislative Body which is this Council, in the event one of these things occur, and I don't think that anyone has to think too far to realize that had certain personalities been involved in the situation at Watson Lake, both at this table and in the Commissioner's chair, there is no doubt but what this could have been imposed and once you have done this thing, well it's pretty hard to undo it. I think the Commissioner is bound to do whatever the Ordinance tells him to do and in the present situation, it is permissive, he may by order establish a Village and it is the protection of the people we are looking for and if in the future that a future time, we hope that we will involve the elected representatives in Administration, then it is just a matter of repealing the Ordinance because many of these other sections will have to be repealed as well. So that is why I ask that the amendment stand and that the Territorial Council be consulted before a Village in a matter of this importance. This concerns the people, the people we are working for and until these people can be reassured or offer these people reassurances of you know they will not have a village imposed upon them anywhere in the Territory until this Council next sits and remember this Council only sits twice a year and the Commissioner in the interim can impose a Village if he so feels it necessary and he can't do a thing about it until it's a fait accompli for several months especially if it happens in the summertime.

Mr. Dumas: I wonder Mr. Chairman, if we could get an opinion from both the Legal Adviser and the Commissioner on this suggestion. BILL #3

Mr. Legal Adviser: This isn't strictly law really. I think that most of the Honorable Members, although they won't let me say so, know that we are now in a state of benevolent dictatorship which is quite accurate, but the amount of information and the number of opinions which have been sought in Council and difficult questions of policy have converted this Council into being almost an executive council in very many important fields, and I think this is one of these fields. I cannot conceive of being part of the Commissioner's administration when against the known declared wish of the people of any community, he would by executive order impose a system of government upon them which they do not wish to have. What the Commissioner would add to this, I don't know, but certainly I am an intimate party of the Administration and I cannot conceive of it, but I would very much welcome the remarks which were made with regard to keeping executive power intact. I have made this remark at regular intervals for two years now that the people here have a duty to preserve executive power, good executive power intact for themselves when they will be exercising that executive power. It's a necessary function of government. They haven't got this executive power at the moment although they have tremendous influence on the executive more than they realize, but you must keep executive power intact and it will soon be exercised by a Committee of this House.

Mr. Commissioner: Well Mr. Chairman, really with regard to the amendment that is proposed here, I would like to suggest Mr. Chairman with all due respect that the Honorable Member from Watons Lake who has proposed it that in the first instance the idea behind what he is saying here of the Administration has no basic objection. Secondly, that if it is the Council's wish that we do include an amendment of this nature that we would wish to have the opportunity to properly research it with regard to other elements in the Ordinance and bring forward something that maintains legislative compatibility with everything else in the Ordinance and companion Ordinances, I am sure that we have all been through the routine about midnight moves with regard to things in Ordinances. They have never proved to be satisfactory so if it is Council's wish to proceed with such an amendment, we would ask the opportunity to have it properly researched. Thirdly, at the present time, the Commissioner and the Members of his Administration that participate in the Executive decisions are nothing but the custodians of the Executive power which in the reasonably near future is going to be turned over to elective means, and if every Ordinance and in every Ordinance you feel that you are perpetuating or extending your arm of power into the day to day activities of the Executive by writing into Ordinances limitations to the Executive power, I want to advise you that you couldn't be doing anything worse because you will be the victims of your own ineptitude within the very, very near future because once you have taken this power and put it into the hands of the legislature, my suggestion is going to be that you are never going to get at the back of it. Now in the matters that apply in situations such as we have here, I cannot conceive of anybody in their right mind no matter who he is occupying the Commissioner's office, who is going to permit himself the luxury of going ahead and issuing an Executive order to create a Village somewhere without the political acceptability and back up he would get prior to the action from this legislative body. There is no way that anybody could do this because you are never going to get away. Now the whole idea of the changes that were made in this Municipal Ordinance several years ago and some of the Members of Council are sitting around this table do they do participate, was to create machinery that would make it possible to create these types of local government. To the best of my knowledge there is a continuing dialogue going on between the Administration, the public, the Members of Council and all concerned to seek ways

BILL #3 Mr. Commissioner continues.....  
and means and provide information that will make some of these things possible as time goes on, but I am not aware of any persistent action Mr. Chairman that has been taken either by elected people or by the Members of the Administration to do any of these things without this consultation. Now, as I said, the Administration has no objection to this proposal if Council wish to have this in, but if Council do wish it there, we would ask the opportunity to see that it is worded in a manner that makes it compatible and have proper legislative clarity along with the balance of the ....

Mr. Dumas: Mr. Chairman, I have faith that we are going to have responsible government within the very near future and that this type of amendment in any of the legislation would be tying our own hands. I have faith that this Commissioner will be the last appointed Commissioner of the Yukon and I have also faith that while he is appointed Commissioner, he will not formulate Villages against the wishes of the people in any given area, and on this basis Mr. Chairman I will be voting against the Motion.

Mr. Taylor: Mr. Chairman, in listening to Mr. Commissioner, I can concur with him only in the respect that we are possibly by accepting this amendment at this time taking away Executive control, but remember we are still chasing rainbows. We don't have this Executive control. It looks as if we're going to have it, we could have it an but how long this is going to take is an unknown quantity, it is unknown factor and until this happens the people have no protection from the bureaucracy. Now this was pointed up in the Watson Lake affair and this is the only reason for this amendment, but if I can have the assurances of Mr. Commissioner that neither the village status or a municipal status will be imposed on any community in the Yukon until this matter has been considered and discussed at the next session, I withdraw the Motion or the amendment and this includes the community of Faro because I think that anywhere that you impose a municipality by this method or any other that the people should at first have the right to be in consultation with the Administration, should know what kind of taxes they are going to be paying out on the first year, not necessarily in the second year, but what they can hope to be paying in the foreseeable future of the municipality and this takes time. You can't do this in a couple of weeks. I think this takes a few months of sitting down and talking this thing out. Then with the assurances from the Commissioner that there will be no incorporated municipalities or villages between now and the next session of Council, I withdraw the amendment.

Mr. Commissioner: Mr. Chairman, I think I should comment. First and foremost Council has already approved the establishment of the village of Faro, so we are proceeding with this on the basis of Council. Secondly, I can assure you that the political acceptability that is required in order to establish villages or any municipalities anywhere else is certainly something that I would be seeking either from this body as a whole or very strongly from a group of this body that represent the people in any area that .... village status and also remember Mr. Chairman that the terms of the Ordinance are not all contained in one parargraph that it is referred to. There are many, many others.

Mr. Taylor: Mr. Chairman, I agree that it was agreed in the Anvil townsite agreement that a municipality be established at Faro but we didn't say when and we didn't say that this townsite was going to be 300 square miles or 50 square miles or anything else in extent. This is the decision that though we have agreed that a municipality should be affected in the community of Faro. We must also give these people who have to live there and have to pay these taxes

Mr. Taylor continues.....

an opportunity to sit down and learn of what is proposed or to re-negotiate boundaries and to negotiate in respect of what services they will require and what services they can do without in this manner of thinking, and though we have agreed that a municipality should be incorporated at Faro, I still think that the people at Faro and that is not only management but working people at Faro, who live in the homes and make up the community should have an opportunity including the elected Member of the area that they sit down and discuss it before this is imposed upon the people. Now, under this section, sub-section (2) of 5A which is the section referred to in my amendment, this is where the problem exists. This is why I asked for the assurance today Mr. Chairman and Mr. Commissioner that if I have that assurance that nothing will be implemented until the spring session or the next sitting of Council, then I would withdraw the amendment.

Mr. McKinnon: Mr. Chairman, I have a public meeting of the Porter Creek people next Thursday night. We have asked for quite a few questions regarding some type of municipal government to be answered by the Territorial Administration. If all these answers are forthcoming and are accepted by the majority of the people there, if by a sound majority of the vote of the people there, they ask for incorporation into some kind of a municipal status, I'll be on the Commissioner's doorstep next day and say these are the expressed wishes of the people of Porter Creek. They want some type of municipal status. I would like you by Commissioner's order to incorporate the area of Porter Creek as a Village. Now, what you are doing is trying to tie not only the Commissioner's hands but try to tie my hands as a dually elected representative from Whitehorse North and try to foster the self-government throughout the Yukon Territory. If the Honorable Member from Watson Lake would like to say, I would like the Commissioner's insurance that there will be no village established at Watson Lake until consultation and negotiation go on with the people of the local improvement district of Watson Lake, I couldn't agree with him more but to make a blanket stoppage because of his own particular problem for the rest of the Yukon Territory, to me is not acceptable.

Mr. Taylor: Yes but Mr. Chairman, I would like to remind the Honorable Member that this Council sits twice a year. There is no way that the Honorable Member from Whitehorse North can go up to the Commissioner or the day following the meeting and say by Commissioner's order I want a Village. He must first get that petitioned and there must be posting and this type of thing. He can where the Territorial Council approves under Section 5 but under 5A he can't and this is going to take time and under Section 5 (d), it points out what must be in the or contained in the petition and this takes time, so I can see nothing wrong with bringing this matter to the Territorial Council at it's next sitting, at least until we have found the pot of gold at the end of the rainbow and have brought democratic institutions to the Yukon.

Mr. McKinnon: Mr. Chairman, with all due respect you're trying to bind Council because of a local problem you have. I don't think you should. I'm willing to give you my guarantee and I would be willing to personally to give the Honorable Member from Watson Lake my guarantee that if he came up and told me that by order the Commissioner was trying to shove something down the people of Watson Lake's throat that they didn't want and he could show me, I would be the first Member in this Council Mr. Chairman to stand up and defend his rights and rally against the Commissioner for doing this, and if he is, which I'm sure he is because I know his background in the community is an effective Member of that community, there is no possible way under the Municipal Ordinance that the Commissioner is going to bring

BILL #3 Mr. McKinnon continues....

Village status upon the people of Watson Lake if they don't want it. You have that protection even though it might not be written or may not be explicit in the Ordinance, you have it.

Mr. Livesey: Mr. Chairman, as seconder of the Motion I believe this is only a temporary situation in any event but the point still remains that irrespective, the legislation gives the power to the Executive and by the way, I want to point out too that I am not discussing the position of the Commissioner as far as the Territorial government in this respect. I don't think this is quite correct. What you're talking about here is the legislation and the legislation gives permission to the Administration to this, that or something else, however the representative for the area and especially during this .....period where we are just moving into this form of municipal build-up in the Yukon whereby to a certain extent, it is highly detrimental to the representatives in the area I might add, highly detrimental in a good many instances. The provision now that is there and the public are aware of it, creates a form political argument in these local areas between certain groups and only those who live with them know what those arguments are and what the thoughts are behind the argument and live with the problem as it exists in that particular area, and this is something which you know the generalizations as we have that are enumerated by the words of the Ordinance don't conclude these things at all and make no provision for settlement or anything else and the representative for any area under the circumstances and I agree with the Honorable Member on this point that we do not have that which has not been proclaimed. We only have that which we have that is proclaimed and this is the point of the argument. It rests on what may be now, not on what may be or may not be, but surely Mr. Chairman we can undo anything we do. I personally feel that the representative is honestly trying to do his job in any particular area for the protection of the public in that particular area, he should be given every facility to his job properly and I might add that each and every one of us who surely realizes the problems that we are up against, as representatives of the public when the public I think are getting more aware today than they ever were of the lack of power of the elected body not the power of that elected body. Someone else has the power, not the elected body. There is no question about that in my opinion. If we have the power to do these things, then surely we have been wasting our time since 1958 trying to get somewhere with it and I personally don't understand how anybody realizes what goes on in the community better than the man that lives there. The thing is that the bare facts of the legislation and the interpretation of those bare facts as related to the actual conditions which exist, I am sorry to say are not always apparent for those people whom are not there trying to live out what has been provided by legislation, but it is the interpretation that the public suffer from and believe me, I have had my belly full Mr. Chairman, on a good many instances in relation to this situation. There is a many slip, twixt and lip and that certainly goes on this Yukon Territory.

Mr. Chairman: Is there any further discussion?

Mr. Taylor: Mr. Chairman, I would say this that this matter is of great concern to many people and in this particular instance to people in my area. I don't want this to occur anywhere else in the Territory it would be a concern to them too, but I had looked in proposing this amendment to finding and seeking total support to this amendment. It appears that this is not possible. I think it would have done well for some senior Members of the Administration and for all Members of Council to have come home with me at Christmas time and see what was perpetrated in the community of Watson Lake during what I term the Watson Lake Affair and I think you would have

Mr. Taylor continues.....

BILL #3

felt then as I do, that this legislation was most necessary as I still feel it is most necessary. However, I have made the point and it would appear that we are not going to get anywhere. I hoped that and pray that the people of the Yukon would be protected from the type of thing that went on in Watson Lake and believe me the Administration were involved in this and I have documents which indicate as such, that it won't happen again and that the people will indeed have the protection of this legislature. With those final remarks, my seconder will join me and I will withdraw the amendment.

Mr. Chairman: The Motion has been withdrawn. Does Committee agree the Motion be withdrawn?

Some Members agreed.

Mr. Taylor: I will resume the Chair.

Mr. Chamberlist: Yes, Mr. Chairman. Before we pass on, I wonder whether or not it would not be possible for the Commissioner to give an expression by or show an expression of goodwill to the Honorable Member of Watson Lake by saying that there will not be a Village status brought into being for Watson Lake without his knowledge and without his agreement and the agreement of the people of the Watson Lake area, out of courtesy.

Mr. Commissioner: Well, Mr. Chairman, I don't know how more explicit I can be. I am certainly of the opinion that our general day to day manner of dealing with these things should be an indication enough that we are not about to proceed off on left field to be doing things, that don't have some form or means of political acceptability and if there is any place in the Territory where we have attempted to accommodate the wishes of the citizenry by bending at every turn of the road, certainly Watson Lake is the place and there is not going to be any changes in our policy with regards to this or any other section of the Territory. I think we are servants of the public and this is what we should be doing is being the servants and in the process of doing so, why I don't think that we should be going around and shoving things down people's throats which the majority of the people apparently do not wish, and if Village status is not their wish, why I am sure we will hear about it.

Mr. Chamberlist: Well Mr. Chairman, do I take it from the explanation given by Mr. Commissioner that the answer then in very short precise terms, that he will not bring Watson Lake into status without the people and the Member of Watson Lake knowing about it.

Mr. Commissioner: Mr. Chairman, there is no way that this can be done.

Mr. Dumas: Mr. Chairman, I would like to move Bill No. 3 out of Committee without amendment.

Mr. Chairman: Is there a seconder?

Mr. Livesey: I will second it.

Mr. Chamberlist: Mr. Chairman, before the question is put, I wonder if Mr. Commissioner could indicate whether or not at the next session, there will be a further amendment to the Municipal Ordinance dealing with the wishes of the Municipal Council of Whitehorse who would like to have all Members of Council of City Council elected at the same time now that they have a method of continuation in city management?



BILL #3 Mr. Commissioner: Mr. Chairman, I am not aware if we have formal approach for this amendment. There has been verbal conversations about this and if we are formally approached, I think the next question will be as to whether a generalized amendment would be acceptable to the other municipalities in the Territory as to whether it affects them or not, I am not too sure, but I would say this that first a formal approach would start the wheels in motion. Secondly, from the Administration's point of view, as long as there can be an indication from the affected areas that the Executive or the Administrative segment of their government is strong enough to continue in that, there is no reason that the Administration will have any objection to such a request.

Mr. Shaw: Mr. Chairman, just discussing that particular aspect, I do think that it would be most advisable if the Administration could get in contact with the municipalities respecting this particular matter. The fact that you have one or two people going in on the alternate years and I agree with it myself when it was first instituted. It sounded like a wonderful idea because you had continuity and so forth, but it hasn't quite worked out this way in actual practice. It has meant that the two newcomers may have new ideas but they can't put anything into force. The old guard is sitting on the reigns and I think that it is a very good idea, in practice it doesn't seem to work out very well. I think that we have got to get back to the old, old story that if you don't like people, you kick out the whole kit and buddle and put a whole new bunch in, because that way you can get some policies. Now, I am certainly representing a municipality Mr. Chairman, I don't want to impose my views on this municipality, but I would ask if the Administration, if the Commissioner through his or whoever designates does find out what they think of having a complete suite in offices at an election rather than continuing the same type of program, see what their feelings are on it.

Mr. Commissioner: Mr. Chairman, I think in the first instance I would be very hopeful that there would be a formal approach to us from one or the other municipalities. I think this is what we need at this point. I don't think it should be the Administration's prerogative in cases of this nature to be suggesting changes along these lines. I think they should at least come from the municipalities in the first instance. Now, once we have it from one municipality the understood routine by prior agreement with the Council here is that the other municipality will be consulted before we bring forth the amendments, so that we can assure Council that when these amendments come forth that they have had the basic .... behind them has been agreed to by the municipality or the municipalities affecting more than one, however there is something that I would like to say concerning this continuity of local government. If at the time that this was proposed there was no ability on the part of the City of Whitehorse anyway to maintain any kind of Administrative or Executive functions except from elected people, and in instances where it cannot be shown that this can be done, I still think it is a wise situation to have the Members of the City Council elected on a staggered basis, where it can be shown that they do have higher administrative confidence, then I am in total agreement that a total election for the total number of Members of Council and the Reeve or Mayor is the situation that he is desirable and advisable thing from the point of view of the electors but I think there must be some understanding that the ability of the municipal government involved should be shown to the satisfaction of all concerned that they have got the higher administrative capability to see that the Administration is properly carried out.

MOTION  
CARRIED

Mr. Chairman: Well, are we prepared for the question on the Motion? Are you agreed? I will declare the Motion carried.

MOTION CARRIED

Mr. Chairman: At this time I will declare a recess.

RECESS

Mr. Chairman: At this time we will call Committee back to order. We are proceeding now to Bill No. 4, An Ordinance to Amend the Motor Vehicles Ordinance. BILL #4

Mr. Chamberlist: Mr. Chairman, before we go any further, I would again like to ask Mr. Legal Adviser a question. In the explanatory notes there are these words: "The suggested amendments by Council have been incorporated where possible in the present Bill". "Where possible". Now have the amendments that were asked for when this Bill was read been incorporated - yes or no? If we say where possible, then we have to start again and read it to make sure that what we have asked for had not been left out.

Mr. Legal Adviser: Well, it is impossible to give a yes or no answer to that for the simple reason that I or someone indicated during debate which sections were acceptable and which were not - exactly what these were now at this moment I don't know but Mr. Clerk, I am sure, could give you a list of the amendments which were in fact incorporated in this draft of the Bill.

Mr. Chairman: What is your pleasure, is it your pleasure we read this Bill?

Mr. Livesey: Well I would move, Mr. Chairman, seconded by the Honourable Member for Whitehorse West, that Bill No. 4, An Ordinance to Amend the Motor Vehicles Ordinance, has been read in accordance with Standing Order 78, Rule 62.

Mr. Chamberlist: Mr. Chairman, I am of the opinion that we are being led like lambs to the slaughter because there is no doubt in my mind that the Administration right now, in the guise of Mr. Legal Adviser, and perhaps the Commissioner, are just laughing up their shirt collars because we are accepting everything that is in here that it has been read, and the question that I asked earlier was a negative answer, a negative answer was given that we have made some amendments that are possible, but not the amendments that we have asked for. We have been OKing amendments that the Administration has given to us and the person in the body of the Honourable Member from Carmacks-Kluane, who has been so vociferous for years in his attitude towards this type of thing now moves a motion and accepts this because he wants to go home. I am quite prepared to, with other members, give him leave of absence from this Council Chamber, without any deductions in his pay so that he may go home.

Mr. Chairman: Order, please, I will remind the Honourable Member that that is not within his prerogative.

Mr. Chamberlist: Mr. Chairman, I think there is a necessity for us not to vote immediately on it. I would want to take time to look at what we have been presented with and look at the previous Bill we had last Session to make sure that the amendments that we asked for are in fact incorporated in the Bill that has been given. Now, I think we should do that.

Mr. McKinnon: Mr. Chairman, I have trouble with those two words "where possible" also, and I would have no problem accepting the Honourable Member's Motion if Mr. Legal Adviser could at this time tell us which amendments came from Council and the Administration did not accept as being possible

BILL #4 Mr. McKinnon continues...  
and because of this were not put in the Bill.

Mr. Chairman: Just to clarify a point from the Chair. When we accept the reading of the Bill, this does not mean that we accept the contents of the Bill. This only covers the point of reading the Bill, and reading it again from that point on, and then we can discuss amendments or any part of the Bill or amendments from the former Bill and anything contained in the Bill. This does not preclude any passage of the Bill itself.

Mr. Chamberlist: Well, Mr. Chairman, with respect, this Bill is such a short one, let us read it because by the time we stand here and argue about it - it is going to take more time than reading it. Let us get on with it and read it and stop this nonsense and everybody will be happy.

Mr. Livesey: Perhaps the Honourable Member is speaking for himself. Everybody is not going to be happy unless we get a move on. We have been sleeping on the job instead of getting on with it. We have already chewed this over like the cud of a cow, over and over and over again. How much more chewing does it want before somebody turns around and says what I have on my stomach I don't like and that is beginning to get to that point. We have to have a little efficiency..... get on with the job, Mr. Chairman, instead of arguing so much about nothing. What we want is....we need efficiency, that is what we need and that is what we are trying to get. If anybody wants to throw their naked body in front of the railroad locomotive, let him do it. It does not matter to me Mr. Chairman whether he comes from Whitehorse East or any other place; it makes no difference. I could care less. That isn't the point. What the Honourable Member is talking about is absolutely unnecessary, let us get on with the job.

Mr. Chamberlist: Well, the motion is under discussion surely before the question is put. Mr. Chairman, there are areas in this new Bill because it is a new Bill which we don't know if there has been anything added to or subtracted from it. I wonder if the Honourable Member from Whitehorse West is prepared to withdraw the seconding of the motion. Let us read it.

Mr. Shaw: Mr. Chairman, I think there is a great deal of ado about nothing here. The Motion proposed by the Honourable Member from Carmacks-Kluane is quite sensible. I suggest that Council accept the motion and also that when we discuss the Bill that we start the first change to discuss that particular section that has been changed and then go on to the next part that has been changed; discuss that and that should clarify the matter. I just wondered - we have to settle this some time or other and the Honourable Member from Whitehorse East said he would allow one Member to go home; I wonder if he would allow six members to go home.

Mr. Chairman: I have before me a motion, moved by Councillor Livesey, seconded by Councillor Dumas that Bill No. 4, an Ordinance to amend the Motor Vehicles Ordinance has been read in accordance with Standing Order 78, Rule 62. Are you prepared for the question? Are you agreed? I will declare the motion carried.

MOTION  
CARRIED

MOTION CARRIED

Mr. Chairman: It would appear from the Chair that it is Committee's wish that we proceed with the changes in this Bill from the Bill we dealt with in the last Session and I am wondering if Committee would agree now that we proceed point by point through the Bill to the amendments that have been made at the last Session. Would this be agreeable?

Mr. Chairman continues...

Mr. Clerk, or Mr. Legal Adviser, who would like to proceed? BILL #4  
Order, please, gentlemen! Mr. Clerk, could you assist us  
on the amendments.

Mr. Clerk: Mr. Chairman, the first amendment suggested by Council was on page 3, Section 6, An Amendment to subsection 2 of Section 25, I believe it was Councillor Chamberlist brought up the question of the 90 consecutive days being changed to 180. After some discussion with the Legal Adviser it was agreed that that change would not be put in. My notes indicate that after discussion it was agreed that these changes would not take place. Section 8 at the bottom of the page, subsection (1), on the advice of Councillors, in the third line, the words "appropriate to the class for which application is made" was added and further on the word "medical" was added in front of "examination" - medical examination. On page four a new sub-section was added on the advice of Council, subsection (4) to Section 28. All papers and other material relating to the report referred to in subsection (1) which are held by the Registrar shall be retained by him in a sealed file and shall not be open to inspection except with the consent of the Registrar or the Commissioner".

Mr. Chamberlist: A question there. Didn't I ask Mr. Chairman, where the doctors have objected to giving out information which is purely of a medical practitioner's prerogative to withhold, that they should be given that right?

Mr. Legal Adviser: Yes, this is the precise change which was suggested in the course of discussion. The point made by the Honourable Member was that there was no guarantee that in the Registrar's office, Mr. Taylor's office, that casual people would not have access to the file in the normal way. I suggest that we treat the matter in the same way as it was dealt with in the Child Welfare Ordinance, that is that there be a special obligation to retain these reports in a sealed file accessible to no one except the Registrar or on special instruction. So this is the agreed format.

Mr. Clerk: On page five, the first amendment to section 33, or the suggested amendment to Section 33 left it up to the judge or magistrate to either endorse or not endorse a licence for an offence under the Ordinance or an offence under the provision of the municipal by-law, or an offence under the provision of the regulations. These are now taken out.

Mr. Legal Adviser: During the discussion it was raised, there was a practice which squeezed the foot of some Councillors whereby on their way down the corridor somebody would call them and say "give me your licence".....although the case would have terminated and it was brought forcibly to our attention that it does occur from time to time that some particular justices will always endorse and some of them never endorse and some of them do it, depending on what they had for breakfast, so the consensus of opinion appeared to be, and the Commissioner expressed his opinion on the subject at the same time, which were that if the discretion was being used too casually or inappropriately, the best thing to do was to remove the section entirely. So this discretion was removed and they no longer have the power to do this now. We are back now to Criminal Code offences.

Mr. Clerk: That necessitated an amendment to subsection (2) as well. On page six, Section 35 previously read "unless otherwise submitted in this Ordinance, no person shall

Mr. Clerk continues....  
BILL # 4 allow his motor vehicle to be driven by any person who has not been issued an operator's licence under this Ordinance. In Section 17 the amendment to Section 38, the word "possessed" was there prior to the amendment now reading "use". And subsection (2), the words "or possess" were taken out.

Mr. Shaw: One question, Mr. Chairman; "no person shall apply for, procure or attempt to procure" does that include - perhaps I should start again. Section 39 reads "No person shall apply for, procure or attempt to procure an operator's licence", I wonder Mr. Chairman, if that includes stealing one or anything like that. Is that included in it? Or is that just procuring in the normal manner?

Mr. Legal Adviser: I don't know; I suppose it will be given its normal meaning. As I would read it at first glance, I would take it, apply for to the Registrar for a licence, but the word "procure" has a lot of other meanings as well as that.

Mr. Shaw: You are buying when you are procuring. I wondered, Mr. Chairman, we have cut out possessing when it applies to a man that has it and when somebody else possesses it he is in trouble. We seem to have forgotten the possess, if a person was illegally to have one, and we have procure, and procure, as a rule, would appear to me that you pay for something and procure it, or you attempt to get it by some means otherwise than by stealing. I'm not going to make any issue of this; if it is satisfactory to the Legal Adviser as he knows more about the law than I do and if he figures that is satisfactory, O.K.

Mr. Legal Adviser: There is no change in the existing section except the word "chauffeur" - it originally read "procure an operator's or chauffeur's licence", we just took out the word "chauffeur's licence". There is no change in the principle of it. I did not redraft the section in any way but just took out that word.

Mr. Shaw: Is this sufficient if someone steals a licence that you can get him under this particular section, that is all I am asking.

Mr. Legal Adviser: I don't know. Procure is a very wide word. Procure means lots of things.

Mr. Chairman: Clear on this section? Mr. Clerk.

Mr. Clerk: At the top of page 7 I am sure all Councillors will recall the discussion about the sides and top and bottom and rear of vehicles. Section 123, there was a typographical error in subsection (1), the term \$500 was in figures and should have been in words. A new subsection has been added to look after the abandoned car situation.

Mr. Chairman: I believe there is a new section Mr. Clerk, that has been added now since the last Bill; section 21 of this Bill was not involved in the old Bill, the former Bill. Section 146.

Mr. Chamberlist: Mr. Chairman, I think that is a good point raised. I wonder if Mr. Legal Adviser could look at Section 21 of the Bill on page 7 and there is an amendment to Section 146 of the Ordinance. This was not in the previous Ordinance submitted to us; it is a new Bill, a new section and if so, why?

Mr. Clerk: Mr. Chairman, in the Bill when first submitted BILL #4 to Council that section was not there; however, resubmitted this particular page with that section and this section was read by Council and was considered. In fact there was a recommendation for an amendment to that section. The amendment was that the words "in the amount of", or "in an amount apparently exceeding \$200" were taken out.

Mr. Chairman: This is a matter that I think I brought to the attention of the Administration and it was forgotten in a former change of Councillors.

Mr. Legal Adviser: One point, it appear to me that in the matter of the amendment to Section 33 we should have omitted subsection (2) of that but it is still there. Discretion is left to suspend or cancel a licence - not to endorse, that is right - my mistake.

Mr. Shaw: Thank you Mr. Chairman, I will go back to Section 123; we went there about ten minutes ago and suddenly we returned to another page and I did not get the opportunity to make my comment. 123 (2). We are talking about abandoning vehicles on the highway. Now, this, Mr. Chairman, I think is a very good section. Every person who abandons a motor vehicle is liable to prosecution. There is just one thing that I can foresee difficulties in saying who does that vehicle belong to, which raises another question Mr. Chairman, that in the Yukon Territory it seems to be the simplest place in the country where you really don't know who the owner of the vehicle is. In other words there is no registration of the vehicle as there is in many of the provinces and in the United States. All you have to do is to go to the Registrar and change the vehicle a thousand times and there is no actual registration or history of any vehicle when it comes into the Territory. It might be fine now but as the Territory grows there will be a lot of car thefts and so forth that will make it very difficult to trace these particular things, but in this particular matter here every person who abandons a vehicle - how do you know who owns that vehicle, except the last person who owned it and he may have left it on a lot some place or sold it to somebody. Then there is no real transaction to amount to anything and it is abandoned there.

Mr. Commissioner: Mr. Chairman, with respect, is this really of any consequence. The vehicle is abandoned and this is the authority to - is this not what we are looking for?

Mr. Shaw: I agree with that Mr. Chairman, but how do you know who it belongs to to charge for moving that vehicle off the road. You travel between here and Dawson, for example and there every year you see different vehicles along the roadside and eventually it gets lightened because people keep taking pieces off and pretty soon there is not enough of it left that the road department can pack it away and in the meantime it sits there for a year or so. How are you going to prove who it belongs to, and say you have to pay for it. It says a person is guilty of an offence and surely you have to be able to nail it on someone. You might be charging some quite innocent person. He might have given the car to someone.

Mr. Chairman: Clear? I wonder now if we can proceed - I believe the next one section is 158.

Mr. Clerk: Mr. Chairman, the words "fails to produce" at the suggestion of one of the Councillors were added prior to "his motor vehicle liability insurance card".



Mr. Legal Adviser: There was a point raised to substitute something for the words "while in actual physical control". One of the Honourable Members made the point that a baby or a young child, or a non-driving wife was one of the expressions used - to be in physical control of a car. I cuddled my brains and I could not think of any other words of expressing this. It is not a section which is actually abused; apparently it does not cause any trouble. It could cause trouble, I suppose. A person might be in the back seat or the passenger seat and might not be the driver but what I think they do is say they don't have a driver's licence or don't drive a car. One of these cases arose recently in Watson Lake where a man who was sitting in the centre of a truck, facing a police trap, was left there when the driver jumped out on one side and a passenger jumped out on the other and this gentleman was left sitting in the car careening downhill so he was charged under some section dealing with failing to stop or, it might have been impaired driving. But he wasn't driving, he was abandoned by the driver while the car was still moving and he was found not guilty.

Mr. Chamberlist: I think, Mr. Chairman, that Mr. Legal Adviser just forgot about this - he forgot to cudgel his brains because I think it would have been a very simple matter to, and we had agreed upon it. We had it because I have it marked down here, and I marked it in that we crossed out the words "in actual" because I have my old copy. We crossed out the words "in actual physical control of" and so that it reads "every person who while in charge of a motor vehicle". We already agreed to that and it has not been put in. You see this is one of the possible things that haven't been done.

Mr. Legal Adviser: What the amendment was asked for, Mr. Chairman, was to put in "in charge or" but I did not see this as a good amendment.

Mr. Chamberlist: But we did not ask for it!

Mr. Legal Adviser: Well put it this way. I didn't regard it as a possibility because what it would mean would be that the police would then be entitled to go into a hotel and find a man in there and say "are you in charge of a vehicle" because you are still in charge of your vehicle when you have not got up and put your key in and go away. And I thought it objectionable that this extra power should be given casually in a section like this where it really wan't intended to. What you want is to get the person who is sitting in the car and say "show me your driver's licence".

Mr. Legal Adviser: The start of subsection (e) of 165 - the Motor Vehicle Registrar has been in touch with the Insurance Adjuster, the Insurance Association of Canada and when this section was recently put it was put in at the specific request of the insurance company as a condition of undertaking to insure any person in this Territory who needed insurance. There was a deal made at that time between the one who was in charge of the administration of the motor vehicles and I presume it was the Commissioner of the day, and the Registrar of Motor Vehicles, to remedy a defect which was being brought very forcibly to the Administration's attention year in, year out, every Session with a constant flood of complaints that people, once they were in an accident, or sometimes they were not even personally involved in it, could not get insurance in some cases for months at a time and some people forever and some people were given insurance at fantastic rates so they were opposed to this and said yes, we will do this on condition that you have a reporting section like this so I am advised by the Motor

Mr. Legal Adviser continues...

Vehicles Registrar that it would be considered by the insurance people a breach of our precondition for ensuring that every driver gets insurance that we changed the section of this form. BILL #4

Mr. Chamberlist: Mr. Chairman, we asked for an amendment; now as far as I am concerned right now we should start getting this straight, Mr. Chairman. Here is a direct abuse of this Council's request. There is no point in bringing legislation forward to us for us to deal with if you ignore the amendments that we have asked to be put in there; if you take it, if it is taken that whatever we do in this matter, the Administration will ignore it because somebody in the distant past made some sort of arrangement, then I cannot support that. There is every reason why this should be amended because insurance companies are abusing this particular section by getting information, Mr. Chairman, about individuals who are not responsible for an accident. Their vehicle might be stationary and another vehicle plows into it; the owner of the first vehicle has his premium increased because he owns a vehicle that was involved in an accident. Now how does the insurance company know this; they get it from the Registrar. So the Registrar is acting as a spy for the insurance companies to increase the premiums. That is the most ridiculous piece of legislation ever and we have got to put a stop to it and quite rightly too. And the members of this Committee have said, amend this. This is what we want to do Mr. Chairman.

Mr. Legal Adviser: If there is any doubt about it, Mr. Chairman, I suggest that we ask the Registrar of Motor Vehicles to come over in person and explain this. I don't want to be abused for trying to restrict the ways of Council but when amendments are being considered I would draw the Honourable Members attention to the fact there was no specific motion carried by the House that this amendment be dealt with. One of the Honourable Members suggested this and we said we certainly would look into it..... Now, after due consideration it was decided that certainly, as far as we are concerned, we are not bringing it back because the position of an amendment is this that once it is tabled in this manner, the Administration is taking responsibility equally with the House for the manner in which the amendment is drafted and for any foreseen or unforeseen affect the amendments will have. Now, we have no official objection to this amendment as suggested by any Member of this House being drafted. We have not drafted it because we foresee very, very serious ill-effect coming from it if it is drafted which will affect all drivers in the Territory involved in an accident so I would respectfully suggest that you get the Motor Vehicles Registrar over here which will only take a few minutes and he can tell you exactly what the agreement was and the details of it far better than I would as to why it was not done.

Mr. Commissioner: Just a comment, Mr. Chairman. This is an indication of how outmoded our present approach to mandatory insuring under the Motor Vehicles Ordinance is. We are just exactly 25 years behind the time; now this is exactly where we are and I simply bring this to Council's attention because there is no question at all in my mind that what has been stated around the Council table was to the abuse being made of this by the insurance companies as it applies, as has been indicated here, but I simply say to you that we are exactly 25 years behind the times in our approach to mandatory or compulsory types of insurance and the Legal Adviser and the Motor Vehicles people I am sure will be only too happy to expound on this further, particularly with

Mr. Commissioner continues....  
BILL #4 regard to the fact that many drivers here frequently go into British Columbia and where an entirely new type, enlightened approach, if that is a quick way to put it, with regard to compulsory insurance, it is termed no fault insurance, is ready to apply.

Mr. Dumas: Mr. Chairman, I agree with the Honourable Member from Whitehorse East, and I also agree with the Commissioner that the legislation regarding this matter is outmoded and certainly should be revamped at the earliest possible opportunity and I do think that the insurance companies are abusing this section. And I think that the agreement that was made years back with the Canadian Underwriters Association in order to get some of the insurance companies into the Territory is no longer a valid agreement. The basis on which they came into the Territory at that time; one of the basis was that this be in here. I believe that we would not see an exodus of insurance companies if this were taken out of the legislation at this time, and therefore I suggest that we take it out because I think it is just unfair legislation as far as the people of the Territory are concerned.

Mr. Shaw: Mr. Chairman, I think there is more than one way of looking at this. The first time this came up, to my recollection, is when a person has an accident that was objected to because it would be unfair. Now here, this one is in relation to conviction. Well then I don't agree with "reported", I say actual conviction and I say this with quite some sincerity, Mr. Chairman, Why should people be allowed to drive in a haphazard manner that's chargeable to all people who drive motor vehicles. These are the people who should have to pay the high premium because they justly deserve it. Anyone can have an accident, admittedly, but some people are absolutely prone to them. They are careless drivers; they feel they have the complete right of the centre or middle of the road and there should be some way that these people pay for this, that which they consider a privilege; not everybody else in the country, and naturally when it becomes a matter of insurance it is all paid on a per capita or on statistics involved in accidents. Perhaps reported convictions is wrong; perhaps that is not phrased in the right way but certainly there should be something, actual convictions so that everyone in the country does not have to pay for these mad caps that are going around. Why should they get off scot free? The way they can get off in a new place is have a different name, different initial, get the lowest accident rate and then smash up something when they get here because there is no record of it and Mr. Chairman, I wonder if this could be rephrased by the Legal Adviser that it only states those people who are actually convicted, not reported.

Mr. Dumas: Mr. Chairman, if I may be allowed ...

Mr. Shaw: Well, could I have an answer to the question, Mr. Chairman?

Mr. Legal Adviser: I am perfectly willing to rephrase it. The particular form of this section was drafted originally at the wishes of the Council at one time by a formal motion. They actually proposed it and their main reason was there were a lot of people in the Territory were kicking because they could not drive a car, and they could not drive a car because they could not get insurance. That was a specific request. And that appears to be the situation in the last Council .....1962, a specific request by Council. I would repeat my request that this be explored by having Mr. Taylor come over here and explain exactly what the present position

Mr. Legal Adviser continues.. is and what the past position was. He knows the history of this section quite well. If it is not necessary we can take it out. If it is necessary, we don't seem to have any option but leave it in in some form.

BILL #4

Mr. Chairman: Does Committee agree that the Director of Motor Vehicles come over.

Members: Agreed.

Mr. Chairman: Mr. Clerk, would you so do. Councillor Dumas.

Mr. Dumas: I was going to illustrate a case in point which happened last June. Two vehicles were parked, a third vehicle came around the corner, hit one vehicle which was parked and that went over and hit another vehicle; all three, the three vehicles were owned by different individuals, unfortunately they were all insured by the same agency. The insurance went up on all three owners.

Mr. McKinnon: Mr. Chairman, one point. I certainly don't want to throw any abuse at all towards Mr. Legal Adviser but there are times when I agree with him completely when Council does not make its directives clear but there is nowhere that this Council made themselves clear on this point in the Votes and Proceedings at the last Session. You just have to listen to the language: "well Mr. Speaker, like it or not, Mr. Legal Adviser is going to listen to the ideas of the elected representatives at this - Mr. Dumas, Mr. Chairman, surely ..make available records that are going to be harmful to the citizens who have done no wrong, is a wrong fact in itself and should be changed; and Mr. Chairman, Mr. Legal Adviser can go through this debate and find that the Council was absolutely unanimous in the principle contained in Section 165 is wrong and we are going to change it- and now we are told that there was no clear indication or motion that Council desire a change. I just cannot accept this type of thinking, Mr. Chairman, and this is wrong and the principle is wrong and it has been shown time and time again where it has been abused and used to the advantage of the insurance companies and if I have to sit here till doomsday this is one point that I won't change my mind on ever and it is going to change.

Mr. Legal Adviser: Mr. Chairman, I am not trying to defend myself for not drafting an amendment merely because there is no pure indication from Council. I quite understood from the debate that the Council wished that it be changed. I am not trying to hide under a chair and I went away with this clear idea that this was the Council's wish but nevertheless, when the matter was thrashed out and I assumed there would not be that much difficulty; I was a bit nervous about it, but the fact there was a background there, I didn't draft the amendment. I am quite prepared, if the Council wishes, to draft it but I would like the Council to have the benefit of the reasoning which I had when I was listening to this so that having left the House, I wasn't prepared to support an amendment in argument with the people who were involved in the administrative accounting. I just watched but I am not trying to - it is one thing to sort of know what the Council want, which I did..... and it is another thing to know by direct motion, which is a command that you do it, which is a different thing.

Mr. Shaw: I wonder Mr. Chairman, would the Legal Adviser, being a proponent of justice, not agree that only the persons who are guilty of an infraction should be the ones who suffer,

BILL #4 Mr. Shaw continues...  
and that in reporting this, which I think should be only the persons who are actually convicted should be on that; not the innocent persons who had their car parked out there. Could that not be changed very easily and still not hurt anything?

Mr. Legal Adviser: I agree with the principle that it is most unfortunate that the people who through no fault of their own get their rates raised but in the fire insurance business, a similar case arises when, say a person has a hotel, a case that is familiar to me, and next door premises which are vacant are purchased by a person who is selling furniture and repairing some furniture in the course of his business and the rate on the hotel triples overnight, as soon as it is discovered that there is a furniture store and manufacture's business next door. He had no redress, he could not say it is unjust as there was nothing he could do. Insurance is a business and if they don't get satisfaction in some form of business.... All I am asking the Council is to listen to what Mr. Taylor has to say and if you are not convinced, as I was, then, so what.

Mr. Shaw: Mr. Chairman, I would be pleased to hear Mr. Taylor if he can justify that his car sitting and someone smashes into it, that he has his insurance up. I would certainly like to hear his remarks.

Mr. Livesey: Mr. Chairman, if you are in business where you are in open competition, but in this particular instance, the insurance business in the Yukon is guaranteed by law; you still have competition as to whom you go to, nevertheless you have to purchase the insurance. I think when the government lays down legislation as they have laid it down here where it says that the public must have insurance, then they should do something to protect the individuals that they force to take out this insurance in order to comply with the law and it is quite obvious enough here and when anyone has to pay for any type of judgment which cannot properly be attributed to his negligence, I think it is false for anyone to turn around and tell this Council or Committee or anyone else that he must pay for something he hasn't done. I think that is absolutely wrong.

Mr. Chairman: I will declare a brief recess.

RECESS

RECESS

Mr. Chairman: At this time I will call Committee back to order and we have with us the Registrar of Motor Vehicles to assist us in our discussions.

Mr. McKinnon: Mr. Chairman, the Council is unanimous in their feeling that Section 165, that the Registrar of Motor Vehicles should not be able to give a driving record to an insurance company where a person was in an accident has been found by a court of law to be not guilty or involved in an accident at all and insurance is raised because of the information that you give the insurance company. We are going to change it and we would like to know your reluctance as Registrar of Motor Vehicles to change it.

Mr. Taylor: You stated that you did not think the Registrar should be able to give the insurance company a record of a charge when the man had been acquitted?

Mr. McKinnon: Yes, yes.

Mr. Taylor: As far as I know, we are required to keep a record of all accidents and we are required to keep a record

Mr. H.J. Taylor continues...

of all convictions and these are what we give on an insurance abstract when an insurance company writes to us. We don't give a list of infractions where the man was proven innocent. We are only supposed to give a list of actual convictions, that is all, and accidents that a man is involved in. Now, there is no way, we find out soon enough whether or not a man is at fault in an accident. The mere fact that he has an accident is information that the insurance company wants to have. I will tell you where it started. I will go right back to the beginning. In 1956, in the fall of 1956 we set this up after a meeting with some senior insurance representatives from outside before we had an assigned risk plan. We were overwhelmed with complaints from people all through the Territory because they could not get automobile insurance and they were given no reason whatsoever, the insurance company just turned them down flat. If they got a bad rumour about a person they turned them down for insurance. They came to us and they suggested that we have an assigned risk plan set up for the Yukon Territory and the assigned risk plan was to operate on the condition that we kept these records and gave the insurance companies access to that information. Otherwise you would never be able to get insurance and the insurance company would not be able to surcharge as they have been doing in the past for bad risks. At that time they would just cut you off with no reason whatsoever. We set up this system at their insistence and it has been operating ever since October, 1956.

Mr. Chamberlist: Mr. Chairman, I wonder if Mr. Registrar could answer this so we have an absolutely clear picture. Is it the procedure of the Registrar of Motor Vehicles to advise insurance companies, upon their request, for those persons who are involved, whose vehicles are involved in accidents, even if they are not anywhere near the vehicles or that they are in no way responsible for any of the damage to their vehicles; it is still your procedure to advise the insurance company.

Mr. H.J. Taylor: We advise them of any accident that we have on record and we don't have to advise them of accidents when there is a claim involved because they have access to all the claims. They are not really too concerned with records of accidents. They are concerned with the record of convictions and we have now cut the reporting down to actual criminal code convictions, I think at Council's insistence and we don't give them these other minor convictions like municipal by-law convictions and what not.

Mr. Chamberlist: Mr. Chairman, I did not get the answer to the question. Mr. Registrar is now talking about convictions. I am not talking about convictions. I am talking about people whose vehicles are involved in accidents; whether they are convicted or not, are their names given to the insurance companies to the effect that their vehicle was involved in an accident? This is what I want to know?

Mr. H.J. Taylor: No, that is not given to them.

Mr. Chamberlist: Well, is it given to them, Mr. Chairman, will Mr. Registrar answer this; is it given to them if a person is acquitted of a charge of let us say careless driving; is acquitted by a Court of careless driving. Is the information that they are involved in an accident still given?

BILL #4 Mr. H.J. Taylor: It is, yes.

Mr. McKinnon: Mr. Chairman, there is only one solution to this and that is the only information that the Registrar can be allowed to give to the insurance companies on a driver's abstract is when he is convicted in a Court of Law and that is on his driving record and that is given; it is right and it is just and the insurance companies should know if this man has a record of conviction under the Motor Vehicles Ordinance under the Criminal Code but it is so wrong, so obviously wrong that a person who is in an accident is completely blameless in the accident, his peers in a Court of Law say that he is blameless for an accident and that information is turned over by the Registrar of Motor Vehicles to an insurance company and his insurance rates rise on account of it. It is wrong and it is so blatantly wrong that this Council should have nothing to do with allowing this type of information to be given to insurance companies. It is as simple as that. They should not be allowed to give this information; convictions in a court, yes, all the way and I would advise and I would instruct and I would demand that Mr. Legal Adviser draw up an amendment to the Motor Vehicles Ordinance to take this thinking of Council into form in this Motor Vehicles Ordinance.

Mr. H.J. Taylor: Well, Mr. Chairman, it is not quite as simple as Mr. McKinnon stated. I had the same thing happen to me. I had an accident which involved a claim on my insurance company and my adjuster refused to acknowledge fault and it was taken to court and I was proven to be not at fault and the claim, incidentally, wasn't paid. In the meantime my insurance company had surcharged me some \$30.00 per year on my premium and I went back to the insurance company, after the court case and I got my money back. I got my insurance premium reduced back to where it was before and I think you will find that the man has to be at fault before there is any surcharge made.

Mr. Chamberlist: Well Mr. Chairman, I can't help but agree with Councillor McKinnon. This Council has made itself clear, made itself quite clear the last time around. We asked for this to be amended, for this area to be amended and we are asking again for it to be amended. Now, there is no point in going against the wishes of Council in this manner because as far as I am concerned I am adamant in my thinking on this and Councillor McKinnon has appeared quite adamant, Councillor Shaw has stated that for convictions only he is with it and I am with it; we are all with it. Now, we don't we just finish this up, Mr. Chairman, by Mr. Legal Adviser saying yes, it is the wish of Council and this is going to be done and an amendment made.

Mr. Dumas: Mr. Chairman, I can only add that the situation in 1956 which brought this clause about no longer exists. There is something called the facility enforce throughout Canada; everybody is entitled to insurance as long as they hold a valid driver's licence and as long as the vehicle is in substantial condition. Therefore the clause can be removed, I feel, without any harmful effects to the insurance industry and without any increase in premiums.

Mr. H.J. Taylor: Mr. Chairman, when you say that are you including the convictions?

Mr. Dumas: Oh no.

Mr. H.J. Taylor: You are only talking about accidents.

Members: Right, right.



Mr. H.J. Taylor: I don't think it would do any harm either, BILL #4  
Mr. Chairman, because the insurance company has the  
information.

Mr. Commissioner: What in the name of goodness are we providing this type of facility for the insurance industry for anyway?

Mr. H.J. Taylor: We are providing it for \$2.00 per abstract.

Mr. Commissioner: Well, it costs \$10.00 to make an abstract, but, Mr. Chairman, let me ask this in all sincerity. The situation as I understand it is that in the first instance we are reporting at the present time all motor vehicle accidents. Now, it would appear that we have an agreement that the removal of the reporting of everything but those accidents which result in convictions is not going to have any harmful effect by removing this from the Ordinance, is this what I am to understand, Mr. Chairman? Alright now what is the matter with removing the third thing and getting rid of the reporting altogether and allow the insurance industry to hire somebody to search the Court records and report these things to them? If we are going to do the thing, I mean, let us get right down to the bottom of the whole business. What are we bothering reporting this for anyway?

Mr. Dumas: Mr. Chairman, I think the problem would arise there in costs to the public for insurance. Your insurance costs would go up immediately. The system presently is that an insurance agent would see the list of convictions in the mail every month or three months and this is most adequate.

Mr. Commissioner: Where from?

Mr. Dumas: It comes from the police, I believe, or it comes from the Registrar's office. I think this is good and this allows those people who are innocent, in fact keep paying, hopefully, a lower premium, and those who are guilty of offences, repeated offences, pay the higher premium. Now this is for the good of most of the people of the Territory and I think we should maintain that. If we ask the insurance company to come in and put in their own investigator and so forth, that cost is going to be reflected in the premiums of everybody. There is no doubt about it.

Mr. H.J. Taylor: Not only that, Mr. Chairman, if I may, this is what caused the whole trouble in the first place. It was the insurance company's investigators. If they saw you going in and out of a bar two or three times a week they put you down as an excessive drinker and your insurance went up. It is exactly that problem; these investigators they hired were not worth their salt. That is why they wanted this system in and you would get back to that stage again.

All Members: Agreed.

Mr. Chairman: Any further questions?

Mr. Legal Adviser: What has been agreed. What do we want I would like clear direction as to how this is to be done. It may not be a change to this section at all; it might be a section to the, a change to the section where the Motor Vehicle Registrar must keep a record. In any event do we give them the convictions or not. Do we report unsatisfied judgments or not? And do we report accidents in which people have been involved or not and that such information as the Commissioner may deem proper or not?

BILL #4 Mr. Chairman: Well, I wonder if at this time you have any further requirements for the Director of Motor Vehicles?

Mr. Commissioner: He had better stay here until we get this sorted out.

Mr. McKinnon: The one that has to be removed is the reporting by the Registrar to the insurance companies of all accidents in which vehicles are involved.

Mr. Chamberlist: Mr. Chairman, why cannot we say...

Mr. Chairman: I will declare a brief recess at this time, and you can thresh it out.

RECESS

RECESS

Mr. Chairman: I will call Committee back to order, and what is your pleasure? What would you suggest we.... Thank you very much Mr. Taylor. How do you wish to deal with this item.

Mr. Chamberlist: Mr. Chairman, can we deal with the Labour Standards Ordinance as we can get through that pretty quick?

Mr. Chairman: Do you want to carry on with the next Bill in the normal sequence of things or where do we go? It will take me a few minutes. If we jump around I will have to start keeping a record of where the bills are at. We should be moving to Bill No. 6 but if we are going to jump over to Bill No. 9 I will have to make some notes here and it will take a few minutes.

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

Mr. McKinnon: I will second that Motion Mr. Chairman.

Mr. Chairman: It has been moved by Councillor Chamberlist, seconded by Councillor McKinnon that Mr. Speaker do now resume the Chair. Are you prepared for the question? Are you agreed? I will declare the Motion carried.

MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker: I will now call Council to order. May we have a report from the Chairman of Committees.

Mr. Taylor: Mr. Speaker, Committee convened at 10:20 A.M. to discuss Bills, Sessional Papers. Committee recessed at twelve noon and reconvened at 2:00 P.M. I can report progress on Bill No. 2. It was moved by Councillor Livesey, seconded by Councillor Dumas that Bill No. 3, An Ordinance to Amend the Municipal Ordinance has been read in accordance with Standing Orders 78, Rule 62 and this motion carried. It was moved by Councillor Dumas, seconded by Councillor Livesey that Bill No. 3 be reported out of Committee without amendment and this motion carried. It was moved by Councillor Livesey, seconded by Councillor Dumas that Bill No. 4, An Ordinance to Amend the Motor Vehicles Ordinance, has been read in accordance with Standing Order 78, Rule 62 and this motion carried. I can report progress on Bill No. 4. It was moved by Councillor Chamberlist, seconded by Councillor McKinnon that Mr. Speaker do now resume the Chair and this motion carried.

Mr. Speaker: You have heard the report of the Chairman of Committees. Are we agreed. May I have further indications of the agenda for tomorrow.

Mr. Taylor: Mr. Speaker, we have Bills and Sessional Papers for tomorrow.

Mr. McKinnon: Mr. Speaker, I would beg the indulgence of the House to be absent tomorrow morning as the Director and the Executive Secretary of the Arctic Winter Games are coming from Yellowknife tomorrow morning and I would like to meet with them for finalizing of game plans at this time. I would also like if the House would permit, for the Executive Secretary and the Director of the Arctic Winter Games to meet **in** Committee with Council for approximately fifteen minutes at about two o'clock tomorrow afternoon just to give Council an overall picture of what is going to happen at the first Arctic **Winter** Games to be held in Yellowknife on March 14th to 20th, this year, Mr. Speaker.

Mr. Speaker: Does the House agree to the suggestions of the Honourable Member for Whitehorse North? Mr. Clerk will you please take note. Are there any additions or further business?

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

Mr. Speaker: It has been moved that we call it five o'clock. Are we agreed? The House now stands adjourned until ten o'clock tomorrow morning.

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Page 96.

Friday, January 16th, 1970.

10:00 o'clock a.m.

Mr. Speaker read the daily prayer. All Councillors were present except Councillor McKinnon.

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

Mr. Clerk: There is, Mr. Speaker.

Mr. Speaker: I will now call Council to order. Will the Honourable Member for Watson Lake please take the Chair?

Mr. Taylor takes the Chair.

Mr. Livesey: Mr. Speaker, I rise on a question of privilege this morning in relation to my description to a motion yesterday which, I'm sorry to say, is printed almost like gibberish in the Journals. I haven't read it all but I would like to give two corrections. On page 72, where it says "Mr. Livesey: ... if I may add a few words. If the motion is voted down, of course, what the Committee is saying is that they are saying it has not been read and if they vote in favour of it, they are saying it can't be read". This is incorrect, Mr. Speaker, what I said was "What they are saying is it has been read". I'd like to make that correction. Further down on page 72 in relation to the same discussion, "... I am aware of and I don't understand how anyone can say that after a motion has been passed in this Committee that something has been done that anybody, course or otherwise, could ...". This is not what I said. What I said was, Mr. Chairman, "... I am aware of and I don't understand how anyone can say that after a motion has been passed in this Committee that something has been done that anybody, in court or otherwise, could say that it has not been done". Thank you, Mr. Speaker.

Mr. Livesey resumes the Chair.

Mr. Speaker: Are there any Reports of Committee? Introduction of Bills? Notices of Motion or Resolution?

Mrs. Gordon: Mr. Speaker, I would like to give Notice of Motion re MOTION # 2 Sessional Paper No. 4.

Mr. Speaker: Are there any further Notices of Motion or Resolution? Notices of Motion for the Production of Papers? Orders of the Day, it's clear on the Order Paper. Mr. Clerk, may we have the Commissioner here this morning for the Question Period? I will call a five-minute recess.

RECESS

RECESS

Mr. Speaker: I will now call Council to order. The Commissioner is now present and you may proceed with the Question Period.

Mr. Chamberlist: Mr. Speaker, as a preamble to this question to Mr. Commissioner, I wish to point out that this question is being asked because of specific requests that have been made by constituents in my constituency. Mr. Commissioner, this question relates to the land that has been transferred by the City of Whitehorse to the Y.W.C.A. at no charge. Mr. Commissioner, I wonder if you could intimate why, when the land was transferred to the Territorial Government specifically for a recreational site for the people of Whitehorse which is on file, and it is noted that the title is not to be alienated and it is signed by Mr. J. E. Gibben, former Commissioner of the Yukon Territory, where the authority for the land to be transferred to the Y.W.C.A. was given. I wonder, if Mr. Commissioner wants, he can have time to prepare a Sessional Paper on this particular subject, Mr. Speaker.

QUESTION RE  
TRANSFER OF  
LAND TO THE  
Y.W.C.A.

Mr. Commissioner: Yes, Mr. Speaker, as this answer will have to come from another agency, this would be the proper course of action. I wonder, Mr. Speaker, under the circumstances, if we could have the benefit of a written question so that we answer specifically the particular points that the Honourable Member wishes to see particularly delineated in the reply that we have, Mr. Speaker?

Mr. Speaker: Yes, I am of the opinion that this should be a written question and be on the Order Paper.

Mr. Chamberlist: Mr. Speaker, thank you for your ruling, but I hope that this doesn't ... while the written question is being prepared, that this will not hold up the preparation of the information that has been asked for.

Mr. Commissioner: Certainly not, Mr. Speaker.

Mr. Speaker: Are there any further questions? The Honourable Member for Watson Lake.

QUESTION RE  
PUBLIC  
UTILITIES  
INCOME TAX  
REBATE

Mr. Taylor: Mr. Speaker, inasmuch as, I should say, because it is now 1970, and because some years ago under the Public Utilities Income Tax Transfer Act of 1966, there were some funds made available for rebate to the people of the Yukon for power use in the Yukon to Canadian Utilities, I'm wondering if Mr. Commissioner has yet received any submissions, or can relate to Council this morning any information relative as to when the people of the Yukon are going to get their money back?

Mr. Commissioner: Yes, Mr. Speaker, I am very pleased to be able to answer this question. As Council is aware, they are familiar with the details of this money coming back to the Territory, and we have had submissions as to how this might be done from the Yukon Electrical Company and from the government organization, the Northern Canada Power Commission, and we have been in receipt of advice concerning this whole matter on a gratis basis from the B.C. Hydro in our neighbouring province of British Columbia. We have in our hands at the present time, a preliminary report and certain of the arithmetic on this report, we were told we should have it checked out with the billing agency, in this instance, the Yukon Electrical Company. This is being done. We are preparing certain other information as required, and there should not be too much further delay until Council has the opportunity of making the decision as to how they wish to see this money handled and the Administration will be directed accordingly, Mr. Speaker.

QUESTION RE  
RESUBMIS-  
SION OF THE  
PUBLIC  
UTILITIES  
ORDINANCE

Mr. Chamberlist: Mr. Speaker, a question addressed to the Commissioner. Mr. Commissioner, in view of the charges that are being made by cab companies between the airport and 11,000 feet from the airport in the amount of \$3.50, for transportation from the airport to a local hotel near the airport, I wonder if Mr. Commissioner would be interested in resubmitting the Public Utilities Ordinance for consideration, reconsideration by Council?

Mr. Commissioner: Mr. Speaker, at Council's request, the Public Utilities Ordinance will be resubmitted.

Mr. Taylor: A point of order, Mr. Speaker. It should not be construed that this is the request of Council. It's only a request of one Member.

Mr. Chamberlist: I rise, Mr. Speaker, because I have to say the same thing, time and time again, for the benefit of the Honourable Member from Watson Lake. At any time, Mr. Speaker, that I ask a question of the Commissioner, I ask the question on my own behalf and not on behalf of other Members of Council.

Mr. Speaker: Was that a point of order from the Honourable Member for Whitehorse East?

Mr. Chamberlist: Yes, Mr. Speaker.

Mr. Speaker: Are there any further questions?

Mr. Dumas: Yes, Mr. Speaker, some time ago I asked a question about pollution in the Hillcrest and Takhini area, and I was told that there would be a Paper forthcoming on it. I'd like to know if the Paper will be forthcoming in time for discussion at this Council Session? QUESTION RE  
ANSWER ON  
POLLUTION  
QUESTION

Mr. Commissioner: Mr. Speaker, I think that this Paper should be available in the early part of next week. We don't intentionally hold these matters up but, Mr. Speaker, the preparation of information of this nature, Council wants to be as fully informed as possible so that they can have the most accurate information on which to make their decision, and in a matter of this nature, we know what the long term answers to this question are and so does the Honourable Member who asked the question. He's not asking it in that manner, Mr. Speaker. This I am fully aware of, but I am quite confident that in co-operation with Dr. Black, my officers will have the information available that will permit a proper, intelligent discussion on the problem raised by the Honourable Member.

Mr. Chamberlist: Mr. Speaker, a further question to Mr. Commissioner. Would Mr. Commissioner indicate whether livery companies who pick up and discharge passengers or goods outside of one of the two municipalities, are licenced or have to be licenced, Territorial licenced. QUESTION RE  
LIVERY  
LICENCES

Mr. Commissioner: As I would gather the question the Honourable Member is asking, is a cab company or a livery company operating inter-municipal, between a Territorial area and municipal area, or one or the other?

Mr. Chamberlist: Mr. Speaker, with respect, perhaps I could clarify the question. The question is, are livery companies that are operating from one spot in the Territory, delivering and picking up to another spot in the Territory, both spots being outside of a municipality.

Mr. Commissioner: Mr. Speaker, I would have to have this question researched so that I can answer properly, because this no doubt falls within the perimeters of either the business licence authority or under the Motor Vehicles Ordinance or possibly both, and I am sure the Clerk will have the Registrar of Motor Vehicles research this and we will endeavour ... I'm sure we can have an answer back before the sitting is over today, Mr. Speaker.

Mr. Taylor: Mr. Speaker, inasmuch as the proposed White Paper on Taxation could have a very retarding effect were it to be implemented in its current form in the Yukon or in the north of Canada, I'm wondering if Mr. Commissioner could inform me, (a) as to whether the Administration has a copy of this White Paper on Taxation on file, and (b) as to whether any protests or otherwise have gone forward to the Honourable Minister of Finance from the Territorial Government at this point in time? QUESTION RE  
WHITE PAPER  
ON TAXATION

Mr. Commissioner: Mr. Speaker, I don't know just exactly how many copies of this we have available, but if the question is, can copies be made available for Members of Council, the answer is yes. If we haven't got them, we will get them. Now, as far as any protest from the Administration is concerned, or anything having gone forward, the answer to this point is no. We are endeavouring to have the



Mr. Commissioner continued ...

effects of this analysed, but there is something I would like to say about a matter of this nature. This is almost a task for a research oriented group. The implications of tax reform of this nature run very, very deep. Those things which appear on the surface are quite easy to determine, Mr. Speaker, you don't have to have a Ph.D. from Harvard to figure them out. But, the underlying effects of such changes, particularly in an emerging and a frontier economy such as ours, are only available, and can only be made known to everyone concerned by very considerable research in this field, and if it is Council's wish that there should be something of this nature done, I think there should be a request made to the Administration that we endeavour to find out just how a study of this nature might be accomplished, what kind of costs might be involved, who would be available to do it, and then at that time you have got some kind of a considered piece of paper in front of Council and at that time, Council can then decide as to whether or not this is something that they would like to see presented to the Federal Government over the signature of the Territorial Council as being their considered opinion as to the detrimental or beneficial effects, or whatever they may be, to the Yukon's emerging economy as a consequence to these proposals. But, believe you me, Mr. Speaker, when I tell you that this is not something that can be arrived at as a cursory discussion around a cup of coffee. This is what I'm getting at.

Mr. Speaker: Are there any further questions?

Mr. Taylor: Supplementary to my last question, am I then to understand that copies will be made available to Council?

Mr. Commissioner: I would be pleased to see that they are made available, Mr. Speaker. This may take us a few days to accomplish this but we will get them for Members of Council.

QUESTION RE Mr. Taylor: One final question this morning, I'm wondering if Mr. MEDICARE Commissioner has anything further to report on Medicare proposals PROPOSALS to the Yukon from the Federal Government?

Mr. Commissioner: Mr. Speaker, Medicare is a form of medical insurance, and it is a situation whereby you collect money with one hand and pay it out with the other. At the present time, Medicare or the provisions for cost-sharing in Medicare are available to all provincial type governments in Canada by virtue of a Federal statute. Some provinces have joined, others are in the process of doing so, and at the present time, members of my Administration are involved in hearing proposals from the Federal Government as to how it might be possible for the Yukon and the Northwest Territories to participate in this scheme. At the present time, these discussions are very, very exploratory in nature, and are not committing anyone to anything. There has to be a tremendous amount of consultation with the Members of Territorial Council, with the members of the medical profession, and this is a major undertaking, Mr. Speaker. The discussions at the present time that are going on are simply to see if there is a way and means under the Federal Act that the Territory might be able to participate in Medicare. Now, from where we sit at the Territorial Administration level, I think one of the, even after these exploratory talks are completed, and they're a long way from this at the moment, I think one of the major questions that has got to be decided by this Council at that time, before anything else happens on this, is, (a) do we need Medicare, or is it a beneficial thing to consider for the members of the public here in the Territory. Now, it may well be that individual Councillors have thoughts on this and they may want to start discussions or offer some guidance and assistance to the Administration as to how we might bring forth information for them that would help them to make up their minds on this, but this is a very major consideration, Mr. Speaker, and is something that can only be decided around this Council table. Now, once we have found out

Mr. Commissioner continued ...

(a) is it possible to implement the situation under the Federal Act in the territories, secondly, if there is a decision from Council that they would like to have these explored from the point of view of determining whether they wish to have Medicare in the Yukon, then at that point, we can proceed to get down to the hard facts of the situation which include as a very important element in this thing, the fullest consultation with the medical profession. There is no point to us instituting or participating in any type of ordinances here to give effect to Medicare unless it has the prior understanding of the people who are going to be the providers of this service, that indeed we have a law that they are prepared to accept and prepared to live with. Now, the decisions have got to be made at this table, Mr. Speaker. There is no other place for these decisions to be made. They will not be made by my Administration, I can assure you of this.

Mr. Taylor: Supplementary to my last question, I'm wondering if Mr. Commissioner, or if it has come to his knowledge as to whether or not the Medicare programs now in existence in Canada are all mandatory programs where you have to contribute, or whether or not these could be a permissive program where you can voluntarily participate? QUESTION RE  
MEDICARE

Mr. Commissioner: Mr. Speaker, it depends on which side of the political fence you happen to be speaking to, the various provinces involved. Some provinces in theory, I believe, are permissive type schemes, but in actual practice, permissiveness ceases when you face the tax bill and you find that you're paying for it anyway. Other provinces have the schemes whereby a portion of the cost is taken from the general revenue of the province and the balance is made up by premiums. You have other areas where it's a total premium scheme. I am sure, Mr. Speaker, that if there ... there are probably ten different ways that it is being done here in Canada at the present time. But, I do think that for the benefit of all Members of Council, Mr. Speaker, that we will provide them immediately with copies of the Federal Act and the opening sentences of this act I think are really the key to this situation and it is worded something to the effect that the federal participation is available to the province or the territory, I believe, it is worded, on the understanding that immediately upon implementation, a certain percentage of the population has these benefits made available to them. I am going to use the figure here, I believe, of 75%, and I am subject to correction, Mr. Speaker, Then after so many years, a higher percentage has to have the benefits made available to them so that the question raised by the Honourable Member is to a degree already laid down in the Federal statutes as to what is permissive and what is mandatory. We will see that copies of this Federal Act are made available to Members of Council immediately.

Mr. Speaker: Any further questions? If not, may we proceed to Public Bills and Orders?

Moved by Councillor Shaw, seconded by Councillor Dumas, that Bill No. 3, An Ordinance to Amend the Municipal Ordinance, be given Third Reading at this time.

BILL #3  
THIRD  
READING

MOTION CARRIED

MOTION  
CARRIED

Moved by Councillor Shaw, seconded by Councillor Dumas, that the title to Bill No. 3, An Ordinance to Amend the Municipal Ordinance, be adopted as written.

BILL #3  
TITLE  
ADOPTED

MOTION CARRIED

MOTION  
CARRIED

Mr. Speaker: I will declare that Bill No. 3 has passed this House. May I have further indications of your pleasure?

Mr. Shaw: Mr. Speaker, I would move that Mr. Speaker do now leave the Chair and that Council resolve itself in Committee of the Whole to discuss Bills and Sessional Papers.

Mr. Speaker: I do not believe there are any Sessional Papers before Committee. Am I correct?

Mr. Taylor: Mr. Speaker, there are Sessional Papers in Committee.

Mr. Shaw: There were some yesterday, Mr. Speaker, and we did not discuss them. I just naturally assumed they were still in Committee, possibly in absentia, they weren't on the paper.

Mr. Speaker: Yes, thank you. Moved by the Honourable Member for Dawson, seconded by the Honourable Member for Whitehorse West, that Mr. Speaker do now leave the Chair for the purpose of convening in Committee of the Whole to discuss Bills and Sessional Papers. Is the House prepared for the question on the motion? Are we agreed? I will declare the motion carried.

MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker: The Honourable Member will please take the Chair in Committee.

Mr. Chamberlist: Which Honourable Member, Mr. Speaker?

Mr. Speaker: For Watson Lake.

Mr. Taylor takes the Chair.

Mr. Chairman: The first item of business this morning will be Bill No. 6, An Ordinance to Provide for Government Control and Sale of Alcoholic Liquor. I'll just declare a short recess at this time.

RECESS

RECESS

BILL #6

Mr. Chairman: I'll now call Committee back to order. We have before us Bill No. 6, namely, An Ordinance to Provide for Government Control and Sale of Alcoholic Liquor. "The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:"

Mr. Livesey: Mr. Chairman, I'd like to rise and propose, seconded by the Honourable Member for Whitehorse West, that Section 1 to Section 61, subsection (1), of Bill No. 6, the Liquor Ordinance, has been read in accordance with Standing Order 78, Rule 62.

Mr. Chairman: That was seconded by whom?

Mr. Shaw: I'll second the motion, Mr. Chairman.

Mr. Dumas: The motion was seconded by me, Mr. Chairman.

Mr. Shaw: Oh, I beg your pardon.

Mr. Chairman: It has been moved by Councillor Livesey, seconded by Councillor Dumas, that Section 1 to Section 61, subsection (1), has been read in accordance with Standing Order 78, Rule 62. I believe this is of Bill No. 6.

Mr. Chamberlist: Mr. Chairman, before a vote is taken on this, I wonder if the Administration will say at this time that any amendments that were asked for during the reading have all been placed in this Bill?

Mr. Legal Adviser: No, Mr. Chairman, we haven't placed any amendments in this Bill. The Bill wasn't finished, we were half way through it. BILL #6

Mr. Chairman: Are you prepared for the question? Are you agreed? I will declare the motion carried.

MOTION CARRIED

MOTION  
CARRIED

Mr. Chairman: Gentlemen, as Mr. Legal Adviser has pointed out, there have been no amendments made to this Bill. The Bill is now at the same point that we left it last Session. We left at 61, subsection (2). (Reads Section 61(2) of Bill No. 6)

Mr. Chamberlist: Question. I wish to talk again on 61(1), whether it has been read or not. In this 61(1), we have the words "In the Whitehorse Metropolitan Area or the City of Whitehorse no tavern or cocktail lounge licence shall be granted except in respect of a hotel that has at least thirty bedrooms". Now, I have no objection to it being left as is for the City of Whitehorse, but I have objection when you bring it into the Metropolitan Area, because if somebody wants to open up, put a unit at the intersection of the Mayo Highway, you have to have a thirty room operation, and I don't see that we should have that in. Now, I think that the words "In the Whitehorse Metropolitan Area" should be removed. If that area comes into the City of Whitehorse, then it would automatically take effect. I wonder if Mr. Legal Adviser would see any objection to the Whitehorse Metropolitan Area being removed.

Mr. Legal Adviser: Mr. Chairman, the Administration has no objection to it being removed. It was put in for two reasons. One was that there was a Bill before the House which was going to extend the City of Whitehorse to this area. The second was so that the Council have an opportunity of discussing the thing, it didn't seem unreasonable that a new hotel that would be placed very near the City of Whitehorse, depending on the City of Whitehorse services, should be subject to the same restrictions one way or another, as people who are only possibly one mile away. As I say, we have no hard and fast views about this. It is purely in the hands of the House as to what they wish to do. If they wish it taken out, that's fine. If they wish to leave it in, that's also fine.

Mr. Chamberlist: In that case, Mr. Chairman, I would move that the words "In the Whitehorse Metropolitan Area or" be removed from that subsection.

Mr. Chairman: I would have to disallow that motion. I believe the Member has a pecuniary interest in this regard.

Mr. Chamberlist: I have already indicated my interest in the previous Session, so therefore I can move, and I wonder if Mr. Legal Adviser would give his opinion in this at this time, Mr. Chairman.

Mr. Chairman: I might ... order, please. I will not receive an opinion from the Legal Adviser in this matter. This is a matter for the Chair to decide and this is in line with Standing Order No. 11, Rule No. 6. Would you proceed.

Mr. Chamberlist: Well, is it the suggestion, Mr. Chairman, that I am not permitted to participate in the legislation of this Territory? Is this the ruling that you intend to give now?

Mr. Chairman: For the edification of the Honourable Member ...

Mr. Chamberlist: I have read it. You don't need to educate me about legal paraphernalia.

BILL #6 Mr. Chairman: Standing Order No. 11, Rule No. 6 states "No Member is entitled to vote upon any question in which he has a direct pecuniary interest and the vote of any Member so interested will be disallowed."

Mr. Chamberlist: Well, Mr. Chairman, I hope at no time we have any legislation before us here dealing with mines or prospecting or anything to do with mining industries because I'll let the Members of Committee know where pecuniary interests lie.

Mr. Chairman: The Chair must only fulfill what it's set out to do and must do under the laws and rules of the Council. (Reads Section 61, subsection (2) of Bill No. 6).

Mr. Livesey: Mr. Chairman, I'd like to rise on this particular point and I would appreciate very much if Members of Committee would assist me with my thinking on this particular point. I know that during the last Session, there was some objection to my thinking that in the outer areas, outside the areas of the municipal boundaries of the two areas in the Yukon that we have at present, that twenty rooms was necessary for a cocktail bar licence, and I gave you my thoughts on the question then, and it is the same question as it is now. So, I don't want to hold up the Committee this morning, Mr. Chairman, on this particular point, but it still seems to me that the question of twenty rooms for a tavern, or twenty rooms for a cocktail bar outside of the actual boundaries of a municipality, all it does is deny a service to that community. It does nothing else but deny a service, and I'd like to bring this once again to the attention of Committee, and I feel that even if we read beyond this point, that Committee will still allow a motion on this particular thing, perhaps at a later date.

Mr. Chamberlist: Mr. Chairman, on the same basis then, on the remarks that have been made by the Honourable Member from Carmacks-Kluane, would it not be the right thing then for a Member of this Committee to get up and make the motion that I had previously suggested for that single reason that has been indicated, that to insist on thirty rooms in a metropolitan area, three hundred square miles, and most of that square mileage outside of the existing city boundaries, is most improper, I consider, and that we will be failing in our functions as a body if we overlook an important thing like this. I've given you an instance of where somebody at the Mayo Road wishes to open a twenty-room unit, he can't open a twenty-room unit and put a cocktail bar in it because he has to have thirty rooms now out there. People can not fill up their rooms in the city during the winter time, so you're going to put somebody in jeopardy of having a business with thirty rooms in there which he cannot fill? That's absolutely ridiculous and assenine. You're acting like a bunch of children if you don't recognize this. I wish the business people would recognize the fact that being in a legislative body must be in exactly the same way as if you are looking after the people's business, yes, dollars and cents. It's utterly ridiculous the way we're allowing ... here's a new Bill that we have here, when you can put some sensible legislation in and what are we doing. We're just promulgating for the future of this area just so that we can say the Whitehorse Metropolitan area. If that thing is happening, I'm going to be turned against the concept of the Whitehorse Metropolitan area. I think the Administration should have recognized this right away and should have taken it out, not come forward afterwards and say "I don't care whether the Legislative Body wanted it or not". Why didn't you leave it out and let the Legislative Body, Mr. Chairman, decide whether it should go in instead of trying to push this forward and make people unhappy.

Mr. Chairman: At this time, I'm going to declare a recess.

RECESS

RECESS

Mr. Chairman: All right, at this time ..... order gentlemen. BILL # 6  
At this time we'll call Committee back to order and we are  
discussing Bill #6 Liquor Ordinance and we are at Section 61,  
Sub-Section 2.

Mr. Shaw: Now, Mr. Chairman.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Discussing this section, sub-section 2 there has been quite a number of suggestions that have been put forth and quite a number of complaints from members as to this being a little too restricted in certain areas of the Territory. There have been suggestions that a certain area have it this way and a certain area have it that way. It seems rather difficult to me to have it possible to segregate the matter and I note that it says a tavern or cocktail lounge licence shall be granted except in respect to a hotel that is at least 20 bedrooms. As far as a tavern is concerned, Mr. Chairman, in the smaller areas, it appears to me that ten rooms would be quite adequate for something like that. However, when we get to a cocktail lounge, where we have this special privilege of operating this business and the restrictions thereon, it does apply in a different manner, in my estimation. At the same time I can see where there may be some difficulty in financing such a venture and just for Council's consideration and for a matter of discussion, rather than take a dogmatic attitude, either one way or the other, I think that certain considerations should be given to something in the nature, is this, that a person that is intending to put up a business in the outlying area, wants to get a beer licence, or what ever you call it, a tavern, that he can have that by building ten rooms. He can also get ..... in consideration of these areas that are mostly on roads that requires accommodations, that a person be given something like an interim licence, a cocktail licence. He has ten rooms that he'd be given an interim licence with the objective and the, what should we say, the promise, I can't think of a word that would fit that, on the condition upon him adding another ten rooms over a three year period, to that particular establishment, until it did arrive at twenty rooms. In other words he could start on a smaller amount of capital and with a ten room facility and in each of the three years he increased it by three and one third rooms, we'll say, so that in three years he would have the full compliment of twenty rooms and at the same time he will have had that cocktail licence for a period of three years, whereas, it would have given him an opportunity to finance the further construction and enlargement of the premises. Now, I just put that as an arbitrary figure of three years but it does give an opportunity. I've heard around this table that the big problem is the financing of it. Well, I think that most Honourable Members are aware you start a business up with the smallest reasonable amount possible and then from a small business you expand into a larger business, and this is one way that I feel it should be ..... it could be accomplished, Mr. Chairman. I do very honestly and sincerely feel that this is in line with Liquor Commission that travelled all throughout the Territory, about four years ago. We have to provide accommodations, particularly on the highways for people to stay as they go through. Without accommodations, it would be just a matter of getting a bar and I don't think we would have these accommodations and that is why I think, perhaps, that we could look at it, it could be decided over a period of time but I would look at it that this would be one means of possibly fulfilling a programme that would have the same affects and beneficial to all concerned.

BILL # 6

Mr. Livesey: Now, Mr. Chairman, I would like to rise at this time, and although I respect the Honourable gentlemen, who has just recently risen, on this question, very much, and I, at times, agree with the tremendous lot that he has to say but on this particular occasion I am sorry to say that I cannot agree with him in any way, shape, or form, for the simple reason, the ethics of the proposal that he has been making are inconsistent with the fact. The fact that you want to build twenty rooms you have to rise to a point where you can build twenty rooms and the way to rise to it is to provide, for this individual, an opportunity to gain revenue. Now where is he going to gain the revenue if you deny him the fact that he can't get a cocktail bar. If he has a cocktail bar this is an avenue where he can gain additional revenue in order to supply what tourists are demanding as better accommodation. Better accommodations for who is a questionable point because as the business evolves in the north and in the Yukon, in particular, at this particular time, things change from year to year. What was necessary last year may not be necessary this year and it is totally, I think, completely out of line, to say that an individual doesn't need avenues for revenue. He has to have these avenues. Alright, shall we say he has ten rooms per tavern but if he wants to serve hard liquor he's got to have twenty rooms. Now those extra ten rooms he's not going to fill in the winter time and if anybody will take the trouble to go along these various highways, that we have in the Yukon, and this is what we are talking about, you are not talking about the municipalities, Whitehorse and Dawson, you are talking about the places along the highway. You do have a seasonal proposition in business for a hotel, motel, cocktail bar, and beer parlor. This is a seasonal place, if you are going to talk about the main revenue, but what happens... take a look at these larger establishments, and most of them, in my opinion, are catering to bus traffic, this is what they are doing now. Bus traffic. The traveller on the highway, if you take a look at the statistics, you'll find out that more and more and more of these people, something like seventy or eighty percent of the travelling public on the highway, in the summer time, are travelling in trailers or campers, or something else, they have their own accommodation with them. Alright then, are these people going to be attracted so that this man can fill his rooms? Even in the summer time the answer is no. They already have that accommodation, so what are you talking about, really, when you are talking about cocktail bar? You are talking about local people who live in the local area, this is what you are talking about, or a mining camp that moves into a district, or you are talking about the prospectors, or something else that may happen in the business world or commercial world. So why deny any opportunity sell hard liquor by saying you have to have twenty rooms that he doesn't need and he could possibly fill them in the summer time, yes, this is true he could, but in the winter time, which is the longest season in the Yukon, winter, not summer, they have to be empty. Now you tell me, does he need these rooms? If he doesn't, the walls will crack, if he's got any type of plaster board, or anything like that, or if he's made of logs they'll shrink at sixty below or fifty below those logs will shrink. If you've got anything on the inside that isn't double they'll crack up on him if he doesn't heat them up. Surely you're not going to tell me he's going to keep twenty rooms open and heated all winter long just to get two customers. Apparently these two customers are always there. They are not, I know, I live out there, I travel on the highway, I can go through all kinds of places that might, in the winter time, have one car, two cars, and I've seen it happen in the winter time where most of them are in the camp grounds. They are not availing themselves of the opportunity to sleep in a bed. So what are we talking about? We are talking about the distribution of a commodity. Surely I can



Mr. Livesey continues .....  
get this point across to the extent that all we are doing is creating a facility. We say he has to have ten rooms. You say he has to have twenty, alright the people in that area are denied the facility. They can't have a place where they can go and have a drink on a Saturday night or take their family or their wife, or somebody else, this is all you are saying, absolutely all you're saying and in a good many instances the ones where you have your twenty rooms and more that everybody has been talking about, nothing but theory. Where are they in the winter time, they're closed up and they've gone outside. Now, don't tell me you're offering a service on that basis, you simply aren't and I'm mighty sure the ones I can name to you, that have more than twenty rooms, that have their cocktail bars, didn't build those twenty rooms on the basis of the cocktail bar or so they could get one, they built it because they had to provide accommodation in the summer time for the services that they had created, because most of these places right now, in the winter time, are taking bookings all during the winter time for the summer. Bookings from bus companies, so that many times, there you are, the hotel is full. It's full, why, because people are booked up, and that's not because they have a cocktail bar at all, because there's a business sense of getting as many people in there as they possibly can and there is an opportunity of making the most profit. In the winter time their profits go down to practically nothing, your costs go up. In the summer time your costs go down and your profits go up. This is the way it works and I don't understand anybody who doesn't or can't follow that type of reasoning. Thank you, Mr. Chairman.

BILL # 6

Mr. Shaw: Mr. Chairman, I would ask a question of the Honourable Member from Carmacks-Kluane. He saying that ten rooms seems to be quite reasonable. Did I get that right Mr. Chairman? Could I just have that .....

Mr. Livesey: Yes, Yes.

Mr. Shaw: Ten rooms, O.K. I think that with a cocktail lounge it should be twenty. The Honourable Member suggested that they could operate ten rooms but they couldn't twenty. They could operate twenty rooms in the summer time but not in the winter time, or perhaps it could be a case where it is necessary to have twenty rooms open for so many months of the year and ten rooms for so many months of the year. Maybe that could be something that they could resolve for certain areas that had only a certain population. I mentioned this Mr. Chairman, I think that perhaps many of these thing could be resolved without taking a dogmatic attitude right through.

Mrs. Gordon: Mr. Chairman, I think one of the things we've forgotten is in the first instance when people started travelling this Territory as tourists, there was no accommodation, and we have four thousand visitors and tourists through this Territory to provide their own accommodation and come in campers and trailers and the one reason why the establishments were required to have room, in order to provide the facilities of cocktail licences or taverns, in their various areas, was to provide this additional service to other people travelling through the Territory. These bus companies would not now be able to book tourist travel unless those facilities had been provided five and ten years ago.

Mr. Taylor: Councillor Chamberlist would you take the chair please.

Mr. Chamberlist: Yes.

Mr. Taylor: Mr. Chairman, in this matter I've taken the opportunity since our last sitting to go out and poll my district

BILL # 6 Mr. Taylor continues.....  
the south highway and Ross River and so forth and I have found that unanimous support is for the retention of twenty rooms for a cocktail lounge but they do desire to have it reduced to ten rooms in respect to the tavern. Now, I think we should first of all remember that a tavern in one of these small communities can serve, for off premise consumption, liquor. The liquor is indeed available. The only difference is that you can't sit in the tavern and drink it, but you can take it home. It was suggested, I think by the Honourable member from Carmacks-Kluane that people would like to bring their family down for a drink, this, of course, can't be done, where people are under twenty-one, but it can be done where-by getting off premise liquor and going home. I think we've missed something here. I don't know whether this was intended in the drafting of the Ordinance or whether it was not intended but it is since suggested that a person who may have twenty rooms open in the summer would only have ten rooms open in the winter. I would draw the attention to members of this Committee to the Ordinance as it now stands, which states, as it now stands it would be Section 25, "Has at least twenty furnished and service bedrooms regularly available for the accommodation of the travelling public." Now this means these have to be regularly serviced. Now, take a look at your existing Ordinance for a moment. It states, "No tavern or cocktail lounge licence shall be granted except in respect of a hotel that has at least twenty bedrooms." It doesn't say they have to be available, for the travelling public. Pardon me, I'll return in a moment, I believe Legal Adviser might have a correction.

Mr. Chamberlist: Yes Mr. Legal Adviser.

Mr. Legal Adviser: For adopting purposes, Mr. Chairman, I didn't want to keep repeating bedroom ready available..... and it is in "B" of the definition Section.

Mr. Taylor: Well, Mr. Chairman, I noted this in my draft, in any event and I thought that maybe here is where we could get. Bedroom means a furnished and service bedroom regularly available for the accommodation of the travelling public. Possibly then the problem can be resolved by amending the interpretation of bedroom. In any event the people in my district have felt, and I did this at public meetings in most cases, have felt that they would wish to see the retention of twenty rooms as the requirement for a cocktail lounge, basically in order to have this type of accommodation in the community and ten rooms in respect to the tavern. The lodge operators on the south highway are happy. I find it difficult to understand why the north is so different from the south because much the same people travel back and forth but there is certainly no problem in the Watson Lake Electoral District. This is what they have asked me to come here and do and this is what I propose. Ten bedrooms for the tavern and the retention of twenty bedrooms for the cocktail lounge licence.

Mr. Livesey: Mr. Chairman, what the Honourable Member is saying is that the people in his district would rather be denied the service of liquor than have no bedrooms. People that don't use these bedrooms in the community surely to gosh are not more interested in having bedrooms in the hotel than the service of having hard liquor. I don't understand this argument. My people, the most of them, are not in business. They are ordinary working class people that have a job and they do it every day and when they are through at night, they likely either go to the tavern and have a drink of beer or they like to have some hard liquor. Some of my people are in business but the majority are not, they're ordinary people and if the ordinary people want twenty bedrooms that they don't use to live there. Well they'll need these bedrooms, Mr. Chairman, I don't understand how anyone could

Mr. Livesey continues.....

turn around and say to a man working, say, for the Department of Public Works or C.N.T. or somewhere else, he's a school teacher, or he's working for a private enterprise, he's more interested in having twenty rooms than he is in the service of liquor. There is something wrong because this isn't the average thinking that I've come across and if the people of the north have brought themselves up to this high standard of education, in this particular department, I think that they are way ahead of the people in the south. Mr. Chairman, I have a doubt of the Honourable Gentleman's description of the difference between the two areas. I feel that the average individual, surely, is more interested in the service that he needs than in the service that someone else needs that he is not even .... he doesn't even know these people, they are total strangers when they come into the area and my understanding of the people that I have talked to, in my area, is they would like to have as many services available where they live, that can be made available, and the way to make them available is to provide ten rooms so they can have a cocktail bar. Surely this is just as simple as that, Mr. Chairman

Mr. Taylor: I would rise, Mr. Chairman, to assure the Honourable Member from Carmacks-Kluane that the people in my area are indeed very ordinary people and I might also point out that I have no disaster areas in my district, at this time, as well....

Mr. Livesey: None in mine either.

Mr. Taylor: Now, the people, I'll sight for example, the people of Teslin. There is no cocktail lounge in the Community of Teslin and it's one of our larger outlying communities. There is no cocktail lounge there, but mind you there is one operator who is putting on twenty rooms as per the existing Ordinance and hopefully as per the fore-going Ordinance. He's putting on twenty rooms and going to have a cocktail lounge. The people have no problem; they go down..... as a matter of fact they are ordering their liquor from Whitehorse and they are quite content to do so until that cocktail lounge gets going. This is no problem. The working man when he's finished his days work and wants to go down to the tavern he can drink beer with the boys and the tavern does have the right to sell liquor, off sale, but it was decided by the people down there that they didn't want to sell off sale in that manner, but they have the right if they so wish, to sell off premise liquor. These present no problems. Other places down the highway, in Watson Lake, and around the Territory, these people put up their twenty rooms, as per the Ordinance, and they built their hotels and they got their cocktail lounge licence, and they feel that it would be foolish to reduce this thing at this time. There is no useful purpose, as I stated before, the reason for the rooms was to encourage accommodation, and if this be an ..... then well and good and I and the people whom I represent would certainly not be in favour of reducing the liquor privilege to anything less than twenty rooms. Well, Mr. Chairman, I would like to propose a Motion, in this respect, if I can find a seconder, that Section #61 Sub-Section 2, be amended to provide for ten rooms in respect to the tavern and twenty rooms in respect to the cocktail lounge.

MOTION #

Mr. Chamberlist: Could we have the motion please.

Mr. Taylor: I don't know whether there is a seconder, Mr. Chairman.

Mr. Shaw: I will second the motion Mr. Chairman.

Mr. Livesey: Well, before a seconder rises, Mr. Chairman, I wonder.....

BILL # 6 Mr. Chamberlist: Order. There is a seconder....did you second the Motion?

Mr. Shaw: I seconded the Motion.

Mr. Chamberlist: The Motion has been seconded by Councillor Shaw.

Mr. Livesey: Well, I was hoping to rise before it seconded, Mr Chairman, for one simple reason that I feel that this is an omnibus motion and while I'm in favour of one half of it I'm not in favour of the other half and if it was separated we could clarify the situation so that we won't be turning down both principles in the event of the defeat of the motion.

Mr. Taylor: Mr. Chairman, I feel that this matter, we've discussed it at great length, I think it's got to be resolved. I feel the only way to resolve it is to pose a motion in the normal manner, as I've done.

Mr. Chamberlist: Councillor Dumas.

Mr. Dumas: Mr. Chairman, I'm a political realist, and while I agree with the Honourable Member from Carmacks-Kluane, on his observation, I know which way the vote is going to go so half a loaf is better than none and I'll be voting for the motion.

Mr. Livesey: I might add that I'll be voting against if that's what the motion may be.

Mr. Chamberlist: A motion has been put, moved by Councillor Taylor and seconded by Councillor Shaw, that Section #61 Sub-Section #2 be ammended to provide for ten rooms in respect of a tavern and twenty rooms in respect of a cocktail lounge. You have heard the motion. Are you agreed? Division. A show of hands. Can I get a show of hands. Agree 4 Oppose 1. The motion carries.

MOTION  
CARRIED

MOTION CARRIED

Mr. Taylor: I'll resume the chair at this time.

Mr. Chamberlist: Mr. Chairman, it surprises me no end that the Hounourable Member from Watson Lake gives consideration to the requirements of his people in his area, but doesn't give consideration to the requirements of those people in other members areas.

Mr. Livesey: Hear! Hear!

Mr. Chamberlist: I have raised the question with reference to the words that were put in subject to Section #61, and really its based on the same theory that has been given in a successful motion by the Honourable Member from Watson Lake. It would appear to me that it's the people in the area that have to make the decision, the jocular thing about this Ordinance as I said the last time around, last Session, is that whatever tavern that is out anywhere, people can go who own the tavern, can set up tables outside the tavern and sell whiskey by the bottle to people that come in for a bottle of whiskey. The people take the bottle of whiskey, go and sit at the table that has been provided for by the owner of the tavern and can drink. All he has got to do is rent a chair for \$1.00 an hour and supply him with a bottle and he is serving the liquor right there on his veranda outside the tavern. It is the biggest joke of legislation that I have ever seen and it's a complete foul up as far as I am concerned, because the Administration have not come to people who know about these things

Mr. Chamberlist continues..... BILL #6  
and make their suggestions, they have just gone ahead and I hope that the time will come along when the stupidity of this piece of legislation will fall right on the shoulders of those that prepared it in the interest of the Administration of this Territory and not in the interest of the people of this Territory. There is no doubt about it that the chickens are going to come home to roost and they have laid a great bit egg already, you'll get a few more later.

Mr. Chairman: (Reads sub-section 3,4, of Section 61).

Mr. Livesey: I wonder how this granting of this licence assists in the argument of the Honorable Member from Watson Lake.

Mr. Chairman: Would you take the Chair, Councillor Chamberlist.

Mr. Taylor: Yes, Mr. Chairman, this was a right granted to this section both refers to the rights granted under earlier Ordinances, and people hired their licences on the understanding of the Legislation of the day and I think the matter is quite clearly defined that these rights cannot be properly be denied these people at this time.

Mr. Livesey: Now Mr. Chairman, how long would the Honorable Member for Watson Lake consider that these should be carried on, ad infinitum or otherwise.

Mr. Taylor: I will resume the Chair at this time.

Mr. Chamberlist: Well Mr. Chairman, there is a sound question that has been asked. You're saying Mr. Chairman, if we let this go through, we're saying well it is fortunate for those people who did not have to put a first class establishment in so many years ago. It's fortunate that they were here to go into the hotel business at that time, but now the people have to up-grade their areas while they have to come under a new set of rules. Now, I feel that quite rightly they should not lose their licences because they are established businesses, but I think there should be a time limit as to by what year these establishments should be up-dated so that all licence holders are on a par as far as restrictions and qualifications and requirements are concerned. I don't think the Ordinance is taking cognizance of this in the interest of the public again not in the interest of operators. Now it seems peculiar that a person with a pecuniary interest as an operator should be speaking in this way, but I feel that the public comes first and there is a necessity for us to show in legislation that we are preparing in the public interest and I wonder if Mr. Legal Adviser can indicate whether there are ways and means of bringing this to a specific standard.

Mr. Legal Adviser: Well we've tried Mr. Chairman in drafting Section 62 to the next section if the next section was right, perhaps the House would have the opportunity to debate the matter at length.

Mr. Shaw: Mr. Chairman, I think that the Honorable Member from Whitehorse East has a very good sound theory and I do feel that it is very sound and I am quite in accord with it. There may be one reservation perhaps if a person did not have the available ground or something where it was you know absolutely impracticable to do it, which might occur in very few instances, but in principle I think that the Honorable Member, I certainly would be pleased to endorse that theory.

Mr. Chairman: (Reads Section 62 of Bill No. 6).

BILL#6 Mr. Chamberlist: Mr. Chairman, this gives a discretion to the board, as to whether or not the establishment should be up-graded to comply with the regulations as pertaining to other licences. Now, I say that there should be no disgression but a fixed time, I don't care if it's four years, I don't care if it's five years, I don't care if it's two years, but it should be fixed in this area. The board may say, while, because you have had a licence from 1964 or 1965 or 1962 you don't have to do anything to your premises to up-grade it. Well, they can say this. I would prefer to see that there is provision so that the establishment will be brought into line at a given time. A time must be given to them. It is an advantage that they get over a person that is building new premises because a person that is building new premises, he has to find the finance for a thirty room establishment immediately. These people will only have to find the finance for a few extra rooms. Now, I see no reason why we cannot establish in place of this Section 62 that a given time, and this is a time that members of this Committee may wish to discuss as to what this time should be, that there become an up-grading to match the regulations, so that the time will come that if we say five years that we know that five years time all operators are face with same regulations, there is no one that has got any advantage over the other. I would like to hear from other members of Committee with reference to this point.

Mr. Taylor: Councillor Gordon.

Mrs. Gordon: Basically I agree with the member from Whitehorse East but I can think of instances where an ederly couple may own such an establishment. They have no reason to improve it. They are making, what they consider, a good living but the one thing that I think should be taken into consideration under circumstances such as this is if that establishment changes hands then it should be mandatory that the change comes within a certain length of time. I can think of particular instances where under certain circumstances people who own it have no necessary or reason to improve it because of their length of ten year in their place as it stands and in consideration of these types of owners I am sure the Member from Whitehorse East would be most concerned.

Mr. Chamberlist: Mr. Chairman, I find that, as I said before, that one has to think with one's head preferably to one's heart when it comes to matters of sentimental interest and quite frankly I would feel as the Honourable Member from Mayo has indicated that there's a tendency to feel deeply for an old couple, that perhaps, have been running a small establishment of four or five rooms and have a cocktail lounge, something they are running themselves, looking after themselves, and then to be asked, in a period of a few years, to up-grade. Now, the thing is this, do we make the law apply to all people or do we make it apply to some people. This is something that has to be considered, but the thought that has come forward from Councillor Gordon's last expressions have some merit but perhaps if and when a licence, not the licence, it shouldn't be "the" licence, because one has to be careful, there is a juggling going on in licences now in the area. This is something that should be looked into, the property of changed hands, the ownership of the premises change hands. There may be a way to fill that gap that's in there and I think perhaps some thought should be given to it, because it's a gap, I think that has to be closed. It is not, as it is now, in 62, it doesn't take care of those people who will be at an advantage. Now, if we are thinking in terms of supplying the travelling public's needs and we have delapidated, run down, hotels that are not up to scratch, we are then simply supporting the theory that because they had a licence prior to these given

Mr. Chamberlist continues .....  
dates they should not be intefered with. I think that's wrong. I think that we must correct it, but I also think that we must give consideration to the local publics' needs as well. I'm not all hot up about the travelling public as much as I am about our local people that need places to go to. As has been mentioned before by the Honourable Member from Carmacks-Kluane, that people in local areas and also in the municipal areas have got a regular place they like to go to. Now, they are never going to use the rooms, never ever, because their homes are in town, this is just a place to go for a social drink, you know. Now, what do we do? I think that what we must do then is look at that Section 62 and think over how we can just fill that particular gap. I think this would cover the whole thing there.

Mr. Chairman: Councillor Gordon, I believe, has something to say.

Mrs. Gordon: I'm amazed that the Honourable Member from Whitehorse East, who sometimes is so concerned about the individual, that he would say this. Other members are thinking with their hearts and not their heads. I wonder what he was thinking of, their pocket or his?

Mr. Chamberlist: I have to rise on that. It is obvious, Mr. Chairman, that the Honourable Member, if I've used that word correctly, in this instance, Honourable, is proper, in making that suggestion. I think that perhaps there is a lesson need to be taught her in Legislative Manners. I ask for her apology in this instance.

Mrs. Gordon: I would apologize but with the request that the Honourable Member also accede and give me respect due me too. Thank you.

Mr. Chairman: Honourable Member so inclined?

Mr. Chamberlist: I didn't understand what she said, really, Mr. Chairman.

Mr. Taylor: The Honourable Member of Mayo has asked that you accede by apologizing to her as well.

Mrs. Gordon: No, just give me the respect due me.

Mr. Chairman: Oh, oh, alright. Well, at this time I am going to declare a recess. That's it



1. The first part of the document discusses the importance of maintaining accurate records of all transactions.

2. It is essential to ensure that all data is entered correctly and consistently.

3. The second section covers the various methods used to collect and analyze data, including surveys and interviews.

4. These methods are chosen based on the specific needs of the study and the characteristics of the population.

5. The third part of the document describes the statistical techniques used to interpret the results.

6. These techniques include descriptive statistics, inferential statistics, and regression analysis.

7. The final section discusses the ethical considerations that must be taken into account when conducting research.

8. Researchers must ensure that their work is conducted in a fair and unbiased manner, and that the privacy of their subjects is protected.

9. The document concludes by emphasizing the importance of transparency and accountability in the research process.

10. By following these guidelines, researchers can ensure that their findings are reliable and valid, and that they are used to improve the quality of life for all.

Friday, January 16, 1970.

2:00 o'clock p.m.

Mr. Chairman: At this time I will call Committee back to order and we have with us today four guests involved in the Arctic Winter Games, and I will call upon the Honorable Member from Whitehorse North to introduce our guests.

Mr. McKinnon: Thank you, Mr. Chairman. I hear that I missed the heavy political meeting this morning and it is very nice to get out of the realm of the political heat and into an aspect of co-operation between northern jurisdiction which completely goes above all political partisanship or any politics whatsoever. I would like to introduce to you the four people from the Northwest Territories who have been actively engaged in Arctic Winter Games preparation. First, Mr. Wes McAller, the Executive Secretary of the Arctic Winter Games. We've just had a wonderful job organizing the Games and I'm sure that they are going to be a success in Yellowknife because of this effort. Mr. Mike Hewitt who has the most difficult job as Northwest Territories co-ordinator of the Arctic Winter Games, and this means bringing people in from the length and the breadth of the Northwest Territories and picking the teams from these people, holding trials all across the Territories and eventually coming up with the teams that will represent the Northwest Territories at the first Arctic Winter Games. Mr. Doug Finlayson who is the President of the Yellowknife Winter Games Society, which will be hosting the Games in Yellowknife. Doug is also the Deputy Mayor of the City of Yellowknife. Mr. Brian Purdy who is one of the Directors of the Arctic Winter Games Corporation I'm sure, all northerners need no introduction to him as we all know that Brian has won his case in the Supreme Court of Canada, concerning the Drybones case and the Bill of Rights. It has been a real pleasure to be associated with these gentlemen over the years, and I am sure that if you would like Mr. McAller to outline at this time just what the Arctic Winter Games has prepared in Yellowknife in March. Wes, would you care to outline this to the Territorial Council.

Mr. McAller: Well, I will very briefly cover actually four areas. The fourth area I would like to call upon probably several of my comrades here to explain to you, and that will be some of the problems we have met and solved or problems we have yet to solve. First of all the program of the Games and who it involves. The Arctic Winter Games involves three areas of course; Alaska, the Yukon and the Northwest Territories, participating in ten competitive sports and I stress this word competitive and will explain it in a moment. There are ten sports, very briefly, they are badminton, basketball, boxing, curling, figure skating, hockey, cross country skiing, shooting, table tennis and volleyball. Each one of these sports have actually four categories. There is a junior and a senior category in which you have the junior category, eighteen years and under, the senior category being open. There are two divisions, men and women. Now, I stress this word competitive because in our finding for the Games we realize that one part of the community had not been involved and that was the Eskimo and Indian population. Our efforts in the past few months have been directed in the area of including these people in. Our problem has been to set rules and regulations for a competitive type of display on their part and as a result of the impossibility of doing this, we've included these people on a demonstration basis. They are going to present such ingenious demonstrations as the blanket toss, the high kick, whip cracking, igloo building, that type of performance. We expect from each area to have approximately 250 people. Now this will vary according to the sports entered into and the maximum number of people permitted in each sport, but there will be approximately that number from each area. They will all gather in Yellowknife, March 9-14. We are actually finalizing transport arrangements and the competitors will

Mr. McAller continues....

be arriving several days before and probably leaving a day after the competition. I might add here that the program so far has run into some difficulties on the international scale and devising rules that will suit both the American friends in Alaska and the Canadian counterpart, but I hope that after this particular visit to both Whitehorse and Anchorage that these problems will be clarified. I think that one other aspect to the program that is important, and that is that the sports I think will be run as closely as possible to or on a national level. Now we do not expect the caliber of sports to set any records but we do expect for example that the adherence to rules and regulations as laid down by Canadian sports bodies will be adhered to and the officiating will be top notch. Regarding financing, I will just briefly outline what has occurred in the area of financing and how this program is being run. Originally, at the outset, the three governments of the Northwest Territories, Alaska and the Yukon, laid aside \$15,000 per year to operate the Games. In other words, it's over a two-year period with two grants from each area. There was a total of \$90,000. This money has gone towards the administrative aspect of the Games, in other words there has been more expense incurred with this particular Games because it is a first. Most of the money has gone into salaries and administrative costs and setting up an office, buying equipment and in the area of maintaining communications through telephone and telegram and that nature. There is another aspect of financing of the Games and that involves the actual operation and staging of the Games in Yellowknife. I would estimate the budget at this time to be in the vicinity of \$200,000 and this is being financed with the help of both the Federal Government through the Department of National Health and Welfare and private enterprise. In other words, the Canadian Government will pay seventy per cent of that \$200,000 figure, \$140,000. The Arctic Games Society in Yellowknife because of problems in financing which probably very briefly was the failure on the part probably the Games as a whole to acquire funds from the American Government to stage the Games, found it necessary to go to private enterprise and to raise in the vicinity of \$60,000. I might say at this time that the search for funds has been reasonably successful to such an extent, at least we hope that there is enough funds to stage the games, in fact we are absolutely sure. Each area, actually there are three over-riding principles. First as I have already mentioned, each of the three participating governments will pay \$15,000 for the two fiscal years previous to the Games. Each area is responsible for transporting it's own people to the Games. These are some of the problems that we have had, I think Yellowknife is a growing city. It is an area which has had a number of problems in the area accommodating people and so forth, and to solve actually two major problems we have probably taken some unusual steps. Number one was accommodating the expected 800 people which will be coming to Yellowknife. This is 800 people composed of athletes, officials and persons affiliated with the games. We have emptied out 24 classrooms through schools and we are now presently acquiring 600 beds and necessary bedding from the Canadian Forces. At the moment we have received three Hercules loads and expect three more by the middle of February. Any area of catering, we have found it necessary to make a composite attack on this problem. We have probably no one organization in Yellowknife feeding everyone. We have found it necessary to obtain the services of four womens' groups who will be feeding approximately 75 people each and several other commercial firms who will be also will be feeding people. In addition to a mine which is going to be feeding about 60. In the area of problems I think that the three major problems that we've had, Number one, was raising money which I think has been solved. Number two, was the accommodation problem which I think has been solved by the assistance from the Department of National Defence, and the catering problem which is probably solved by the co-operative effort of the

Mr. McAller continues.....

number of people in Yellowknife. Very briefly I will outline the structure of our organization in Yellowknife. We have a Board of Directors of seven people who are under the chairmanship of President, Doug Finlayson to my right and under him he has seventeen committees responsible each for an area, such as accommodation, catering, local transportation, welcome, receptions, medical and that type of requirements. We also have ten sports committees, so at the moment we have in Yellowknife approximately 200 people who are presently involved with organizing the preparations for the Games. I know from my own point of view that we have gone through what may be called a considerable struggle to have these Games. Ken, I think is only too aware of the many hours we have spent discussing the many arrangements which had to go into the Games, not only from the point of view of staging the games in Yellowknife but creating an international organization of which Ken is the President, which is the corporation and which is responsible for the over-riding aspect of the Games, maintaining the symbol, the flags, conducting financial negotiations and insuring that the Games are conducted in or on a level which is in keeping with the policy of the corporation. The Society as I might say in Yellowknife is or has been quite active. We have maybe one problem in Yellowknife and that is that we do lack the number of people that would be an ideal situation, however with the demonstration of the willingness of the people there to work, I think that many of the persons that we have associated with the Games now are probably doing two or three jobs including Doug himself here, who is probably conducting or assisting about four or five different committees and still acting as President of the Directors, but I might say that the problems of the Arctic Games are by no means centered in Yellowknife. We realize that first of all in Alaska and the Yukon and the Northwest Territories, trials must be conducted and the gentleman on my left Mike Hewitt is probably facing one of the largest areas of land mass in which to conduct a trials of anyone who would have to face this in Canada, all the way from Frobisher Bay to Inuvik involving probably not that many people but people who have to travel over a tremendous distance. We also realize that our friends in Alaska are coming all the way from Point Barrow and as far south-east as Juneau. In other words, what we are looking at here in the Arctic Winter Games is not so much athletic records of individuals but these individuals coming together in a co-operative effort really makes something unique, because first of all it's truly representative of the total North American Arctic area. I think the Games in itself holds a tremendous future, specially I think since several other countries have voiced interest at least in being kept aware of what we are doing. I know that people who are probably in a position to help the Games, I don't mean in government but also in private enterprise are voicing considerable interest I think in the Arctic Winter Games and probably more so, not only Arctic Winter Games but in the North as a result of this project and because of the tremendous interest in the North without this cultural event. We are looking for an opportunity to not only represent Yellowknife or the Northwest Territories but to show that the North is a truly united place among it's people and I think not only united in the way of these Games but united because we all face a common climate in a way of common difficulties in overcoming the terrain. So, as a result we are looking for what may be called the largest or probably the most spectacular presentation not from the point of view of something that is gaudy or showy but something that is truly concrete because it is based in the hearts and minds of the people who are going to be participating. With those few words in mind, I think that possibly I would like to, based on what I just said, that it is based on the hearts and minds of our people and the people who are participating or organizing this, I might call on Doug who is our President of our Society to remark on the Games specially from his position as President of the Society, and with the considerable responsibility he has for conducting the budgetary and administrative aspects

Mr. McAller continues.....  
of the Games.

Mr. Finlayson: The Games are really now starting to generate a feeling of unity and the people from our point of view are becoming aware that these things are happening. They seem to be asking questions about this. I think that this phase of it is very important. The native peoples are going to have a chance to demonstrate their traditional sports and skills as we mentioned not only on a competitive level. I think this is good for whole.....also. From the society point of view and the physical operation of the Games in Yellowknife, we now feel we are over all the hurdles. The financing seems assured, our accommodation is assured and feeding is assured. As far as the physical aspects of the Games all the sites are ready or will be ready. The Town of Yellowknife has expended considerable amount of money on these Games. They spent \$50,000 on their arena to improve it as, an example, not that it will be wasted. It will be used in future years but it was done primarily for this purpose and all the other sporting facilities have spruced up and improved. Our basic problem has been getting enough bodies. In a small community and in a growing community everybody seems to be busy, however I am sure we have overcome this now and with some of the professional help that we are receiving, I have every confidence that the Games will be a success. I don't think there is anything more I can say. If there are any questions that any one would like to ask we would be happy to answer them and we would like to see anyone that can get there for the Games to come and bring their own sleeping bag.

Mr. Dumas: Mr. Chairman, I have several questions to ask but before I ask them I would like to congratulate the group that is here as well as the whole Arctic Winter Games group. I know how much work they have been doing over the last few years and it seems that they have done to date a really fine job. Now, several problems have arisen I understand and the most recent one is the problem of transporting an American airline picking up Canadians in one spot in Canada and dropping them off at another spot in Canada. I understand the Customs and Immigration problem and I wonder if anybody could let us know how this problem is being resolved.

Mr. McKinnon: Mr. Chairman, if I could answer that, the Commissioner has been in contact with the Minister of Defence and they are expecting a reply in the next few days whether military transportation can be got to transport the Yukon athletes to Yellowknife.

Mr. Dumas: Mr. Chairman, Mr. McAller mentioned a problem of raising funds from the American Federal Government I believe it was. I am wondering what the breakdown of contributions to the Arctic Winter Games is in terms of the Yukon, Northwest Territories, Alaska, the Canadian Federal Government and the American Federal Government.

Mr. McAller: Did you say that there was a problem with regard to customs, your original question to Ken?

Mr. McKinnon: This is the Yukon problem.

Mr. McAller: Oh, it was, because for the Alaskans for example, we are having two customs officials in Yellowknife to look after them, they don't have to land in Whitehorse. Answering your financial question, what is the breakdown? Yes, the breakdown is as follows: three participating governments, the Alaska, Northwest Territories and the Yukon contribute \$15,000 for the two fiscal years prior to the actual Games, \$30,000 each, \$90,000 total. The Federal Government through the Department of National Health and Welfare will pay 70% of the total operating cost of the Games in Yellowknife up to

Mr. McAller continues....

\$140,000. Now, this requires that some other body raise 30% or \$60,000. It was originally conceived that the Alaska Government would raise it in some manner and it was suggested that they go to their Federal Government, like we did, I should say as Commissioner Smith and Hodgkinson went to the Federal Government. I think that this plan did not work. There are a number of reasons why it did not work. First of all, I think the Americans don't operate the way we do. The Federal system is operated in or their State system does not have the close relationship with the Federal body and as a result you don't have grants coming to the State, like we have received by the provinces or the Territories. No. 2 is that athletics in the United States are not supported to the degree as they are in Canada by Government. They are always supported, particularly of the Olympic calibre, which we are looking here, by private enterprise and third, I think that we had some difficulty communicating our ideas with the various officials, particularly with the Governor of Alaska who was a new man, having being replaced because of the movement of the former Governor to a Federal position. So as a result, what was required here that \$60,000 or some figure or amount in that area had to be raised by someone or else we weren't going to get money to operate the games in Yellowknife. Now it was conceivable possibly that we could have operated the Games on the \$90,000 that were obtained from the three areas, but it was found that it couldn't be that way. We may have come close but we may not have but we required at least some money in Yellowknife. We found out that we need a lot more than we originally anticipated and we will come very close to the original estimate of \$200,000. Well, our problem was to go out and raise \$60,000, so that's exactly what we did.

Mr. Dumas: Well Mr. Chairman, we are looking at \$290,000 total and we are right. One more question while I am on my feet. Mr. Finlayson said that we are welcome to come and bring our sleeping bags. Are all the rooms taken up or has there been any reserved?

Mr. Finlayson: There will be rooms for shall we say the V.I.P.s but we would like a little warning that is for the general public. They will be billeting and so on but it will be tight for spectators.

Mr. Livesey: Mr. Chairman, I was very interested in the gentlemen before us and their description of the type of Games in which many are going to participate in the North when this event takes place and I was more than pleased that recommendations had apparently been made that the Eskimo and Indian people were going to be included. Now this to me, if they had not been included and in view of the fact that many of their sports are totally different to ours, and especially in view of the fact that the percentage of native people, both Eskimo and Indian in both the Northwest Territories, the Yukon and Alaska are so evident that I think this would be absolutely necessary. In fact without them, I was just wondering just where we were going. Now, the question I would like to raise at this time is this. How has the Committee before us provided for the fact that it will appear during the Games that the native people competing against each other rather competing as a whole body, in view of the fact that their sports are different than sports which we normally are involved in and if this is not so, how can it be explained?

Mr. McAller: Yes, I would like Mr. Hewitt to answer this because it's particularly suitable since he is arranging for ...

Mr. Hewitt: The ten sports as listed by Mr. McAller are primarily let's face it, the white man's sports. I would say at least 50% of the participants from the Northwest Territories will be of native

Mr. Hewitt continues.....

origins. The reason for this is that even in the open or senior events, most of the participants will be high school kids, and in all the high schools, for example in Fort Smith we have 900 school children, only 400 of which are from Fort Smith. The other 500 are from the outlying settlements all across the Territories, Indian and Eskimo children and our town is just bursting at the seams with Indian and Eskimo kids throughout the school year, and believe you me those kids all know about basketball and hockey and you name it and they can do it. Their reflexes are just that split second ahead of the average guy. If you are talking in terms of the native people already adult, then this is why we brought them in on the demonstration basis. Now I went across the Eastern Arctic in April of last year and went settlement to settlement and they are extremely interested, especially when I mention Eskimos in Alaska, they really want to compete against these guys and there is no way and I took a certain amount of literature with me showing me the sort of games they play over there and especially the Eskimos are fiercely competitive and they want in the worst way to compete against the Alaskan Eskimos. My only problem, the problem that Doug outlined is getting people interested. I don't have that problem in terms of competitors in the Territories. My only problem is getting enough money to get all the people to the trials that want to compete. I can assure you that for everyone that we can pay for, there is another one that we can't pay for. This goes for the adult Eskimo and Indian people too. They really want to compete against each other and they are going to be allowed to but in the regular sports there will be lots of native participation.

Mr. Chamberlist: Mr. Chairman, I would like to join my colleague from Whitehorse West in congratulating the Committee and also to join specifically in congratulating at this time, Councillor McKinnon, who has occasionally shown that he has some other use than being a Member of Territorial Council here. I think that recognizing the work that has been done by this Committee in bringing forward Mr. Chairman the Arctic Games as a actual thing is terrific. I think that the people in the Yukon are going to learn by your mistakes cause you're going to make some mistakes and we are going to get the advantage later on. I wonder if somebody could say how far in the Northwest Territories are the participants taking part. Are there any from the Eastern Arctic, as well. I am very interested.

Mr. Hewitt: In November, in Hay River, which as you know is on the south shore of Great Slave Lake, we brought in from Churchill which is in Manitoba, we brought in a team of, a girl's volleyball team. These are Eskimos from the Eastern Arctic attending school in Churchill, they are residents of the Arctic of the Northwest Territories. They are merely attending school there and there is one girl from Tanguntung, which is on the Eastern Coast of Baffin Island, one from Arctic Bay, two from Cape Dorset, one from Griese Fiord. The response we got from these kids one of who is say, six feet tall, was really something and we got some cute letters afterwards thanking us. They got beaten in the trials but that wasn't the point. The object was to get them there and we have the entries provided we can raise the money from people in Frobisher Bay. There was just a curling play-down in Frobisher Bay. The people from Pond Inlet, which is on the northern tip of Baffin Island, made their way down. It took them nearly three weeks to get down to Frobisher Bay and had a curling play-down and lost and went on their way back. We are getting response from that far.

Mr. Livesey: Mr. Chairman, has there been any attempt to give good advertising to the Arctic Games in the United States for instance, and preparations made for an influx of visitors to the event?



Mr. Finlayson: We have deliberately held back on too much publicity because of the lack of spectator accommodations. We have to be honest with this, we could have 5,000 people and without having places for them to sleep would hurt the whole North to have the people say don't go North, there is no place to live. I could go on and say what we are doing, we are having major press coverage on the Games and films on the Games which we can use for publicity in this regard to advertise the North for the future.

Mr. McKinnon: Mr. Chairman, if there are no further questions from Committee, I would like to assure Councillor Livesey that if he wanted to bring the Beaver Creek blanket tossing championship and enter them into the Games, they would be more than welcome to enter. The concept of the Games that of course somebody turns up with a sleeping bag, somehow, somehow we'll find him a place to stay but the accommodation in Yellowknife is limited but the work that these people have done, over 200 people in this community involved actively in Arctic Winter Games preparation is a total community involvement and just shows how Yellowknife has taken these Games to their heart to assure their success. We can already see the benefits and one of the prime things that we wanted to accomplish through this was getting people moving laterally across the North. For the first time in history, Yellowknife is down here with a hockey team to play Whitehorse tonight and it is continuing on to Anchorage to play Anchorage over the week-end. For the first time in history, a basketball team from Whitehorse is going out of Whitehorse to enter into inter-city competition with the new town of \_\_\_\_\_ to see who will be representing the Yukon in basketball at the Arctic Winter Games. The calibre of the people from the Northwest Territories that have been .....and my pleasure to associate with over the last few years has been a wonderful experience and if we had the four involved from Alaska before you would find out that these are the same calibre and the same type of people. We kept government involved to a minimum so that we can assure the Games will be a maximum success, and I would like to wish the gentlemen well against the Whitehorse seem to unite and all success in their trip to Anchorage also.

Mr. Dumas: Just one more comment, Mr. Chairman. I wonder if the Committee could consider one more category of competition. Maybe we could have a responsible government debate competition between the Council of the Northwest Territories and the Council of the Yukon.

Mr. Chairman: I would like to take this occasion as Chairman of Committees to thank the Honorable Gentlemen present for coming with us and outlining Winter Games schedules and proposals and I certainly feel that on behalf of all Members of Committee that we, would like to extend to you and to all the participants involved in the Winter Games our outgoing best wishes for success and good competition in the Games. Once again, thank you for being with us today. At this time I will call a brief recess.

RECESS



Mr. Chairman: I will now call Council to order and we are dealing with Section 62, subsections (1) and (2). Have you anything further on 62? The next section is 63(1). Reads Section 63(1),(2). BILL #6

Mr. Legal Adviser: Mr. Chairman, we would be eliminating "cabaret" so the words "cabaret or" can be eliminated throughout that Section.

Mr. Chairman: Are we clear? (Reads 64(1),(2)).

Mr. Chamberlist: Question, Mr. Chairman this section gives room service, makes room service available to a hotel that has a licence with a cocktail lounge. Now there are residential hotels which do not have cocktail lounge licences. Is there any reason why a hotel should not be able to serve in the room to a bona fide guest, registered guest, liquor. Why can't we have that, we are liberalizing these things, why can't a person get a bottle of liquor from the owner of the hotel. He is only making a buck and a quarter on it, it is not for money purposes. It is a service to the travelling public. Is there any reason why we can't have that. We are talking about serving the public.

Mr. Legal Adviser: Mr. Chairman, there is no particular reason, it is not a federal case. This is a new service. We just picked a cocktail lounge because it is a tougher deal to get a cocktail lounge licence. We are moving into this field and we definitely agree that the service should be provided for the guests but it is unlikely that the establishment say now only has ten rooms will be able to provide these kind of services in the rooms. We leave it quite at large there and say the regulations can define what a guest is in relation to room service - being a new area we were just a little nervous at moving into it. We provide the service and then we regulate it and see how it goes. There is no federal case out of it.

Mr. Chamberlist: Except that Section (2) of this Section reads "regulations made under this Ordinance may define guest and regulate the conditions of room service" But the previous subsection is a section which really guides as to who can give room service because it states notwithstanding any of the provisions of this Ordinance a licensee of a cocktail lounge may sell; now it means then that you have to have a cocktail lounge licence. It is peculiar that the hotel needs 30 rooms to have a tavern yet the tavern can't send any beer up to a room but if you have a cocktail lounge licence with 30 rooms you can send hard liquor up. You see there is an entirely different situation that is developing. Now you are saying that if you have a 30 room licence, a 30 room hotel in Whitehorse and you have a tavern licence, you can't send beer up to one of the rooms because it has a beer licence but you must have a 30 room licence, 30 room hotel nevertheless, but if you have a 30 room hotel and you got a cocktail licence, then you take whiskey to the room so it deprives a tavern operator of sending beer and giving room service and likewise I say that a man has a 30 room hotel in Whitehorse, or motels, the Stratford has 60 rooms, he is serving the public yet one of his guests wants to have a bottle of liquor has to go and buy it somewhere else to have it in his room. Now why can't we recognize that he is performing a service to his people and why not say that notwithstanding any provisions of this Ordinance, liquor may be sold to a bona fide guest in his room. Why not have that, but only a bona fide guest.

BILL #6

Mr. Legal Adviser: Mr. Chairman, this is the way the cookie crumbles. I haven't an awful lot of sympathy for people who have say a tavern licence and don't provide the facilities for selling hard liquor. The bulk of liquor served to hotel guests - I'm not speaking of course from personal experience - is hard liquor. There are not that many bottles of beer or pints of draft beer sent up. This is just the way we design it, it is the way we like it; if the Council wants to do otherwise it is certainly a matter for them but this is a step in the right direction I think, to be able to ring a bell and have somebody bring up a drink which they can't do now.

Mr. Dumas: Speaking for myself I think this is more than adequate. That is just the way it is. If you have a cocktail lounge licence and you have to put up 30 rooms to get a cocktail lounge licence in the greater metropolitan area, then you have this privilege. If you have a tavern licence you don't have the privilege. There is no discrimination here. You just can't cover every possibility and every shack and every two room motel in the whole Yukon Territory. There just is no way that you can do it under these regulations. However, there is one point missed as pointed out by my colleague on my left that there are no hours attached to the selling and serving of liquor in the rooms.

Mr. Legal Adviser: If it's necessary to define hours we can do it by regulations because it can be done by regulations. It may well be, as some of the Honourable Members know that when you go to Edmonton and you are passing through and you stay at the MacDonalld or somewhere and you arrive at one o'clock in the morning and you can't get a drink whereas in more civilized places in Edmonton you can ring a bell and you can get it at four o'clock in the morning as you may arrive at four o'clock in the morning.

Mr. Livesey: Mr. Chairman, I would say it is high time we made the Yukon a civilized place. When we are talking about civility surely we are talking about the same process of gratuities to people who are in the tavern business as those in the cocktail lounge and there is just simply no sense in keeping these things separate. If we want to keep them separate then all you are doing is exhibiting prejudice because there has been too much prejudice as it is and far too little overall common sense used in relation to liquor in the Yukon despite the fact that I think we have the highest per capita consumption. Surely the arguments that the legislation that we have been using over the years that this is controlling the liquor situation is totally hopeless, if we are talking about the facts as they are before us at the moment. The reason for all the legislation was supposed to be so that we control the consumption of liquor and we are going to keep the consumption of liquor down, well the reverse is the case. The more regulations you have the more consumption. Surely I brought this up many times while I have been on my feet in this Chamber, Mr. Chairman, whereby during the last war when they put on all the regulations and they certainly laid down all these stipulations and you had to wait in line at various liquor stores because of rationing. You had more consumption, more people standing on the streets waiting for it because of all the red tape and there is far too much red tape in the distribution of liquor in the Yukon. Surely we can recognize the fact that it is the moral value of drinking that is more important and not the legal status. All we hear in this Chamber is legal status and we don't want this stuff so I would say, Mr. Chairman, we should give the same privileges to those who have a tavern and those who have a cocktail bar. There is no point in trying to start this class conscious rush to red tape. It makes no sense whatsoever

Mr. Livesey continues....

BILL #6

and I certainly agree with the Honourable Member that the privileges should be the same. Thank you Mr. Chairman.

Mr. Chamberlist: A point that is being overlooked and I think we should look at it very closely, a tavern on the highway that has ten rooms, when a person lives in that room that is his room. Now he can get hard liquor from the tavern because he goes to the tavern and buys a bottle. He can buy also a case of beer, as this is his room. He takes this to his room and does whatever he likes with it but in an areas where you have to have 30 rooms you can't do that because you have to have room service. Now a cocktail lounge, where you say a cocktail lounge you can have room service; that is you can phone and say to the bartender deliver me a scotch and water so somebody delivers the scotch and water. But if you have a tavern you can't say deliver a bottle of beer. What you have to do is walk down the hall, buy the bottle of beer and take it to your room yourself. Now this is permissive under the law, is this not right?

Mr. Legal Adviser: Oh, yes, I think all the men can carry it-they are big men.

Mr. Chamberlist: You see, this is the jocular attitude that is being permitted by the Administration continuously. It is something funny, something they put in for their purposes; if you don't want it you take it out but this should not be the attitude. The attitude should be that the public has got to be served and we are not serving the public. It is hypocrisy when we say if you telephone for a scotch and whiskey, for a scotch and water you can have it delivered to your room. But if you need a beer because you have a tavern instead of a cocktail lounge the same amount of rooms, what happens. You can't get it. What about the situation where a person hasn't got a cocktail lounge licence, hasn't got a tavern licence but he has a dining room licence with a hotel. You mean a person doesn't want to go to a dining room to eat because he is not well. He doesn't want to dress so he picks up a telephone and says send me up my dinner and with it a drink. You can't. He has to go down to the dining room and drink it in there. The stupidity of these things must be recognized by the Members of this Committee. We are not serving the public by letting this type of thing through.

Mr. Chairman: Councillor Chamberlist will you take the Chair?

Mr. Taylor: Mr. Chairman, I don't see where we are getting anywhere in this debate. I will tell you why. There are a lot of things in this world we can't do and if we attempt, all the way through this Ordinance to make all the things we can't do so that we can do them, we might just as well not have an Ordinance at all. We might as well throw the liquor question wide open, retail liquor from a government liquor store to ensure the taxes are paid, throw it to the wind, and let the kids take it to school with them or do anything you want but obviously in this society this does not work. Now what we have done is come up with a piece of as progressing a liquor legislation as can be found anywhere in the Dominion of Canada or indeed it is as liberal over in the State of Alaska in some respects. Now we have some, we have nineteen year olds drinking here and there are no nineteen year olds drinking in Alaska to my knowledge but in any event we are coming up with a good piece of legislation and it seems to me we are going to have to give and take all the way down the line. When it comes to this question of room service, and I feel it is quite fair, that a licensee who has a hotel regardless of how many rooms and he has a cocktail lounge and he has guests in his hotel, he can provide them with room service under the legislation as proposed.

BILL #6 Mr. Taylor continues...

However, if he has not a cocktail lounge licence what kind of licence are you going to create for this situation for all the hotel and motel operators up and down the Alaska Highway. You have to make it fair for everybody so that means that every hotel operator can be serving booze out of his little 2 x 4 office in a hotel shop with no controls on it, no licencing, then what about the licenced operator, what is he going to do? He is paying a licence of so many hundred dollars a year for the privilege of serving liquor and he has lived up to all these other commitments that are laid down in the Ordinance. What is he going to say about this? Now, if you look at it realistically you will find that, without all these other side issues and incidents, we are attempting by some method or another, possibly putting beer into grocery stores, a subject which we will be discussing later on I am sure and it may be that we may decide, in order to get beer on Sundays as we do during the week, that we might say all licensees may be able to serve off premise beer on Sunday. I don't know what we are going to do when we get to that question, but certainly this piece of legislation is making liquor more available than ever before for the general public and I think on this point this section is good and it should be left as is.

Mr. Dumas: Mr. Chairman, I think there have been a couple of good points raised and one that if there is a tavern in the building and no cocktail lounge, because it would not be necessary if there were a cocktail lounge under the Ordinance as proposed. If there is a tavern they should be allowed to serve beer to the rooms. If there is a dining room they certainly should be allowed to serve liquor with the meals that they serve in the rooms. There may be only a dining room in the hotel but certainly if you can have liquor with your meal if you go to the dining room and they serve the meals in the room, you should be able to have it there. However, there is no way that a hotel that has neither a tavern or cocktail lounge licence or dining room licence should be selling liquor so I think I would go along with the changes in there to read that where there is only a tavern and where there is only a dining room, that they be allowed to serve liquor in the rooms.

Mrs. Gordon: Knowing the travelling public, having sometimes been the travelling public myself, I am quite sure that every member of the travelling public will patronize the areas where the service they want is provided. If they want room service, no matter what type of room service, whether beer or hard liquor, this is the type of place they will patronize and the man who has an establishment that wants to draw a particular type of trade, he will provide this kind of service. There is no other answer to the situation.

Mr. Taylor: Just before I resume the Chair, in light of the remarks of the Honourable Member from Whitehorse West, I would like to say that when you are considering, and if you consider the matter of getting beer out of a hotel on a room service basis that only has a tavern and no cocktail lounge, if and when we consider the question again of how we are going to make beer available on Sundays and if we decide at that point in time that any tavern can sell beer for off premise sales on a Sunday or any licensee for that matter, then your problem is answered in any event because of there is a tavern in the premise, the tavern is entitled to sell off premise beer so you can deliver it to his door or he come down and get it. In other words I don't think it is that important a point.

Mr. Livesey: Mr. Chairman, this debate sounds more like a propagation of a self-righteous tribunal. What sense could there possibly be in one man taking a bottle of liquor into a room if he has a cocktail bar and the other one, because he has a tavern he can't carry it to the room. What are we talking about; this is ridiculous. Why don't we make it equal. No one in business is going to understand that anyway. This is just once again, in my estimation, administrative thinking and we were not elected on the basis of administrative thinking and we have the power to change this Ordinance if we want to and let us have the intestinal fortitude to do it. BILL#6

Mr. McKinnon: I would like to hear Mr. Legal Adviser's objections; if a place has a tavern licence, what difficulties there would be in providing an amendment to allow the tavern to serve, or....the tavern licence to be allowed to serve beer to a person in his room because if a person has a dining room lounge licence and serves a meal in a room, what difficulty it would be to amending the Ordinance to allow such dining room licence to bring a drink to the person ordering a meal in his room. It seems sensible to me.

Mr. Legal Adviser: You can have a dining room licence without a hotel but any hotel which has a dining room will almost certainly have a cocktail lounge. This is automatic so I don't think we can seriously consider dining rooms. It might work out this way that a person may have a dining room without having any bar at all attached to a motel in which event he is being treated completely differently by reason of having a dining room licence than any other business because he has liquor privileges without the necessity to have a certain number or a certain class or a certain type of bedroom attached to it, because a dining room is independent like an English Public House; it has no condition attached to it that he must have so many bedrooms so I think that first of all we can exclude dining rooms from consideration ... Now so far as a cocktail licence and tavern licence is concerned, there are many taverns which can go into five bedrooms - they are not seriously in a position to provide room service, they don't have the staff or the facilities. As well as that, except in relation to Whitehorse alone, there is a difference in standards, different conditions between the particular premise which has a tavern and a cocktail lounge. The person with a cocktail lounge is usually a higher grade and he is setting out to maintain higher standards and charges more and his guests expect a different type of service. Now this isn't entirely true because conditions change along the highway but more than that is the fact that the guest, he wants his service and he expects room service for alcohol. He expects to be able to order the service he wants which may be beer, may be gin and tonic, etc., the tavern people can only sell him beer. Usually you can gear up for these type of sales.... he doesn't have the staff to provide after-hour service and look after him. Most of them are smaller operators and the thought was and I think, far from trying to limit the members, this particular section was put in by the Administration. It wasn't in the previous Ordinance.

Mr. Chamberlist: All of it was put in by the Administration.

Mr. Legal Adviser: Not one of the Honourable Members suggested that this change be made. It was purely the Administration trying to make improvements that suggested this. Now, we moved slowly, we are not trying to make a federal case out of it. We moved slowly with a certain amount of caution to see



BILL #6 Mr. Legal Adviser continues...

what we can allow in it. There very well may be abuse, abuse in some of the premises in Whitehorse who get this service and that is why we have it in, that we are going to regulate it, with regulations rather than try and invent at this time an answer to all the problems that we may face in the future. It is purely in the hands of the House whether they let - what type of licence can have this service. This is our suggested type of section; we are happy with it but if the Members want to extent it that is purely a matter for them.

Mr. Taylor: I will resume the Chair.

Mr. Chamberlist: It appears to me, and I said this a day or so ago, that when the Administration brings forward legislation and puts into that legislation areas that they know full well will be contested, they are really creating a barrier between Administration and this Legislative body. There is no doubt in my mind that we will take as an example a very fine establishment, the Edgewater Hotel, I tell you I am not connected in a pecuniary way with it, now they have a dining room there which I consider a first class one. One of the guests in that hotel wishes to order a steak dinner and asks for a drink to be sent up, with the dinner and as a part of the dinner, he will not be able to have it and it seems to me a piece of stupidity that we are trying to promulgate against the people. The time might come along Mr. Chairman when Mr. Legal Adviser may be in the same position because he enjoys a beverage, I know full well, with his meals, and he won't be able to get a meal or drink with his meal. Now, it seems to me so improper that we should have this type of thing in there. Now, on second thoughts after hearing the remarks made by the Honourable Member from Whitehorse West, I withdraw my suggestion about granting liquor to just residential hotels because obviously a person who builds a residential hotel did not want liquor in there in the first place so there is no reason for it. I will give way on that but in those areas where we are compelled, by legislation that a 30 room establishment be built for a tavern and that a 30 room establishment be built for a hotel, that a dining room can get a dining room licence, that people can go and eat in that dining room and have a drink with their meal to upgrade the situation for the travelling public, now we are going to say to that same travelling public, if you want to eat and drink you go to your dining room. Yet, Mr. Chairman, says right, but has he ever seen a cripple, with crippled legs, who has to be put in a bed and keep him in his bed and you can't give him a drink. What are you going to say. Are you going to let him drink for medicinal purposes. If the man wants to eat and have some wine with his meal - he said right. There is no doubt in my mind that if you are talking about - and this is where, Mr. Chairman, speaking as a representative from Watson Lake referring to let us have some progressive type of thinking, he used the wrong word, he should have said some liberal thinking in this, that we liberalize the darn Ordinance. Now we don't liberalize the Ordinance by restricting the use of the areas. Now here are three distinct areas and I tell you I am going to keep talking about this, I am not going to give way because here is something that we should really be fighting for to make sure that the Administration does not push upon us something that tries to blind us to the fact there is a necessity to be consistent with the legislation that has already been put through. If a tavern has got to have 30 rooms, it is entitled to serve the liquor that it is licenced for to its guests if you are going to have room service; otherwise take the lot out, no room service at all. You just don't say to a hotel because some people just like to drink beer that you can't have it unless you go down to your room to get it. Now this is not right.

Mr. Chamberlist continues...

BILL #6

I would ask that this be supported. If Mr. Legal Adviser can say, Mr. Chairman, that there is administrative objection to any alteration to this particular section I want him to say so or forever hold his peace so that we can get a piece of amendment into this.

Mr. Chairman: Mr. Shaw, will you take the Chair a moment?

Mr. Taylor: Mr. Chairman, I can't agree that the Administration should be berated on this particular point. I feel that Administration has pointed out through the good offices of the Legal Adviser that this was put in here by the Administration, the Council didn't ask for this, but drew it up here for consideration and discussion and I don't feel that the Administration should be berated on this whatsoever. As far as being liberal in my thinking, I must say that I certainly attempt to be liberal in my thinking and when I said progressive I didn't say progressive - I said progressive, I didn't say Progressive Conservative, for the edification of the Honourable Member. I feel that the legislation as stated is good, it is a step forward and I can see no problems as expressed by the Honourable Member from Whitehorse East. I feel that we are doing nothing but wasting time by attempting to reshape this thing. I think it is good and either leave it or toss it out entirely and don't have any room facilities in the Yukon at all.

Mr. Livesey: Mr. Chairman I would like to be positive in this and I figure I have listened to too much negative so here is a motion and I would move, seconded by the Honourable Member for Whitehorse West, the word "tavern or dining room" be inserted after the words "cocktail lounge" in subsection (1) of Section 64 of the Liquor Ordinance.

Mr. Taylor: I will resume the Chair at this point.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: One thing I will say is that I do not feel that Administration should be berated for putting something in here that is progressive. I think there must be reason in our thinking and discussions. I agree that if someone wants a bottle of beer from a licenced tavern sent up to their room, I can't see anything wrong with that and likewise, if someone wants a drink in their room. I have listened quite a lot about phoning down to the lobby or wherever it is and wanting to have this service in a tavern. I wondered how many rooms, or how many hotels on the Alaska Highway would have telephone service in the rooms to connect - I just bring it up as a point because this has been stressed on four or five occasions by the Honourable Members. I think that if we are going to extend the objects of having liquor in purely restaurants or dining rooms or what have you, we may be entering into a field or just another way of circumventing the necessity of getting a cocktail licence. I would feel, Mr. Chairman, that where one has an hotel and a beer licence, they should be able to provide beer to the guests in the hotel. Those who have a cocktail licence should be able to provide liquor to the guests but I cannot see where a person holding a beer licence will start selling liquor upstairs to the guests, that is just contravening the various and sundry sections that we have so, you have a beer licence, O.K., have beer, where you have a cocktail licence, have liquor. I think if we did not go any farther than that at this time to see how it works out, I feel it would work out quite well. It could always be changed at a later date. It is not taking something away, Mr. Chairman, it is bringing something into the liberalization as

BILL #6 Mr. Shaw continues...  
it is called, of drinking booze. I don't know how much more liberal one can get, particularly when you look at about 19 outlets around the City of Whitehorse where you can imbibe. I think there are more liquor outlets than any other individual business by about three times. Another thing in this matter, I think that when we do institute this, there should be with each one of these a licence to take it upstairs and I'll give you the reason why. I don't say you charge for the licence because there are some hotel keepers who do not want to provide liquor in the rooms because they get parties going and it disturbs many other guests. That is a consideration and I think it should be optional whether they accept that type of licence. If they want it fine, it doesn't cost them anything. If they don't that might be one way of, they say, they will not provide room service because they may not wish it. Those are my feelings respecting that but I do not agree with one having a dining room licence and that should include the facilities of more or less having a cocktail licence.

Mr. Dumas: There are several points I would like to make and one is that any of these things are not mandatory and if the hotel has a cocktail lounge, they don't want to serve liquor to the rooms under the cocktail lounge licence, they certainly don't have to. There is no problem there. But I do think we must include the dining room and for the very good example that was made of a hotel here in town that has it, an excellent dining room and would probably serve meals in the guest's room and they should be allowed to serve liquor with the meals. I think the regulations would take care of this as to whether they can sell liquor at any time or just with the meals. By the same token, although the Motion which I seconded reads that a tavern might sell liquor to a bona fide guest, I think the regulations could lay it out that a tavern in fact could only sell beer to the guest in that room and this can be done. I think that we are all probably pretty well on the same track on this thing, Mr. Chairman, and the changes wouldn't be of such great moment as to cause or create any uproar in the administrative part of the Territorial government.

Mr. Legal Adviser: The changes would not cause any uproar but I am just - when extending it to dining rooms for dining rooms are a complete class apart from cocktail bars and taverns, both of which are attached to hotel licences, so it might be that an establishment that you might not want to have a bar licence will get, in effect, a bar licence by...in a room and blow a clean hole right through the regulations. It is a question of nervousness on my part. We are quite prepared to accept whatever the House wants as this is not a federal case.

Mr. McKinnon: I have a problem accepting Mr. Legal Adviser's argument because the only way that they could act as a cocktail lounge to circumvent what we are trying to do is to have an actual seating where they are pouring the drinks and that would be in direct circumvention and contravention of the regulations. If they want, if they find that the guests keep saying why can't we come down stairs to have a drink then they will have to apply for a cocktail lounge licence. I can see it working with no difficulty at all.

Mr. Shaw: It is fine talk in here about how this and that works. When we started up having wine and beer in cafes, there are many cafes Mr. Chairman, and I think and all Members here think where on a Sunday it becomes almost in effect a beer parlor. There is nothing good about that when you go down and have a bunch of drunks laying all over the country. There is nothing wrong - in fact I think a bootlegger would be

Mr. Shaw continues....

much less offensive to the public - why there is such a kiyi about bootleggers I really don't know. I doubt if there is any Member in this room who has not utilized the services of a bootlegger and can stand up and say so.

Mr. Chamberlist: I object to that, Mr. Chairman, I will stand up and say that, because I never have.

Mr. Shaw: Well, thank you, there is one out of seven, that is pretty good average.

Mr. Livesey: I'm pure too, Mr. Chairman.

Mr. Shaw: Well, we have two pure, but we still have a majority. But when we come to dining rooms I do think, Mr. Chairman, that you start putting a wedge in there that might get to a point where it will be very very hard to control and that is what I am thinking about. If we make a start with the beer and the liquor, that is sensible, but when you include the dining rooms I think that is too far. I will go along with this motion if it were beer and liquor but I will have to go against the motion if you include dining rooms because I say, let us try this other first. Next fall or next spring we can add to it; just see how this one works first, just give it a chance.

Mr. Chairman: Councillor Shaw, will you take the Chair?

Mr. Taylor: I don't know how this vote is going to come out but I think if it does ever wind up a tie vote I will have to make a decision on this so I might as well make my stand clear before that. I will buy the argument on the tavern but I certainly cannot buy the argument about the dining room because I can see, from thinking about it, the abuses which will result and will most definitely result out of the dining room liquor licence becoming involved and I can see one in my own community. Let me say we've got a hotel, one small hotel in my community, I won't mention the name of it, and it has only a tavern, no cocktail lounge, and it is contemplating putting up a dining room and with a dining room they can run liquor wide open in this place without having a cocktail lounge and it happens to be a place that is frequented by an element that go right wild over these things. I can see where it just would not work and I feel it is doing a disservice to the other people we are trying to encourage to provide good service in the Territory. If the Motion, if the Chair has got to cast any sort of deciding vote in this matter I will buy the tavern part but I certainly won't buy the dining room and I will have to reject the motion were I to vote on this grounds.

Mr. Dumas: Mr. Chairman, that argument just doesn't hold water. If this person wants to open up a liquor establishment, surely he would apply for a cocktail lounge.

Mr. McKinnon: The other argument, Mr. Chairman, if the dining room regulations are what the feeling of this Committee has said they should be, then he is going to have to build himself such a high class establishment that he changes the whole tenure, he changes the whole policy of hotel type that he is now running and makes it into a first-class establishment which is the whole concept of the thing, upgrading the hotel facilities throughout the Yukon and he should not be getting a dining room licence unless he is prepared to do this. If he does then there is no objection to him taking liquor to the rooms whatsoever.

BILL #6 Mr. Taylor: Mr. Chairman, he can still - we were talking about a dining room and a couple of washrooms and a kitchen and he can have a flea-trap attached to the thing and this would give him the prerogative of running room service to whatever few rooms he has. I cannot see this. I think that it is totally unfair to the other licencees where we have created licences we created in the Ordinance. I will resume the Chair.

Mr. Legal Adviser: Mr. Chairman, only in the case of the dining room, we just licence the dining room per se. There is a dining room which I think is opening today in Whitehorse which has got a licence and it is just limited to one room and that is the dining room. Now if this owner wished to put on a bedroom on to it, then that is not licenced but if we change the section it gives us a liquor ..... and so on. In the case of a hotel which has a tavern or a cocktail lounge, the whole of the premises is licenced but I wish the Honourable Member would stop shaking his head at me. One part of the premises is designated for sale of liquor. Now we deliberately in this changed fractionally the method of licensing a hotel in order that the area.....or garden of the premises even outside the building will be available for the sale of liquor in the .....time of the licensee so wishes. But in the case of a dining room it is only just a four walls of a dining room, not even the kitchen is licenced, but the dining room where people eat and it is licenced completely apart from the rest of the building.

Mr. Chamberlist: Mr. Chairman, I disagree with Mr. Legal Adviser's interpretation of what part is licenced, disagree most strongly. It seems to me that there is an opposition to licensing of dining rooms and as far as I am concerned I think a person should be entitled to have a drink with his meal.

Mr. Shaw: Mr. Chairman, what we can be doing here is that a person could put up a first-class dining room and get a licence for it and be quite qualified to receive a licence. At the back he can have three or four rooms or an annex, and call it an hotel so he will have the right, without putting up any accommodations to in fact start up three snake rooms in the back. That is what it amounts to. There are no restrictions. He can add two, three or four rooms, and they can be well known as real partying areas and that is where this can be supplied to. When you start in the dining room, I tell you Mr. Chairman, I am very much against that at this time and I will vote against it and it appears to me my cause will be lost in any event by the looks of the situation. I just hope that at least the Administration will make the dining room facilities so high class that even at that - I don't think - it just opens the door, absolutely opens the door and pulls down the structure of the present system that we have.

Mr. Legal Adviser: There is just one point Mr. Chairman, the member should remember that when we were attempting to make the dining room regulations really high class the sections were defeated section by section by section and I hope the Honourable Members remember that.

Mr. Chairman: I have a motion before me. Moved by Councillor Livesey, seconded by Councillor Dumas that the words "tavern or dining room" be inserted after the words "cocktail lounge" in subsection (1) of Section 64 of the Liquor Ordinance. Are you prepared for the question? Would those agreed kindly signify. Would those contrary kindly signify. I must declare the Motion carried.

MOTION  
CARRIED

MOTION CARRIED.

Mr. Chairman: Alright, the next Section is Section 65  
(Reads Section 65(1),(2)).

BILL #6

Mr. Chamberlist: I wonder if Mr. Legal Adviser would not reconsider this 65(1), the wording "except such liquor as may be endorsed on the licence" - do we have to say what type of liquor, is that endorsed on the licence?

Mr. Legal Adviser: We are going to endorse it but whether or not it is now. To make it clear to a person who is looking at it - in a tavern you can buy beer, ale, cider and what have you, in the other you talk about spirituous liquor or something like that or you talk about wine and so on.

Mr. Chairman: (Reads Section 66).

Mr. Chamberlist: Before you go any further Mr. Chairman, I wonder if we have made provision for the areas that we have now for shuffle board and things like that, have we provision for that?

Mr. Legal Adviser: It is not that we have provisions for it, we have taken the provisions out I think. We took them out earlier but shuffle board would not be considered either a gambling, riotous, quarrelsome, violent or disorderly game, not under normal circumstances. It is not a gambling game. People may gamble on the results of the shuffle board but as such it is not a gambling game, it is a skill game. Bridge for instance has been held in the Supreme Court to be a gambling game and it would be prohibited but shuffle board would be permitted.

Mr. McKinnon: Mr. Chairman I wonder if I can ask Mr. Legal Adviser with the change in the Criminal Code if slot machines used for gambling are still prohibited under the Criminal Code.

Mr. Legal Adviser: Yes, Mr. Chairman, they are still prohibited-  
.....by provincial laws which in this case would be our own laws.

Mr. McKinnon: Could they be legalized?

Mr. Legal Adviser: Oh, they could be legalized, we could have one-armed bandits, but only this House can permit it.

Mr. Chairman: (Reads Section 67, 68, 69).

Mr. Chamberlist: Mr. Chairman, this can put a lot of people into trouble. The proof of the removal of any liquor from that part of the licenced premises where this is permitted to be sold is prima facie proof of the sale of liquor. Now supposing somebody leaves his hotel room and goes into a coffee shop in the premises that hasn't a liquor licence. He leaves the coffee shot and takes his bottle with him. It would be prima facie evidence that this outlet that has sold the liquor the night before sold the liquor during that time. Well, this doesn't appear to be a just section.

Mr. Legal Adviser: Mr. Chairman, laws don't always set out to be just, very often they are technical things which force the other person to answer something and prove in fact that he is acting justly. In this case the type of conduct which is designed is that three or four people will be in possession of liquor say coming toward two o'clock which is the closing hour and they all adjourn with bottles in their hands down to the coffee shop and they continue to drink. Now the intention is that if that coffee shop is part of the licenced

BILL #6 Mr. Legal Adviser continues... premises they are not supposed to keep on drinking there after hours, it is all part of the one licence premises. So, a licensee could in fact run....by having a few cases of beer behind the coffee shop bar and sell the liquor until five, six or seven a.m. This might be acceptable if we had 24 hour licencing but we haven't so you are permitting people to run a ..... by a coffee shop or operating in the corridor or something. You have got to make it prima facie simple. If 3 or 4 men are standing there with gins and tonic at five in the morning, under suspicious circumstances and are charged with buying liquor contrary to the Ordinance, they have got to show cause in Court if they are charged. It does not make them automatically guilty. All they have to do is explain how they came by it; if they came by it perfectly legally in a normal manner, that is fine, otherwise the magistrate is going to draw conclusions. It is a technical proof section to make it a little bit easier to get a fair case before the magistrate.

Mr. Chamberlist: Except that in this instance it is not the prima facie proof of the person who has the liquor that has to say to a court how he got the liquor. The way this is written it is prima facie proof that the licensee has sold that liquor contrary to the Ordinance and this is what concerns me, that the licensee does not know anything about it. I have given an instance of where a person may well take his bottle out of his room at two o'clock in the morning, which he has purchased properly during proper hours. One of his buddies has called him up and says come on over and bring a bottle with you. Come and have a party at my house so he leaves the hotel with this bottle in his hand. Now, proof of the removal of any liquor from that part of the licenced premises where liquor is permitted to be sold is prima facie proof of the sale of liquor by the licensee, contrary to the Ordinance. The licensee is asleep. All he has is a night clerk on the switchboard and the guy walks out the front door with the bottle, the licensee is subject to a penalty because of prima facie proof that he has been selling liquor.

Mr. Legal Adviser: He is not subject to a penalty, Mr. Chairman, merely by that fact. It is possible that he may have to answer in court, it is prima facie proof. Prima facie proof would not get him.....but if a man is found under, somewhat suspicious circumstances, with liquor in his hands, coming out of the back of a bar at two in the morning or three in the morning with a bottle in his hands and the police will make the reasonable assumption that he has just bought the bottle in the bar. It is just a proof thing. So far as I know this is in the law as it is at the moment and hasn't caused any difficulty.

Mr. Chairman: Councillor Chamberlist, will you take the chair a minute?

Mr. Taylor: Mr. Chairman, I have problems with 68 and 69 and maybe Mr. Legal Adviser can clear this up. First of all we'll deal with 68. It states that a licensee of a tavern or cocktail lounge may sell, during the periods when liquor is permitted to be sold, beer for consumption off the premises to any person. I think it is here that we should be looking at the matter of providing off premise beer sales for Sunday, in this section and if I might just skip ahead and we will get back to this discussion, I would like to ask a question in relation to 69. You say except as provided in sections 64, which is the hotel room section, and 68 which is the tavern or cocktail lounge, liquor purchased from any licensee shall not be consumed elsewhere than in that part of the



Mr. Taylor continues... BILL #6:11  
licensed premises where liquor is permitted to be sold.  
Am I to understand from this that it is the intention of the Ordinance to curtail the sales of off premises liquor from cocktail lounges?

Mr. Legal Adviser: No, they have a special licence that you can go in and take your bottle and go away but in the case of a tavern for instance, although a tavern may have a licence, you can't necessarily consume. Some taverns have special permission to sell a bottle of hard liquor. This does not mean, or is not intended to mean, a section does not always turn out exactly like butter out of a jar. The intention is that you have to take your bottle away and consume it somewhere else, not in the tavern. If anything else can be implied to this I prefer to change it.

Mr. Taylor: Mr. Chairman, I would like to draw to the attention of the Legal Adviser that it would appear from my point of view that the Ordinance is in conflict here and we would have to add "except as provided in Section 64, 68 and the other relevant sections", that you could indeed take liquor off and consume it off that premise. It seems to me there must be some conflict between another section of the Ordinance and this, which would permit the off premise consumption. Just now, to return if I might, Mr. Chairman, to 68; I took up this matter when I was out on holidays again, Christmas holiday when I had my public meetings down the highway. I raised this question both with the operators and with the citizenry and asked them about the putting of beer in grocery stores. Though they weren't opposed to putting beer in the grocery stores they did not feel that this would solve the purpose of getting beer to the public on Sundays because most of the grocery stores in that area are closed on Sundays and it was suggested by several, and I have a tendency to agree, that where any licensee, tavern, cocktail lounge, restaurant, preferably restaurant dining room is functional on Sunday that possibly they could be permitted to give off premise sale to beer and this is what I would like to suggest for consideration of Committee as a means of getting around this problem, in addition to permitting the sale of beer in grocery stores.

Mr. Legal Adviser: Is it suggested Mr. Chairman that we let all taverns, cocktail lounges sell beer off premises, and restaurants, at any time? Let us put it this way. So far as the Administration is concerned there are no hard feelings on it. We would far prefer to keep the sales within the sphere of a licenced premise of some sort over which we have some type of control but we resist moving into grocery stores because we have no control over them and because researchs show in the one province which permits it the thing has gone haywire and is subject to no control whatsoever. This is our information.

Mr. Taylor: Mr. Chairman, am I to get it then from the comments of Mr. Legal Adviser that were the Council agreeable to pulling in their horns, so to speak, in relation to the grocery store aspect, this particular year, that Administration will allow all licensees and this would keep it within the realm of the licensees to self off premise beer seven days a week.

Mr. Legal Adviser: I think so. I don't want to give you a definitive answer on this because our thought was to let the Board do it and to give permission to restaurants in scenic areas or areas where there was a need to do it. This may not be acceptable but so far as I know, my basic thought and I think the Commissioner goes along with this, whatever

BILL #6

Mr. Legal Adviser continues...  
the Council decides is a viable proposition and it is not essentially crazy as some propositions occasionally are, on examination, which is not essentially a crazy proposition, we can go along with it and put it in.

Mr. Taylor: Mr. Chairman, I rise again to point out that the areas of scenic grandure and so forth has no....

Mr. McKinnon: As crazy as I can think, you are right, from the Administration.

Mr. Taylor: That has no real bearing on it. What I am attempting to propose as was proposed to me by my people is that any licensee, obviously must be competent to have a licence or else they would not have one, and number two is that the only place you can get a beer right now on a Sunday is to go into these restaurants and if you wanted to take your family in many areas, forget it because it is just a Sunday beer parlour as Councillor Shaw pointed out earlier. There is a cheese sandwich or a plate with a few crumbs on it and everybody can sit there all day Sunday and drink beer and it is done and nobody can deny it is done. So, why not make it possible for beer - we've got a greater problem with dope than we have with beer so why not let beer, bring it out and let people have beer on a Sunday or any time when the licensee is open and all licensees who are permitted to sell beer should have this prerogative of selling off premise beer seven days of week within the hours that they are permitted to operate under their licence. This is what I am saying. If this was acceptable to the Administration and the Council I would withdraw my support at the moment from putting the beer into grocery stores.

Mr. Legal Adviser: If the beer stays out of grocery stores I think we can put it where it belongs. The question is the hours. The hours may not be termed suitable for Sunday. Your liquor hours may be running from say six in the evening until two in the morning or four in the afternoon until two in the morning. It is just a thought, ten in the morning to ten at night or midnight, just a thought.

Mr. McKinnon: Ten in the morning to twelve midnight in all licenced premises on Sundays.

Mr. Legal Adviser: For off sales of beer, again it is not a suitable thing for dining rooms because dining rooms won't be geared up for this type of thing but it doesn't make much difference, they can gear up. All people who handle beer should be able to sell it during the normal hours and in addition to that on Sundays from ten in the morning until midnight, for off premises consumption.

Mr. Livesey: Mr. Chairman, do I understand that this means that the cocktail bars and taverns are now going to be open on Sundays because, I don't understand it, if they are not going to be open how they can sell off premise sales?

Mr. Taylor: Mr. Chairman, I would like to say before resuming the Chair that if Council would agree and Administration agree on this I think we'd be really doing a service to the public because with the off premise sale of liquor, in the manner that we now do it, it has made these things more available and it has cut out the bootlegger. People can now buy liquor at a reasonable cost instead of going and paying \$10, \$15, \$20 for a bottle to a bootlegger. If we can accomplish this I think we will cut out the bootlegger completely and give people something that they really want. I'll resume the Chair.

Mr. Legal Adviser: Mr. Chairman, I'll buy it.....but I'll BILL #6  
certainly draft a section.

Mr. McKinnon: Mr. Chairman, I can't leave it go unanswered when Mr. Legal Adviser stands up and says the Administration would be willing to accept ideas that aren't crazy; if I've ever heard some crazy ideas, the majority of them seem to come from the Administration. Now who could ever think of a crazy idea of putting something in a Liquor Ordinance that says where in an area of scenic beauty you can have off premises sale of beer. I can just see Destruction Bay Lodge probably could get it because they are on the shores of beautiful Kluane Lake, a wonderfully scenic area could get a licence and Marsh Lake Lodge probably couldn't because they weren't scenic enough, and Mr. Chairman, if that's not a crazy idea I don't know what is.

Mr. Legal Adviser: Mr. Chairman, in justice to me, I think the Honourable Member recalls that the reason he put forward when the original suggestion of selling beer in grocery stores was concerned was because there were people who were going out to places of scenic beauty, fishing and hunting, and they needed a case of cold beer when they were fishing.

Mr. McKinnon: And they could take it from outside...

Mr. Legal Adviser: Our response to that was that well then maybe a case for a person who is going out fishing or hunting and then provide it and then the Board decide where it was. It doesn't seem to me very crazy.

Mr. Chamberlist: Mr. Chairman, you raised a question on Section 69 and it made me look again at another thing which I think Mr. Legal Adviser should take a look at. It is this one word in there which seems to defeat even purchasing hard liquor in a tavern and drinking it outside because it says "except as provided in sections 64 and 68," and you know what 64 deals with, it is hotel rooms, and 68 shall not be consumed elsewhere. That means it can't be consumed anywhere else. That one word!

Mr. Legal Adviser: This section comes from the existing Ordinance. It didn't get too thorough a going over except that the correct section I think was put in....64 and 68,...

Mr. McKinnon: Mr. Chairman, I have one other difficulty, on Section 68 "A licensee of a tavern or a cocktail lounge may sell, during the periods when liquor is permitted to be sold". Now can anybody tell me why beer for off premises consumption shouldn't be allowed to be sold when the licensed premises is allowed to be open because the difficulty that you always arrive at particularly if you are in the bar business is people who want a case of beer to go home with, or a bottle between two and two-thirty. I'll use cabarets as an example, and there is just a never-ending stream of complaints and actual fights breaking out because the licensee cannot give this person the case of beer to get him out the door and get him going home on his party, because he hasn't ordered before two. I don't see any difficulty in allowing this to be sold while the licensed premises is allowed to be open and it would do nothing but aim in removing people from the premises and in having more rather than less control of the customers in the bar.

Mr. Legal Adviser: I agree Mr. Chairman, .....I don't usually stay until the premises are shut and I haven't seen this.

BILL #6 Mr. McKinnon: I was in the bar business, Mr. Chairman, and I know.

Mr. Shaw: Mr. Chairman, I would like to direct this question to the Legal Adviser. When we are talking about selling these off premises, are we going to be assured that there is going to be a control on the amount that these are sold for or is this going to establish a sort of legalized bootlegging proposition?

Mr. Legal Adviser: I don't know exactly what the present position is. I think there is no price control at the moment. As I understand it there may be an understanding but there is no control, but in hard liquor there is control but you can't sell for more than a dollar or a dollar fifty more than the control price. I don't think there is any control over the price of beer.

Mr. Chamberlist: You know Mr. Chairman, the licensee doesn't make any money out of selling off premises beer. He doesn't. You buy a bottle of liquor for \$7.10 and you can only put a buck and a quarter on it so you get \$8.35 for it and you have to keep it and store it and handle it. You get about, you make about 10% for doing all that. I'm not suggesting it go up but it is a convenience for the public that the licensee gives as he doesn't make that much out of it.

Mr. Shaw: Mr. Chairman, if we go back through the records of the Council when this was permitted to sell off licence beer, the big song and dance was that the bootleggers were capitalizing on this and making money off of people and so on and you could not control it and now, if the persons can sell it off premises and they don't want to make a big profit, just as a convenience to the public and now it appears that it is a convenience to the fellow who is selling it to make a profit. I think the way the situation is set up right now is fair. If you don't want to sell it you don't have to. You can make any charge you want in the bar but when we have a deal where we are selling off premises, something like this, to prevent this bootlegging and cut down the bootlegging, because if you let this affair go to the stage where people can charge what they like I know exactly what is going to happen. If people are going to be charged \$5.00 and \$6.00 a bottle well then the bootlegger will step in and he will sell for \$3.00 and \$4.00 a bottle. So, on the one hand we hear about how terrible the bootlegger is and then on the other hand we go in the opposite direction We have to be consistent about this and I think if people want to sell off premises they can; if they don't want to, fine, and many of these owners, different ones right in Whitehorse have stated to me that is darned good revenue because it is a complete turn-over as they get their money back, cash. If a person can operate a business and gets cash for about the same amount as his own groceries, there shouldn't be any complaints. I just want to assure, Mr. Chairman, that this is control for the benefit of the public.

Mrs. Gordon: Mr. Chairman, in addition to this I think that since we do have control on the sale of spiritual and liquors, there should be a difinitive amount of mark-up on beer and ale.

Mr. Legal Adviser: I couldn't give you any undertaking whatsoever if there would be any control on the price of beer because I know the Commissioner.....at the thought of imposing any price control because it is so difficult to enforce and leaves so much bad feeling.

Mr. Chairman: May I proceed? (Reads Section 70(a),(b)).

Mr. Dumas: Question, Mr. Chairman, it seems to me there was a court case in Quebec within the last year when there was the liquor strike in Quebec and it was proven to be ultra vires of the provincial body to deem liquor brought from one province to another within the country to be illegally held and I would suggest that this be ultra vires of this body to include this section.

Mr. Legal Adviser: I'm not sure exactly what the effect of the Quebec case was, it was a magistrate's court case.... We need to have some kind of a section, some kind of control over liquor but the only control we can actually exercise is over Canadian liquor, not foreign liquor or vice versa. We can exercise control over foreign liquor by virtue of the federal authority but we can't exercise control over liquor which is manufactured in one province and transmitted to another. I think rye and beer could be controlled but scotch, whiskey and vodka, these are not manufactured in Canada and could not. This section is the same section as in the old Ordinance but there may be just a slight change, I have forgotten.

Mr. Chamberlist: Mr. Chairman, first I'll speak about the case referred to by the Honourable Member from Whitehorse West. What happened was that somebody had purchased some liquor in Ottawa and had gone to a party in Hull and they were prosecuted for purchasing liquor in Ontario and taking it into Quebec. It was held that the British North American Act and it did go to the Appeal Court and was successful. The B.N.A. Act made it that anybody could transfer goods from province to province that was made or manufactured in Canada. Now, you could not for instance go across to Atlin and buy a case of Heidleburg beer and bring it to the Yukon because it was manufactured outside of Canada, then there would be a necessity for that. However, there is one other area I think should be looked at. It is this section "a person who is entitled to possess or consume liquor may lawfully have or keep not more than 25 oz of spirits or 30 oz of wine." Now, the Customs and Exise permits you to bring in, if you are out of the Territory, after a certain time, I think it is 40 oz of liquor. This is what the Customs permit you to bring in. Are we going to be placed in the position that we were placed in once before when I had to take a case here myself and win it on the basis - didn't win it but I think we got a \$1.00 fine and we had the Ordinance amended because a man, as part of a ball team went to Juneau and when they came back they brought back these small cans of vodka mix and it was a closed can and it was held to keep somebody's accelerator down in the car and the policeman came along and found this and charged the man with being in possession of liquor not purchased in a government liquor store. I took it to the Court and the magistrate, because the law read like that, the magistrate gave a minimum penalty of \$1.00 but the person, the ball player had declared this stuff to the Customs Department. I put the Customs Officer in the witness stand and he said yes, I let him through but the Territorial Government, the police prosecuted on the basis of the Territorial Government Ordinance that it was not purchased in a government liquor store. What I am afraid of here is this, that the Customs allow me to bring in 40 oz. of liquor, so I step off the plane, out of the airport, the police grab me and charge me with being in possession of more than 25 oz. Am I supposed to pour 15 oz. out before I get out of the airport, or drink it - well then you get the breathalyzer test! They have you coming and going, whatever way it is. But really, I think we should have some wording in this to the effect that what is permissible to bring in by Customs and Exise, what should be the amount. The words, because it might change from time to time, Mr. Chairman; one year it

BILL #6 Mr. Chamberlist continues...  
might be 40 oz. and then they might change it to something else.  
Perhaps if Mr. Legal Adviser would reconsider that section.

Mr. Legal Adviser: Yes, this seems to me a very intelligent suggestion. I will try and come up with something which will cover this because the story I just heard is completely ridiculous.

Mr. Chairman: May I proceed: (Reads Section 71, 72(1),(2), (3)).

Mr. Chamberlist: Mr. Chairman, where is there a place that liquor may not lawfully be kept under this Ordinance?

Mr. Legal Adviser: I'm not sure, we may have to have regulations dealing with outlets as to where it may or may not be kept but at the moment we are changing the law and we are allowing beer to be kept in the homes....this just didn't get changed, that is all. It does not do any harm to be there. It rounds out the Ordinance.

Mrs. Gordon: If the area that we are going to allow interdicts, why do we need this section 3(a). What meaning has this?

Mr. Legal Adviser: We are only allowing people to the age of 19 to purchase and hold on to liquor. People under 19 may not.

Mr. Chamberlist: Mr. Chairman, I wonder if the Honourable Member from Mayo may wish to remove her last remark, that detrimental remark against our Indian citizens.

Mr. Chairman: I don't feel that it was meant in that regard and may I proceed? (Reads Section 73 (1),(2)).

Mr. Chamberlist: Explanation. I wonder if we can get that?

Mr. Legal Adviser: I think it is to deal with liquor which is purchased for off premises consumption. You buy beer to take away say on a Sunday...and instead of taking it away you sit around there, having a game of cards and start drinking it. If it is off premises consumption it must be consumed off the premises.

Mr. Chairman: (Reads Section 73(3),(4); 74).

Mr. Chamberlist: This is not clear. Supposing somebody comes to visit somebody, with a bottle of liquor - it is O.K., it's O.K.

Mr. Chairman: (Reads 75, 76).

Mr. Chamberlist: Question. I want to go back to No. 74, please, Mr. Chairman and I have taken another look at this and wonder if Mr. Legal Adviser will - this reads, and I don't know whether there is a punctuation on it, there is no punctuation there and this just might be the trouble. "No person shall have or keep liquor in a room in an hotel unless he is a bona fide guest of the hotel and is duly registered in the office of the hotel as the occupant of that room". Now, no person shall have or keep liquor - I can understand, to be storing liquor in the room but a guest, a friend of the guest may have gone to a liquor store and purchased a couple of bottles of liquor and has gone to visit this friend of his in a hotel room. He is committing an offence by having liquor in the room. He is not a registered guest; he is not a bona fide guest and is not the occupant

Mr. Chamberlist continues...  
of that room. It would restrict a person from going to visit somebody while in the possession of liquor. Is this the thing, I know it is not the intent but is this what it means?

Mr. Legal Adviser: I believe the intent is to prevent people who are not registered in a special room being shunted into a room to avoid searching of a hotel; this is what I think it is so that when the police officer comes to search the hotel.... It is intended to give some control during a raid I think, more than anything else. Whether it does more than that of course is a thing. A lot of these sections tend to go a fraction beyond what they are really designed to do. I have no love for these sections at all. It is a question of what's necessary for law enforcement.

Mr. Chamberlist: I have a hypothetical question, Mr. Chairman. Supposing, for some reason, the police were to interview a man in his hotel room who is a bona fide guest and there are two other people in the hotel at the time and the policeman says, sees a couple of bottles of liquor on the table and says who's liquor is this and the people that are coming to visit, the guests in the hotel say, that is mine. By saying that is mine they have liquor in a- then they would be subject to prosecution

Mr. Legal Adviser: I don't know where the section came from except that it was there all the time.

Mrs. Gordon: Mr. Chairman, this is even a worse situation. If I invited the Honourable Member from Whitehorse East and his wife to my suite in a motel to dinner and he was gracious enough to bring a bottle of wine and there is some left there is an offence committed.

Mr. Dumas: Mr. Chairman, this is nonsensical hair-splitting and waste of time. Naturally you would say the wine is yours, he brought it as your guest as a gift to you. If he brings booze to my hotel room that booze is mine just as much as it is his and it is a matter of going at the bottle. This is absolute nonsense, Mr. Chairman. Talk about splitting hairs.

Mr. Chairman: May I proceed. (Reads Section 77(1)).

Mr. Dumas: Mr. Chairman, excuse me. There was a comment I had on Section 76. What is the reason for this tough control of advertising of booze. It is archaic.

Mr. Legal Adviser: It is just history. Today it is a fact of Canadian history.....The Commissioner approves, we don't really knock them down....advertising....

Mr. Livesey: Mr. Chairman, I have a few words on this. It seems ridiculous that we allow people to sell a commodity ... it happens to say on the outside of the building that he does sell it this is an offence. Surely this is the most ridiculous situation, absolutely ridiculous. If the Government allows him to sell it surely he can tell people he's got it and what he is selling. I don't understand why he can't say he has a cocktail bar or lounge. What is the point in selling the stuff and not being able to say you sell it.

Mr. Chairman: (Reads 77(2); 78, 79).

Mr. Livesey: I would certainly like to rise on this. Mr. Chairman, I had occasion a number of years ago to sell to men in a camp a lot of shaving lotion, all kinds of things they wanted, which to a normal person were normal and the



BILL #6 Mr. Livesey continues...  
only thing that tipped me off that something was going wrong was that they were also purchasing a wine medicine that increases your appetite but there is no alcohol in it whatsoever, beef, iron and wine tonic where there is no alcohol content whatsoever. For a long time did not know what was going on there because there was no way in which you could check it. You could not tell what was being done with it but eventually of course I found out. They were mixing up the Aqua Velva and the boot polish, Chili sauce and on and on to about fifteen different items and the way I found out was the odour from the men's breath when they came into the store just about knocked me down and this would be an offence. You don't know what is going on but you are guilty, now purposely, yes, but I don't quite see the meaning of this. I think this is far too broad.

Mr. Chamberlist: Mr. Chairman, I would move that at this time Mr. Speaker do resume the Chair.

Mr. Chairman: Is there a seconder?

Mrs. Gordon: I second that Motion.

Mr. Chairman: Moved by Councillor Chamberlist, seconded by Councillor Gordon that Mr. Speaker do now resume the Chair. Are you prepared for the question? Are you agreed? I will declare the motion carried.

MOTION  
CARRIED

MOTION CARRIED.

Mr. Speaker: I will call Council to order. May we have a report from the Chairman of Committees.

Mr. Taylor: Mr. Speaker, Committee convened at 10:35 A.M. to discuss Bills and Sessional Papers. It was moved by Councillor Livesey, seconded by Councillor Dumas that Section 1 to Section 61(1) of Bill No. 6 has been read in accordance with Standing Order 78, Rule No. 62 and this motion carried. It was moved by Councillor Taylor, seconded by Councillor Shaw that Section 61(2) be amended to provide for 10 rooms in respect of a tavern and 20 rooms in respect of a cocktail lounge. This motion carried. Committee recessed at twelve noon and reconvened at 2:15 P.M. Messrs. McAller, Finlayson, Hewitt and Purdy attended Committee to discuss matters related to the Arctic Winter Games. It was moved by Councillor Livesey, seconded by Councillor Dumas that the words "tavern or dining room" be inserted after the word "cocktail lounge" in subsection (1) of Section 64 of the Liquor Ordinance. This motion carried, with Councillor Shaw opposed. Moved by Councillor Chamberlist, seconded by Councillor Gordon that Mr. Speaker do resume the Chair. This motion carried. I can report progress on Bill No. 6.

Mr. Speaker: Thank you Mr. Chairman of Committees.

Mr. Taylor: It is not required to record a negative vote, Mr. Speaker in Committee of the Whole but I had not been asked by Councillor Gordon to have her vote recorded in the negative. Is it the wish that it be included in the Minutes, Councillor Gordon, if you so wish I will be pleased to do so.

Mrs. Gordon: Yes, I would prefer it be recorded.

Mr. Taylor: The....is so amended.

Mr. Speaker: Are we agreed? May I have further indications of your pleasure with regard to the agenda for Monday?

Mr. Speaker: We have Bills and Sessional Papers, Mr. Speaker.

Mr. Speaker: May I have your further pleasure at this time?

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

Mr. Speaker: Are we agreed?

All: Agreed.

Mr. Speaker: The House now stands adjourned until 10:00 A.M. Monday morning.

ADJOURNED



Mr. Speaker read the daily prayer. All Councillors were present, except Councillors McKinnon and Chamberlist.

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

Mr. Clerk: There is, Mr. Speaker.

Mr. Speaker: I will now call Council to order. I have the apology of the Honourable Member for Whitehorse North for his absence this morning. I believe the Honourable Member for Watson Lake has something of importance to impart to the House this morning.

Mr. Taylor: Mr. Speaker, with the concurrence of the House if I might have a moment, I'd like to draw the attention of the House to a deed, a very heroic deed performed down in my electoral district as recent as last week by one of our native citizens. It evolved around an early morning fire on the morning of the fourteenth of January in which a mother and father, a son and a two-year-old baby girl were sleeping in a cabin at Watson Lake. This cabin caught fire and this young gentlemen left the building to get aid from the Fire Department by telephone, returned to the building and, not knowing that his mother, father and baby sister had left that building, plunged into the flame filled cabin in an effort to find them and rescue them, and was severely burned and was, indeed, as recently as Saturday, flown from here to Edmonton for treatment. I would just like to say, Mr. Speaker, that it isn't often that this type of thing happens. I think that it behooves us to pay recognition to such deeds of honour. This young man, Andrew Jackson, nineteen, of Watson Lake, a descendent of the great Tahltan Nation, deserves, I think, the highest praise that this Territory could offer him for his heroic duty on that day. Thank you, Mr. Speaker.

Mr. Speaker: I'd like to table this morning, Sessional Papers No. 11, 12 and 13 inclusive. Are there any Reports of Committee?

Mrs. Gordon: A point of order, Mr. Speaker. I would like to draw the attention of the House to errors in the Votes and Proceedings on page 111, in which I said that the "people who own it have no necessity". In Votes and Proceedings, it says "necessary". In the next line it says "their length of ten year". It should be "tenure", which is one word. On page 135, at the bottom of the page, "the sale of spirituous liquors", not "spiritual and liquors". Thank you, Mr. Speaker.

Mr. Speaker: Introduction of Bills? Notices of Motion or Resolution? Are there any Notices of Motion or Resolution? Notices of Motion for the Production of Papers? May we proceed to Orders of the Day, and we have Motion No. 2, Councillor Gordon, moved by the Honourable Member for Mayo, seconded by the Honourable Member for Watson Lake, that Sessional Paper No. 4 be discussed in Committee of the Whole. Would the Honourable Member be prepared at this time to proceed with Motion No. 2? Question has been called. Are we agreed? I will declare the motion carried.

MOTION CARRIED

MOTION  
CARRIED

Mr. Speaker: The next item of business will be questions. I wonder, Mr. Clerk, if we could have the Commissioner this morning for the Question Period? I will call a five-minute recess.

RECESS

Mr. Chamberlist enters the Council Chambers.

Mr. Speaker: I will now call Council to order. May we proceed with the Question Period.

QUESTION RE Mr. Taylor: Mr. Speaker, inasmuch as Council has been informed that  
L.P.R.T. communications should be provided to Ross River on July 1st, 1970,  
FOR ROSS I'm wondering if Mr. Commissioner could advise me this morning as to  
RIVER whether he has received any information relative to the C.B.C. moving  
in at that time with a low powered relay transmitter for that community?

Mr. Commissioner: Mr. Speaker, with respect, I have already intimated that we are bringing forward the information with regard to all C.B.C. planned activities in L.P.R.T. and television packages. We're getting a put on on that, Mr. Speaker, I think I intimated that to Council just the other day, and this would be part of that answer.

Mr. Taylor: Supplementary then, I wonder if Mr. Commissioner could indicate how soon this information will be laid before Council?

Mr. Commissioner: Mr. Speaker, there's approximately forty thousand things that we're attempting to do, as well as run the day-to-day activities of government and get Council's questions answered, and this particular situation is in the hands of the C.B.C. local manager and the assistance of Mr. McIntyre's people, who make up the maps, and I am sure, in fact, I know that they are working on it, and all I can say is it will be brought forward as quickly as it is available, Mr. Speaker.

Mr. Speaker: Are there any further questions?

QUESTION RE Mr. Taylor: Yes, Mr. Speaker, I have a further question. During the  
UPGRADING last Session, I asked this question and I'm wondering now if I could  
OF CASSIAR have an answer at this Session, as to whether or not funds indeed will  
ROAD be made available in this year's current budget for the upgrading of  
the Cassiar Road between the Alaska Highway and the British Columbia  
boundary.

Mr. Commissioner: Mr. Speaker, I distinctly remember this question being asked. I wonder if we could have the Clerk research the papers and see if this question has not been answered?

QUESTION RE Mr. Chamberlist: Mr. Speaker, I wonder if Mr. Commissioner could  
OPENING OF indicate when the official opening for the Riverdale Senior Citizens'  
RIVERDALE Home will be?  
SENIOR  
CITIZENS'  
HOME

Mr. Commissioner: Mr. Speaker, there was an item on my desk in this regard a few days ago, and I believe the suggested day was the last Friday in this month but I believe this had to be changed in anticipation of possibly the absence of certain people on account of the Anvil opening which schedules for the prior Wednesday. I'm sure that there has been a firm date established, and the Clerk, I'm sure, can provide this answer to Council, Mr. Speaker.

Mr. Chamberlist: Supplementary, Mr. Speaker, I wonder if Mr. Commissioner could indicate that there is now a full staff for that establishment?

Mr. Commissioner: Mr. Speaker, I would have to check on this, but I'm quite confident that when an opening date has been set and that people are either preparing to move in or are ready to do so, that the staff situation I'm sure is reasonably in hand, Mr. Speaker, but we can bring forth the answer to that along with the actual opening date.

Mr. Speaker: Are there any further questions?

Mr. Taylor: I have just one further question, Mr. Speaker. I'm wondering if Mr. Commissioner could advise me this morning as to when the Administration will be prepared to table for Council's consideration, the terms of the forthcoming fiscal arrangement with Ottawa for this current fiscal period, up and coming.

QUESTION RE  
FISCAL AGREE-  
MENT WITH  
OTTAWA

Mr. Commissioner: Mr. Speaker, subject to the prior approval of the Budget Programming Committee, the whole budget package should be ready in the course of this week and this will be part of the proposed agreement, the necessary authority as far as the Ordinances are concerned, and the proposed expenditure and revenue package for this coming year.

Mr. Speaker: Are there any further questions? If not, would the Honourable Member please take the Chair?

Mr. Taylor takes the Chair.

Mr. Livesey: Mr. Speaker, I have one written question this morning addressed to the Administration, in two parts. "1. What is the present mortality rate of Indian children in the Yukon; and 2. do Indian student children receive adequate dental care?" Thank you, Mr. Speaker.

QUESTION #4

Mr. Livesey resumes the Chair.

Mr. Speaker: Does the Honourable Member for Watson Lake have a further question?

Mr. Taylor: Yes, Mr. Speaker. I have one further question. I was going to make this a written question but possibly I could ask Mr. Commissioner this morning, Mr. Speaker, if he could inform the House as to whether the Administration has been involved in the matter of the circulation of dope and this type of traffic throughout the Yukon and whether the Administration would be prepared, through the good offices of the Department of Health or otherwise, to table a report as to how serious this situation is in the Yukon Territory?

QUESTION RE  
NARCOTICS  
CIRCULATION

Mr. Commissioner: Mr. Speaker, the wisdom of Methuselah, plus the conjuring ability of Barnum and Bailey's most expert contortionist couldn't supply this type of information. If the Honourable Member is looking for such statistical information as would be available on the basis of convictions, things of this nature, yes, we can supply this. We would be very pleased to. But, as far as answering the question along the lines that it was put, Mr. Speaker, it would be pure conjecture and might indeed jeopardize much of the law enforcement activity that is presently going on in this regard. I may say, Mr. Speaker, while I'm on my feet, that I was derided considerably here on the floor of this Council by certain Honourable Members approximately two and a half years ago when I told them that the drug situation was a serious one among the young people of the Territory. Its seriousness was great at that time and it is an ever greater one today. It's a social problem which is not particularly indigenous to the Yukon, Mr. Speaker. It is one throughout our western society. Now, if the Honourable Member would care to reword his question in a manner which would permit us to table such statistical information that is available, we would be most pleased to do so, Mr. Speaker. Anything beyond that, I question very much the advisability of even attempting to reasonably answer the question that has been raised.

Mr. Speaker: Would the Honourable Member be prepared to rephrase the question?

Mr. Taylor: Mr. Speaker, considering the answer given by Mr. Commissioner, I do understand that the situation is even more serious and I think if this be the case, I will propose a written motion asking Dr. Black to come before Council and discuss this with Council.

QUESTION RE NARCOTICS REPORT Mr. Chamberlist: Mr. Speaker, supplementary to that question, I wonder if Mr. Commissioner could answer without being too philosophical about Methuselah and his friends, whether or not there is to be a report that can be made available to Council of the extension of the investigation which is taking place in the area with reference to narcotics?

Mr. Commissioner: Mr. Speaker, I would sincerely ask that the Honourable Member do not ask for this type of information to be tabled at this time.

Mr. Speaker: Are there any further questions? If not, may we proceed to Public Bills and Orders?

Moved by Councillor Shaw, seconded by Councillor Chamberlist, that Mr. Speaker do now leave the Chair for the purpose of convening in Committee of the Whole to discuss Bills and Sessional Papers.

MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker: The Honourable Member for Watson Lake will please take the Chair in Committee.

Mr. Taylor takes the Chair.

BILL #6

Mr. Chairman: We will be proceeding to Bill No. 6, the Liquor Ordinance. The next section is Section 80, to be found on page 27. We'll require the services of Mr. Legal Adviser at this time, Mr. Clerk. I'll declare a brief recess.

RECESS

RECESS

Mr. Chairman: I'll now call Committee back to order. We are discussing Bill No. 6, Section 80. (Reads Sections 80, 81 and 82 of Bill No. 6)

Mr. Dumas: Question. What about liquor given to another person as a gift or sent to another person, possibly even from another country because of its special nature?

Mr. Legal Adviser: I think, Mr. Chairman, we dealt with this briefly before and we said that we looked into what the present customs regulations are as far as customs are concerned, and we'd permit anything that customs permitted. But, under our law now, you can give liquor to a person. Each person can have it. But, I think you can send a friend a drink. Maybe not ... I don't know the why not.

Mr. Chamberlist: Mr. Chairman, the area of discussion is where I go and buy a bottle of liquor in a liquor store, I give it to somebody else. That person has liquor in his possession which has not been purchased in an establishment that sells liquor.

Mr. Legal Adviser: Why not, Mr. Chairman.

Mr. Chamberlist: Well, because no person is supposed to have liquor unless purchased in a place that sells liquor.

Mr. Legal Adviser: I assumed that the person who gives as a present a bottle has purchased it in accordance with the law, yet he's not a bootlegger. (A) purchases a bottle of liquor in a liquor store and he gives it to (B). (B) can give it to (C) and (C) can give it to (D), but it has been purchased in the original case lawfully under the Ordinance.



Mr. Shaw: This is knitticking.

Mr. Chamberlist: No, no. This was raised before. This is not knitticking.

Mr. Shaw: This is knitticking.

Mr. Chamberlist: I wish this Member would go home. He's not doing any good here, why ...

Mr. Shaw: I wish I could.

Mr. Chairman: Order, please. We'll have order, please. The next section is 83. (Reads Section 83(1) and (2)).

Mr. Chamberlist: Question. Can an aunt or an uncle give liquor?

Mr. Legal Adviser: Apparently not under this section.

Mr. Chamberlist: Well, it's ridiculous. Here you have a situation where a couple of youngsters go and visit their aunt and uncle. Their aunt and uncle can't give them a drink at the table.

Mr. Legal Adviser: Mr. Chairman, it's not easy to draft a section where you permit this because you get bigger and bigger and bigger. We've chosen parent, grandparent and legal guardian, we're happy with it. If the House wants to put in an exhaustive list of a first cousin once removed, a second cousin once removed, the great-uncle, the grand-uncle, you know, where do you stop?

Mr. Chamberlist: But surely you can put a clause in there that no policeman can be looking for a problem or somebody. Surely you can have an area there which says that no person other than a relative or legal guardian. Couldn't you have that?

Mr. Legal Adviser: It's a bit broad, Mr. Chairman.

Mr. Chamberlist: Alright, well, you'll have some case you'll start talking to yourself come up ...

Mr. Chairman: Order, please. (Reads Section 83(3)) I believe the cabaret will come out of this. So note, Mr. Clerk. (Reads Section 83(4) and (5))

Mr. Livesey: I wonder, this is just a question of wording, Mr. Chairman, in (4). Shouldn't the word "furnished" be "furnishes"?

Mr. Legal Adviser: I'm easy. My knowledge of English doesn't really extend to that extent. I don't know, it could be either.

Mr. Chamberlist: I agree with that last statement that Mr. Legal Adviser has made.

Mr. Chairman: Order, please.

Mr. Livesey: Yes, Mr. Chairman. I always understood that the law was always speaking and is speaking in the present tense. Furnished is in the past tense.

Mr. Shaw: Mr. Chairman, is this a recommendation that it read like this: "Where a person cannot or refuses to furnishes proof ..."?

Mr. Livesey: Mr. Chairman ...

Mr. Chairman: Order, please. Mr. Commissioner.

BILL #6

Mr. Commissioner: Mr. Chairman, I realize that this should have been taken care of before, but perhaps you would permit me to mention here at this time that this will have to be reworded to permit people under the age of nineteen who have rightful business of another matter in premises where liquor is sold that they can remain on those premises. I'm sorry, Mr. Chairman, that this was not taken care of prior to this.

Mr. Dumas: Entertainers?

Mr. Commissioner: No, we have four locations in the Territory where other government business is conducted on liquor store premises such as the sale of fishing licences, hunting licences, automobile licences, drivers' licences, and things of this nature, and we agreed by prior understanding with Council that this section would be worded in the revision of the Ordinance to take care of that particular situation where it existed, and I apologize, Mr. Chairman, to Council for not having had this matter taken care of. We will have to ask the Legal Adviser to reword this section to take care of it.

Mr. Legal Adviser: My recollection is that the section originally read "No person under the age of nineteen years shall enter, be in or remain in any liquor store, tavern or cocktail lounge", and we took out liquor store and left in tavern or cocktail lounge. A person under nineteen may remain in a liquor store but not a tavern or cocktail lounge. Liquor store isn't mentioned.

Mr. Chairman: Are we clear on this section now?

Mr. Chamberlist: There's one question I would like to ask at this time. What is the position of entertainers now. You might have a group of entertainers and the group might be under the age of twenty-one ... under nineteen. You might have that. For instance, you know, if you don't have to have cabaret, supposing ... see here is an instance, now, supposing you have a large dining room that is putting on a show, a floor show, and you have perhaps a line of chorus girls on the floor show. If we start getting decent establishments, you might get a line of chorus girls around about the age of eighteen. That's when chorus girls are the best. So, you're placed in the position that these girls can't even work in there.

Mr. Dumas: You can in a dining room.

Mr. Chamberlist: But, it's got a licenced premises. A dining room is still a licenced premises, so that they can't work in ... and where is the area where these can serve, you know, people that work in the dining room.

Mr. Commissioner: That's taken care of.

Mr. Chamberlist: Well, then that applies to everybody else then.

Mr. Dumas: Mr. Chairman, this brings up another matter. If the Honourable Member is correct, from Whitehorse East, that means that a family can't go into a dining room and have dinner with their children which they can do now. Yes, I assumed that it was taken care of, Mr. Chairman, but I'd like to know where.

Mr. Commissioner: Mr. Chairman, with respect, I'm sure the Legal Adviser will point out the section, but there is a vast difference when we're talking about dining rooms as opposed to cocktail lounges from the point of view of entertainers is concerned, so I hardly feel that the corollary raised by the Honourable Member, although I agree with what he has to say, I don't think it is really pertinent to the question that is before us here right now which we were talking about, as I understand it, taverns and cocktail lounges.

Mr. Dumas: Mr. Chairman, I disagree with the Commissioner in this respect that if you have a cabaret or a cocktail lounge which brings in high-priced entertainment at times, sometimes the entertainment on a circuit is under nineteen years old. Sometimes kids act. There are many kid acts making the rounds in the entertainment circuits throughout North America, and they are usually allowed, under special circumstances, to go in and entertain in these premises, a family act or a song and dance act or what have you. Mr. Chairman, the Commissioner shakes his head but I'd like to have some further argument on this because I want to hear the rest of Council's argument too. We are the Legislative Body, I presume. BILL #6

Mr. Commissioner: Mr. Chairman, I simply would say that I think that we're treading on very, very thin ice here. That's all I have to say. I don't question at all what the Honourable Member has to say about entertainers being available under the age of nineteen. Right at the moment, it is my understanding that entertainers are required to be the full age of twenty-one years when they are working in cabarets and cocktail lounges in the Territory at the present time, and certainly I feel that when you are reducing the age by two years right at the moment, and I don't know of any suffering that is taking place in the procurement of entertainers with this penalty of twenty-one, certainly from where I sit I don't think that until it has been shown to Council that this is causing a hardship on the entrepreneurs, that they should go any further than the nineteen. Now, this is up to Council, I agree, but I think that they should await further reductions in the age, to people coming to them and saying "Look, you're placing an impediment on my ability to recruit entertainers".

Mr. Dumas: Mr. Chairman, I'm not going to belabour the point because I'm sure we're going to get a test case within a year or so at any rate. To my knowledge, within the last three years here in town, probably 40% of the entertainers in the various bars have been under twenty-one years. They haven't yet been prosecuted, but I expect there will be a prosecution one day and then we'll have to change the Ordinance because it's nonsense.

Mr. Chairman: Are we clear on this section then? I believe there is an amendment coming to this section, is there not?

Mr. Legal Adviser: Don't take me as promising an exact amendment, but in the first place, as the Ordinance stands, nobody can be in a tavern or a cocktail lounge who is under nineteen. This is our firm policy as set out in this section. I'm not saying it could last forever. The present Ordinance says that no person under twenty-one, and this includes entertainers at the moment. Now, so far as the family is concerned, I'd have to look back to what has been done, but my recollection is that the Ordinance was drafted in order to eliminate unnecessary sections, and I think one of the sections which I think was eliminated was the section which dealt with people going in to dining lounges and restaurants with their parents, and it was just thrown open to them, relying on the owner not to serve them, because they come up against the difficulty when a husband and wife couple or what have you that are underage, and your aunts and uncles and everybody else as you say, and if we allow them in, then it's difficult to say that they will always go with their parents. I think that the prohibition section contains the total prohibition as it is here, that a person under nineteen cannot at all go into a tavern or a cocktail lounge, but they can in fact go in elsewhere although they may not ask for liquor and they may not be served liquor. Now, the old section where a family group, which is designated in various ways, could go in for the purpose of having a meal into the dining room or restaurants. This was the idea, but you have situations where a restaurant which serves beer will have children going into it for whatever happens to be. There

BILL #6

Mr. Legal Adviser continued ...

may be a family staying somewhere and they send two or three of the children down for one of these small meals, and may not be with them. Technically, they might be committing an offence if you only allow them to go in as a family group. This can happen. People who are staying at a hotel go down to the dining room which happens to be licenced, may not be able to have a meal unless they bring the father out of bed or the mother out of bed or something. So, once you start into a scheme of things, you get involved in a series of sections. We try to avoid that as far as we can. So if we look at it again in that light, I know what the feeling of Council was, and we drafted this Bill originally to allow family groups, and now people who cannot go into a cocktail lounge, can go into a restaurant or a dining room for a meal.

Mr. Chamberlist: Mr. Chairman, one area that has been overlooked ... let us now deal with an area where there might be the entertainers who are underage. I think we should look at that again. You do get, with modern entertainment, useful entertainment, and useful entertainment today ... you might have a singer in a group, or you might have a musician in a group, that you might be bringing in specially who is a specialist on a guitar or specialist on a piano or a specialist on an organ. He can't be served liquor if he's under the age of nineteen but surely if it's his living, this is the way he earns his living, entertaining people, we shouldn't legislate to stop any person from earning his living in a legitimate manner. That is one area. Now, another area is this. Supposing ... we've linked cabarets and cocktail lounges. Supposing in a cocktail lounge, a real fine top-notch performer, Sammy Davis Jr., comes to play in a cabaret lounge or a cocktail lounge. Parents want to take their child to see Sammy Davis Jr. in the cocktail lounge, you can't take him in? Why not? What's wrong with that? You can go to the Cave, you can go to any of these ... you can go to a hotel.

Mr. Chairman: Gentlemen, I thought we had just resolved this argument over the last ten minutes. I'm wondering, this seems to be a little repetitious, but if it is your desire to carry on again and do it over again, fine.

Mr. Chamberlist: Mr. Chairman, with respect, I was out, and it's not repetitious as far as I'm concerned, if I have to repeat myself ten times, I will do so.

Mr. Chairman: Well, it's unfortunate that the Member had to leave during the discussion because it does take up a great deal of time in Council, but if it is necessary to give these answers again, we will be prepared to start answering these questions.

Mr. Chamberlist: Well, Mr. Chairman, it's not a case of answering it again. Here is an area where parents are restricted from taking their own children to see entertainment. Now, why should they be restricted from taking their own children. Why should they have to leave the children at home if they want to take them?

Mr. Dumas: Mr. Chairman, as I said earlier, I agree to some extent with underaged entertainers, but goodness, a parent could say, "I want to take my children to see the Canucks down at the Whitehorse Inn", they're on every night, and the law has got to start somewhere in this thing and I think that the way it is as far as that's concerned is good. If Sammy Davis comes to town, he should play at F.H. Collins School or someplace like that or a dining room where children can go in with their parents. Certainly some of these places are restricted as far as that is concerned, and to repeat on the other matter that we discussed while the Honourable Member was out, about underage entertainers, I agree with him on that, and I think that probably there will have to be a test case to change the Ordinance as it reads because, once again, I say that a lot of these entertainers that we've had in town over the last several years have been in fact under twenty-one years. They just haven't been charged.

Mr. Chairman: May we proceed.

BILL #6

Mr. Commissioner: Excuse me, Mr. Chairman, with respect, I personally am not satisfied that we are giving protection to our liquor vendors by item (5) here under 83, by not making it very clear that people under nineteen specifically can go onto liquor store premises where other government services are offered. I think it's a very important point and I would like to hear.. if the Legal Adviser is satisfied that our liquor vendors are protected, this is fine, but I would want a firm assurance because we have situations, as we all know, where the government liquor vendor and the government agent work in combined situations and many government services are rendered in the same premises as the liquor store.

Mr. Legal Adviser: My recollection, Mr. Chairman, is that the particular problem we're faced with ... the problem mentioned by the Commissioner is not in my mind. The problem that was in my mind was the question of employing underage people in the warehouse section of our own liquor store in Whitehorse. For some time, we have had a problem in that the liquor vendor was employing highschool boys for moving beer from point to point, keeping them out of the public eye, but using them for this labour during the summer time as casual labour. Technically, as the thing stood, it was out of order. Now, in order to meet that problem, we examined the series of subsections we are dealing with in this section and we struck out the prohibition against an underage person being in a liquor store. We took that out. The position now is, as we design it from these series of subsections, a person of nineteen years may be in a liquor store but may not be in a tavern. He may be in a liquor store, dining room or a restaurant but may not be in a tavern or cocktail lounge. Now, moving on to subsection (4), then no liquor shall be sold or supplied to a person apparently under the age of nineteen unless they furnish proof. If they refuse to furnish the proof, that is, if they're asking for liquor, if they refuse to furnish the proof, well, then they've got to go out. Subsection (5) was drafted, it wasn't in the old Bill, it was drafted to give some comeback to licencees when a group of people or one person goes into a liquor store ... into a tavern and calls for a beer, and the owner says "Are you over nineteen", and the bloat refuses to produce his driver's licence or whatever he is asked for. Now, as the old Bill read, there was no power of removal of this person. He was committing an offence, so the only remedy that the tavern owner would have would be to pick up the telephone and ring the R.C.M.P. Now, he can ask him to leave. If then he doesn't leave, he shall leave upon being requested to do so, that in itself is a specific offence, and does not hang on whether or not he in fact is under nineteen. You may get a cheeky young fellow of twenty-one who is quite entitled to be there but may look to be seventeen. The tavern owner says "Show me your driver's licence", and he tells him to go and jump in the lake and says "I want a beer". Now, at that point, the tavern owner, not being furnished with proof, has no legal right unless we give it to him to throw him out or to ask him to leave, but now if he refused to furnish proof, he's asked to leave and he refuses, that in itself is a separate offence. Now, this gives some control to a tavern owner because if he refuses to go, then it's an offence. This is the intent. It may not exactly reproduce this. We break into three sections, the prohibition against being in in one section, then the other sections are designed to take care of the person who is asked for proof, refuses to prove, then out he goes if he doesn't.

Mr. Chamberlist: Mr. Chairman, I tend to agree with that because I would say that this is a common law requirement that the owner of any establishment can order any person out of his establishment if he so feels to do so. Really, it has no part of the Liquor Ordinance and Regulations itself, you know, and I think there's nothing wrong with that at all.

BILL #6

Mr. Chairman: Are we clear on this section?

Mr. Shaw: I have a question, Mr. Chairman. Is there anything ... it would appear to me that these people who are dispensing liquor must have quite a job in determining actually, and it would be more difficult now, what is proof and what is not proof. Would it be necessary or advisable to have some criteria in the Ordinance of what can be proof. Is a driver's licence in itself sufficient, because a driver's licence is given at age sixteen and possibly, of course, the person might not have a driver's licence, he might have some other card. Is there any way that it's very simple, that's easy for all concerned, that proof can be given to these people because I would imagine that in selling to the public, particularly as the various people get around from one area to the other, and I do know where people have come from here and then have gone to Dawson City and probably other places. They said they were this age and they were not. The person who was selling the liquor in all sincerity did not know that this person was either interdicted or didn't know him. So that, what kind of a criteria is it necessary, or should it be spelled out as to what criteria is necessary to furnish proof to somebody who is selling it so they know exactly where they stand. It's very difficult to know youths of seventeen or nineteen. One could be seventeen or nineteen or sixteen, and that's going to present quite some problem, Mr. Chairman.

Mr. Legal Adviser: Nineteen is an awkward age and at about fifteen you can feel his beard and see if he shaves. Proof is something which is incapable of definition because it means a piece of something that will satisfy somebody else. It can be a driver's licence, it can be a hundred and one different things. A telephone call to somebody else would very often do, varifying a person being there will very often do. If you start tying it down, you will have page after page after page of various alternatives which would be satisfactory. My preference would be to leave it on its own and let it mean all things to all men.

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

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RECESS

Page 151.  
Monday, 19 January, 1970.  
11:00 A.M.

Mr. Chairman: I will now call Committee back to order.  
The next Section is Section 84 (Reads 84 (1),(2),(3)).

BILL #6

Mr. Dumas: Mr. Chairman, could the Legal Adviser enlarge on Subsection 3?

Mr. Legal Adviser: We changed it slightly in order to take account of moving events, to enable the Commissioner to delegate an officer to take these decisions without actually writing in the words "Legal Adviser". The last time it appeared it was without the written consent of the Commissioner.

Mr. Dumas: What I am wondering about, Mr. Chairman, is, if the Commissioner doesn't give consent, or is it the plan of the Commissioner to give blanket consent to the R.C.M.P. to make a charge under this Section?

Mr. Legal Adviser: It is a highly technical law on this. Each case must be, must have written consent for that particular case. It must be written with almost a certainty of information. There are several cases on it from B.C. and other jurisdictions.

Mr. Dumas: Mr. Chairman, you mean if a policeman picks up a drunk on the streets, he can't charge him?

Mr. Legal Adviser: The original feeling was, I don't know whose feeling it was, but the general feeling was that the offence of being in an intoxicated condition, common drunks, should be removed from the Statutes as opposed to the Criminal Code offence which is "causing a disturbance"... Then the question arose, was there any doubt as to whether or not the police would have authority to pick up a person who was intoxicated. Well, the offence as such was put back merely as a safeguard to the police and then, as it happens, a further safeguard was put on the powers of the police to deal with it. So Section 85, then, if you read Section 85, you will see how the thing is designed.

Mr. Livesey: I understood, Mr. Chairman, during the last year's discussions, especially in connection with the changes in the Criminal Code, that the Criminal Code Law would apply to Federal cases and Federal offences and where such did not occur was a question of morality. This is what I understood. Now, I don't understand how the Commissioner can become Mother Superior to the morality of the nation, especially as it affects the Yukon Territory. I wonder if Mr. Legal Adviser could explain how he is going to take on this new portfolio and how this comes within the meaning of the fact that the only problem will be with the drunk as far as I can see from now on is that he interferes with another's freedom. If he doesn't interfere with the freedom of another he is committing a moral offence. Is that correct? If he can be arrested well he is not committing a moral offence and is obviously breaking the code of the Ordinance.

Mr. Legal Adviser: I find some difficulty in answering the question. All I can do is state what the philosophy is. If the Administration as such, if the Administration is, to a very large extent, more than the House realizes, a servant of the House and it is not the intention of Administration to continue as a .... team charge a person with being intoxicated in a public place, but they are nervous about taking out this



BILL #6

Mr. Legal Adviser continues...

Section.....and then, having left it in, it is made clear that the power of prosecution belongs to the Administration in Whitehorse and not the administration in Ottawa. Therefore it needs the specific consent of the Commissioner or his authorized officer on each specific occasion or it may be for purposes of urgency that the Commissioner may have to delegate an officer who happened to be in Dawson City or Watson Lake and rather than hold a person on a charge or keep them in doubt, it may be possible to give an oral permission on the telephone provided that there is written permission, at the instance of the Commissioner, to enable the prosecution to proceed, but the real section, which would be offered in every day practice, as I would think it, would be Section 85.

Mr. Chamberlist: Mr. Chairman, I get that but I wonder if Mr. Legal Adviser can clarify these words; perhaps the language is not clear to me and Mr. Legal Adviser can enlarge on it "the written consent of the Commissioner or an officer authorized by him in that behalf", now does that mean an officer also has to give written consent or does it mean the written consent of the Commissioner to the officer to make.."

Mr. Legal Adviser: Now, there is a meaning which I give to this, which is the Commissioner may give his own written consent or he can give an officer consent, give an officer authority to give written consent. Now, supposing an accused person, supposing for the sake, for example the Commissioner authorized me to give the consent and I gave written consent and somebody raised the issue in Magistrate's Court, was I authorized to give written consent. I would have to prove the written consent, and that I was so authorized by the Commissioner to give it. Now, this is commonly attacked in Court. It has been attacked in several recent cases in British Columbia and Manitoba in cases which I may still have in my office where the terms of the written consent were attacked and the Court said, in one specific case where, under the Securities Act of B.C. it was necessary to obtain the written consent of the Attorney General to take a prosecution. A series of fraud were committed and the written consent of the Attorney General was given and the form it took was "I hereby authorize the prosecution for fraud in connection with the Securities Act of so and so", and they even mentioned the sections in the Statute and on appeal it was held that the written ...was invalid because it should have specified in writing, apart from the sections he was being prosecuted under, what the particular offence was under those sections.

Mr. Chamberlist: I see the point there, but with the written, the Commissioner has to give written consent, Mr. Chairman, to an officer to give written consent, this is what I am asking, does the Commissioner have to put it in writing to an officer to give written consent or can he just say to somebody, you go ahead, Joe Blow, and give the written consent if you think so because if that is the case then the Commissioner is legislating away from his authority by just telling somebody else to do it. If we are talking about the Commissioner having to give written consent, surely he must write to an officer and say to him; you will on this particular case give written consent, or I also....you if you think it is desirable to give written consent. Is this the idea?

Mr. Legal Adviser: ...I would not think that when the Commissioner tells somebody to give written consent, the

Mr. Legal adviser continues..  
Commissioner himself would have to write it. ....But I can visualize the situation occurring far from home where the Commissioner might be asked to give his consent and he might give it by telephone. That officer would take a tremendous risk upon himself if he gave the written consent to the Commissioner without being authorized to do so. It would be a big risk to take in his career.

Mr. Chairman: (Reads 85(1),(2),(3),(4)).

Mr. Chamberlist: Mr. Chairman, I wonder if Mr. Legal Adviser could indicate how there is any protection for a policeman taking someone into custody, who is not intoxicated, but holding him on an intoxication charge without charge, putting him in the cells without charge and holding him in the cells without charge. What protection is there for ..... public?

Mr. Legal Adviser: Mr. Chairman, this particular section is taken, not quite exactly but almost identically with the Alberta section which in turn is taken from the B.C. section with the third jurisdiction attempting to enact a similar section to this. The main change we made is in subsection (4) we have inserted the words "without negligence" which did not appear in either Alberta or B.C. There have been a number of cases, three in Britian last year where a man died in custody, brought in on drunk charges with either internal injuries or head injuries, with ...inquiry in each case and in one case the doctor who was called to examine the person said yes, he was drunk and it was found that he had a brain haemorrhage. The doctor didn't diagnosis it accurately, it was held in the inquiry that he didn't give a proper diagnosis and he was dismissed from the service which was a very serious thing to happen to him. Now, provided the police officer acts in accordance with the law...then this subsection (4) gives him adequate protection. The reason we insert the words "without negligence" was to make it clear to the court, it called upon to interpret it, that the law is the same for the police officer holding this person in custody as it is for anybody else. They have no special high duty as you might expect if dealing as a doctor with a dangerous ..... Negligence defined in law is breach of duty, provided they don't do anything badly wrong they are clear, but if a drunk, as I wouldn't think would happen here; but it has happened from time to time when a drunk becomes obstreperous and then gets a bad....from a police officer to put him in his place and show him.... this has happened. In that case they are liable because they .....

Mr. Chamberlist: Mr. Chairman, my question has not been answered because I am concerned about the policeman who may, because he played on a hockey team or on a basketball team the night before, feels a little upset towards some of the players on the other team which he played against and the following day has found that one of his opponents has, perhaps, been drinking a little, but not drunk or intoxicated, arrests that man and holds him for twenty-four hours. Now, this is just an example but it might be in other areas where a policeman may arrest somebody and put them into custody, hold them there for up to twenty-four hours. The man hasn't been drunk but because the policeman has the right to hold an intoxicated person without charge it means the person is being held. What protection is the public to get from instances of this nature, and this, with respect Mr. Chairman, Mr. Legal Adviser has not answered.

BILL #6 Mr. Legal Adviser: All I can say is that this Section is an attempt to give a safeguard to the public and also to the police officer and attempt to hold the balance between the two sides. If a police officer acts in good faith under this section and does so without negligence, then he is immune from action. If he does not act in good faith an action will lie and properly so. If he acts with negligence and causes damage an action will lie for the damage. This, as the Administration can see it, is a fair . . . that the officer acts in good faith he is clear, if he acts in bad faith the public have a protection.

Mr. Chamberlist: Mr. Chairman, I wonder if Mr. Legal Adviser can answer this hypothetical question - supposing a man is arrested and is being held in custody and he said "I am intoxicated, I want you to bring a doctor to me now" and the policeman does not do it. What is the position of the policeman and what is the position of the person who has been arrested?

Mr. Legal Adviser: Well, I think, if this person asks the policeman to bring a doctor in the middle of the night, and if the policeman succeeded to bring a doctor in the middle of the night. . . . I wouldn't think that any action for negligence would lie at all because the policeman would know that the doctor would not come, and if there is any doubt about a person's capacity, especially if they are involved with an automobile, there is little doubt that the safest place to keep an intoxicated person, or a person who in the opinion of the police officer is intoxicated, the safest place to keep him is in the jail cell attached to the detachment. There is no question about this and no action, I think would lie merely because the person alleged to be intoxicated felt he was sober. The. . . . thing is where a police officer finds a person who in his opinion is an intoxicated person and then a person in custody may be released if, in the opinion of the person responsible for his custody, sobers up and can be released so it is a question of the police officer's opinion. We can't go beyond that because we cannot have medical evidence. What do you do. You are in a situation where you have to do the best you can with the laws available. This appears to me to be a reasonable attempt to give protection to the police and at the same time give protection to the public.

Mr. Dumas: Mr. Chairman, I think I agree with the Legal Adviser on the last comment about this. I think it is good as far as it goes but it does open up a Pandora's Box here with regard to civil liberties of the individual and what is the present situation if the police pick up somebody; do they have to charge them within a certain amount of time and how long is the time?

Mr. Legal Adviser: Opinions differ on this. I think my opinion will be different from that of the police. My opinion, for what it is worth, is that whenever, notwithstanding an arrest, the arresting officer forms the opinion that no offence has been committed, he can release the person then and there but for their own protection the custom has developed in many jurisdictions of continuing on with the charge, notwithstanding the fact that the officer has changed his mind because of difference of opinions like this between persons like me and an officer. Now he must. . . . before a Court if he is going to charge him at all within twenty-four hours. Now, the difficulty is that when a person is arrested and then brought before a Court, that provides complete justification for the officer, even though the person is found not guilty so very few officers in these days of quick action and lawyers who are adept at suing for damages, very few police officers will make a decision which, up to twenty years ago

Mr. Legal Adviser continues...  
was a common decision that a person would be released when fresh evidence would come in. Now the customs has developed of always bringing the person who is charged before the Court in order to get the records straight, so it would be largely because of this difficulty, which a police officer finds himself in as to whether a person guilty or not guilty and changing his mind that you have sections like this being placed there for their protection.

Mr. Chamberlist: I think it should be recorded, Mr. Chairman, that we let it go through but we should watch this particular Section to see how it works and if there is any abuse of it we will have to do something to protect the public.

Mr. Shaw: It appears to me that all we are endeavouring to do is to make just merely being drunk not an offence, that the procedures of arrest, the only difference is that we are saying that for the person's own good, as much as anything else, he is taken into custody overnight so he could sober up and at the same time we are putting in another clause to protect him insofar as the negligence clause respecting the police officer. In other words, the protection this person has now is far more than what he had before and on top of that it is not an offence to merely be drunk. I cannot see as they will be taking away a person's liberty. I think they are providing more liberties, in fact, than have been in the past.

Mr. Legal Adviser: May I just make one point. It is essential to provide protection for the police officers if they feel they need it, whether in fact they need it because I would be appalled at the thought that in our temperatures of 20 below, 30 and 40 below that a person was in some difficulty in some way that a police officer would feel a reluctance to deal with him and bring him to safety merely because we had a harsh section here which made it tough on the police officer who wants to go to the assistance of a person who might be in difficulties. He might not be drunk, he might have broken his leg. We don't know, he might be unconscious but we want the doubt to be resolved in favour of bringing that person into a position of safety whether a medical or police safety it does not matter. It would be terrible if a police officer passed a person by and said I can't arrest him because I can't touch him. He must be able to do ordinary work which is a protection to the public and they are entitled, the police officers who do their duty, or attempt to do their duty, are entitled and have a right to protection from this House.

Mr. Chamberlist: Now, I was prepared to let this go without any further word but the information has been given now that the policeman now would be able to use this section to arrest anybody at any time just on the basis of the fact that in his opinion the person is drunk. Now what are we going back to, some sort of arrest without charge completely, for everything. This is what it appears to be now. It is a holding permit, to hold anybody for twenty-four hours. This was the thing I was worried about but as I say I think the best thing to do is just let it go and see how it works. If it is abused we can always come back to it.

Mr. Chairman: May I proceed? (Reads Section 86, 87). I have just one question at this point which I would like to direct to Mr. Legal Adviser from the Chair. Inasmuch as we have deleted the interdict from the Ordinance, is it understood that when this Ordinance comes into force that all interdicted persons will be relieved of this encumbrance upon them?

BILL #6 Mr. Legal Adviser: Yes, this is my understanding of it.

Mr. Chairman: (Reads Sections 88, 89, 90).

Mr. Chamberlist: Mr. Chairman, "corporation should be held responsible for his conduct". You can't hold an employee responsible for the conduct of the action of the corporation. You would be frightening people away from their work if they are subjected to a penalty such as this description. The officer or employee of the corporation in charge of the premises shall - I don't think we should have anything like that here-placing responsibility like that on employees; certainly on the officers of the corporation but I think it is too tough to hold a bartender responsible for things that he has no control over at times.

Mr. Dumas: The Honourable Member, to a degree, has a point, but what if you are the officer of a corporation that owns several hotels and you may not even know what one of your hotels looks like let alone an employee and you could wind up living in Whitehorse and you are charged for an offence in one of your establishments in Vancouver because you are an officer of the corporation that owns that hotel.

Mr. Chamberlist: Mr. Chairman, I can answer that, when I mean the officer of a corporation I mean the officer who is in charge of the establishment, and including the officer is the manager. It is the officer I am referring to. I don't mean absentee officers but certainly you can't put the onus on a bartender. For far too long this has been happening and the poor bartender is busy serving drinks and a couple of under-age kids come in and the waitress serves these kids who are under the age of nineteen. The bartender doesn't know anything about this because he is servicing it; how can he be held responsible but he is responsible because the manager has to manage. I don't think it is fair to do that.

Mr. Legal Adviser: Mr. Chairman, I am not really concerned with what is fair, I am concerned with what is practical. We have been met in our local statutes here, with all... offences that arise on behalf of a corporation but do not arise in the case of ordinary individuals and we have the position now where we have orders to pay and we have offences committed by corporations under the local statutes and there is not a thing that we can do about it. We...met by the defence for the corporation who is committing the offence - admittedly committing the offence and acknowledging in open court their obligation have refused to pay because they are based in Vancouver and we can't get the particular individual here although their managing director is living in Whitehorse but he won't even come to court and it is said that the lawyer is instructed by the employer in this case has said that the president of the corporation is in Vancouver and I find it difficult to get instructions from him and when at length we get a decree that they pay so much or in the case of a private person he goes to jail - there is not a thing we can do. When you are running a bar, you should be paid for it and you should be able to take the grief with the... The manager, who is appointed by a corporation to run the business should run it and he should not be able to deliberately flout an Ordinance to make it impossible for us to enforce an Ordinance or bring him to court by saying, oh, the president is in Vancouver or the president is somewhere else and the secretary is somewhere else. This is a normal form of section and it is a very necessary section. If we don't do this we are completely crippled in the case of a corporation who... for the manager says, this is what the president told me. Where is the president; the president is in Vancouver.... It is necessary

Mr. Legal Adviser continues...  
to have this section otherwise we can throw our hats at the whole of the enforcement of the whole of the technical sections in the Ordinance.

Mr. Chamberlist: Mr. Chairman, this is the very thing that I said. I said that the managers should be responsible. Now I am pleased that Mr. Legal Adviser has got up and agreed with me, Mr. Chairman. I am talking about the employee. This says that "officer or employees of the corporation in charge of the premises", now when we are talking about premises are we talking about the licenced part of the premises or are we talking about the whole establishment. If you are talking about the whole establishment when you are saying employees, that is fine. There is no argument about that, but if you are just talking about the person who is in charge of a part of the premises which is where the liquor is being served in the cocktail lounge, usually the bartender is the person who is in charge. Now, I don't think it is proper for us to penalize a bartender who is busy working and can't see what is going on in every part of the place. This man is just earning his living as a bartender; he is getting paid by the hour or by the month. Why should we have legislation in there to penalize him. This is what I am saying. I agree with what Mr. Legal Adviser said about the manager; no argument at all. But, I feel that we should say "the officer or manager of the establishment", we should clearly say who is responsible, the officer or the licensee, but not the employee because you are bringing in people who have no financial interest in this and you are penalizing somebody who should not be penalized. I can agree absolutely with what Mr. Legal Adviser has said but I trust that he could take a look at this and word it so that the people who should be responsible for an offence be penalized, not those who should not be responsible for these things. I wonder if Mr. Legal Adviser can amend that?

Mr. Legal Adviser: We have made it as broad as we can because the description.....if a barman is going to serve people seventeen years of age we must be able to charge the barman.

Mr. Chamberlist: What does he know?

Mr. Legal Adviser: He's got to find out and he has to learn .....

Mr. Chamberlist: Oh, this is - now, Mr. Chairman, obviously Mr. Legal Adviser has been in many bars but he has not operated them. There is no doubt that a bartender, he doesn't know, it is the waitress who comes up to him and says I want three whiskeys, three ryes, he doesn't know who is being served. He takes it for granted that the waitress knows what she is doing and I related to another situation just this morning where the waitress went over to serve the table, and as she was going over I just happened to look over there and I just said "wait a minute, don't serve that table" and I went over and enquired of one of the girls who was sitting at the table, dressed up and looked every bit like a fully matured woman of 24 or 25. The only reason I went over was because as the girl was going to take away the tray she started giggling and she giggled like the age she was, 16½ and I chucked her out. Now, how can you go and penalize a bartender who is busy pouring drinks, this is not right. I don't think we should penalize the working staff but penalize the management, and I am management and I say penalize the management but not the working staff.

BILL #6 Mr. Legal Adviser: In that case it would not be the waitress charged as she would not be in charge of the premises, the Honourable Member should be charged.

Mr. Chamberlist: It doesn't say that, this is what I am getting at.

Mr. Legal Adviser: The employee in charge of the premises.

Mr. Chamberlist: Mr. Chairman, I am sorry, but again, with all due respect, stubbornness on the part of Administration. There is no reason at all why we cannot look at this in a sensible manner, not penalize the employees who have nothing to do with the responsibilities of liquor in the establishment. A waitress doesn't know, the bartender doesn't know, the manager doesn't know but he has to take the brunt of it because he is the manager and he has to take the brunt of it and he should take the brunt of it because he should train these people to do it but I want it clear from Mr. Legal Adviser whether he referred to employees of the corporation in charge of the premises, is this in charge of the whole premises or just in that part of the premises where liquor is being served? If he says he is in charge of the whole premises, that is the answer and I am content.

Mr. Chairman: Councillor Shaw, would you take the Chair?

Mr. Shaw: Just a moment, I think there is an answer.

Mr. Legal Adviser: The premises in respect of which the offence is committed - this may not actually be the cocktail lounge, it may be the corridor, it might be the toilet or any part of the place, the whole thing. The particular premises in respect of which the offence is committed, you may charge him in respect of a yard, the whole thing.

Mr. Chamberlist: That is what I want to know, O.K.

Mr. Legal Adviser: There may be different employees in charge in different parts.

Mr. Chamberlist: That is fine, that is all I wanted to know.

Mr. McKinnon: I would like one thing clear. Does this mean that if there is a part where the bartender can't even see the whole of the premises, there are 150 people in and he is busy as can be serving drinks and someone under age is in; a police officer comes in, arrests someone as being under age, that bartender is legally responsible for the infraction that took place in the premises?

Mr. Legal Adviser: Mr. Chairman, if he is in charge of the premises, then he is responsible. If it is a one man outfit then he has to take the kick. If he has two or three people there the senior person is the person in charge.....

Mr. Chamberlist: Mr. Chairman, have we then made provision in this Ordinance to heavily penalize a person under the age of nineteen for being in that place illegally. Why penalize the bartender, should we not penalize that person for being in there? This is a one-sided track, this is what I am getting at. Surely if you have a penalty against a class of people because of the conduct of another class of people, and I use the word again, I think it is unfair. Now, we should have provision in the Ordinance whereby if somebody under the age of nineteen is in that bar illegally, the penalty should be upon them for being in that bar and we



Mr. Chamberlist continues... should protect these people who are working in the liquor industry.

Mr. Legal Adviser: Mr. Chairman there is a penalty - no person under the age of nineteen can purchase or attempt to purchase or otherwise obtain liquor and then if they do that and they are in a bar and they don't leave it is an offence. You can't have a thousand dollar fine against a teen-ager, it is not practical.

Mr. Chamberlist: Mr. Chairman, why not?

Mr. Legal Adviser: Because they don't have a thousand dollars. The law would not be properly enforced. They have committed an offence, the bartender doesn't have to serve them, he can request them to leave. I am not suggesting that this is a particularly just section but it is equitable and it is enforceable.

Mr. Chamberlist: Mr. Chairman, Mr. Legal Adviser obviously does not know that most teen agers today have got more money than the bartenders because the teen ager hasn't got anybody to look after and the bartender has four or five kids in the family to look after and he hasn't got the money. Now, I think that we should say in quite clear language that if these children are in there under-age, this is the penalty for them, not just a penalty. It is going to cost them five hundred dollars or up to five hundred dollars so that they know and so that the courts can say to them "this time it is going to only cost fifty but next time it can cost you up to five hundred.

Mr. Commissioner: Mr. Chairman, with respect, I think the question is answered starting in sections 88 and 89.

Mr. Livesey: A question to Mr. Legal Adviser, Mr. Chairman. I would like to ask him, irrespective of whether a person under the age of nineteen is asked to absent themselves from a licenced premises or not, is it an offence for a person to be in there; whether they are asked to leave or not is beside the point. The fact they are in there, is this an offence?

Mr. Legal Adviser: Yes, subsection (3) of Section 83 makes it an offence. It is covered under.....

Mr. Livesey: Supplementary, Mr. Chairman, if this is the case then, the bartender is in a most untenable position at all times for the simple reason that he cannot prevent people from walking into his premise, certainly.....can't stop them going in under the age of 19 unless he puts a guard on the door and I don't know of a place that has this sort of thing, so he is then becoming responsible for the morals of the nation and I have said this time and time again over the years, this is ridiculous and it is totally impossible. And I further agree with the Honourable Member for Whitehorse East that it is the manager of the establishment, not the manager of the bar, who should be made fundamentally responsible, just the same as it is of the owner of an automobile; he is responsible for that automobile, whether he is driving it or not is beside the point.

Mr. Chamberlist: Notwithstanding that a person under the age of nineteen could be asked to leave, the very fact that he is there, under nineteen, automatically makes it an offence of the management because he is in there. With due respect, Mr. Chairman, Mr. Legal Adviser is shaking his hoary head at me, the point that I make that there is no area

BILL #6 Mr. Chamberlist continues...  
where it says that the management, or whoever is in charge is not responsible for a person under the age of nineteen there, says it is an offence, and an offence is that a person is under nineteen and goes into the place, then he is responsible.

Mr. Dumas: Mr. Chairman, I think the Member for Whitehorse East has a point because under Section 83 (3) says "no person under the age of nineteen shall enter a tavern or cocktail lounge" and then in Section 90 "where an offence is committed under this Ordinance, the corporation can be held responsible"....

Mr. Shaw: Mr. Chairman, when we have someone selling to a person under age, it is a justifiable charge but where, as the Honourable Member from Whitehorse East just mentioned, looked across the room and there was a person sitting down, under age so he went over and told this person; I cannot quite think of the exact words used, and anyway he asked the person to leave, which she did. Now, if in the interim, or just prior to that a police officer walked in, now the proprietor or somebody in the establishment could have been charged, and perfectly innocently so because there was an under-age person in there; is there any way that this could be worded, Mr. Chairman, to the effect that knowingly, to take away the unfairness. I believe there should be responsibility on people selling liquor, absolutely, but at the same time there might be circumstances come up, you might say be untenable, unenforceable because that person hadn't been served, had not even approached the table. For example, a police officer could watch and see a young person going in and sitting down at the table and immediately go in and say come on young fellow and off we go. You are charged. That person should be charged but at the same time they turn around and charge the establishment. Is there protection for something like this?

Mr. Legal Adviser: Yes, Mr. Chairman, the offence must be committed by the corporation, the words of Section 83 "where an offence is committed by a corporation" and in the case mentioned by the Honourable Member that a teen ager walks in off the street and sits at a table, he has committed an offence by being on the premises. The corporation has committed no offence but if they serve him liquor that is another thing, but merely having a teen ager there, as such, is easily defended and no police officer would normally make a charge, and if he did, the court would throw out the charge, but if the man was there for two or three hours drinking away, then a charge should be brought.

Mr. Shaw: One question, Mr. Chairman, under section (3) it says that no person under the age of nineteen years shall enter, be in or remain in any tavern or cocktail lounge. That is an offence. Now, if this is an offence merely to the person that goes in I would say that is right, but if the bartender, the liquor outlet gets charged for that it is extremely unfair.

Mr. Legal Adviser: He can't be charged for that; he could be charged with conspiracy to do it or something like that but that is a horse of another colour.

Mr. Chairman: Well, in view of the time I will stand Committee in recess until two o'clock this afternoon.

RECESS

RECESS

Page 161,  
Monday, 19 January, 1970,  
2.00 P.M.

Mr. Chairman: At this time we will call Committee to order.  
The next section is Section 91 (Reads Section 91).

BILL #6

Mr. Chamberlist: Now, Mr. Chairman, here is the position again. A bartender knowingly serves liquor to somebody under the age of nineteen. The employer of that bartender is party to the offence that the employer doesn't know anything about. Now, how can you allow anything like that? Who would support that? That is the way it reads. This is why you have to look at these things. An employer of a person holding.... That person shall prima facie be deemed to be a party to the offence. He knows nothing about it and has nothing to do with it. The bartender has one of his young girl friends come in, who has just turned eighteen.

Mr. Dumas: This is employer, not employee?

Mr. Chamberlist: Read it. With respect, Mr. Chairman, it says "where an offence under this Ordinance or the regulations is committed by an employer of a person holding a licence under this Ordinance, that person shall be deemed to be a party to the offence". It seems improper that we should have things like that in there. Well, sure we should protect the public but not penalize everybody that you think you can penalize in this. You tell me that the language is supposed to speak for itself but surely in legislation the language is speaking and everybody can get into trouble for that. What would Mr. Legal Adviser say about that?

Mr. Legal Adviser: The person holding the licence, the person whose name is on the licence that Mr. Vars would have because companies will name a person to hold their licence. Now, this is so that the personal employee, that the manager, it is not a bartender, it is a manager who is going to get a licence. The Whitehorse Inn Company or any of these companies, White Pass Hotels Limited, they would be deemed prima facie because of the offence. So we have to come into offence = they have to prove that they are not part of the offence.

Mr. Chamberlist: It is wrong but not much use.

Mr. Chairman: (Continues reading Section 92).

Mr. Chamberlist: There is a correction. Prosecution says prosecution.

Mr. Legal Adviser: Yes.

Mr. Chairman: What is the correction, please?

Mr. Legal Adviser: It should be prosecution, not prosecution.

Mr. Chairman: (Reads 93 (1) and (2)).

Mr. Legal Adviser: There is an error in English somewhere in subsection (1).

Mr. Legal Adviser: There is something missing.

Mr. Chairman: It comes in on line 4.

Mr. Legal Adviser: There is no subject to the sentence. I think we will check back...a typing error of some sort, exactly what it originally was I don't know. Could we leave it and check it back?

Mr. Livesey: There should be a comma after "thereof".

BILL # 6

Mr. Chamberlist: Thereof, yes, that is what I thought

Mr. Legal Adviser: I think it should be a certificate signed  
..... Anyway it is an error, Mr. Chairman, if you can leave  
it and we can get the correcting.

Mr. Chairman: Continues reading Section 94 .....

Mr. Chamberlist: I beg your pardon, I'm sorry to interrupt you,  
where it says Sub-Section (2)-b "the accused or his counsel," It  
should be the "accused agent, or his counsel." His agent or counsel.

Mr. Legal Adviser: If you want it, it's hurtful to the accused but  
...

Mr. Chamberlist: Well, if he wants an agent why shouldn't he ...  
he can't afford a

Mr. Legal Adviser: It is only the three times that it occurs.

Mr. Chairman: Right 94

Mr. Chamberlist: I wonder if we could have an explanation of that.  
Does that mean that the police witness would not have to give  
evidence as to that nature?

Mr. Legal Adviser: No, the witness would still have to give  
evidence but he can produce a bottle of liquor without actually  
saying this is 14  $\frac{2}{3}$  ounces. It's liquor and that is sufficient  
without giving the amount. Now, if a person drinks liquor you can  
say he drank a quantity of liquor without saying he drank  $\frac{3}{4}$  of an  
ounce of liquor. So far as the consideration is concerned, that's  
the money. If money changed hands, if it is sufficient to realize  
that money changed hands without actually having to prove that the  
number of cents involved. Money becomes money and a quantity of  
liquor is sufficient in this case. Normally speaking in formulating  
your information exactly, you have to say exactly how much was paid  
and exactly how much liquor was delivered.

Mr. Chairman: Continues reading 95.

Mr. Chamberlist: Well, Mr. Chairman, is a suggestion being made then  
that a conviction or a letter can be based purely on circumstantial  
evidence and evidence of fact is not required? It would appear  
from this section that that is the case.

Mr. Legal Adviser: In no case, and certainly no accusation of a  
crime is it necessary to do more than give circumstantial evidence.  
Circumstantial evidence is a set of facts and mythology facts  
in which the court will draw an interest. If I produce a gun and  
shoot the clerk through the chest, the evidence of the people present  
would all be circumstantial. They would say I drew a gun, they heard  
a noise, they saw him fall down with a hole in his chest but they  
didn't actuall see the bullet go they are just assuming, from their  
knowledge of guns, that that is what happened. The same way here,  
if a person says that they were using the liquor for their own  
consumption. A man is living alone, we'll say down by the river  
somewhere and it's shown that he is buying a case of whiskey per day,  
of course we could assume that he is doing something with that liquor  
..... If he explains it and it is accepted, that is fine but if he  
explains it and on further examination if found to be a liar it  
goes tough with him.

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Mr. Chairman: Alright, at this time we will call Committee back to order. Are we clear on Section 95?

Mr. Chamberlist: Yes, fine.

Mr. Chairman: Reads 96 (1)

Mr. Chamberlist: Question. Could I ask a question regarding this one? Here is the position of the gift, you see, this is what I was speaking about. If I gave you a gift of a bottle of liquor, is that contrary to the Ordinance? It it's not why would it have that item in there?

Mr. Legal Adviser: Only if it's bootlegging in the first place.

Mr. Chairman: Reads 96 (2); 97. Could we have an explanation on that, Mr. Legal Adviser?

Mr. Legal Adviser: Well, a case arose here where one of the local hostelrys near the bridge had a case where a minor was charged with drinking there, and the police insisted that the Director of Liquor go to court in order to prove the fact that he was licenced and the fact that it was an offense, and what have you. In the end it turned out not to be necessary, but they wanted him and they sent a subpoena and they wouldn't take no for an answer. All that was really necessary was to hand in the licence and prove it as licence and not to call it to court, otherwise he would be spending his time on the road, up to Dawson and down to Watson Lake and what have you. We are just proving a simple thing that is not denied in the first place. If they denied it to the Director it would be a different thing.

Mr. Chairman: Reads 98; 99 (1) (2) (3).

Mr. Chamberlist: These few words, "or is about to be committed," why are those words put in, is it left to the police to decide whether or not an offense is about to be committed and that they can go in ahead of time, is this the idea?

Mr. Legal Adviser: Sometimes it may be necessary to go in ahead of time. I can recall a case where a man went down to the town of .... swinging an axe and saying, "Bring out that sergant, I'll chop his head off." He went into the police by swinging the axe and buried it in the day room counter. It might have been necessary before he committed the assault to catch the axe and hold him. This, sometimes is necessary. In this case there may be an offense about to be committed, it justifies a raid which technically may not be a sound raid. Now, this set of Sections, as being born in the Legal Services Department, after a lot of cogitation and I'd ask the Honourable Members to bear with me in this Section in that it is very carefully drafted in Sub-Section 1 " An officer who has reasonable grounds for believing and does believe ...." In other words this is just different than just casually searching a car, a boat, or another vehicle. It means that the officer must genuinely believe that there is liquor in that car. He can't use the search of a car under the Liquor Act, for all the extreneous reasons, which, in some provinces, but never of course here, justifies searching a car and turning out the boos and what have you. Now, in Sub-Section 2 we deal with dwelling houses. In the case of a dewlling house, which includes a vast variety of places, an officer must get a search warrant before he goes in, and this is the death nell of what has often been objected to in this house, called the "blanket search warrant." He must now get a search warrant for the individual house he wishes to enter. In Sub-section 3 he is given a wider power. He can go into a building which is not a dwelling house. Now, this is not unreasonable, this is an office, public

BILL #6 Mr. Legal Adviser continues .....  
building, a tavern, an inn, all these various places, he can go in here on this grounds because he is not violating the complete sanctity of private property. It is a very carefully designed set of three sections. To meet with the wishes of the Honourable Members, I've expressed from time to time in the House, on this and on other matters.

Mr. Chamberlist: Mr. Chairman. When ..... It is pointed out by Mr. Legal Adviser that the beginning in Section 1 "a peace officer who has reasonable grounds for believing and does believe...." That's how that starts, but when it comes to Sub-Section 3, it says "where a peace officer believes on reasonable grounds...." and it ommits the words and does believe. Now why should he put it in one section, ommit it in the other and add to it, "or is about to be committed"? The instance that was given by Mr. Legal Adviser, Mr. Chairman, in relation to a man with an axe and says come on I want to chop that guy's head off, this has no bearing whatever because you just lock him up for threatening, I mean, that's enough so that has no bearing on this at all. All I'm concerned about is that a policeman without warrant can go in on the basis that he believes that something is about to be committed. You know, no excuse at all, no reason at all that he can say this. We are opening up this area to abuse by irresponsible policemen. Now, if you want to support that type of thing go ahead, but I say we are not protecting the public. It's alright to have Liquor Legislation, a good wide Legislation, but we have to have some protective areas in this as well because we make Mr. Joe Q Public an enemy of the rest of the people, everybody, wher ever he walks. There's a possibility that he might be doing something wrong, he's a bad man lets Legislate against him. Lets get the policeman in the position that he can go into anybody's house. This is all we are doing. We are not protecting people that way. We are just hindering them. I would suggest that these words "about to be committed," be taken out.

Mr. Chairman: Anything further on this? Reads 99 (4).

Mr. Chamberlist: There you go again, Mr. Chairman. I'd stop a man from coming into my home, anyplace, any building.

Mr. Dumas: Other than a private dwelling.

Mr. Chamberlist: Alright, coming into my business premises. Not a liquor establishment but another one of my business premises. It could be a candy store. If I stop him from coming into my candy store, I'm committing an offense? It's doing anything. I just don't see it and if we let this go through we are just extending police powers.

Mr. Legal Adviser: We are not extending police powers at all. We are narrowing them down because the existing law is that in Sub-Section 3 and we've made an attempt to meet with the generally expressed wish of the House to narrow the police cars in certain respects. We've done this, maybe not enough but we've done it to some extent and this is our attempt to meet the wishes of the general group of the Members, so far as I can do it.

Mr. Chairman: Reads Section 99 (5); 100; 101.

Mr. Chamberlist: Question. Now, you see here is a conflict here. When we talk about inventories certainly we are talking about the amount of liquor. Yet, Mr. Chairman, a little while ago, Mr. Legal Adviser, said they could introduce a bottle and say there is liquor in there. Now, what is the purpose of making a report as to inventory if they don't have to say what liquor is in the bottle?

Mr. Dumas: Two and a half bottles.

Mr. Chamberlist: No, if it's a started bottle?

BILL # 6

Mr. Legal Adviser: This was for the purpose of formulating the information at the start of a charge, you don't have to say the sixteen and one half ounces. It is a seizure. We want to know what liquor was seized, from whom, and where and the Director isn't going to say or care whether there was twelve ounces or thirteen ounces. What he wants is a bottle partially full, sixteen full and one half full.

Mr. McKinnon: What happens to the liquor that is seized??

Mr. Legal Adviser: Eventually it is confiscated and comes back into the hands of the Director....

Mr. McKinnon: The Commissioner?

Mr. Legal Adviser: The Commissioner and is either destroyed or if it can be re-sold I think it goes back to the hands of the Director. Some earlier sections deal with this.

Mr. Chairman: Reads 102; 103.

Mr. Legal Adviser: Mr. Chairman, there is a mistake there. Sub-Section 103 is a repetition of Section 80. It is in there by mistake.

Mr. Chairman: This section will be deleted.

Mr. Chamberlist: And re-numbered?

Mr. Chairman: We will so inform the clerk when he returns. Reads 104 (1). This now would become 103, I presume. 103 (1). I have a question from the Chair. I am just wondering what the intent of Sub-Section (d) is for?

Mr. Legal Adviser: Well, it's hanging there from before. The reason is that in case, sometime in the future there may be come a limit and then they limit the number of licences of, let us say, 110 or 150 for some reason. The board would then operate within that discretion. But, as I say we are not trying to create a new policy in this.

Mr. Chairman: Reads 103 (1)-(e)-(f)-(g).

Mr. Chamberlist: Just a question. When we say the Commissioner may make regulations, are these regulations to be made on the advice of the Board, or is the Commissioner going to make regulations from a board, to act on?

Mr. Legal Adviser: No. Well some of them the board will be acting on but this set of Regulations here will be purely Commissioner's Regulations. They won't be Board Regulations. This is not to say that a semi-permanent Board, if there is a Board presently in operation they may be asked for advice but it's not the board making the regulations, it's not the Commissioner making them on the advice of the Board, it's just the Commissioner making the regulations.

Mr. Chamberlist: The board then enforces the regulations of the Commissioner?

Mr. Legal Adviser: Yes.

Mr. Chamberlist: So that we have two authorities.

Mr. Legal Adviser: But the Board has no regulation making power.

BILL # 6 Mr. Chairman: Reads Section 104, which is 105 on your sheet, it will be re-numbered at 104 Section 105 (1); (2).

Mr. Livesey: Explanation please.

Mr. Legal Adviser: The reason for that is that the existing licences are being abolished, or modified and they may want to move into a different category, but, of course, they would have to comply to the regulations.

Mr. Chairman: I just have one question I'd like to ask for the Chair, for clarification, that off premise sale of liquor, in the manner that it is now sold, in cocktail lounges, will continue?

Mr. Legal Adviser: Yes, there is no intention to change that.

Mr. Chairman: It still will be legal to have liquor in a vehicle, in the same manner as the existing Ordinance?

Mr. Legal Adviser: No, we are not dealing with liquor except boot-leg liquor. As far as I read the Ordinance, if a person has liquor anywhere, including a vehicle, if he has it in his pocket, well then that is it, it just says it, and provided it is not unlawfully imported of hasn't been got from some wrong source and so on, he is O.K.

Mr. Chamberlist: You could walk down the street drinking a bottle of whisky, you know, as long as you don't interfere with anybody.

Mr. Chairman: Right, now we'll proceed with the amendments and I wonder if Mr. Clerk or Mr. Legal Adviser would start on the amendments, as we have them.

Mr. Legal Adviser: I have a list of the Sections which have been amended. The first one, Mr. Chairman, is Section 5

Mr. Dumas: Page 4.

Mr. Chairman: Right.

Mr. Legal Adviser: Page 4. My recollection is that the Commissioner appoint a Chairman of the Board, the wish of the House was that the Board shall choose a Member amongst their own number to be Chairman.

Mr. Dumas: Excellent.

Mr. Legal Adviser: In Section 6 my recollection is, I'm not absolutely certain of this, that we narrow down the people that would commit this offense to a Member of the Board and no person appointed as pursuant to Section 8 shall solicit and then in the base, it was pointed out that a person might actually give money as a bribe for getting a licence. And this was added in. Or from any applicant for a licence.

Mr. Chairman: Clear?

Some Members: Clear.

Mr. Chairman: The next amendment.

Mr. Legal Adviser: Section 17. This one was to bind the Commissioner to the appeal. Before that it was just the Commissioner should refer the matter to the board for recommendation and we added in "and be bound by their recommendation." You remember the Commissioner undertook to be bound by their .... Sub-Section 4



Mr. Chamberlist: Well there is another area we asked .... Section BILL # 6 16 that we asked to be ammended.

Mr. Legal Adviser: What is the one, 16.

Mr. Chairman: Section 16 and 17 were lumped together.

Mr. Chamberlist: Yes, 16 where we had and with or without a hearing suspend any licence. That's been taken out and that reads .....

Mr. Dumas: Clear?

Some Members: Clear.

Mr. Legal Adviser: The next ammendment in order is Section 17 (4). The next one was Section 17 (5). The next one is Sub-Section 8 of 17.

Mr. Chairman: Right, agent or counsel....

Mr. Legal Adviser: Which brings in aid into Counsel. The next one I have is Section 22.

Mr. Chairman: 22 is right.

Mr. Legal Adviser: Cabaret licence was knocked out and the others were then re-numbered.

Some Members: Agreed.

Mr. Legal Adviser: The next one was Section 32 (1).

Mr. Chairman: I have 31 marked for possible re-consideration, is there anything done there?

Mr. Dumas: It's covered in 32.

Mr. Chairman: I see, alright proceed.

Mr. Clerk: The objection to 31 was the Chairman deemed a place where the application .....

Mr. Chamberlist: Right, that's right

Mr. Clerk: The objections was overcome by an ammendment in Section 32.

Mr. Legal Adviser: It shall meet, where the application, as near as ..... having regard to all the circumstances. This is giving them an out, because you don't necessarily go to Old Crow if you can't get your Board up there and the person may want their licence sooner.

Mr. Chamberlist: And then..... Didn't we have a discussion, Mr. Chairman, about darts and shuffle board the only games allowed in the cocktail lounge, if they so wanted.

Mr. Dumas: What Secion are you.....?

Mr. Legal Adviser: I don't think we have come to those.

Mr. Chamberlist: Section 37 (4).

Mr. Legal Adviser: We haven't come to that.

Mr. Dumas: Clear.

BILL # 6 Mr. Legal Adviser: Now that is in 32 (1), the next one was in 37 (3). Now, we knocked out prohibitions in taverns and cocktail lounges against entertainment,

Mr. Chamberlist: Right, yes.

Mr. Shaw: Mr. Chairman, I can't find 37 at all in my field.

Mr. Legal Adviser: Page 13.

Mr. Shaw: Page 13? I haven't any page 13. I have 12-19.

Mr. Dumas: You are in trouble.

Mr. Shaw: All I did was put a staple through them.

Mr. Chamberlist: Well, how have you been following the reading of the Bill, Mr. Shaw.

Mr. Shaw: Mr. Chairman.

Mr. Chairman: Order Gentleman.

Mr. Shaw: It was all in their but this section. As soon as I find it omitted I did bring it to the attention of Mr. Clerk. Is that a satisfactory answer for the Honourable Member from Whitehorse East.

Mr. Dumas: Yeah .... Clear.

Mr. Chairman: Alright, the next item.

Mr. Legal Adviser: The next item was 37 (4) where we change the opening hours to read, in respect of all premises, as they came along, and this one reads "the tavern may not be opened during the hours of 2 o'clock in the forenoon and 9 o'clock in the forenoon." Then "a tavern may not be opened between the hours of 2 o'clock in the forenoon on any Sunday until 9 o'clock in the forenoon on the Monday immediately following.

Mr. Chairman: Next Amendment.

Mr. Legal Adviser: The next one is Section 38 (3) the entertainment prohibition is knocked out and the similar opening hours. It may be open for the sale of liquor once each weekday during a continuous period ending not later than 2 o'clock in the forenoon of the following day and may not be re-opened during the ten-hour period immediately succeeding the close of business. Now I have the feeling.....

Mr. Chamberlist: 39 (4).

Mr. Chairman: The whole of Section 39 appears to have been changed and now appears under conditions.

Mr. Legal Adviser: There should be a or the cocktail lounge because the cocktail lounge should be able to be opened until 2:00 a.m. on a Sunday.

Mr. Chamberlist: Right.

Mr. Legal Adviser: So that (5) should also be into the cocktail lounge one. The same two sections should be reproduced there. So we'll have to come back to those two Sections again.

Mr. Chairman: 37 and 38.

Mr. Legal Adviser: We'll have to look at them again because 37 and 38 should be identical. Now, the next one was, 38 (3) (4) has gone from 38. There are a lot of amendments that I have listed here in Section 39. The whole of that Section has gone out and we are reduced to the two Sections that you see. The House wanted a condition left there that food is provided for customers during such time as the premises is opened for the sale of liquor. The other one was that the holder must notify the Director of his hours. Now, in Section 40, a series of Sections were taken out. Some were left in and some were taken out. Now what is left in is, they are entitled to sell liquor, they must prepare food on the premises, and they must have adequate table clothes, flatware, and menus. Wine may be sold by the bottle or half bottle or craft, and it may be opened for the sale of liquor between the hours of 10 o'clock in the forenoon of any day until 2 o'clock in the forenoon of the following day. This is any day. This is weekdays and Sundays. In Section 41 the House wanted it put back in the original draft as it came to the house. It was limited in a restaurant to selling beer, and there was a debate of the Members of the Collars, as to whether they should sell wine or not, and they were limited to table wine not to take out fortified wine because this, apparently, in some places, is subject to a certain amount of abuse. They were to sell it by the bottle, they can only serve it to a person having a meal, their hours are from 10 o'clock any day until 2 o'clock the following day, including Sunday. Now, Sub-Section (5) may need re-examination, in view of the discussion the last day, in which the House passed a Resolution, I think, by a majority vote that all licence holders be entitled to sell beer for off premises consumption, on a Sunday.

Mr. Dumas: Remove to discretion of the Board.

Mr. Chairman: Well, this would just delete Section 5 completely wouldn't it?

Mr. Legal Adviser: It would knock out Section 5. We would have to re-do the Section. The whole of the Section has been put in somewhere else. The present position is when a cocktail lounge or a tavern is validly open it may sell beer for off premise consumption. Now the Motion of the House was that they not be limited in selling off premise beer in those hours, but they could go ahead and sell it on Sundays as well. At least between 10:00 in the morning until midnight. They wanted it to apply to taverns, cocktail lounges, licences and dining rooms. The whole works, Anything in exchange for a grocery store. This makes this particular Sub-Section inappropriate so we'll deal with it when we come to it. The Commissioner suggested that we could use the general off licence problem by putting in a Sub-Section to it.

Mr. Chairman: 5 will then disappear will it?

Mr. Legal Adviser: Yes, 5 and 6 would come out and we would put them in elsewhere.

Mr. Chairman: Clear?

Some Members: Clear.

Mr. Legal Adviser: Now Section 44. This is the one where we would .....

Mr. Chamberlist: The word is absolute.

Mr. Legal Adviser: We'll need a Section dealing with this, dealing with the beer on Sundays, in this Section, so if the Clerk would remember to remind me to put it in.

BILL # 6

Mr. Legal Adviser continues .....  
Now Section 45 has a change. Yes, absolute was taken out.

Mr. Chamberlist: With respect, you don't need Section 44 because it reads that the Commissioner, may in his discretion, give you a licence, in any licenced premises for off premises consumption. He can do it at anytime, under 44, he can do it now can he?

Mr. Legal Adviser: He can do it now, yes.

Mr. Chamberlist: Sure. What do you want another section in there for?

Mr. Legal Adviser: If the House is willing to accept this I would be willing to accept it. To trust the Commissioner that far.

Mr. Chamberlist: He knows what the House wants.

Mr. Legal Adviser: He knows what the House wants, yes.

Mr. Chamberlist: Sure, well you don't need to because his discretion is already there.

Mr. Legal Adviser: The Commissioner does not want to be saddled with the excercise of discretion where it is possible to eliminate it. If it is the wish of the House that he has the discretion, that's fine.

Mr. Chamberlist: No, let him put it in.

Mr. Legal Adviser: O.K. Section 45

Mr. Chamberlist: In case he gets fired next year.

Mr. Legal Adviser: Now, Section 45 has that small change. Section 46 (3) had a change dealing with the hours to make clubs the same as the other people, I think, the length of the hours. Section 50 Sub-Section 2 had a change. I think it was a technical change because there wasn't much in this. The holder of a reception permit may serve liquor in the room or at the place mentioned in the permit."

Mr. Chairman: One question here just from the Chair. Respect of Section 46 involving clubs. I am wondering why if we have a dining room, for conserved liquor all Sunday, why a private club can't serve liquor on a Sunday?

Mr. Dumas: Because it is not a dining room.

Mr. Legal Adviser: At the moment clubs can't. A club can get an undescisional bon spiel, they can get a permit, that would cover them, you see. But especially rent. I'm not aware that there is any pressure from that source, to get the law changed. I am not sure exactly what the ammendment was in Sub-Section 2 of Section 50. There was probably something left out due to a typist's error.

Mr. Chairman: Serve liquor in the room whereat the place mentioned in the permit, was the change.

Mr. Legal Adviser: There are a few small changes as a result of the debate in the last few days. Something merely technical like putting in the agent of counsel. Some are eliminating duplications and one of them is concerned with making sure that the prohibition against keeping unlawful liquor where it comes into the customs or Federal Fee should conform with what the Federal practice happens to be at the time. So we can ascertain this and make the necessary changes.

Mr. Shaw: Mr. Chairman, on page 28, not wishing to be nit-picking, but there is. On page 28 you'll see that ....

Mr. Legal Adviser: Page 28.

Mr. Shaw: Yes, on page 28, this is this typographical error, I just would point out. Section 85 Sub-section (2)-b. A person capable of "a person capable of doing so undertakes" instead of undertakes. Well you are right in fixing up those small things.

Mr. Legal Adviser: I don't think the Honourable Member understood that we are only bringing our amendments up to Section 50 and then from there on we will get the machine, and re-do the pages, because they were amendments today and yesterday.

Mr. Shaw: It was just a spelling, it doesn't mean anything but when you were changing it well.....

Mr. Chairman: Councillor Dumas, Order please. Councillor Dumas.

Mr. Dumas: Mr. Chairman, one amendment that the Legal Adviser didn't mention just now and that was rather important. Was the one where people would be able to sell beer to go up until 2:30 and this is very important because it helps get rid of people that are leaving the bar rather than cutting the off sales off at 2 o'clock, they are on the premises and have to leave the premises at 2:30.

Mr. Chairman: Here Here. Agreed.

Some Members: Agreed.

Mr. Chairman: The next Bill is Bill #8. This Bill, I believe, has been read, I wonder if the Honourable Member from Carmacks-Kluane would wish to propose a Motion in respect to this.

Mr. Dumas; Mr. Chairman, if I may interject, we've been asked by the Administration and it has been pointed out the importance of the Legal Standards Ordinance and the Workmen's Compensation Ordinance passing. Bills #10 and 11, I wonder if we could move to those now, because we may get bogged down in the Co-operative Association Ordinance which is .....

Mr. Chairman: There is just one amendment to this and we will be clear.

Mr. Dumas: Oh fine.

Mr. Chamberlist: Mr. Chairman, in respect, I would appreciate it if we can leave the Workmen's Compensation Ordinance until tomorrow because I am prepared ..... I've got something to say on it and I didn't think it would be today.

Mr. Chairman: May we proceed with this Bill.

Some Members: Proceed.

Mr. Livesey: I rise on the question of mis-understanding, what is the amendment?

Mr. Dumas: Well, you are going to make a Motion that we have read it.

Mr. Livesey: Oh, excuse me

BILL # 8 Mr. Chairman: At this time we will call Committee back to order. We have before us Bill #8 namely An Ordinance Respecting Co-operative Associations.

MOTION Mr. Livesey: Mr. Chairman, I would like to move and seconded by the Honourable Member from Whitehorse West, that Bill #8 An Ordinance Respecting Co-Operative Associations has been read in accordance with Standing Order 78 rule 62.

Mr. Chairman: May I have copy of the Motion, Please??it has been by Councillor Livesey, seconded by Councillor Dumas that Bill #8 An Ordinance Respecting Co-operative Associations, has been read in accordance with Standing Order 78 rule 62. Are you prepared for the question.

Some Members: Question.

Mr. Chairman: Are you agreed?

Some Members: Agreed.

MOTION CARRIED Mr. Chairman: Contrary? I will declare the Motion carried  
MOTION CARRIED

Mr. Chairman: I wonder, Mr. Legal Adviser, if you could point out the ammendments to this Bill?

Mr. Legal Adviser: Well, Mr. Chairman, in the original Bill which was before the Counsel, Section #11 was the section which prohibited any Co-operative from making any loan or grant to any persons or political party for political purposes, was, on the Motion of Counsel, eliminated. This necessitated, then, re-numbering from 11 on, when that came out and changing the internal numbering and references from thereon. Exactly how many these would consist of, I don't know, but where you refer to Section 13 it became 12, there is no other change.

MOTION Mr. Dumas: Mr. Chairman, I would like to move that Bill #8 An Ordinance Respecting Co-operative Associations be adopted as ammended.

Mr. Chamberlist: Second the Motion.

Mr. Chairman: No, be moved out of Committee as ammended.

Mr. Dumas: To be moved out of Committee unammended.

Mr. Chairman: Without ammendment? Oh yes, without ammendment. It has been moved by Councillor Dumas and senoded by Councillor Chamberlist that Bill #8 shall be moved out of Committee without ammendment. Are you prepared for the Question?

Some Members: Question.

Mr. Chairman: Are you agreed?

Some Members: Agreed.

MOTION CARRIED Mr. Chairman: I shall declare the Motion carried.  
MOTION CARRIED.

BILL # 9 Mr. Chairman: The next Bill is Bill #9, the Labour Standards Ordinance. Has this been ammended in any way? Do you wish I proceed with the reading of this Bill? Reads: 1(1).

Mr. Dumas: Mr. Chairman, I would like to move that the words, one dollar and fifty cents be struck out and replaced by the words one dollar and sixty five cents.

Mr. Chairman: Is there a seconder? I must declare that there is no motion for Committee at this time Reads: 2 (1) (2) (3) (4) (5). I'll just comment that that seems to be a little backwards. It should be the other way around. Section 2 (5). Is that conditioned? BILL # 9

Mr. Legal Adviser: Conditioned. This is correct, satisfactory to the court in amount and form and conditioned for the payment of all wages.

Mr. Chairman: Reads Sub-Section 6 and 7 and Section 3.

Mr. Shaw: I would move, Mr. Chairman, that this Bill be reported out of Committee as unammended. MOTION

Mr. Dumas: I'll second the Motion.

Mr. Chairman: It has been moved by Councillor Shaw and seconded by Councillor Dumas, that Bill #9 be reported out of Committee unammended. Are you prepared for the Question?

Some Members: Question.

Mr. Chairman: Are you agreed.

Some Members: Agreed

Mr. Chairman: I'll declare the Motion carried.

MOTION  
CARRIED

MOTION CARRIED

Mr. Chairman: The next Bill is An Ordinance to Amend The Workmen's Compensation Ordinance. Reads Section 1; 2. Explain, Mr. Legal Adviser.

Mr. Legal Adviser: This is an arithmetic. Without having the second section before me at this time I couldn't give you a factual explanation of this to satisfy you.

Mr. Chairman: Clerk?

Mr. Legal Adviser: Have you got this section. I know what the purpose of it is. The purpose of it is to increase the amount of work a workman gets and this will be adding on to the existing amounts and then Section 2 they put in six thousand, six hundred dollars which is the full amount.

Mr. Livesey: Mr. Chairman, may I rise and ask where this came from and where the necessity came from, who proposed it, and why?

Mr. Commissioner: Mr. Chairman, I am prepared to take full responsibility for the proposal that is before Counsel at the present time, and this is put before you as the general intimations that Counsel, the last time that we had made the ammendments to your Workmen's Compensation Ordinance was that we should bring forward necessary revisions from time to time so that our Ordinance would bear a continuing, reasonable relationship to the conditions that exist for similar coverage in the two neighbouring jurisdictions, mainly Alberta and British Columbia, and it is in this spirit that this is brought forward and I am sure that if there is any comparative detail that Counsel would like to see to assist them then they are ..... on discussions on this than we can gladly supply them, Mr. Chairman.

Mr. Chairman: Councillor Shaw.

BILL # 10

Mr. Shaw: Mr. Chairman, I would like to ask a question, Mr. Chairman, for clarification. Myself, I'm a very small employer, though I don't run into the particular problem but this particular problem is, can occur, in we'll say, an industry that pays one thousand fifteen hundred dollars a month in the construction or the mining industry and it's in relation to the amount that the employer has to pay for his insurance. I am looking more for guidance on this than anything else, Mr. Chairman. In the past, I can recollect that in making out the final analysis of .... or what your premium was based on was an amount of money that would be comparable with the total amount that a person could earn per year. In other words it was three hundred and thirty three dollars a month and you paid, the employer paid a premium on three hundred and thirty three dollars a month and the excess, there was no premium paid on this. Now I am given to understand, I haven't been able to research this, Mr. Chairman, but I would like to ..... perhaps somebody would like to give me this information, that if for example you had ten employees and their wages are \$690.00 per month. Previous years you have paid on three hundred and thirty three dollars a month per person, but now you pay on six hundred dollars per month per person. I just want to know if that is correct before I go along further, Mr. Chairman.

Mr. Legal Adviser: This is highly technical, Mr. Chairman. In Section 7 of the parent Ordinance it sets out that every employer who is deemed by Sub-Section 2 to be a workman, but to include in his payroll an amount equal to the lesser of two figures and the old figure with five thousand six hundred dollars, the new figure would be six thousand five hundred dollars. In that Section it is bringing into line with the new rate on which, I presume, premiums are going to be paid, but I don't know.

Mr. Shaw: Mr. Chairman, No. That is not what I am concerned about, This new rate will make a difference on that. I am saying is the employer required to pay on one twelfth<sup>th</sup> each month of the total amount to insure that person with .... on the payroll, the total salary paid to that person.

Mr. Commissioner: He is required to pay on behalf of any person that he has in his employ ..... At this point the power was cut off.

Mr. Chairman: I will now declare a recess.



Monday, January 19, 1970.

3:30 o'clock p.m.

Mr. Chairman: At this time I will call Committee back to order. We are discussing Bill No. 10.

BILL #10

Mr. Dumas: Mr. Chairman, I believe the Honorable Member from Whitehorse East has some information on this which will be brought forward that I would like to get into a discussion on the rates and the whole structure of this set-up without taking too much time, but if the Honorable Member is bringing some further information forward maybe that would be the proper time to do it.

Mr. Chamberlist: Yes Mr. Chairman, if Members of Committee would bear with me until tomorrow morning, I've done quite a lot of work on this and I can have it already with me tomorrow morning.

Mr. Chairman: (Reads Section 2 and 3).

Mr. Shaw: Mr. Chairman, might I enquire as to why these are or includes these people? Am I correct?

Mr. Legal Adviser: Well, there is more to it than that Mr. Chairman. Without saying very much about it, office employees have been knocked out of the exemption. An office employee is not considered a very hazardous and dangerous occupation. I don't know why but apparently it is because it's been knocked out of the exemption.

Mr. Chamberlist: I wonder why the Engineering profession Mr. Chairman, has been left out of this as well? I wonder if we could get an answer as to why this has happened?

Mr. Clerk: Mr. Chairman, the Engineering Profession has been left out because there are many instances of accidents occurring in the Engineering profession. It was our thought that the exemption was initially put in on the basis that Engineers only worked in an office, however it had the effect of excluding Engineers who work in the field. The only civil Engineers in the Territory who are covered by the Workmen's Compensation Ordinance were the Engineers working for the Territorial Government, actual specific coverage under another section of the Ordinance.

Mr. Dumas: Mr. Chairman, I'm going a bit ahead on this but in the same line of thinking and I have a pecuniary interest in this one. We want to eliminate the exemption for an employee of a financial, insurance, real estate, brokerage or agency firm. Now surely, if we are making changes in this thing, somebody has some reason for these changes and the administration and if anybody can give them to us, we would be very happy to hear them.

Mr. Legal Adviser: I can't give you the final reason for the amendments because they are highly technical. It is correct that Engineers are in a dangerous situation and should be covered. Office employees are summed to be too wide a designation and is left out so that they will now be covered, but employees of a financial, insurance, real estate, brokerage or agency firm, that's left as being a non-dangerous occupation, so they are still remaining in the exemption side of it. Now what the exact difference is between an office employee, say, what or which a person is an insurance and of the legal or medical profession is concerned, I don't know, but medical professions, certainly some of the occupations are hazardous.

BILL#10 Mr. Clerk: Mr. Chairman, our Ordinance as it now stands, exempts office employees of the legal, medical accounting and Engineering profession and all employees of financial, insurance, real estate, brokerage or agency firm, if for the submission of insurance companies that issue or sell Workmen's Compensation Insurance in the Territory, that coverage generally was in the higher risk areas and that there was no low risk insurance being sold other than to, in one specific instance, the Government of the Yukon Territory where some I believe, 450-500 office employees are covered. Now, the contingency is that if these exemptions are out and these employees are covered, and they are now covered in British Columbia and Alberta, the exemption has been taken out. This should help the overall rates in that there will be low risks insurance as well to offset the higher risk insurance.

Mr. Dumas: Oh, but surely Mr. Chairman, that's entirely unfair. Naturally, an office employee is going to be a low risk insurance because they don't have accidents in offices or very, very few in real estate or insurance. Why don't you just ask these people to make a donation to offset the costs that are being paid by the high risk companies. I can't agree with this at all and I am not convinced that it should be in there and I have a pecuniary interest, but apart from that pecuniary interest, it's non-sensical legislation if that's the reason for putting it in.

Mr. Chamberlist: Mr. Chairman, it's seems to me ridiculous that my office staff, I have to pay Workmen's compensation in my office staff and Councillor Dumas, he doesn't have to pay compensation on his office staff, well according to this they are only the people that are exempt. It doesn't say here that people in a hotel administrator's office is exempt, it just says that people in a financial, insurance, real estate, brokerage or agency firm is exempt. You know, the people that work in a lawyer's office, they are exempt but there is more danger of having an accident there because ... they might slip on a highly polished floor or something like that or there might be a cord sticking out from an electric machine and they trip over the cord. That's ridiculous. I'm being penalized. That's the most ridiculous piece of legislation I ever did come across. This situation as far as Engineers are concerned is why shouldn't they be covered by Workmen's Compensation, but I am saying that whether they are in the office or not, they should still be covered and I don't see why there should be any exemption for anybody working in or as an accountant. You know, a man might be a chartered accountant but he is working for somebody else. He can have an accident in the office, he can be a chartered accountant and working for a firm that has to pay Workmen's Compensation. He might be working for one of our transportation companies. He is working in the office with twenty other people around him who are all covered by Workmen's Compensation but because he happens to be a member of the accounting profession, he is exempt from Workmen's Compensation. This applies as well to the legal profession. He might not have his own legal office, I mean this would exclude the way I read it, Mr. Legal Adviser from being covered by Workmen's Compensation, you see, but he is employed by somebody else. Now I think we should take a look at this and amend this and the Honorable Member from Whitehorse West feels that these sort of people should be covered by Workmen's Compensation.

Mr. Dumas: Mr. Chairman, is this case that everybody should BILL#10 be covered, then everybody should be covered including the legal, medical, accounting, orthopedic, dental and pharmaceutical, all or nothing. I mean because I certainly work in the same profession believe me as anybody.

Mr. Shaw: It seems to me that when we have insurance, compulsory insurance particularly, the same as compulsory income tax or compulsory Canada Pension Plan and all these other things that it should cover the whole spectrum regardless. Now, to make a difference between the clerks that work in the law office or a clerk that works in an insurance office is being different from a clerk that works in a candy store office is absolutely ludicrous. I have employees in the summertime working in a jewelry store. Now if you can get hurt there, I guess you can fall over a match stick and break your neck but it certainly is no more hazardous than someone working in an insurance office or a lawyer's office. So, therefore I'd pay a premium. I am required to by law and I think it is a good thing. I am very happy to be able to get insurance because you can never tell what is going to happen, but to accept dental, pharmaceutical, any of these people, I say if we're going to have insurance and compulsory insurance, just take it over the whole works. Then certainly the coverage will be less in some professions or occupations or what have you and some of the greater and more hazardous occupations, but that is what insurance is for.

Mrs. Gordon: This also is true Mr. Chairman of high hazard areas and the one I think of particularly, is in the case of a man who owns a wood-saw and I know of specific instances where the employer was a man who operated the most hazardous position on the saw mandrel. He did not allow his employees to handle it at all and he could not get coverage under Workmen's Compensation unless he took out a personal liability. In these areas where a small businessman or even a big businessman, where he is doing the actual work, not just the managing of it's operation. He should also be able to get coverage under these circumstances.

Mr. Dumas: Mr. Chairman, he can put himself on the payroll as an employee of the firm and get coverage that way, but I am concerned about this Bill now and to shove it through, I don't know how essential it is and may we hear that essential as it goes through this session of Council because I think this is a Pandora's Box that we are opening up and we should tackle head on. I think that the whole problem of compensation insurance in the Yukon Territory has to be looked at and advised for instance like in diamond drilling up here, the rate is 8.25% and just across the border south of Watson Lake it's 4.75%. I wonder why? I wonder whether we shouldn't have a real close look at this whole problem Mr. Chairman, and not just charge ahead and put a Bill like this through without examining all the aspects of it very closely.

Mr. Chamberlist: Well I think Mr. Chairman, if Mr. Chairman will just report progress on this I have certain facts that I have managed to gather. For instance, one very important thing that is keeping in line with the remarks that Councillor Dumas made, that from the Yukon Territory alone, premiums paid to insurance companies are in the region of \$1,600,00 and that last year only about \$250,000 was paid out by insurance companies

BILL#10 Mr. Chamberlist continues.....

in claims and also in payments which included the payments from the previous years, a continuing payment. Then this is just one area of where we should look right into this and find out what's happening to the people and the employers of the Territory because really they are being hit real hard and real bad by insurance companies. I think it's high time that everyone of us here take a real good look at this and I've asked Mr. Chairman if we could just report progress on this so that I can come fully prepared tomorrow morning and perhaps other Members can do a little work on it and bring their thoughts forward as well.

Mr. Chairman: (Reads Section 4,5 and 6).

Mr. Livesey: Mr. Chairman, I wonder if Mr. Legal Adviser could explain that.

Mr. Legal Adviser: When a payment is made up to a certain date, the payment may be expressed for some particular reason to end of the middle of the school year. It's convenient that the payment enable the child to complete at least that year of his education.

Mr. Chairman: Clear? (Reads Section 7)

Mr. Legal Adviser: This is a transitory section Mr. Chairman to keep the existing benefits for old accidents at the same level and the new payments only commence to be paid after the first of April.

Mr. Chairman: (Reads Section 8).

Mr. Chamberlist: I wonder if Mr. Legal Adviser, Mr. Chairman could see the point of having \$40 in here at all because the way this Section 47 reads is, "where a workman's entitled to compensation in respect of permanent or temporary total disability, the minimum amount of compensation to which he is entitled is an amount not less than the lesser of, which will be \$40 per week or his average weekly earnings". Now who will be earning \$40 a week average earning. That's \$2,121 a year. Surely you don't need to have that in if you're going to have the word or his average weekly earning.

Mr. Legal Adviser: I don't know how it would occur. I would feel very unsafe in taking it out but there is a misspelling in the printed text here. They spell lesser, l e s s o r but in the Oxford dictionary it's spelled lesser.

Mr. Dumas: It could happen that a full-time, part-time employee is earning less than \$40 a week, in fact since the minimum wage is so low at \$1.50 an hour, it's conceivable.

Mr. Chamberlist: What's that, a full-time, part-time employee?

Mr. Dumas: That's a person who works eighteen hours a week for instance, every week of the year for all his life or her life.

Mr. Commissioner: Mr. Chairman, this is specifically here to take care of people who are usually or applied to as "moonlighting" and this is to protect that particular individual and is a very important provision, and I would certainly say that experience has proven the necessity of having a minimum factor in here in this particular ...



Mr. Dumas: Well, I have just one more question Mr. Chairman. The advisability of increasing it by \$5.00 hardly seems worthwhile. On what basis is this figure arrived at? BILL#10

Mr. Legal Adviser: I presume it's in keeping with B.C. and Alberta.

Mr. Chairman: (Reads Section 9). Councillor Chamberlist, would you take the Chair a moment.

Mr. Taylor: Mr. Chairman, this is one area in the Bill that I am a little concerned about because the way the costs have soared and I am wondering if this is a realistic amount of money, eight dollars per day. I am also informed that in the Northwest Territories, the amount is greater than this and I am just wondering if Mr. Clerk could advise me in this matter.

Mr. Clerk: Mr. Chairman, the rate at the present time in the Northwest Territories is the same. Do not lose sight of the fact that this is a subsistence allowance on top of the eight dollars per day the workman gets his compensation as well. This is strictly subsistence allowance when he is required by compensation to be living away from home.

Mr. Taylor: Mr. Chairman, this is my point. He might be able to get by on eight dollars a day as a living allowance if he was at home possibly if he would eat beans, sardines and this type of thing, but when he is away that wouldn't even cover his hotel room.

Mr. Livesey: Mr. Chairman, were the figures in Section 9 made as a substitute to those in the Ordinances, is this copied from any regulation contained in any Territorial regulations or manner of operation? Does (a) and (b) of the new Bill of Section 9, are those figures different from the Workmen's compensation Ordinance of Chapter 1, were the new figures based on what the Territorial Government now maintains for itself as a guide a system of payment on this basis?

Mr. Legal Adviser: No, there is no relation. The Territorial Government pays it's employees a subsistence allowance as such. There has been a certain amount of trouble in the old sub-paragraph (a) and sub-paragraph (b) had to define when a workman maintained or did not maintain a residence where he ordinarily resides. This causes a certain amount of trouble and the simplest thing was to knock out the distinction instead of having an argument going on as to whether he should get six dollars or three dollars a day to just give him the normal amount which will be six dollars a day and then increase it, and this increase from six to eight dollars a day is to keep parallel with other places and as an increase of 33 1/3% on the former subsistence allowance.

Mr. Livesey: Mr. Chairman, if the original Ordinance at six dollars a day and three dollars a day was justified, how does one maintain a reasonable degree of agreement with a change in (a) but not in (b)?

Mr. Chairman: Can anybody answer that?

Mr. Legal Adviser: We're not trying to Mr. Chairman maintain a reasonable degree of agreement between sub-paragraph (b) and the present rate. We're knocking out (b) completely in effect because it's caused too much trouble and argument as to when an employee maintained or didn't maintain because they all said



BILL#10 Mr. Legal Adviser continues.....

they didn't. They all claimed the higher allowance, and there was a certain amount of arguing going on back and forward with the doubt usually being resolved in the employees favor, and the simple thing to do was to give them the normal subsistence rate when they are actually required to get it.

Mr. Taylor: Mr. Chairman, I don't think it's enough to say that we've increased by 33% and establish this eight dollar figure. This doesn't make it realistic that the six dollars that they started with was proper and fair because it has been stated here in Committee this afternoon that this person is receiving Workmen's Compensation benefit, but it doesn't necessarily say that in sub-section (5). This may be a person who was out getting medical aid and no benefit has been established and having no fund and how can he subsist on eight dollars a day outside. I just can't buy this and I think that this is far to less a sum for what it's supposed to do.

Mr. Clerk: Mr. Chairman, the Ordinance is quite clear. A man does not get subsistence unless he is in fact on Workman's Compensation and if he is required to be outside that's if he has to be referred for medical treatment or examination by the referee, he is on full compensation for all of the time that he is outside, at the present time \$11.50 a day.

Mr. Taylor: Well, before resuming the Chair, as far as I am concerned, I still think that relative wise that this is inadequate and should be increased in my opinion. I will resume the Chair at this point.

Mr. Chairman: (Reads Section 10) (1)

Mr. Legal Adviser: Where an employee has been convicted of an offence under this Ordinance, the convicting court shall in addition to any other penalty order the employer to comply with the requirement to do anything or furnish any statement or report, the failure to do which or to furnish which constituted the offence for which he was convicted.

Mr. Chairman: (Reads sub-section (2) of Section 10).

Mr. Chamberlist: Supposing the company that's concerned and the employer concerned is outside the jurisdiction of the court? What is the position Mr. Chairman and Mr. Legal Adviser?

Mr. Legal Adviser: Our writ doesn't run to make them do very much but this section like a lot of sections that come in here is as a result of our own experience in attempting to prosecute people for failure to comply with an Ordinance. A particular employer was consistently refusing to furnish return and in the end out-wore the patience of the Workmen's Compensation officials who instituted proceedings and got a conviction. He then continued to laugh at them and said, I have been convicted of failing to make a return. You can't prosecute me a second time for failure to make the return. They never did get the return. So this is an attempt to shut the stable door when the horse is gone.

Mr. Chamberlist: Well, this is the thing. Of course you can't be charged in the second or the same offence twice but the thing is supposing the construction company is a B.C. or Alberta company carrying out a contract here. They have not been exempted from Workmen's Compensation but they get convicted here. Let's say they take out or operate as an extra Territorial company but they have no assets that you can go



Mr. Chamberlist continues...  
after. How can you penalize them? What can you do to stop this? Surely, we must have some pieces of area that could force these people to meet their commitments.

BILL #10

Mr. Commissioner: Mr. Chairman, this is precisely why the Territory carries a policy to cover a workman who may be injured in the course of his duties where it is found that the employer is not carrying insurance. Now, fortunately and let's touch wood, we have only had a minor claims against this policy up until now but the point that the Honorable Member has made is a real one and I don't think that our major concern here is to be chasing after some employer who maybe when we do find him we have spent \$5,000 in courts and lawyers fees and we find he hasn't anything, our concern would be the employee and the employee is covered by the insurance policy which we buy on behalf of the insurance people. Now I see the point that the Honorable Member is making but how we extend our jurisdiction beyond the boundaries of our own Territory is something that perhaps the Legal Adviser can advise us of.

Mr. Chamberlist: Mr. Chairman, I realize about this funds that we have available for this purpose but we're still not punishing or taking any action against these firms. Now, is there any possible way that before a, let's say in the case of Government contracts, Territorial, Federal contracts, is awarded that a Workmen's Compensation certificate should be submitted by an outside company so either one, that they are exempt, or that they have complied with the requirements of our Workmen's Compensation Ordinance and also could we not have somewhere in our legislation, where an outside company is coming in to do some other work in the Territory making it a responsibility upon any person giving work to an outside firm to carry out their work here to insure that they have complied with our Ordinance. Now there must be a way of tying this in and I wonder if Mr. Legal Adviser can cudgel his brains to bring this forward.

Mr. Legal Adviser: Mr. Chairman, there is no way of enforcing our legislation effectively outside the confinements of the Territory itself. The only way we can do this is if all the Territory and Provinces would get together and if a treaty or agreement that each would enforce the others legislation, then you can get somewhere, but as it is, we get great assistance from the Department in Alberta and B.C. and other Provinces in that matter and they do a certain amount of arm twisting at the behest of our authorities here and put pressure on them to comply with their requirements here, and we are very grateful for this help from time to time, but in the last resort if the person does not pay there is nothing we can do about it. This is a very big, long-scale effort and it's hard for us to initiate these talks and treaties, but so far as the person here is concerned it's possible this might help if we put in a similar section to the <sup>labour</sup> standards Ordinance as we have already asked the House to pass transferring part of the responsibility to any officer, manager or other employee in charge of people who fail to meet the requirements of this Ordinance. The only reason we didn't think of that was no case has arisen to bring in force to our attention and it didn't occur to us but we could design a roughly similar section to make it tougher.

Mr. Chamberlist: I wonder Mr. Chairman, if Mr. Legal Adviser could do something like that to put in a section for this requirement. I think it is important.



BILL#10 Mr. Legal Adviser: We would consider it but I'm not sure we could do it in this Ordinance.

Mr. Livesey: Mr. Chairman, the one point that puzzles me about 59A. and that is, isn't it a prerogative of the court when meeting out a sentence for an abusive privilege or for a lack of complying with the Ordinance against an employer under this section, isn't part of their prerogative to force the individual who has failed to do something that he shall do it as well for providing a fine for not doing it and if so, I don't understand why we are adding 59A.

Mr. Legal Adviser: It is through the courts who will enforce the orders. It's impossible in many cases to enforce against a company and it's absolutely impossible to enforce it outside our own Territory when it's an extra Territorial company operating for a season and it goes. These things are only picked up on inspection and if were to be continually on the alert, we would have a squad of inspectors here inspecting every person who came across the border who gave out a job and everything else.

Mr. Commissioner: Mr. Chairman, could I ask a question of Mr. Clerk at this time as he is intimately concerned with the implementation of this Ordinance. Do we find a great latent disrespect among employers generally for this Ordinance?

Mr. Clerk: Oh no, Mr. Chairman, the objection from the employers of course is to insurance rates in continually comparing them with Alberta and British Columbia and finding they're paying more money. On the whole, employers agree that Workmen's Compensation is something that they must have. Most employers quite voluntarily get their Workmen's compensation insurance.

Mr. Commissioner: Mr. Chairman, do we have very many prosecutions that are entered under the Ordinance, you know as it applies to employers being found without insurance?

Mr. Clerk: No, Mr. Chairman, we don't have as many prosecutions for or against employers not being insured as it is with employers who refuse for one reason or another to submit an employers report of an accident and we can't proceed with the case until we have that employer's report.

Mr. Chamberlist: Mr. Chairman, I don't want to get into the area that I wish to speak about tomorrow but I think that the major things that employers with very few exceptions are fed up to the teeth of the administrative operation in Edmonton, and the sooner we do something about bringing it back right here where it belongs, that will be the answer to it.

Mr. Chairman: Is it your wish at this time that I report progress on this Bill?

Some Members agree.

BILL #4 Mr. Chairman: I note that we have the amendments to Bill No. 4. Could we deal with that at this time?

Mr. Legal Adviser: If Mr. Clerk would name them, I could explain them Mr. Chairman. Is this in section 24? It's the elimination of the words, and all actions on which the records indicate such ...has been involved, and then a new sub-paragraph to put an obligation on the Registrar to get certain records in line with what the wishes of the House were last time.



Mr. Chamberlist: Well, surely these words and such other in-BILL #10 information Mr. Chairman, as the Commissioner may deem proper. This can give to the Commissioner the right to tell the Motor Vehicles Registrar to carry-on and give the same information as before, see because he would be working under the same instructions. I mean this doesn't change, you've got a few words different, but the situation remains the same.

Mr. Legal Adviser: Well, it doesn't appear to me to mean the same but it gives a certain leeway to the Registrar to give extra information but this might be information of different ..... The instruction of the House is clear on this point but these words, the accidents come out and what's left in is the operation record showing these various things. Now I would ask the House when they come through this amendment not to move this Bill out of Committee because one amendment which is presently under consideration dealing with the age limits which people can operate ski-doo's legally, and the legal implications of operating a ski-doo when you're under the age to have a driver's licence. It would be something new and it may take a form of amendment to one of the sections of the Motor Vehicles Ordinance, so the convenient thing to do would be to do it in Committee so the House can discuss it.

Mr. Chairman: Well, in as much as it may be possible to prorogue in the next day or two, will these amendments be forthcoming?

Mr. Legal Adviser: We wouldn't ask the House to stop prorogation because of these amendments.

Mr. Dumas: Mr. Chairman, I was going to ask another question. I wonder about the advisability of either incorporating in the legislation or making regulation or requirement for helmets to be worn when a person driving a ski-doo, the same requirement as when a person drives a motor cycle. I think it's a good idea.

Mr. Commissioner: Mr. Chairman, with respect when the Legal Adviser was mentioning this, we brought up when we were in Committee discussion before about the age limits in relation to the horsepower, I believe the terminology that is used in connection with the motor bikes and the same with ski-doo's due to a broad definition in the Ordinances of highways and it is in these fields that the Legal Adviser is intimating that we would be hopeful of having an amendment and certainly as mentioned by the Honorable Member in the wearing of helmets during the operation of ski-doo's certainly fits in with the particular topic that is .....

Mr. Chamberlist: Well Mr. Chairman, the only difficulty of wearing a helmet on a ski-doo is for somebody to tuck themselves up very warm with a helmet and if they use .....

Mr. Dumas: Mr. Chairman, I am a ski-doo operator and have been since it's my second winter now and I have a helmet and as a matter of fact it is easier to keep warm when you have a helmet.

Mr. Legal Adviser: Mr. Chairman, we can't resolve the problem of the definitions. We may be asking the House to commit regulations to be made as a stop gap rather than take up the time of the House so that we can have regulations and test them out possibly in practice before incorporating the Ordinance. I know this is stretching the patience of the House to ask the Commissioner to make regulations. We might have to do this if we haven't got time of the House before it prorogues.

BILL #10 Mr. McKinnon: Mr. Chairman, this is fairly important. I don't think I have a hotter item that I get more mail and more phone calls on right now with the philosophy of having ski-doods in the Motor Vehicle Ordinance at all and there seems to be a school of thought that says they should be the same in B.C., they shouldn't be allowed on the highways at all and shouldn't be allowed to be licenced. I wonder if the Administration has any ideas on this type of law?

Mr. Legal Adviser: Well, put it this way. The Administration is no longer a united administration on all matters and so far as I can gather, a certain amount of difference of opinions between the Motor Vehicles Registrar's office and I think in that office itself, in the police and Commissioner's office at one end of the corridor and the Commissioner's office at the other end of the corridor, and these things are a hot political issue and it's not easy to formulate exact rules because of the necessity to keep the Motor Vehicles Ordinance very tight and efficient. You may want to have ski-doo legislation more relaxed and they may not fit one into the other in an easy way because just to pry the legislation as it is now means that a ski-doo is in fact a motor vehicle, and as such once it goes across the highway, they are committing an offence each time they cross if they offend against the Motor Vehicle Ordinance by not having insurance and not having a driver's licence or something, whereas if they are out in the bush they're not, but once they go on to a trail which is recognizably a trail, then it comes back into a definition of highway. So if you have three or four ski-doods in a line, the first might not commit an offence but it might make a trail for the other three. It well may be that we may have to have special regulations dealing with ski-doods apart altogether from other vehicles. But as I say, the difference of opinion I certainly would like to see the thing thrashed out administratively and some kind of tentative arrangement made rather than just come up with what we all detest, midnight moves in legislation.

Mr. McKinnon: Has Mr. Legal Adviser had a chance to study the B.C. legislation at all on ...

Mr. Legal Adviser: I know about the Alberta legislation, I don't know exactly what the B.C. people have.

Mr. Chairman: Well, is it your wish that we report progress on Bill No. 4? We also have the amendments to Bill No. 3. Would you proceed Mr. Legal Adviser.

Mr. Livesey: Mr. Chairman, are you sure that Bill No. 3 is still before Committee?

BILL #11 Mr. Chairman: Yes, you're absolutely correct. It has been given Third Reading. Next is the "Securities Ordinance", Bill No. 11. (Reads Sections 1 and 2)

Mr. Dumas: Mr. Chairman, what is the call of qualifications of the Registrar to scrutinize these prospecti?

Mr. Legal Adviser: Mr. Chairman, I am very edified by the Honorable Member's knowledge of the tactics, but it is not intended to imply the Registrar has any special capacity. The law as it is at present is that an extra Territorial company moving into to here to sell a primary issue must file this prospectus. Now, I don't know from personal knowledge the history of the section as it went through the House at the time the original Bill was passed, but I understand the original

Mr. Legal Adviser continues.....

BILL #11

Bill was to have all primary distribution prospectus of prospecti filed in the Registrar's office, but an amendment was carried through the council of that particular day limiting the whole operation into extra Territory issues. Now, that being so, we have been asked a lot of questions about this. It has been moved by the Yukon Chamber of Mines and it's the feeling of the Administration, not a very strong feeling that the first move that should be made would be at least to see that they are all filed.

Mr. Dumas: Mr. Chairman, I am particularly concerned with this whole problem of securities and Securities Ordinance. In recent years within the Territory, there have been several companies grow public although they have passed no securities commission whatsoever. One industrial company went public in the Territory, went on the local stock market public without passing a securities commission. It got approval I am told from the Registrar of Joint Stock Companies and the prospectus that was put out in one case which I happened to take to Vancouver with me and showed to some people who were knowledgeable in the area and they got quite a laugh out of it. They said that these companies would not only been allowed on the Boards down there, it probably would have been immediately investigated on the basis of the prospectus they put out themselves. There have been some citizens in the Territory burnt by a few companies over the last few years, that is they have lost quite sizeable numbers of dollars because companies are allowed to go public within the Territory even though they have cleared no securities commission whatsoever and very often can't get on the Boards in Vancouver or Calgary.

Mr. Legal Adviser: Mr. Chairman, I don't think that the average Member of the public or the average person dealing in company law understands what's involved in the filing of prospectus as such to going public as supposed to forming a private company and the distinction of being allowed to come under the shelter, the implied benefit of a quotation on the Vancouver Stock Exchange, the Calgary Stock Exchange or the Toronto Stock Exchange or anywhere else. Now this idea of forcing a company which is making a public issue of shares to have it's prospectus vetted, is very new in Canada as elsewhere. It's in variant recent years this distinction has been made. Now, a private company can at any time convert itself into being a public company if it sells shares to more than fifty shareholders, or if it does certain other things, then it must comply with certain sections of the law. This does not mean that it's making an offer to the public at all. It means it just comes out of the definition of a companies Ordinance of being a public company. The particular evil which is sought to be dealt with in securities legislation of a general type, is to prevent people selling these particular shares as a primary issue to the public under cover of a prospectus which makes false claims for the value of the stocks being marketed or the worth of a company which is marketed in the stock. Now we do not have any office here or any set up which would vest this on behalf of the public as they do in Vancouver or Toronto, and this is not intended to be a substitution for that. This is merely a first step. Now the whole question of securities legislation has been thrashed out in this Council I'm sure before, and will be again. One of the things which we will be doing may be registering stock brokers or people who deal in stocks and seeing that the trust accounts kept by these people are subject to public auditing and scrutiny from time to time, there will be various other things which may or may not be

BILL #11 Mr. Legal Adviser continues....

coming forward. This is merely a temporary stop gap measure until something else comes forward but I think it's hardly necessary for me to say that if we once go into this matter deeply, it's going to be an expensive business.

Mr. Chamberlist: Mr. Chairman, this stop gap that we are talking about seems to have been going on since 1966, when this Ordinance was brought into force in 1966 First Session. Whenever any questions are asked about securities, very delicate situation, leave it alone, don't rock the boat, stop that thing! It is of such importance that people in our community are getting rooked left and right. Not only do we have to protect the public from those companies that are setting up from those people who are setting up phony companies and selling questionable shares, we have to protect the people from those people that are trading in stock certificates. Now this is where we have to be careful of. I look at the Ordinance itself Mr. Chairman and the Ordinance is just four pages, the legislation, the regulations just show up the fees in a form, a schedule and that's all we have got to do with securities. Really, the general area, "the Commissioner shall appoint such person as he thinks proper to be Registrar of securities". According to the regulations here, there has been no order made for a Registrar of securities. Who is the Registrar of Securities? I wonder if you could intimate it to me?

Mr. Legal Adviser: I might give the Honorable Member three guesses as to who the Registrar of securities is likely to be whether he is appointed or not.

Mr. Chamberlist: Well, this isn't the point. The Ordinance says the Commissioner shall appoint such person that he thinks proper to be Registrar of securities. Now, has he been named? I would like to know if he has been named.

Mr. Legal Adviser: As I understand it, Mr. Taylor is the Registrar of securities.

Mr. Chamberlist: Well, I wonder if somebody can say whether the appointment has been advised to everybody that is concerned. Now, has it been placed somewhere so somebody knows where it is.

Mr. Legal Adviser: I think everybody knows. The Registrar of companies and the Registrar of securities is the same person.

Mr. Chamberlist: Now, the regulations that are needed now is to regulate the dealing in the stocks. Now if you went to write to the Registrar, he performs no function right now than that of receiving money for a certificate or for issuing a form. This is his whole function. He doesn't do anything else because he doesn't have anything else to do under the Ordinance. Now, when are we going to get some regulations regulating the activities of companies and regulating the activities of brokerage firms, and those who are trading on behalf of brokerage firms outside and regulating the way that they should be conducting their business and also what inspection over the funds and stock certificates that are entrusted to them from time to time.

Mr. Legal Adviser: I can't give any promise cause this is a very expensive proceeding having regard of the amount of securities we handle. There are very few companies that are

BILL#11Mr. Legal Adviser continues....

formed in the Yukon that issue primary securities. There are quite a few outside who issue primary securities but I would like to make it clear to the Honorable Member that we're not trying to in anyway and will not in the future at anytime, be trying to control the dealings in shares certificates between one person and another. I don't anticipate any stock exchange being shared up here. We may take powers to deal with the other matters being raised by the Honorable Member that is to see that the stock securities or the stock certificates which are bought on behalf of a person who entrusts money to a stock broker or his agent, are secured or registered and the trust accounts are kept and are subject to inspection at different times by an auditor appointed by the Registrar of securities or the Registrar of companies. This is a very small step, but to get into the field of making an expert judgement on behalf of the public as to whether initial trading will be permitted on an issue of a public company of a primary security. It's quite a difficult and technical problem and is definitely going to be a costly business.

Mr. Chamberlist: Mr. Chairman, it seems that there's regulatory power and the way I operate my business, there is regulatory power in the way an insurance business is operated. There is regulatory power in the way a construction business is operated. There seems to be regulatory power in everything except the fact that you can have somebody open up a shop on Main Street and called himself a security company and there is no way of regulating. They can do whatever they like. All they have to do is register as a company under the companies Ordinance and they can just .....do whatever they want. Now it's about time that we took a look at this and said now here is a securities company dealing with securities. They are dealing in our people's money. They are borrowing from the bank against securities held by them from the people that have given them share certificates to hold. We should have somebody examine them to see that they have the collateral. A bank or mortgage company has to have the money available. They have to have their securities available, Federal Government make them do that. The B.C. Securities Commission, they hold a real stringent hold over any company that is trading and selling stocks. I think that perhaps it might be difficult and highly technical but we surely should have more than what we have got. I know we can't for the sake of one put in a complete commission on the same basis that B.C. or Ontario have. I know that this would be ridiculous but surely we can expand areas of this piece of legislation so that truly we make it a securities Ordinance because really there is no security in the Ordinance itself. I think we can't do this right now. I would suggest Mr. Chairman that the legal department really come up with something for the next Council Session because if you don't, you're just saying well your not that interested in the people.

Mr. Legal Adviser: Mr. Chairman, the legal department always gets sucked into something. You start off by doing a simple section and it grows and grows. Just one simple section about registering securities brokerage and we have ended up with a about a fifteen page Ordinance, and as far as my recollection goes, he was sitting somewhere waiting for time and everybody to get involved on it. Now that is a different thing altogether from regulating the issue by a public company of it's own shares which is called, protecting reasonsis called a security. There are two separate jobs. One is regulating the operations of people who are dealing in securities as a way of life, and the other is, regulating the public companies who issue shares as a primary distribution which subsequently may come into the

Mr. Legal Adviser continues.....

BILL#11

hands of stock brokers or the public in general, and the trouble is you start off with one simple section and the roof starts to fall in. Anyway, it got too complicated to bring a Bill here for this particular session. I just didn't have the time.

Mr. Shaw: Mr. Chairman, for quite some years I myself and other Members of Council who have been asking for security legislation, and each time we are told, I am informed very, very definitely that to create an Ordinance such as that is so highly technical and complicated, that it's just impossible to do. Well, it was my feeling that we should at least have something to prevent these bucket shop operators from going loose in the Territory. We did get this Securities Ordinance in 1966 but it doesn't, well we have the Registrar and he accepts these things but it doesn't give much power to do much in case those things aren't correct, or to stop it immediately and it would appear to me that possibly that there was an application made for this and a thirty-day period and in that thirty-day period, Administration would endeavor to find out the authenticity of the group before issuing that and make the charges accordingly. When you form a company, it appears to me that, I have formed a small private company a number of years ago and by the time I got finished it cost me about \$700 and that was just private, we weren't selling stocks or anything. Now, surely an investigation on something wouldn't cost anymore than \$100 by some B.C. securities commission or Alberta or whoever it might be, but at least when someone files a prospectus, somebody or if you just file that, what does it mean. The fact that you filed it, you've complied with the Ordinance, you can go around and say well I filed it with the Government and everything is okay, just give me your money and everything will be fine. It seems to me that it's fine to say after all that's happened that you can prosecute somebody. It appears to me Mr. Chairman, when somebody files something like that, that they should or that there should be certain basic things that are in there, a geologist's report of a reputable firm or something that will make it or give the sucker an even break, let's put it that way.

Mr. Dumas: Mr. Chairman, I agree with the change as it is presented to us but this whole problem is a real problem. Under the whole system of government and licensing and so forth in the Yukon, in most cases, all you have to do is to go and pay a fee to get a licence to operate a company. So, conceivably what can happen if we get a group of people together and set up a geological survey company with Joe Blow, public engineer at the head of it. We set up a diamond drilling company with somebody else at the head. We go and buy some claims that somebody has staked. This whole operation can be done, carried out within the confines of an office with nobody ever leaving the building and then we draw up our prospectus. The prospectus has references from the so-called geologist that was on the claims. It could have the results of or factitious results of a so-called drilling diamond operation that was on the claim, and we could have a report from the prospector and the engineers in the field. Prospectors could be put together, presented and unless there is an investigation done, accepted and this company can then go locally public. This is deadly and something very close to this may have been done in the past few years.

Mr. Shaw: Mr. Chairman, would I be allowed to ask the Legal Adviser, would it be unreasonable from an administrative point of view or any point of view whereby a company that wanted to

BILL #11Mr. Shaw continues....

do this, came to the Registrar and says look this is what I want to do and here is my prospectus and there was a thirty-day period before they were allowed to incorporate that company under the laws of the Yukon Territory under the conditions put down, that that can be sent and vetted to the Registrar of Companies in B.C. or wherever it is, to see that these matters are correct.

Mr. Legal Adviser: No, we're not trying to control the formation of public companies, and B.C. doesn't attempt to do this and Ontario doesn't attempt to do this or even in mining what you attempt to do is stop that particular company in making initial shares which it puts on sale to the public. So what these stock exchanges do is they have their special office set up or the Government has and they link in with the stock exchange people between the two offices. The initial office, you have to put in all your papers and they check back who is your geologist, whether he is any good or not, whether he is reputable and so forth, and then they give you a provisional listing subject to certain things being done maybe and they keep you on a hook depending who you are and what you are doing. They may keep you on a hook for three months, six months and they may ask you for another engineer's report, another this, another that and eventually they then allow you to make a primary issue. They may then require you to do certain things like, putting certain number of shares, the initial promoter shares in escrow and prohibiting from dealing with those particular shares. Now parallel to this, these people who are operating the company attempt to get a quotation from the stock exchange or provisional listing first of all, and then they attempt to get an interim listing and then they get a final listing when they are really in business. This depends on the business that is going to be generated with the sale of the stock, how many shares are on the market and who holds the original stock and one hundred and one different things. It's quite a complicated operation. I have got a book in my office that tells you all the various things you've got to do with these various Registrars before you get somewhere. We're just not geared for this and to say that you are going to investigate for \$100, is just a myth. We would have to have available to us if necessary consultant geologists and be prepared to pay them to go out into the field to check something, to check log readings, to check the title it held in the name or was held in the name of the original promoters and then there was a transfer through. The fact that they are keeping up to date with their mining reports, you've got to be on the ball. You can make an attempt by registering so that a member of the public can be put on guard, and they can go and see what the prospectus really says of whether he has a proper prospectus or an abbreviated version. You can do some things but you know there is no use making false promises. I think that we would be forced in the end to either go completely go over to B.C. and have them operate it for us or have an operation here whereby we'll have an Act parallel to B.C., and appoint somebody who will be able to subcontract this work or take advice and do it that way but in either event it's going to cost us money. We have no objection to doing it but we're constantly under pressure to do this, that or other thing and we just haven't got the physical people to do the thing.

Mr. Chairman: What is your pleasure in respect to this Bill?

Mr. Shaw: Mr. Chairman, just to finish this and my last remarks on this is that it would appear to me that perhaps one



BILL #11

Mr. Shaw continues.....

could make a deal with the particular office in B.C., and ask them for a certain consideration that they will vet these particular things or do whatever it is and whatever that may be I'm referring to mining companies or oil producing companies and they will vet that for us, for a certain fixed fee under some type of agreement and that once we know that agreement, we can say well this is going to cost us "x" number of dollars. You will comply with that here and it will take so long and cost so much so that we will not be stuck with it, and the people down there that know what they're doing will be able to process that because Mr. Chairman I think that the main thing that we have to consider is protection of the public and mine myself I can assure you Mr. Chairman, will be required to accept B.C. Securities laws in a matter like that, I think is a very sound move and also to pay these people down there whatever it is and the people that want to form the companies will pay us in return which is just the same as they do in B.C. We will have to along the line get into something like this because we must protect the public.

Mr. McKinnon: Why do we have to make any kind of a reciprocal arrangement Mr. Chairman? Why can't it be law that a company, a mining or oil company forming here has to be under Vancouver, Alberta or one of the Boards before they can trade in the Yukon.

Mr. Legal Adviser: There is no objection to this except that one hesitates to put that form of legislation before the House.

Mr. McKinnon: I think that every Member here Mr. Chairman, recognizes the impossibility of setting up our own securities commission at this time.

Mr. Legal Adviser: Well, it may be that we have been unnecessarily hesitant with offending the susceptibility of the Honorable Member to put that former legislation square on the table.

Mr. Chairman: Would Councillor Shaw take the Chair a moment.

Mr. Taylor: Well Mr. Chairman, I don't intend to be opposition but when you face the situation squarely, there is much sense in what Mr. Legal Adviser put forward to us during this debate. It's all very well for all of us to sit here and say well this would be lovely if we just had B.C. take this over. In the first instance, I don't think B.C. would for two reasons. One is that we wouldn't have sufficient funds available to pay them for the services. The second is that they are too busy, they're back-logged to just no end. It seems that every Tom, Dick and Harry with a mining claim now has to have a company and this department is just plugged solid. If you wanted to get a company through there now, you would have to either amalgamate as are some doing now with other companies or, if you want to process your own company, it will take you one or two years to get it through. So, this is really practically not a solution. The costs incidentally of research and this type of thing involved are very, very high. Now, there was a suggestion made in Council some time ago, that we consider saying in our Ordinance that we shall insist that anybody trading in securities in the Yukon Territory first come under the purview of either the Ontario securities commission or the B.C. superintendent's brokers or a like securities commission in Canada before we would permit them to trade. Here again is an area where you have got to be very careful. We may have in the Territory, the good and the bad and if a good guy comes along with good property and a sound proposition and wishes

BILL#11 Mr. Taylor continues.....  
to make his way into a company position and sell stocks and proceed with a legitimate development, this could retard that development by as much as one or two years, thereby retarding certain amounts of development in the Yukon. Now at this point the whole thing becomes very, very complex and certainly of course we can't afford to operate our own or nor can we afford to hire anybody to operate it for us. That is why I say be very careful when you consider securities legislation in this respect. In other words, it is going to take a little study and take the help of experts. Maybe what we should be doing is trying to scare up \$50,000 or \$60,000 or something and get hold of these experts if that's enough money, and sit down and work out a scheme whereby we can come up with good legislation but don't rush head long into securities legislation until you kind of look over the past because it can be extremely detrimental to the Yukon in trying to achieve one good, we might do another area a great deal of harm.

Mr. Chamberlist: take the chair

Mr. Shaw: Well Mr. Chairman, this has been before this Council for five years to try and get something done, but in the meantime, time is going on. I think Mr. Chairman that the main function of this Council is to try and endeavor to protect the public as much as possible. If it's possible to make some sort of arrangement with the B.C. Government in respect to something like this, I think this is sound. It's not going to hurt any legitimate enterprise.

Mr. Taylor: Mr. Chairman, as long as we have the bucks, we can have anything we need or want and that is simply of dollars again. Where is the money going to come from?

Mr. Shaw: Well Mr. Chairman, it has been suggested that in B. C. the persons can only operate in the Yukon Territory with the okay of the Provincial Government in respect of that, well I would say that is sufficient and if we have to make a special deal with B.C., then the costs of these operations that is going to cost \$250 for the information they are going to furnish or \$300 or \$1,000, then the persons that want to form the company will have to pay it. It's a legitimate cost. It's something that they had generated themselves, not what was enforced upon them.

Mr. Dumas: Mr. Chairman, I think if the Legal Adviser would exceed to the request of most Members of Council and table before us some legislation that would make it mandatory that any company selling public stock in the Yukon be listed either on the Ontario or the B.C. stock exchange I think that the problem would be solved. I'm sure Committee finally would accept something like this.

Mr. Taylor: Well, Mr. Chairman, I rise again to reiterate what I said in this respect and that is sure it's simple, you just go down and get the Legal Adviser to draft the legislation and impose it but you could set back the Territory harmfully. I think you have to look into this and find out what the consequences of such a move would be. I will resume the Chair at this time. What is your pleasure in relation to this Bill?

Mr. Legal Adviser: This Bill won't be having anything else added to it at this time. Any legislation we bring forward will be way of an amendment at the next session to control the two separate deals here. One is controlling brokers, their trust accounts and so on. The other deal is controlling the issue of shares by the company itself.

BILL #11

Mr. Chairman: What is your pleasure in relation to this Bill?

Mr. Shaw: Mr. Chairman, I would move that the Bill be reported out of Committee without amendment.

Mr. Chairman: It has been moved by Councillor Shaw, seconded by Councillor Livesey, that Bill No. 11 be moved out of Committee without amendment. Are you prepared for the question? Are you agreed? I will declare the Motion carried.

MOTION  
CARRIED

MOTION CARRIED

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

Mr. Chairman: It has been moved by Councillor Chamberlist, seconded by Councillor McKinnon that Mr. Speaker do now resume the Chair. Are you prepared for the question? Are you agreed? I will declare the Motion carried.

MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker: I will now call Council to order. May we have a report from the Chairman of Committees.

Mr. Chairman: Mr. Speaker, Committee convened at 10:20 a.m. this morning to discuss Bills, Sessional Papers. Committee convened at twelve noon and reconvened at 2:00 o'clock p.m. I can report progress on Bill No. 6, Moved by Councillor Livesey, seconded by Councillor Dumas, that Bill No. 8, "An Ordinance Respecting Co-operative Associations" has been read in accordance with Standing Order No. 78, rule 62. This Motion carried. It was moved by Councillor Dumas, seconded by Councillor Chamberlist that Bill No. 8 be reported out of Committee without amendment and this Motion carried. It was moved by Councillor Shaw, seconded by Councillor Dumas that Bill No. 9 be reported out of Committee without amendments. This Motion carried. I can report progress on Bill No. 4 and 10. It was moved by Councillor Shaw, seconded by Councillor Livesey that Bill No. 11 be reported out of Committee without amendments. This Motion carried. It was then moved by Councillor Chamberlist, seconded by Councillor McKinnon that Mr. Speaker do now resume the Chair and this Motion carried.

Mr. Speaker: You have heard the report of the Chairman of Committees. Are we agreed? May I have further indication of your pleasure regarding the agenda for tomorrow?

Mr. Chairman: Bills and Sessional Papers, Mr. Speaker.

Mr. Shaw: Mr. Speaker, I would move that we call it five o'clock at this time.

Mr. Speaker: You have heard the Motion. Are we agreed? The House now stands adjourned until ten a.m. tomorrow morning.

ADJOURNED

Mr. Speaker read the daily prayer. All Councillors were present.

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

Mr. Clerk: There is, Mr. Speaker.

Mr. Speaker: I will now call Council to order. I have for tabling this morning Sessional Papers No. 14 and 15, and also a portfolio on land transactions. Are there any Reports of Committee? Introduction of Bills? Notices of Motion or Resolution?

Mr. McKinnon: Mr. Speaker, I have a Notice of Motion this morning, MOTION #3 seconded by Councillor Chamberlist, "That Sessional Paper No. 10 be discussed in Committee of the Whole and that the Director of the Skookum Jim Hall, Mr. John Hoyt, and a member of the operating committee, Mr. Bob Charlie, be invited to attend Council at that time".

Mr. Taylor: Mr. Speaker, I'd like to give Notice of Motion respecting narcotic drug use, MOTION #4 "That Dr. Lyle Black, Chief Medical Health Officer, be asked to attend Committee to discuss problems related to illegal drug use in the Yukon Territory". This is seconded by Councillor Gordon.

Mr. Speaker: Are there any further Notices of Motion or Resolution? Notices of Motion for the Production of Papers? Under Orders of the Day, Motions for Papers is clear and Motions is clear. I wonder, Mr. Clerk, if we could have the Commissioner with us this morning for the Question Period? I will call a five-minute recess.

RECESS

RECESS

Mr. Speaker: We now have the Commissioner with us so I will now call Council to order. We are in the Question Period. You may proceed.

Mr. Chamberlist: Mr. Speaker, I have a question for Mr. Commissioner. QUESTION RE  
Mr. Commissioner, the night before last, on C.B.C. television, there C.B.C. FILM  
was a show depicting various hunting matters in the areas in the ON HUNTING  
Yukon. There was a film of a moose being shot in Francis Lake while  
the moose was in the lake. I wonder if Mr. Commissioner could indi-  
cate if this is now being allowed when according to the regulations,  
moose that are swimming in a lake or any big game swimming in a lake  
must not be shot at. I wonder if there has been any investigation  
in this particular thing.

Mr. Commissioner: Mr. Speaker, I also saw this matter on television  
and it caused me no little concern. I have already asked for a re-  
port. Just whether or not this is going to lead to an investigation  
or what the situation is, I would caution any further comment at this  
time because indeed although the picture indicated, or the caption  
on the film indicated that it was taken in the Yukon Territory, we  
at the moment have no proof of this. I caution any further comment  
until I have a report, which I have already asked for in this matter.

Mr. Taylor: Mr. Speaker, I have a question I'd like to direct to QUESTION RE  
Mr. Commissioner today. In light of the fact that we have extended ADVERTISING  
our Yukon Hospital Insurance Services to include diagnostic services, OF Y.H.I.S.  
I'm wondering if Mr. Commissioner could advise me this morning as to EXTENSION  
whether sufficient advertising has been made available to the general  
public through newspaper media, etc., to advertise this fact to the  
people in the Yukon that they may now enjoy these facilities?

Mr. Commissioner: Mr. Speaker, I would have to bow to Council's comments on this. Do they feel that there has been sufficient publicity given to it. If Council feels that more publicity should be given, I think it is incumbent upon the Administration to do so. I think that we would be guided, Mr. Speaker, by the direction and the wishes of Council in this matter.

Mr. Speaker: Are there any further questions?

QUESTION RE Mrs. Gordon: Supplementary to that question, Mr. Speaker, I did ADVERTISING notice that it had been advertised in the newspapers, but I think OF Y.H.I.S. one thing has been missed. In the entrance to the Post Office down- EXTENSION stairs, there's an advertisement that is at least seven or eight years old, advising about our Yukon Hospital Insurance, but I note there was no additional advertising beside it to indicate the diagnostic services now would apply, and I would suggest that possibly this could be taken care of. Will this be taken care of?

Mr. Commissioner: Yes, Mr. Speaker.

QUESTION RE Mr. Taylor: Mr. Speaker, inasmuch as at the last Session we had yet LAND DIS- to cope with the matter of land disposal policies in areas outside of POSAL the metropolitan area of Whitehorse, and inasmuch as we have yet to POLICIES discuss this matter at this Session, and also inasmuch as it may be that this matter will be deferred until the Spring Session, may we have the assurance of Mr. Commissioner this morning, Mr. Speaker, that these policies now in effect in the Whitehorse Metropolitan Area will not be brought into effect in the outlying districts until Council has first had a chance to accept or reject these regulations?

Mr. Commissioner: Mr. Speaker, I think it is very abundantly clear from the letter that we have written to all outside-of-Whitehorse Councillors that we have no intention of applying these regulations outside the Whitehorse Metropolitan Area. But, at the same time, Mr. Speaker, I think there's only a certain length of time that we can have our hands tied, trying to get our job done, by the lack of specific direction in this matter. I would sincerely ask that the out-of-town Members of Council, who have time possibly available to them outside of the normal sitting hours of Council, that members of my Administration who are particularly involved in this field would appreciate the opportunity of meeting with them in a similar manner to how we met with Members of Council within the Metropolitan Area, so that these policies can be worked out. If Council at that point in time wishes them to be discussed in Council, this is entirely a matter which is a prerogative of Council, Mr. Speaker. But, we're absolutely stalled on dead centre and getting no where at the moment, and I would strongly recommend that we try to find time outside of Council hours to sit down with the rural Members and work out policies and plans that are acceptable to them.

QUESTION RE Mr. Chamberlist: Mr. Speaker, a question to Mr. Commissioner. Mr. REGULATIONS Commissioner, have the area regulations with reference to businesses REMOVED FOR operating in the Carcross area been removed yet. I think Mr. Commis- CARCROSS sioner will recall, on a previous question, I asked about the restric- AREA tions that are placed against businesses opening in the Carcross area.

Mr. Commissioner: Mr. Speaker, I would reply in the negative. They have not been removed as yet, but, as the Honourable Member who asked this question is aware, we have formulated an internal committee of which he is a member, that is endeavouring to bring forth recommendations concerning the general development of the Carcross area, and at that time we anticipate considerable changes in the regulations that affect the area, and I would be hopeful that at that time the particular impediment that is placed upon one hotel, one other business, etc., would be removed. However, if it is the Honourable Member's wish that

Mr. Commissioner continued ... this type of impediment be removed prior to the complete overhaul of the regulations that apply to the Carcross area, I would certainly be very pleased to proceed with his wishes in this matter.

Mr. Chamberlist: Supplementary, Mr. Speaker, I wonder if Mr. Commissioner is aware that an applicant for a certain type of business licence was refused on the basis of the area regulations that are in existence?

QUESTION RE  
CARCROSS  
BUSINESS  
LICENCE  
REFUSAL

Mr. Commissioner: Well, I am not aware of the specific instance, Mr. Speaker, but certainly it would only be right and proper that the applicant was refused on the basis of current regulations, and this is why I am asking, Mr. Speaker, if the Honourable Member would like to see this particular impediment removed. I think that he is the individual that should be so seeking the concurrence of his colleagues here to have this done, and we are perfectly prepared to do this, Mr. Speaker.

Mr. Chamberlist: Well, Mr. Speaker, I do want them removed because in any event, it's ultra vires to the Ordinance.

Mr. Taylor: Supplementary to the question asked by the Honourable Member, Mr. Speaker, I wonder if the White Pass and Yukon Route still controls the majority of land in the community of Carcross and, if so, do they still pay taxes on a block basis rather than a lot basis for this land?

QUESTION RE  
W.P. & Y.R.  
TAXES IN  
CARCROSS

Mr. Commissioner: This is quite correct. They pay taxes on a block basis, not on a lot basis, for this land. This was as a result of a court order that is permitted under the Federal Land Titles Act, ... is that correct ... and was the subject of research here approximately one month ago, so that I know that my answer is correct and accurate, Mr. Speaker.

Mr. Speaker: Are there any further questions?

Mrs. Gordon: Mr. Speaker, I have a written question this morning. "Has the Federal Government indicated what programs of up-grading for secondary airports in the Yukon are planned for this year?"

QUESTION #5

Mr. Speaker: Are there any further questions? If not, may we proceed to Public Bills and Orders?

Moved by Councillor Dumas, seconded by Councillor Shaw, that Bill No. 8, An Ordinance Respecting Co-operative Associations, be given Third Reading.

BILL #8  
THIRD  
READING

MOTION CARRIED

MOTION  
CARRIED

Moved by Councillor Dumas, seconded by Councillor Shaw, that the title to Bill No. 8, An Ordinance Respecting Co-operative Associations, be adopted as written.

BILL #8  
TITLE  
ADOPTED

MOTION CARRIED

MOTION  
CARRIED

Mr. Speaker: I will declare that Bill No. 8 has passed this House.

Moved by Councillor Dumas, seconded by Councillor Shaw, that Bill No. 9, An Ordinance to Amend the Labour Standards Ordinance, be given Third Reading.

BILL #9  
THIRD  
READING

MOTION CARRIED

MOTION  
CARRIED

BILL #9  
TITLE  
ADOPTED

Moved by Councillor Dumas, seconded by Councillor Shaw, that the title to Bill No. 9, An Ordinance to Amend the Labour Standards Ordinance, be adopted as written.

MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker: I will declare that Bill No. 9 has passed this House.

BILL #11  
THIRD  
READING

Moved by Councillor Shaw, seconded by Councillor Dumas, that Bill No. 11, An Ordinance to Amend the Securities Ordinance, be given Third Reading.

MOTION  
CARRIED

MOTION CARRIED

BILL #11  
TITLE  
ADOPTED

Moved by Councillor Shaw, seconded by Councillor Dumas, that the title to Bill No. 11, An Ordinance to Amend the Securities Ordinance, be adopted as written.

MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker: I will declare that Bill No. 11 has passed this House. May I have further indications of your pleasure at this time?

Moved by Councillor Shaw, seconded by Councillor Dumas, that Mr. Speaker do now leave the Chair for the purpose of convening in Committee of the Whole to discuss Bills and Sessional Papers.

MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker: The Honourable Member for Watson Lake will please take the Chair in Committee.

Mr. Taylor takes the Chair.

Mr. Chairman: I wonder, Mr. Clerk, if we might have the services of Mr. Legal Adviser. We will be proceeding to Bill No. 2, which we have the amendments for, An Ordinance to Provide for the Welfare of Children. I will declare a brief recess.

RECESS

RECESS

BILL #2

Mr. Chairman: At this time I will call Committee back to order. We have the amendments to Bill No. 2, An Ordinance to Provide for the Welfare of Children. Mr. Legal Adviser, could you go through these amendments with us?

Mr. Legal Adviser: Mr. Chairman, the first amendment of which I am aware is in Section 29, there was a typographical error and the word "of" had to be inserted. The House will recall that we changed that to bring in an order of a judge in response to a question of one of the Honourable Members, in Section 40, subsection (2)(b). In Section 44, subsection (1)(b), this was a request also by the same Honourable Member, who pointed out that some people have no place of abode but they usually have a post office box. In Section 50, subsection (3), this is the new trend in modern litigation in Whitehorse now, and the same amendment was put in Section 51, "by agent or counsel". It occurs about three times throughout the Ordinance. In Section 62, one of the Honourable Members was pointing out that this particular section does not provide for the case where a child is living apart from his mother and there's an automatic termination or abatement of proceedings when an unmarried woman marries, or a married woman resumes her habitation with her husband after the date of conception of a child. Now, the particular point that was made was, that after the birth of the child, the child may be living apart from his mother. If the child is living apart from his mother, separate arrangements would have to have been made, but so far as the proceedings concerning



Mr. Legal Adviser continued ...

the woman herself was concerned, contribution proceedings in respect of the pregnancy or birth shall be stayed. This would, if it was the same order, if it was an order in respect of her, then they would have to obey it. As long as the woman is in effect the legal guardian, then the proceedings must be a basic because otherwise there's a danger to that woman's marriage, but if there's an adoption order for instance, or some other arrangements made in respect of the child, then it would be a different kettle of fish. The new parents would be responsible from an earlier point in time for the upkeep of the particular child. In Section 67, one of the Honourable Members made the point that there should be provisions for the adoption of adults, and I think I told the House, or possibly I didn't tell the House, that in Ontario, they got around this by making a definition that a child means a person under the age of twenty-one and a person over the age of twenty-one, and I honestly haven't the heart to put that kind of definition to the House, so, what I did was, I left that definition as it was and in Section 67 I put in that a judge may ... now, this was the existing Section in part ... a judge may whereby reason of blood relationship or other special circumstances he considers it to be in the best interests of a person .. now, a person is clearly different from a child .. a person so as to be adopted, permit an application for an adoption order to be made, in any case not otherwise provided for in this Ordinance. This in itself would be sufficient but in some instances there may be a private adoption sought which would not normally have gone through the Director of Social Welfare. So, in such a case, it's considered that special scrutiny would be necessary so I put in subsection (3) saying "Where an application is made for an adoption order in respect of a person over the age of twenty-one years, the provisions of this part shall apply mutatis mutandis unless dispensed with by special order of the court". The effect of this is that it would need two applications in respect of an adult. In other words, even if it doesn't originally go to the Department of Social Welfare, when an application is made, the judge will be called upon to decide which sections apply and which sections don't. Then, they come back again, having complied with the Ordinance, and the effect of this is to give a special scrutiny to the court and it also saves ... and, of course, as the House will well know that this wasn't in my mind at all ... it saves about ten or fifteen changes in sections coming after it. But, this meets the case. They are the only amendments that I know of. Oh, there was a typographical error on page 22 in Section 76, subsection (2).

Mrs. Gordon: Mr. Chairman, I have a note on my papers that there was an amendment on page 11, subsection (1)(b) of section 40.

Mr. Legal Adviser: Mr. Chairman, possibly the Honourable Member could be working from an old copy because we did in fact amend the confidentiality provisions of the Ordinance, but not in that particular section. It was in another section where the Director must have a special file.

Mr. Chairman: What is your pleasure in relation to this Bill?

Mr. Dumas: Mr. Chairman, it gives me great pleasure to move Bill No. 2, An Ordinance to Provide for the Welfare of Children, be moved out of Committee as amended.

Mr. Shaw: I'll second that motion, Mr. Chairman.

Mr. Chairman: It has been moved by Councillor Dumas, seconded by Councillor Shaw, that Bill No. 2 be reported out of Committee as amended. Are you prepared for the question? Are you agreed?

BILL #2

Mr. Livesey: No. I'd like my contrary vote recorded, Mr. Chairman, in view of the fact that I think the Bill in general is a good one and I'm sorry I have to vote against it, but I can't see any child having three fathers medically, nor can I see where five illegitimate children can have eighteen fathers in one family. This makes not a grain of sense to me, and I can't accept it, and I won't accept it, nor will I accept the fact that the legislation decides that a married woman is unmarried just because she's living separately from her husband and is having illicit relations according to the law. This is impossible. She is either married or unmarried, she can't be both at the same time. Thank you, Mr. Chairman.

BILL #12

Mr. Chairman: I will declare the motion as carried, with Councillor Livesey opposed. The next Bill is Trailer Licencing. Is it your wish to proceed with this? (Reads Sections 1 and 2 of Bill No. 12)

Mr. Chamberlist: Question. Mr. Chairman, it seems almost impossible that anybody would consider that a trailer without wheels could be considered a vehicle. I think there has already been some definitions of when a motor car is a vehicle made at law, and nobody, but nobody can say that a trailer is a vehicle if it is sitting on blocks. Now, to have an interpretation "'trailer' means a vehicle, whether equipped with wheels or not and whether self-propelled or not", just because it's used as a place where somebody lives, is really a bit on the ludicrous side. Now, here is an interpretation that would mystify any person that's not at all familiar with legislation, and I think, Mr. Chairman, that we should start right away on this particular piece by clearly saying what is meant, what the purpose of this Ordinance is, and therefore what is meant by a trailer. I would suggest that a trailer means a building other than a dwelling house that is used for dwelling in, and that's what it should be, not a vehicle.

Mr. Chairman: Councillor Chamberlist, would you take the Chair?

Mr. Chamberlist takes the Chair.

Mr. Taylor: Mr. Chairman, as I stated at Second Reading of the Bill, in discussing the principle behind this Bill, I'm unalterably opposed to it for several reasons, and the prime reason is that I feel if you are going to tax people, or want to tax people who live in trailers, you face the problem head on and you provide them with land upon which to put their trailers and when they put their trailers on that land, you tax them in the same manner in which you tax real property or buildings or anything else. This is an attempt by the Administration to try to solve the problem and I think the end result will be that it will only further compound the problem, but we'll get into that a little later. In respect to Section 2, subsection (1), "'trailer' means a vehicle, whether equipped with wheels or not and whether self-propelled or not, that is used or designed as a dwelling or sleeping place". Mr. Chairman, I submit this includes camper units. Camper units are dwelling places on wheels, they are self-propelled, and they are not taken out of this Ordinance. I only cite this to indicate that I feel that this Bill should be left to die in Committee and further attention given to it, because as we proceed through the Bill, there are many other areas that are left too open and wide and I'm sure it's not the intent of the Administration in submitting this Bill to include camper units, however, here they are.

Mr. Livesey: Mr. Chairman, I couldn't help but agree with the previous speaker. Large communities and centres in British Columbia right now have got the same identical problems, and there was a big discussion over C.K.B.A. about ten days ago from Victoria, and they have the same problem around that area where they are trying their best to find something which will meet the situation and whereby they

Mr. Livesey continued ...

can make some collections for taxation in support of education and other municipal problems that cost money, from people who dwell in trailers. At this point in time, I don't believe that these gentlemen have the answer, and I don't believe we have the answer here. Certain communities are considering a form of taxation for all those trailers that are no longer equipped with wheels and not in a condition where they may be moved. In other words, they are connected to sewer and water and so on, but whether this is the right answer or not, it's hard to say, and I would suggest, respectfully, Mr. Chairman, that I don't believe the Administration has come up with the right answer in this Bill.

BILL #12

Mr. Dumas: Mr. Chairman, I wonder if the Legal Adviser could tell us on what legislation, if any, this Ordinance is based?

Mr. Legal Adviser: Well, I think at the time really, Mr. Chairman, the legislation is based on our own legislation and it escapes my mind exactly. I did a Bill which passed through this House at the end of 1968, as the Members will recall, giving the municipal authorities power to licence trailers, and this is the definition we used. At that time, my recollection is that we copied Ontario, but we also adverted to the definition of trailer as far as we could throughout Canada to try and pick an easy definition. Now, a trailer here is defined as being something other than a building, because if it were a building, because if it were a building, it would be attached to the soil and it would be subject to taxation the same as the normal person has. So, when we're looking for a definition, we're trying to get away from the word "building". We came up with the word "vehicle" because a vehicle is something which everybody understands and which most trailers are. Then, we've got to define "vehicle", and we say whether equipped with wheels or not to defend against the case where a person would, being otherwise subject to taxation, would put his vehicle up on blocks and then he'd be away in a hack. We don't talk about wheels because there are many vehicles in common use in this Territory which do not have wheels, they have tracks, or they might have skids or something like this. In this Territory more than in any other territory, you will realize that vehicles don't have to have wheels. Now, self-propelled or not is clear, and that it is used or designed as a dwelling or sleeping place is the prime catch-all in the section. It's a vehicle that you sleep in or dwell in, and it's quite correct, as the Honourable Member suggested, that it is designed to include all trailers and will include a camper unit. There's no question of this. It will include a sleeping compartment on a truck if it is used as a dwelling place or a sleeping place, but regulations will vary the fees or make or set a mill fee in respect of large classes of this type of dwelling or sleeping places which it is not intended to tax. We're learning. We can't learn as fast as other people, but at least we can have a go at it. We may be wrong. I gave the House the example before that in Turkey in Constantinople, they've tried for two thousand years to tax this sort of thing. They have not succeeded yet. We may be fools rushing in where angels fear to tread, but at least we're having a go at it. We may fail, but ...

Mr. McKinnon: What is the criteria of a dwelling place, Mr. Chairman, if I could ask Mr. Legal Adviser?

Mr. Legal Adviser: It's something other than domicile; it's something other than residence; it means a place where a person, over a variable period of time, eats and sleeps, or possibly eats or sleeps. A dwelling place is a very wide term. A camp, a tent would be a dwelling place at the time you're using it. Certainly, if you went away from it, it would no longer be a dwelling place, it would be an empty camp, but as long as you are living in it, I think it could be a sign of meaning.

BILL #12

Mr. Taylor: Mr. Chairman, as I stated earlier, it isn't our intent to consider legislation, I don't feel and I speak for myself but I think there are other Members in this Committee who feel the same way, it is not our intent to tax camper units, truck sleepers and this type of thing, and I would like to remind all Members of Committee ... let's get right down to the nubs of this matter which is this, that a licence is nothing more than a tax or an impose upon the people. Now, it has been suggested in this Committee, and I feel somewhat insulted by the suggestion, that the Administration be given the right to regulate licences on trailers by regulation, asking the Legislative Body to let them impose a tax upon the people. This is not the prerogative of the Administration, this is the prerogative only of this Legislature. We don't know what these licence fees, these proposed licence fees are, we don't know what amount of revenue this is designed to bring up throughout the period of the year, we don't know how this is going to fit with our fiscal negotiations when next we propose a fiscal agreement with Ottawa or negotiate one. The people who levy the taxes are this Legislature, and this is indeed a tax or impose. On those grounds alone, this Ordinance should be thrown out. Now, when we last discussed this, we brought many of these points up; all the way through there is no way that this Bill is good for the people. Now, we have a lot of trailers in the Yukon Territory and I have yet to meet one trailer owner who does not want to pay his fair share of the tax load, but he wants to pay a fair share. They have children going to school, they cannot be taxed under the Taxation Ordinance because they are a trailer, and the Administration has, up to this point in time, failed to find a method by which they can be taxed except by one method and a method suggested by this Legislature which repeatedly is turned down or not acted upon, and that is to give these trailer owners land. Make lots available. We have got two hundred and seven thousand square miles in this Territory. There must be land somewhere nearby all these little communities where these people can buy land, put their trailer on, and we're talking about up to \$12,000 and \$14,000 units, we're not talking about \$4,000 shacks, where these people can put their trailers on, have a little piece of land around them and become a tax payer, a rate payer, and as they do this in controlled subdivisions as in housing, they can enjoy the benefits of sewer and water, of utilities and all this type of thing at a price that they can afford to pay, and they complement a subdivision, rather than detract from it. I think that herein lies the answer. Then, once they set their trailer down, attach it to the ground, or by some other method attach it to the ground or on a foundation, then they become rate payers, taxable under the Taxation Ordinance with no special considerations required. They're taxed on the square foot basis or the dimension of their building, and this to me and many others, sounds like a reasonable and intelligent approach to the problem. But, An Ordinance Respecting Trailer Licencing as suggested here and as proposed to this Committee, I feel, is inequitable and does not meet the desired need of the Territory, of the trailer owners, or of this Legislative Body. Consequently, in respect of this, I would like to move at this time that Bill No. 12 be left to die in Committee, Mr. Chairman, if I can find a seconder.

Mr. Livesey: I'll second it.

Mr. Chairman: There is a motion on the floor. It has been moved by Councillor Taylor, seconded by Councillor Livesey, that Bill No. 12 be left to die in Committee. Is there any discussion?

Mr. Dumas: Mr. Chairman, I think the motion is a little premature. I believe that the Honourable Member has some good points as other Honourable Members have had regarding the proposal before us, and certainly the idea, as discussed at a meeting with trailer owners some time ago, that land be made available for purchase for trailer owners is a good one. I think the Administration will be coming

Mr. Dumas continued ...

forth with a proposal in this respect at the request of these trailer owners. However, the fact remains that unless we come forth with some sort of legislation, either licencing or taxing or whatever, we stand to lose in the neighbourhood of \$40,000 or \$50,000 in revenue this year alone, and I'm taking a medium tax or licence fee of \$10.00 per month per trailer to arrive at this figure. There are approximately 300 trailers in the Territory now. It's my guess as a real estate man that there will be another 100 at least added during the course of this year. So, this is the amount of money that we could lose unless we come forward with some legislation in this respect. Whether this is the legislation we need or not, I don't know. It may be that we should allow this legislation to go through and ask the Administration to come forward with an alternate proposal with regard to taxation of trailers for the Spring Session of Council. Something in this respect might be the answer, Mr. Chairman, but I'm very, very reluctant at this time in the development of the Yukon Territory to give up a potential revenue of \$40,000 or \$50,000 that the trailer owners are willing to pay for the services that they receive. So, it's just a matter of technicalities that we are talking about here and I believe that this may be a stop gap way of doing it, if we make it very explicit that this is only a stop gap and only a temporary measure, if that is necessary. But, I do believe that for us to not come up with an answer now, could be very costly and hardly fair to the other citizens in the Yukon Territory that help to pay for the services provided the Territory.

Mr. Livesey: Mr. Chairman, in support of the motion, let us surely for the first time maybe in our history do something right the first time. Let's not keep chiseling away at something and go to the public with a pile of excuses. This is not going to help us in one way or the other. Let's sit down and think this thing over sensibly and properly, and in accordance with all the many contributing heads there are in this form of government which is a multifarious operation at the moment, but surely if we allow the Administration to think this over until the Spring Session, they will be able to bring to us this year, without any tremendous delay, something that we can accept. We can't accept this. Why start chewing away at it, hammering at it, boring holes in it, turning it upside down and trying to bast it on the other side to cook it up to something we can swallow. This doesn't make a grain of sense, Mr. Chairman. It's far better to get rid of it and have it resubmitted.

Mr. McKinnon: Mr. Chairman, I think that perhaps many Members of Committee aren't aware of the work that has already been done before this Ordinance came to the Council table. We have put aside now 100 lots in Porter Creek, as the Councillor from Watson Lake intimated would be the best way around the problem, to make land available for people who want to put trailers on it and pay the ordinary taxation as rate payers in a community. We hope to be able to have these lots available in the very near future; we've already got them blocked out. But, this doesn't resolve the problem at all of people who are always going to want to live in trailer parks because they don't want to become rate payers in a community, or they want the trailer court owner to provide the services that they would have to provide if they owned the land. Now, how do you get around the transiency of these people who can just put their wheels under their trailer and skip out the next day. You're two years in abeyance by the time that you set your mill rate, by the time you put in the tax notice and by the time you collect your taxes, and there's no possible way that you're going to collect from people in trailer courts under a Taxation Ordinance. Three of the major trailer courts are in my constituency. I've met with the people on many occasions, trying to come to an equitable basis of taxation. They have no hangups at all as Members of Committee have on whether it's licence fees or taxes. All they're worried about

BILL #12

Mr. McKimmon continued ...

is that it is some type of a fair and equitable amount that is set on it. The people in trailer courts get nothing, sweet nothing, from the government except a darn good system of education. The government doesn't provide them with garbage service, they don't provide them with street lighting, they don't provide them with roads and they don't provide them with water and sewer. They give them education. Now, certainly you can come up with a monthly licence charge which should be written in the Ordinance up to a maximum that can be charged, that they pay for education. There are no qualms about the people living in trailers in trailer parks paying this licence fee; the only thing that they need for the protection and that we need for the protection of those people living in trailers and who are trailer owners, is that there is a maximum fee set, and this is set by legislation. We examined all of the western provinces' legislation with regard to trailers. Every one of them has come up with a licencing type of fee, because this is the only way that they can collect from trailers in trailer parks for the services the government provides. Mr. Darychuk has the information. It varies from \$3.00 to \$20.00, the maximum that is set by legislation in the western provinces, so that these people can pay for the services which government provides. In the Camp Takhini School now, there are seventy children using the services from the Camp Takhini Trailer Court of our educational system there. Not one of those parents is paying one cent towards the maintenance of that school and that school is open mainly because of the number of children in the Takhini Trailer Court. Not one of the trailer owners that I have met in that area are against paying a licence fee for the education of their children at that school. Now, certainly, Mr. Chairman, we can come up with a charge up to a maximum that can be levied to these people in trailer courts for the education of their children. It can be done now, and it can be done by this legislation. The Territory can get the money the trailer owners are willing to pay, to pay their fair share towards the system of education in the Yukon Territory. I agree with the Honourable Member for Watson Lake that the other answer, for people who want to own their land, is another way out and it's one that we're looking at at least in the constituency that I represent, and we hope to have plans available in the immediate future for people who want to become rate payers in the community. I think that this isn't a new type of legislation. It's not something where we're trying to rush in where angels fear to tread; it's something where the Director of Municipal Affairs has examined the legislation of all the other provinces and has come up with something in the same manner that they charge. The only difference in this legislation and why it's dangerous, is because we're allowing the Administration to set the licence fees by regulation other than having a maximum in the Ordinance so that we know it won't be gone overboard on.

Mr. Chairman: Order. I will declare a brief recess.

RECESS

RECESS

Tuesday, 20 January, 1970,  
11:00 A.M.

Mr. Chairman: I will now call Committee back to order. We were discussing an Ordinance Respecting Trailer Licensing.

BILL #12

Mr. Livesey: I believe, Mr. Chairman, that I was prepared to rise at the time of recess and I was not thinking of any promotion of any yeast substitute when I was referring to "rising". What I would like to say, Mr. Chairman, is that I think we are not using all our intelligence when we consider this Bill to be what we need and I would like to point out, Mr. Chairman that there are other aspects which we should consider if we are astute people, and I believe we are, and that is the fact that I don't believe it is correct that we can raise taxation between kinds of agreement with the Federal government in relation to financial matters and financial question that are related to this area. I believe it is an understood thing that we usually agree that we are not going to raise taxes between agreements and I don't care whether we call this taxes or licensing, I still think it is a tax and no matter what you call it a rose by any other name smells just as sweet, and this is just about the size of it. So, what are we doing when we agree to the increase in taxation but taking away our points of argument when any relative discussions arise in the future with regard to the settlement of financial problems, and I think if we are going to think and project our thinking far enough ahead, we will be able to realize that a bird in the hand is worth two in the bush and we would have more on our side if we used our heads in this Department than we would if we just gave it away and went along with all these projections and nibbling at the powers that we have, but we are giving them away one at a time, piece by piece whereas if we thought about it, and thought about it deep enough and strong enough and tried to promote our thinking into the future and project what we may have to face in the future, some of us may realize that all we are doing is backtracking from a sensible thing whereby we can raise this as a way of doing something that someone else may want in the future whereas if we deny it right now, there will be no possibility of ever bringing this up. This surely has happened in negotiations before, Mr. Chairman and I would fail to see why anyone around this table would want to give away an argument, would want to give away a favour, all on our side, when it is totally unnecessary in my opinion, despite all the supposed ethics that are now needed to carry on with this particular plan. I don't think that it is necessary to even describe any particular reason for wanting those who live in trailers to contribute to costs of running a government. I can also see a little further ahead than that, Mr. Chairman, and I would suggest that we agree with the motion.

Mr. Chairman: Any further discussion? Councillor Taylor.

Mr. Taylor: Mr. Chairman, prior to last recess the Honourable Member from Whitehorse North brought up a few points and I just wonder if he has looked at the fact that each trailer, in terms of assessment, has a registration number on it and I hesitate to point out that I recognize the fact that these trailers can be moved from place to place, from time to time. But herein is another area to be looked at in terms of talking about how we assess trailers. Every trailer has a registration number on it. If it is in a trailer court and not on land where it could be properly assessed then it could be assessed through the registration number, through the registered owner in the same manner as you assess a building. Now, I still fail to see, and Administration has still failed to point out, notwithstanding that the provinces have not coped with this problem in the manner I suggest, where it



BILL #12 Mr. Taylor continues..

is not possible within the Taxation Ordinance, to include trailers into assessable real property. Now a trailer is a structure, if you go south where these trailers are produced and manufactured, and I have been through one of these factories and they are buildings; they are actually constructed buildings done in a big warehouse or big hangar and then wheels are put under them and away they go. They are in fact a building. They are built according to the National Building Code standards and there is no reason why these cannot be assessed in the same manner under Section 4, for instance, of the Taxation Ordinance where they say all property within the Territory is liable to taxation, and that includes the whole thing; all these trailers and the whole question under regular taxation. Now it has been suggested that these trailers move from time to time, fine, it may cause an Administrative problem in one sense inasmuch as possibly you would send them a tax notice four times a year, every three months. Certainly there will be people who will evade taxation but I think the greater majority of people will not evade taxation and if we, by this method, tax trailers, I think then we have achieved, and provide land for these people to be on for those who do not want to live in trailer courts and I think we would have done something equitable and proper but there is no possible way that we should allow the Administration to license or tax the people. There is nothing in this Bill which specifies what this tax shall be other than to say that the Commissioner makes regulations and establishes the tax levied. Now, we make a fiscal agreement with Ottawa every year, pardon me, every five years, or three or two years or whatever. This particular fiscal agreement carries us into 1971 and in this agreement we have agreed that we will not raise additional taxation over the level already established. This - I would submit that trailer licensing would be additional taxation and not consistent with taxation on real property as such and I would think, if Administration were to come with a Bill which would follow along the lines I have submitted, fine, it would then be consistent with the Inter-Departmental Agreement between the Yukon Territory and the Government of Canada because there we would be following the assessment procedures set down for the taxation of real property. But when we come with a tax or impost in this Bill in the manner as suggested in this Bill, I would submit, Mr. Chairman, that we are inconsistent with the terms and agreement of the Fiscal Agreement with Ottawa and so I would leave those few points for you to ponder over and I would say that in light of the many inconsistencies involved in this question and in this Bill that the motion to allow this Bill to die in Committee at this time and that the matter be given further consideration by the Administration and hopefully by and with the concurrence and consideration of Members of Council, that I would hope this Motion will be supported and this Bill be thrown out at this time.

Mr. Dumas: Mr. Chairman, I can hardly go along with the argument regarding the fiscal agreement and the increased taxes. We are not in fact increasing taxes; we are trying to make the whole system equitable for everybody in the Yukon Territory who uses Territorial facilities such as schools, fire projection, the main roads and so forth, to pay their fair share so I don't think that that argument holds any water at all but I do think, Mr. Chairman, that this legislation is not the best legislation that we could have placed before us. I think the Legal Adviser will probably agree. However it is the only legislation placed before us at this time and unless we take advantage of it we may very well lose a sizeable amount of money that people who are willing to pay for services this year of 1970 will not have to pay, even if they are willing and to throw this out is to

Mr. Dumas continues..  
throw out the baby with the bath water, as the Honourable Member to my right might say were he debating at the moment, and I suggest that the motion is premature and that the discussion on this Bill should carry on and see if we can't arrive at some common ground so that we can realize the revenue that is there waiting for us to pick up.

Mr. Shaw: It has been said that this legislation is wrong, this that and so forth. It does not matter what legislation is created, there are sections of it that are not exactly right, do not satisfy every one. Take the Ten Commandments, they have been assailed these days as being wrong for a just society so that sometimes it is necessary to come up with something for a start that might not be exactly right but it is put forth for a purpose, Mr. Chairman to accomplish a certain purpose and a lot of that is to create equality for the citizens. Now, I must disagree with the Honourable Member from Whitehorse North when he says that all these people get is education. These people who live in trailers get a great deal more than that; if there is a fire department close at hand they have the protection of that fire department but so far they don't pay for that. Who pays for that, the rest of the people do. They may have two or three children who go to school, at a cost of over \$1,000 per child; who pays for that. Then don't pay for that, the balance of the citizens pay for that. Some of these people that have difficulties in perhaps obtaining a job so our Social Service representatives go out and help these people over this rough time. Who pays for that? It is paid by the other residents of the Territory. These people get sick so they go to a hospital; who pays for that? They don't. The balance of the people, the taxpayers of the Territory pay for that. They may wish to uplift themselves or they may wish entertainment in reading so they go and utilize the facilities of the public library at no cost to them but at a cost to the other taxpayers of the Yukon Territory. They travel on roads that are maintained and financed at no cost to them but at a cost to the other people of the Territory. It is ludicrous, Mr. Chairman, and unfair to say if any group, if we are going to have equality I think that is what we make laws for. If any group can have a free ride on the coattail of the people who are paying for these things - now I think that many of these people who are living in trailers are good citizens and are quite prepared to pay their way in the scheme of things in the Territory. They are quite prepared, quite possibly many of them have a trailer because they cannot afford to build a house. We do have quite a problem in building houses and obtaining land on which to build houses and obtaining finances to build these houses so these people have a trailer and live in it. They are perfectly respectable, good citizens, nothing that one could say about them, any more than about anyone else. So, they don't pay anything but I don't think that it is necessarily from choice. I think that two Honourable Members have stated that these people are quite prepared to pay and quite willing to pay their way. Let us not make them a bunch of mendicants just because we haven't provided some way that they can pay for this; many of them want to pay and are quite prepared to pay. Let us put them in the same category as anyone else. Whether you call it a licence or call it a tax, in my estimation is a matter of semantics. It is obvious that you would have great difficulty with a tax on account of using it as a year or two years in the overlapping of assessment so that that would not work. So, in order to make these people feel that they are a part of the community and that they contribute to the community, this is one form of doing it. It would appear to me, - I note that the Honourable Member from Watson Lake is talking about people who have a particular trailer unit and make it into a permanent

BILL #12 Mr. Shaw continues..

home. Now, I would feel that he has a very good point there. These people would rather be assessed in the normal manner and is considered as a permanent home. Now, if there is some way of making these trailers, of putting them into the category of a home, fine and dandy, providing it is a bona fide effort and it is absolutely a permanent installation, I would think that that would be a very sensible way of attacking it, especially if a person had bought a piece of land that is a permanent home so that I think and feel, Mr. Chairman, that this motion that we have right now is premature, that it is only fair to discuss this Bill and perhaps come up with sections that may or may not improve it. I don't know as we haven't gone through it at this stage but certainly we should continue with it and certainly these people should have the opportunity of joining the rest of the citizens and helping pay for some of the services which they are receiving. They are not receiving it in the form of alms from the other taxpayers, they are contributing their share and I think they will be pleased to do it. There are always people who don't want to pay anything, well that is fine, they will also be brought into the fold but most of these people, I think are prepared to pay their way. Let us see if we can find a way to make it equitable.

Mr. Taylor: Well, Mr. Chairman, I would just like, in reply to the Honourable Member from Dawson, to point out that these people are paying their way in every respect except in the area of taxation of real property; that is involving education and real property. There are only two areas that the Member got up and gave a long dissertation, Mr. Chairman, about using our roads and using this and the other thing. These people pay fuel tax for the fuel that they buy to place in their vehicles just the same as anybody else. These people pay liquor tax and pay all forms of taxation and contribute to the economy in all areas. I think this should be made clear, except in the area of schools and the taxation on real property. These people want to become taxpayers, they want to become people who would pay in respect of real property just the same as everybody else. These people live in constructed dwellings, wheels or no wheels. All these people ask for is land and a reasonable opportunity to pay. It is the duty of this Legislature to attempt to find a method by which they can equitably pay and the Honourable Member who preceded me in speaking is one of the first to agree that midnight amendments in this Legislative body are undesirable and should never be considered. Now when you attack and approach this problem of taxation of trailers this indeed is a midnight amendment. It has been pointed out in section two for instance - trailers - what does trailer mean. Now it is pointed out that it means sleeper cabs on trucks, it is pointed out it means camper units and I don't think there is a Member in this Committee who agrees that this should be and as you go down through the Ordinance you find in the next Section where the Commissioner can prohibit the owner the use of any trailer for living, sleeping or eating accommodation. It violates a civil right. The Commissioner would have the right to say, move out of your trailer, you can't eat, sleep or dwell in there. When last we discussed this Ordinance that was brought up and it was generally agreed that that be thrown out and all the amended Ordinances that came back left back in there Section 3 notwithstanding the fact that this Legislative body asked it to be thrown out. So, consequently I still say that the smartest thing and the most intelligent thing and the best thing we can do for the people of the Yukon is to defer this Bill, let it die in Committee and let the Administration take a second look at this and I would guarantee you if we received the constitutional changes of the Yukon Territory that we seek and I don't think that day is very far away, when the elected representatives of the people will become involved in

Mr. Taylor continues... administration and involved in that Budget Programming Committee which we so long sought to be a member of, that we will face this problem square on and effect an equitable and fair means of taxing trailers.

Mr. Chairman: I wonder if Councillor Taylor meant the Legislative Planning Committee instead of the Budget Planning Committee.

Mr. Taylor: The Legislative Programming Committee is correct, Mr. Chairman, but I say to you this, that if you accept consideration of an Ordinance which would - this is another facet of it - if you accept and do keep your minds open on this, those who are opposed to this motion, if you accept considering a Bill which would give the Administration the right to impose a tax upon the people, then you do a disservice to the Legislature and to the people, the people that we represent because that prerogative is ours and ours alone, that of the people, not of the Administration. If you allow this Bill to be proceeded with and approve, then as I say you relinquish your rights on behalf of the people and the right of the people to make the laws of the Territory. You go in conflict with the Fiscal Agreement between Ottawa and the Territory in respect of what taxes are levied and what aren't. I would most sincerely urge that all Members give support to this Motion which would have the effect of throwing out this piece of legislation.

Mr. Livesey: I would like to add a few words, Mr. Chairman. I think to hand over to the Administration the powers to collect what could easily be called a form of taxation is that we relinquish our rights and set a serious and very sad precedent for people who have for years on end stood on their feet asking for more responsibility. This is about one of the worst things that we could do. It certainly is a retrograde step going in the opposite direction to that which we have been giving all our efforts and I mean all our efforts and I mean a unified effort of all Members of this House. Not only that but what the mover of the Motion is attempting to do, which I think is not a strange thing but a very sensible thing is to allow at least another two to two and a half months for the Administration to rethink this whole problem over and come up with a solution after listening to our debate this morning and reading it in the Journals so they know what we have said whereas this Ordinance, in my estimation, is based on their thinking, not our thinking. So there is more sense in this short delay than there is on the side of those who argue to rush this through merely because there are people who oppose it and I think that is about the essence of the argument. Thank you Mr. Chairman.

Mr. Dumas: Mr. Chairman there have been two points that have been made by the Honourable Member that are just fallacious, propagandistic and everything else.

Mr. Livesey: Question, question, Mr. Chairman.

Mr. Chairman: Order, question....

Mr. Livesey: A question of privilege. My question of privilege is that my arguments were not fallacious in any way, shape or form.

Mr. Dumas: Mr. Chairman, when the Honourable Member suggests that we are rushing something through and another Honourable Member suggests that it is midnight legislation, then I don't know what they have been doing since last October when they first received this Ordinance; they must have been sleeping

BILL #12 Mr. Dumas continues...

all that time so they thought it was midnight when they got it and still is. The other suggestion that we have no control over the amount of money that would be imposed is absolutely wrong because Section 5(3) sets a maximum; whether we are going to agree with that particular maximum or not, we determine that and then there must be an equitable basis based on the size of the trailer and the number of people in it and we must allow this amount of leeway to the discretion of the Administration, that is simply what we would be doing, Mr. Chairman. So I suggest that the question be called on this Motion.

Mr. Shaw: About two or three months ago, Mr. Chairman, a person said to me, pointed out the fact that there was a certain trailer in a certain position on a piece of land and he said to me how do you think that is worth? I said, well I don't know, \$8-9,000, I guess, I'm not an assessor on the matters. Well, he said how much taxes is that fellow paying? I said he does not pay anything. Well, he said, I have a house that is not as fancy as that trailer and I have to pay \$125 taxes. why isn't that fellow paying? Because it is a trailer, I said. Well, he said it appears to me that there is something wrong in this situation that that person should also contribute his share as well as I do. Mr. Chairman I could do nothing but agree with that remark.

Mr. Taylor: I will resume the Chair at this point.  
Councillor Chamberlist.

Mr. Chamberlist: Mr. Chairman, one statement that was made earlier in this debate by the Honourable Member from Whitehorse West that they are losing a revenue of \$40,000 by not proceeding with this. The taxation collection agency that we have is already set up. The administration is there but you will note that in the explanatory note there are words "cost of administration - there is a possibility that a new inspector will be needed to collect." That means new space, extra clerical staff, the government is stretching out, new department and it won't take very long to eat up your \$40,000 and it won't be used for the purpose intended. Now, the general theme, that by giving the Administration the right to license a man in his home seems to me to be improper, there is going to be money collected, we'll collect it. The Legislative body will give the authority for that collection. Further, what we must keep in mind as well, very very strongly, is the fact that nobody around this table is opposed to the principle of levying taxes against those people who are using the facilities of the Territory that other members of the public are paying the shot for. Nobody is opposed to this, the basic argument that we are all having is based on licensing as opposed to taxation. There are a lot of areas in this particular Ordinance that need a lot of thinking over. I have had this Ordinance since last October and I haven't been sleeping and it is in a way a midnight amendment when it is brought forward especially after the expressed points of view that have been raised by Members of this Committee because it is an opportunity to have another shot at it. There is a need, I think, to have a look as to what is happening in trailer courts where for the sum of about \$500 in land tax the operators are grossing \$80,000-\$90,000. Now, it is true that they have sewer and water assistance to put in and maintain, they have their roads to put in and maintain, but they are not paying their portion of the load and the only answer, I would suggest is that a look at trailer courts for purposes of taxation be done. The Honourable Member from Whitehorse North, Mr. Chairman, knows full well that there is one trailer court with 150 or 160

Mr. Chamberlist continues...  
fully occupied - I don't know how many they have now, charging in the region of \$45.00 a month, figure that out and you will find it comes to \$80,000-\$85,000 a year gross. Just check and find out what the taxation is on that acreage that is being used and you will find it is just taxation of the acreage without taxation of those improvements which are trailers on there. Now, many of the trailers that are on these trailer courts are in fact owned by the trailer court operator and they rent them out in turn as a unit, complete. They are not all owned by individuals so that you find it can be that the operators of a trailer court themselves become people who do not pay toward the taxation, towards the fair cost of taxation and services rendered. I know that there are one or two operators, notwithstanding that we say that everybody wants to pay towards the costs of the services given, some of them don't want to pay anything at all, it is all take and no give. They don't want to participate in their fair share because they are not community conscious. They are dollar conscious. Business men are dollar conscious but there are a lot of business men who are community conscious as well. I think that the need to study the areas of licensing for taxation should be given further consideration. I think that the basic answer that has already been expressed by both the Honourable Member from Watson Lake and the Honourable Member from Whitehorse North, and there is no doubt about it is give the people land that they can put a trailer on if they want to. Some of these trailers are a darn sight better in construction, in cleanliness, in usefulness than homes I have seen scattered around this Yukon Territory. Mr. Chairman, I would ask that Members of this Committee, notwithstanding their own personal feelings about licensing, give way to this so that, to give way to the Motion because I am going to support it on the basis that the Administration must recognize that there is a need to have a thorough examination of the situation, there is a need to let people have the land to live on. I would say that 60 or 70% of the people living in trailer courts today would move away from the trailer courts if they had their own piece of land and they would pay the tax assessment as an improvement, without any hinderance, without any question at all. I know that it might be hard for Members of Committee and Members to go against what they have already set their minds to do in supporting this thing but I think it is reasonable to consider that here is an area that we are all thinking towards the same end; we all want the same thing and because we want to get the same end we should not be split in the vote on this and I really appeal to all Members to let the Motion go and let this thing die so that even if the people, the Members of this body can individually pass on their thoughts to the Administration so that the Legislative Programming Committee will come up with a piece of legislation that will satisfy everybody in their own area for the good of the people of the Yukon Territory whom we are here to serve. Thank you Mr. Chairman.

Mr. Livesey: Well, Mr. Chairman, I would certainly like to look at Section 3 and if Members of Committee will look at Sections 3 and 4 they will be able to see that the regulations do not apply to municipalities but apply to all areas outside a municipality. This is a very important point and another important point is that we are proposing in this Ordinance to give tremendous power to the Commissioner and I know the Commissioner is only a word and I am using it as a word and in no other way but nevertheless that power is there and is designed in the Ordinance so that the Commissioner, by Regulation, which we haven't seen at this time, Mr. Chairman, we don't know what is in the Regulations, what will be contained in these things but we are willing to

BILL #12 Mr. Chamberlist continues...

accept it without knowing what is in it. This is a pig in a poke if I ever saw one and I don't understand how anyone can turn around and say they are thinking in a responsible way if they won't accept something of that nature when we don't know what is in there but we are going to accept it in any case. This does not make a grain of sense; and not only that but I have heard discussions in this Chamber, Mr. Chairman, time and time again, how we have refused to allow the powers that be to even enter into the dwelling or the home of an individual without a warrant for a search or anything else, considering that a man's home is his castle and his private place but one of the only private places it seems to me in this so-called democracy of ours where he can call his own and where he can feel he is free. This legislation, Mr. Chairman, gives the power to an administrator to deny amendments to his own property. This is something I just can't swallow and if anybody else can swallow it well I hope it gives them indigestion and a long straight course of it to over the months and over the years, especially when they will have to explain it maybe at some future time as to why they provided this type of power. I am, Mr. Chairman, unilaterally opposed to the granting of this type of power to anyone and this is certainly contrary to my thinking and I think, Mr. Chairman, to provide this type of power without knowledge of what we are doing is absolutely impossible and utterly ridiculous. Thank you Mr. Chairman.

Mr. Chairman: Councillor Dumas. Councillor Chamberlist, will you resume the Chair?

Mr. Taylor: Mr. Chairman, this piece of legislation as has been pointed out does not affect the municipality of Whitehorse but indeed this is covered by the Municipal Ordinance and it does affect the outlying districts and though there are major trailer courts here in the environs of Whitehorse and the metropolitan area, there are also many trailers scattered around the Yukon Territory, both industrial and residential. Now it has been suggested that we are having problems with these people in trailer courts in respect of collecting taxes. We are indeed, at the present moment, legislating a profit to the trailer court owner. We tell these people who come in with \$14,000, \$12,000 trailer unit, no, you can't put that in a subdivision where you would like to live, in Carmacks or Watson Lake or Dawson City or anywhere else. You can't do that, you take your dirty old \$12,000-\$14,000 trailer and get it out of town. So you take it out of town - and it is said I'm sorry but you can't go there but I'll tell you what you do, you go by the law and you put that in the trailer court. This is exactly what we are doing; we are legislating profit to a trailer court owner so consequently we in Watson Lake, for instance, have faced this problem and now we have a subdivision full of trailers because we don't have a functional trailer court at the moment. We have attempted, over the years, to provide land and lots for these trailers and we have finally got land and only more recently the provision whereby people can purchase this land. The government was going to lease it at so much a year. They said nobody should be entitled to own a trailer and own land and now they are slowly changing the policy. This is a policy of Administration and not a policy of the legislature and I would ask, in proposing this Motion, Mr. Chairman, that I think it is obvious that certainly no one at this table can agree with the Ordinance the way it is presented. It just would not seem reasonable that anybody could and I would ask that this matter do be deferred because in letting this die in Committee, the Administration would then have the opportunity to take another look at this thing



Mr. Taylor continues..  
and possibly in the spring come back with an amendment, not to the Ordinance respecting Trailer licencing but an amendment to the Taxation Ordinance and any other Ordinances relative to the problem, and cure this in a more equitable and proper manner. With those remarks I would again ask for support of the Motion.

BILL #12

Mr. Livesey: I move we call it twelve o'clock.

Mr. Chairman: There is a Motion on the floor.

Mr. Shaw: Question.

Mr. Chairman: There is a Motion, moved by Councillor Taylor, seconded by Councillor Livesey, that Bill No. 12 be left to die in Committee. The question has been called, all those in favour? Opposed? The Motion is defeated.

MOTION DEFEATED

MOTION  
DEFEATED

Mr. Taylor: I will resume the Chair, and stand Committee in recess until two o'clock this afternoon.

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Department of the Interior  
Bureau of Land Management  
Washington, D. C.

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Tuesday, January 20, 1970  
2:00 o'clock p.m.

Mr. Chairman: At this time I will call the Committee back to order. We were discussing Trailer Licencing, Section 2. Is there anything further on Section 2? BILL #12

Mr. Chamberlist: Mr. Chairman, we were discussing Section 2 when there was a Motion put forward. The interpretation, again, of a vehicle, for that of a trailer. Can Mr. Legal Adviser or Mr. Chairman think of a way that a trailer is not referred to as a vehicle. There are only certain trailers that are vehicles, but when it doesn't have wheels on it might be just a box that is .... that pulls along on the back of another vehicle. How can you call it a vehicle.

Mr. Dumas: How about mobile home? Would that do it?

Mr. Chamberlist: Fine.

Mr. Dumas: Is there any complications if that is used, Mr. Chairman? Maybe Mr. Legal Adviser could advise.

Mr. Legal Adviser: What we are trying to define is a mobile home. There is not much use in saying a trailer is a mobile home because it is. What we are trying to define is the mobile home for certain sorts. Now, apart from this we are making a different type of definition from the definition that is already in the Municipal Ordinance which is already in force and which apparently was reasonably satisfactory to the House the last time it went through. This is bound to give rise to a certain amount of litigation and we would be having two different Ordinances, two different meanings and it would be apart from other definitions elsewhere, from time to time, I presume, I am not sure of this, .....

Mr. Chairman: Councillor Chamberlist would you take the Chair a moment please. Mr. Chairman, when you have a house in two sections with wheels under it and you pull them together, you have a mobile home.

Mr. Dumas: No, not once it is set up.

Mr. Taylor: This is the way these buildings are sold. It can be set up, they can be picked up, they can be put back on wheels and rolled down in two sections, down the highway and re-located at another position. This is a mobile home because it comes in and leaves on wheels. When it goes on a foundation it is then classed as a taxable item as real property or as a house. So, we say, when a trailer is placed on a foundation it becomes taxable as a house. So, really these houses, two sectional or three sectional houses, are indeed, mobile homes. Now, I think the big important part in this Section, where we interpret trailer, is that we must for all reason exclude from this Section camper trailers. Campers, sleepers on trucks. It is not intended that people pay taxes for a camper on the back of a pick-up. Neither is it intended that people should pay a licence for a sleeper cab on a truck, or whatever other arrangement or group of arrangements you could have. I would like to hear, Mr. Chairman, from Mr. Legal Adviser on how he intends in getting around this.

Mr. Legal Adviser: I accept this criticism. It is open to cover any vehicle, even a truck which has temporary sleeping quarters in it and definitely in setting a licence fee they will have to be an exception made for the average camper which is merely used for weekending purposes. But not with standing that is not there to be to define what a camper

BILL #12

Mr. Legal Adviser continues .....  
is. It is a question of segregating the classes and designing something like, where a trailer was not designed for use of more than a limited number of days at a time, or not equipped with certain type of equipment or would it take the duty or the duties of a tax for this particular Ordinance and then moving from that point up so there could be a certain average truck as to what is an average size home. There is a limit in this of \$20.00. The medium limit is \$10.00 - \$12.00 and more elaborate, bigger homes are paying more tax, the smaller ones are paying less tax down to the lowest limit made. The only thing a camper is not ..... is because there are some campers untaxed which are used as permanent homes. They are bachelors or married couples. .... other purposes and they take advantage of the services so they are untaxed and use it as home. We are in a real box here because engineering advice technical advice, possibly from the Motor Vehicles who is more familiar with the measurements than I am .... Whatever the House wishes we can design as a definition but we have to have a certain amount of caution

Mr. Taylor: Mr. Chairman, what we are really talking about then is in order to get around this is, as Mr. Legal Adviser has just suggested, is we've got to either have a whole string of more garbage regulations or we've got to have a book of Legislation about yeah thick exempting for this and providing for that. Now let us also look when we are talking about trailers is into the consumption of mining and development industry throughout the Territory, and indeed in the logging industry, where you have complexes of trailers, which, when they are assembled into one central complex, become a camp. They are all linked together, they are off the wheels and they are up on blocks. They are not on foundations but they are on blocks. How do you assess these people? Do you count the number of trailers that are involved in this thing, the wash house, the bunk houses, the kitchen, whatever? What you are going to have to do to get around this thing is come out with pages and pages of unnecessary Legislation or Regulation, I submit, and is it really worth the effort? Is it wiser to take the tax that I have suggested, this morning, and find a way you can assess them straight as you can assess any other piece of property under the Taxation Ordinance. I wonder if I could have an answer on that, Mr. Chairman?

Mr. Legal Adviser: No matter how you do it you are going to have to pass the Legislation. This Legislation is not set to be draft and it is not easy to draft and we keep making the same mistakes as we go along. It just happens to be easier to secure technical defects in the Regulation than it is in an Ordinance. The House is being bothered time and number by technical defects in the Legislation. I can't see any way of avoiding highly complex definitions even in ..... in the application of the Legislation. The only thing is that to make it a tax out of the proper effects of another word, meaning, that you make an announcement out of the attempt to impose a tax or a licence because it is two years before the session that the tax serves and in that two years the population will have turned over a couple of times in any area.

Mr. Dumas: Mr. Chairman, whether we call it a tax or a licence all the problems raised by the Honourable Member from Watson Lake, and they are valid problems, they are going to be there. I don't care what we call this. I mean, if you have a bunch of mobile homes that you move into a camp and we will have to

Mr. Dumas continues.....

decide whether we are going to tax them or not. We will have to decide whether we are going to tax camper units or not. I suggest we aren't, but at some point we are going to have to rely on the discretion of the Inspectors, and as long as we can get through to them what we want and what we see as a mobile home or a trailer and where we want to pick the money up from. Those people who are actually using the Territorial facilities on a semi-permanent or permanent basis, those are the people we want to hit. If we get that idea across we can then surely trust them to follow through on the policy that we set. The other suggestion made was that the trader was called in the building trade and real estate trade pre-built homes that are brought up in one or two or three sections are mobile homes. That is the time to mount, Mr. Chairman, I suggest a calling of a load of lumber that you bring in and a mobile home because after you put the house together you can conceivably take it apart and carry it away again, but at some point this whole thing, this whole extension, the argument could become ludicrous. We are referring here to trailers, those things that we put wheels underneath and haul up the road. We may take the wheels out when we set them down again but they are mobile homes because they are, in fact, readily mobile. You can move any home, any house, anywhere in the Yukon Territory and then maybe it becomes a mobile home, but we all know what we are talking about in this Legislation, Mr. Chairman and I think that we must try and stick to the point and try again, I suggest to realize the revenue from the people who are using the facilities.

Mr. Taylor: Mr. Chairman, we have dealt roughly with Sub-Section 1 and it seems that everybody agrees that something has to be done with Sub-Section 1 to define it and right at the moment it would appear to defy easy description. Now, let us take a look at Sub-Section 2 of Section 2 which states and he reads Section 2 Sub-Section 2. Now this involves ourselves now in our tourist camp grounds throughout the Territory and there's lots of them and every night they are full of trailers and sometimes tourists, order, Mr. Chairman, every night there is tourists loaded, some tourists stay two weeks and come as we have asked them to do. To come up and spend a buck here and enjoy our scenery and this type of thing. Fish, paint pictures, go take pictures of birds, do anything they want. Now, this means that we are going to start charging these people as well. We'll have to by law, because this becomes law. This is in government camp grounds, in private camp grounds, indeed, many of these hotels and motels along the highway have these little facilities. What consideration has been given to this consideration?

Mr. Dumas: Mr. Chairman, that is absolutely correct if they are staying longer than thirty days, they're children are using the schools, they're using the Yukon facilities, absolutely right. They pay a tax a licence.

Mr. Livesey: Mr. Chairman, that is nonsense. How about people who come from the States and have a trailer and a mobile home and sit in the camp grounds or along side of the river here? Aren't we trying to get these people to stay here as long as possible, six months, if they want to? Are you going to charge them tax to and make them contribute to the education system of the Yukon? Is this what you are after?

Mr. Dumas: If they are using the facilities, yes.

BILL #12 Mr. Livesey: Ridiculous.

Mr. McKinnon: Mr. Chairman, I would like to ask..... I think that the second part I have no problem with it because thirty days in a camp ground, I don't know in the last year that I've been by camp grounds time and time again and use the facilities of the camp grounds, that I have seen a person parked for over thirty days in this camp grounds. It would be so unusual that they probably were using the facilities that the government were providing after a thirty day period, and they should, if they are, be paying a tax. It would be such an exception that it wouldn't be in the norm at all and this is correct, I know what I am speaking about. I have been to every camp ground in the Yukon Territory and I don't know of one person using the camp grounds that have spent over thirty days in the camp grounds in one area. But, I do still have trouble with defining the word trailer. The feeling of this House is the wish of this House, Mr. Chairman, that the camper unit that is used for weekend excursions not be taxed, that the sleeper units on trucks not come under the provisions of this Ordinance for taxation. Now, Mr. Legal Adviser said that we can't get around this. If we can't get around it then we are just going to have to look in a different type of definition because it would be wrong and we would be the laughing stock to have these kind that are used for weekend excursions and the sleeping units on the semis that are going through the Territory, being taxed under this Ordinance, and if we can't get around it then I would suggest that this definition is going to have to fall because we just can't have this type of Administration ball-ups happening where these units are going to be taxed. How can we get around it?

Mr. Legal Adviser: The first task is when are you going to ..... the Regulation. The first task is to make your definition as all encompassing as possible. Then, within that large area you define your transportation. The classification may be by the value. It may be by the value of a sleeping accommodation relative to the value of the rest of the ..... It may be by ..... It might be that the Inspector may, in fact, assess these in relation to this standard costing rule, for a given cubic foot capacity. I don't know, at this point, exactly, how the classifications are going to be designated. But when you are going to examine campers, the word campers has to be defined, it has to be captivated in order for the exemption to be given to it. As I understand the position, this is a tax which is intended to test people who are living in temporary homes or movable homes. Not mobile homes because very many types of homes are designated mobile homes now which are .... go completely serviced from lot to lot and province to province, but a mobile home in the true sense of the word is what is normally called a trailer, what used to be called ten or fifteen years ago, a caravan of some sort. The wish of the House is understood but I don't want to weaken the all embracing nature of the definition by attempting, now, in a quick answer, for me to give you what I think a camper is, or how I would think you would define the vehicle attached to the back of the first section of a truck trailer unit. It is just a little bit difficult to view this without taking advice as to what it actually means. If the definition is left in the only thing that would cover me, is it broad enough not is it too broad? Then, in the Regulations this can be set out, who gets which. Who gets minium rate, who gets the next rate, who gets the average rate, and who gets the middle top and maxium. This is all, I think, we are concerned with ..... because the minute there is difficulty, and it is not easy, in a debate of this nature to draft technical

BILL #12 Mr. Legal Adviser continues .....  
things which may be quite tedious. It is not a suitable vehicle here, to do this.

Mr. Taylor: Mr. Chairman, I can't agree. I feel it is not the Administration's prerogative, I feel it is the ..... this Legislative's Body prerogative to establish, at least, the definition, of who we are talking about in this Ordinance. Otherwise we just might as well switch positions and we will go run the Administration and let the Administration come and right the laws, I mean we are the people that have to write the laws and those laws must be clear because if we can't understand them here in this Legislative Council Chamber, how is anyone out in the street suppose to understand them? This is what I say and this is why I feel that there's got to be much more consideration given to this matter before we try and devise or pass Legislation in respect of it.

Mr. Legal Adviser: I can understand the difficulty of it but what the sense of the House is that the definition in it's size is embracing a potential class of vehicles which should be excluded. It is not that the House can not understand the definition. The House clearly understand what the definition of the intended means but they want me, or somebody to draft it in such a way that this little exclusion can be pulled out like a drawer out of a dressing table desk. I can't do this. I can't say now what I can't exactly believe. I don't think anybody here can agree on what I can't believe. It could be offended, but a tent would have to have a solid base, and there are forms of tents which I have seen on the road which have got wheels on them and they hold up the former roof. So, there is various types of exclusion which various people are going to conform with. Even after the Legislation is in force we are bound to find reasons for excluding certain classes of people. So, if the Administration gets the direction as to what the House wishes it to do. I am not suggesting that it is the prerogative of Administration, in any way to enter that taxation. This happens to be an out of the mill run of the thing. We have tried to do something to control it by saying that the licence should be no more than \$60.00 for a three month period or \$20.00 a month. \$20.00 at the maximum is not a very heavy form of tax, but we would have no objection to a Section. going in but any Regulation may be annulled by a Motion of the House after fifteen days. If it is a safeguard that is wished for than I am sure the Administration and the Commissioner would be agreeable to any clause on his power, but you are actually intimating on the first occasion that it may be necessary to do a lot of chopping and changing and I can't just now say exactly what a camper is.

Mr. Livesey: During the summer time, Mr. Chairman, various contractors come into the Yukon Territory and they work on the roads, or they build a bridge, and the whole camp is trailers. The cook house in a trailer, the place where all their people are sleeping is in a trailer and most of the contracting jobs last for more than a month. Are these trailers going to be classified as homes for the purposes of taxation? The second part of my question is, a good many businesses on the highway, now, are made up of trailers. The wheels have been taken away and they are all set up. The cafe is in, what was once a trailer, and now no longer a trailer and their accommodation is also made up of these trailers. Are these mobile homes for the purpose of taxation? They are already taxed once. Now, don't you think, Mr. Chairman, instead of working so diligently on the problem of trying to tax trailers that the Government would be in a much better position if it tried to create land on the possibilities of people coming into the Yukon that want land and a place to set up a home. Don't you think if you



Mr. Livesey continues .....

would concentrate on that it would be a little more positive thinking than a negative thinking regarding the trailer which is just merely a situation that they can't help because there is such a mass in relation to getting land in the Yukon, in which to build a home and everything else in connection with it, that there is no place for these people to go and they can't do anything else but go into a trailer so now we want to harp on the trailers. This is what I was talking about this morning, Mr. Chairman. We are just going at this thing backwards. Instead of creating a position where by people can come in here and they don't need a trailer. We are not doing anything about getting what they need but we are harping on the trailer because this is what they had to go to in order to get here and stay here. Where else can they go? They can't camp underneath a tree. They've got to go somewhere and we are not providing as a Government. We are not going about this in a responsible fashion. All we are doing now is trying to harp on this trailer situation and making them feel as uncomfortable as possible. That's about the size of it. It's one of the most negative approaches we've ever made in trying to solve a solution or a problem of this nature.

Mr. Taylor: Mr. Chairman, one other thought just occurred to me. How are the Administration going to deal with problem of well site trailers? That is to say construction type trailers where they are used for two or three months and then parked for two or three months and there is lots of those around the Territory. These are construction trailers and, as I say, they may be idle for seven months of the year and functional for the balance. How does the Administration feel that this could be coped with? Over what period of time do they pay tax and how do you administrate this?

Mr. Legal Adviser: I don't know but to answer the true question, as I see it, if a construction company comes in here and they are using trailers as dwelling or sleeping places they would pay a tax, once they go past the thirty days. These people then are the people occupying these trailers then living in the Territory. As far as well site trailers are concerned I think the same would apply to them, but this is not designed as a business tax so I don't think a trailer which is part of a business operation as such, in the purest sense, stores and so forth, would be taxed. As I would conceive it that in a mining camp that portion of the group of buildings which were the sleeping places and eating places, would be subject to the tax. Now how do you assess the tax or the licence, I don't know. This is the question for Regulation, but they will be subject to the tax.

Mr. Taylor: Well, Mr. Chairman, I will, just for the edification of Mr. Legal Adviser, a well site trailer is generally a trailer accommodating four men having a kitchen in it and it's a compact little construction trailer, we call it a well site trailer and it is either on skids or wheels. I would gather it is the intention of the Administration then, although these trailers are not used for seven months of the year or five months of the year or whatever, eight months of the year, they would be taxed in any event even though they are not being used?

Mr. McKinnon: Yes, but they are being used as a dwelling.

Mr. Taylor: Yes, but they are used as a dwelling, Mr. Chairman, for say three months of the year, nine months of the year they're not. How is this administrated?

Mr. Legal Adviser: I don't know exactly how this will be administrated. I don't think a final descision has been made whether it will be omitted from the Municipal Affairs Department to the Assessors Department and record kept in that manner or if it is to be Administered by the Territorial Secretary's Office, who has just been titled set up, but who would issue plates to trailers and collect taxes in much the same way, although not identical, which is much preferred by Motor Vehicles, to pay their tax during the year, I don't know. I don't think I find the situation has been arised yet, but I see no difficulty if a well site trailer was used as a dwelling house or dwelling place for three months of the year that's only \$30.00 tax and they are getting the services, there is not question of this.

Mr. McKinnon: I know what is happening here. I mean it is as obvious to the whole of Committee as to anybody who is sitting in on this ..... that because there are certain people who don't feel that this Legislation should pass at this time, I say that this is fair enough, to object to it, but we are using arguments and arguments are being used that are so obviously incorrect and so obviously just at the attempt at being ..... so really they are non-sensical and I use the type of constrution type trailer. Now, lets take a look at Anvil. For crying out loud there is trailer after trailer there and fifteen to twenty men that have been there for several years now that haven't contributed a cent, actually, to the Territorial Government for the services that the Territorial Government is providing out there, which are a heck of a lot of services, and to tell me that a company of that size cannot pay a minimal taxation for the amount of people that are living in the trailers. I don't follow that argument at all. Why shouldn't they be able too. The one where there's people living on the property that is their own and use the trailer type operation. There is no problem there at all. The regular assessment on the value of the property is used by the Territorial Assessing..... the Territorial Assessor and the tax is charged on the 60 mill school and the 6 mills of property tax in the Yukon Territory. They are not going to be double charged because they also happen to be trailer type accommodations. They are taxed once, they are taxed on the regular Territorial basis. It's only if the trailer is being used as a dwelling that it's taxed, the answer is obvious, that if it isn't being used as a dwelling, if it's only used for seven months of the year the other five months it doesn't come under taxation. If it's used for five, the other seven months it doesn't come under taxation. Really we are just going to get involved, I can see it just becoming a fillabuster on points that really are so obvious that they shouldn't deserve the waste of time in this House of being raised. The other question, the question of the camper and the sleeping units, after trucks, now, Mr. Legal Adviser said, "Have I got the feeling of the House on this?" Has Mr. Legal Adviser got the feeling of the House that by Regulation camper and sleeping units, after trucks, will be excluded from taxation or licencing under this Ordinance?

Mr. Livesey: Mr. Chairman, there is an obvious answer. I have heard the Hounourable Member criticizing the hypothetical cases that are arising but hypothetical cases are obviously going to arise when the Administration is playing blind man's buff with this Committee by not giving us the Regulations and just merely giving us a few words saying we will create Regulations and then come along and say pass the Ordinance. Isn't this what we have been complaining about year after year after year but we won't pass anything that we don't know what either they or we are talking about. Surely the Administration, if they can put in Section 3 and 4, talking about the creation of Regulations, so that they can tell us what's going to go in those Regulations. I would suggest, Mr. Chairman, that it would facilitate the adoption and agreement to this type of Ordinance, not particularly the way it is right

BILL #12

Mr. Livesey continues .....

now before us, if the Administration gave us the Regulation and told us just exactly what they were going to do instead of coming along and saying we are going to do this but we are not going to say what. We'll just say we are going to make Regulations. This is highly irregular, Mr. Chairman, we can't pass, surely, something like this if we don't know what it is all about. Can't the Administration tell us what they're going to do with regards to trailers and that will be the end of the discussion. It's as simple as that and we can say whether we agree with it or we don't. This way we don't know what we are agreeing to and this is the point of objection.

Mr. Shaw: Mr. Chairman, I have been watching this show go on. I can see fairly well how the land lies. I was wondering, Mr. Chairman, if the Honourable Members that are opposed to this by virtue of the fact of not having the Regulations. If the Regulations were tabled with this Bill for ..... I'm not talking about including them onto the Bill but having them available to use in conjunction with that. Would their fears be allayed in so far as this Bill is concerned or are the Members in opposition, opposed to taxing persons by a different method to at least get them to pay for some of the services they enjoy in the Territory. That's the question I wonder if I could have answered.

Mr. Livesey: The trouble, Mr. Chairman, the principle is the principle of taxing those who are not supporting the economy of the Territory on a full and equal basis with others, is correct. The principle is correct, the approach is wrong. That's the whole sum and substance of the argument and as far as the Regulations are concerned, the fact that they bring in the Regulation does not mean to say we are going to agree with what is in the Regulations but the fact that we are asking this Committee to give power to the Commissioner to provide Regulations without knowing what's in the Regulations is absolutely wrong. It can't be right.

Mr. Shaw: If the Honourable Member from Kluane had the Regulations before him would he be prepared to discuss the particular matter on this merit.

Mr. Livesey: Let me say this, Mr. Chairman, it would certainly create a substitute for the vacuum that is presently before us.

Mr. Shaw: Mr. Chairman, I wonder if the Honourable Member from Watson Lake would also be prepared to .... would agree that that would put a different light on the whole Ordinance that we are discussing?

Mr. Taylor: Mr. Chairman, No. I'll say it without any qualification whatsoever. Principle cannot be compromised, honourably or otherwise. You cannot compromise the principle. The principle is this, as suggested by the Honourable from Dawson, that we allow this Legislation to proceed under the existing meaning of or the interpretation section, Section 2 and table a series of Regulations, which are Commissioner's orders, and say fine or say not fine and walk out of this Council Chambers two months from now and find that a Regulation has been repealed and another one substituted therefore. We have a book of Ordinances, we have books and books and books of amendments to the Ordinances and I say to you this, that in each one of those Ordinances it has an interpretation section, and in each one of those interpretation sections it states what shall be this and what shall be determined as being that and if we can't do it in this Ordinance here, clearly and concisely without allowing the interpretation to come under Regulations we shouldn't be passing Legislation of this nature.

Mr. Chairman: From the chair, I understood the Honourable Member from Dawson to ask the question that if the Regulations were on the table for Members to see at the same time as we are studying the Bill, then would it allay the fears of those in opposition, not after the Bill was completed.

BILL NO.  
12

Mr. Taylor: Mr. Chairman, I answered the question. I said no because this is Legislation by Regulations not Legislation by the elected representatives of the people. That is what I'm saying. That answers the Honourable Members question, or should

Mr. Shaw: Mr. Chairman, if I might have a supplementary question. Would then the Honourable Member from Watson Lake feel that the tax payers of the Yukon should support, at no cost, these people that wish to live in trailers that can be moved from one area to the other in a matter of, we'll say two or three hours of putting some wheels on?

Mr. Taylor: Mr. Chairman, I can only suggest to the Honourable Member from Dawson that there are pharmaceutical products available to clear the ear so one can hear and I went on at great length this morning to explain, I went on this morning, I think you will find that I am conducting myself on a parliamentary manner, Mr. Chairman, and I think I explained at some length this morning that the whole approach to this thing is wrong and inequitable and this has gone on for years and years and asked for two months to come up with a better approach and a fair piece of Legislation isn't too much to ask for and I think the Honourable Member's question has been answered in that form.

Mr. Dumas: Mr. Chairman, you know we are all excited about giving the Commissioner power to make Regulations. We passed out of the House this morning, Bill #8, which at the end says that the Commissioner may make Regulations prescribing fees and so forth and a bunch of other things for this Ordinance. Everybody agreed to it. We have several other Bills here. The Commissioner may make Regulations for this that and the other thing, Bill #2, Bill #6, Alcoholic Liquor Regulations. All of the sudden we don't want him to make any Regulations. It becomes a big deal, I don't understand it.

Mr. Livesey: I can explain that, Mr. Chairman.

Mr. Dumas: I figured you could.

Mr. Livesey; The very fact that we're foolish enough, on a good many instances, to go along with the question of providing the power of delegated authority to the Administration on that basis, that's bad enough, but the essence of the Regulations are supposed to supplement the main aspects of any Ordinance. The pillars and posts of the buildings. This is what the Regulations are supposed to do. They tidy the thing up. It's just a little bit of trimming around the bottom of the petticoat. That's all the Regulations are supposed to be, but that's not in this. In this, the substance in this is nothing, nothing and the Regulations of everything. That's the difference and if the Honourable Member cannot see that then all he has to do is look at one page where it says that the Commissioner is going to give the power to disenfranchise a man from his home, take away his trailer and say you can't live in that. Now, surely, I don't know whether the Honourable Member realizes that this is principle to set, to start with, very bad it's about one of the worst things you could think of. The man has no place else to live and to give someone the power to throw him out of his own abode, his own establishment, if that happens to be a tent, that's all he's got and to give somebody the power to throw him out, I am absolutely opposed to that, no matter what type of Regulations you want to provide. When you turn around and say here is a mere substance in the Northlands, 95 percent of

BILL #12

Mr. Livesey continues.....

it is going to be in the Regulations, for which, gentlemen, we haven't given you and it doesn't say they are going to give them to us and it doesn't say they are going to be altered a week after we leave here even if we read them, I think that is going much to far, Mr. Chairman, and if we are talking about delegating authority, the delegation of authority which is the whole question in relation to the making of the Regulation by the Administration, this is one of the worst examples I have seen since I first became a Councillor.

Mr. Shaw: All I am asking for, Mr. Chairman, is perhaps a little reasoning on this. The objection seems to be to the Regulation so I am just asking this Committee if they would be prepared to sit down to discuss the thing on it's merit without this fillabustering included with the Regulations. Now could anything be more reasonable than that. If the Regulations don't comply with it or if the Regulations exceed what is considered matters that should be in an Ordinance then, of course, it should be put in the Ordinance, but to discuss this matter. I don't seem to be able to get very far with this.

Mr. Taylor: Mr. Chairman, I would just like to point out, call it a fillabuster, it is not intended as a fillabuster, it is intended to try and get a point across that this is a very poor approach to what is a bad problem. This is what we are trying to do, to point out, what is expressed is not implied in any Ordinance and you say here in the Ordinance trailer means something. You've got to spell out what trailer means in the Ordinance and not in the Regulations and once that can be done then possibly we could proceed with the Bill, but if you can't even get that far, to define what a trailer is, in relation to the Bill, in the Ordinance, and not in the Regulations, then what are we doing dealing with the subject in the first place?

Mr. Chamberlist: Councillor Taylor, will you resume the Chair.

Councillor Taylor resumes the Chair.

Mr. Chamberlist: I'm fresh from listening, now I can speak. Mr. Chairman, I think that one of the remarks made by Mr. Legal Adviser, stunned me. He said that the ..... we would Administer the thing afterwards, suggesting that once the Legislation has been passed then we would take a look to see how it would be Administered. Now, I would think that it would be proper for the Administration, before they present Legislation to this Council, for passage, that they know what they are going to do and how they are going to Administrate it. But an admission from Mr. Legal Adviser, who during this Ordinance, is acting as the Legal Adviser to the Administration, and certainly not to this Council, because there is no possible way anything that he has said has indicated, at least during the debate in this Ordinance, that he's interested in the feelings of the Members of the Council but, in fact, only what the Administration want to do, has shown that they have no knowledge of how they intend to Administrate this Ordinance, if Members are foolish enough to pass it. The trouble really lies, the trouble that we are having now is not only with Section 2 but in fact the name of the Ordinance itself. Now if this Ordinance would be an Ordinance Respecting Mobile Homes, because this is what we're after, not trailers, but mobile homes. If this Ordinance was an Ordinance Respecting Mobile Homes, Section 2, of this Ordinance, can say a mobile home moves, a home that is a residence affixed to a sewer and water system, but when you refer to trailers with ore without wheels you can see trailers carried along the highway on flat decks that are taken to positions. How can you call that trailer, which is carried on a flat deck, a vehicle?

Mr. Chamberlist continues.....

BILL #12

Now you start looking at the interpretation of vehicle in the Motor Vehicle's Ordinance, then you'd really get confused. Now, I would suggest that what we are looking at really is to tax mobile homes or tax living accommodation other than homes which are permanently built on footings or foundations or in basements. That is what we are looking for. We are not looking for taxation of trailers because a word has been used. I would therefore, at this time, just so that we can get away from this tract of thinking, in terms of trailers, so that the areas that have been discussed by other Members of this Committee, can be dealt with, I would move that the name of Bill #12, An Ordinance Respecting Trailer Licencing be changed to read An Ordinance Respecting Mobile Homes.

Mr. Chairman: Is there a seconder? Being no seconder, I cannot accept the Motion.

Mr. Chamberlist: Well, Mr. Chairman, in that case I have to come back again to the meaning of a trailer means a vehicle. Now how can we have a trailer that means a vehicle? Now, Mr. Legal Adviser, Mr. Chairman, has not given a satisfactory explanation and I agree then with Councillor Livesey that unless it's defined properly, in the Ordinance, then we cannot accept any Regulation. We cannot allow the Commissioner, in this instance, to have the right to make Regulations because the Commissioner can say any person who has not paid a licence fee will have his trailer ceased. So you take away the man's home from him, and this we are going to give the power to the Commissioner, to do, if he makes the Regulation. The head of Mr. Legal Adviser, once again, is shaking. If he makes the Regulation, which he is able to do, if we say the Commissioner can make Regulations. He can say in the Regulations what will happen to a person who does not pay a licence. Now, they cannot lock a person up for not paying a licence or are they going to lock him up for living in his home, which is not licenced. What a ludicrous thing that is. A man doesn't pay his licence to live in his own home so he's going to be locked up in someone else's home. If any Member of this Council goes for any arrangement like that there is something wrong with their thinking. There is something wrong, I would suggest, with the principle that we've been trying to get control over our affairs, the affairs of Legislature. I am not going to participate in giving the Commissioner, or his officers, the power to lock anybody up because he doesn't want to pay a licence for living in his own home, and this is what the Commissioner can do. I am not saying that he will do this. I say by giving that power to him, he can do it, and we shouldn't allow that. I would contest every piece of this Legislation from beginning to end if we are going to be here a long time, I can see that.

Mr. Shaw: Mr. Chairman, I don't know what you call it but if I don't pay my licence on my home, you can call it licence or taxes somebody takes it over and I move out, we are talking about exactly the same thing.

Mr. Chairman: Councillor Chamberlist, would you take the Chair?

Mr. Chamberlist takes the Chair.

Mr. Taylor: Just at this point in time I would like to draw to your attention the Interpretation Ordinance. I think we first look at Section 11 which reads as follows, "Where an enactment confers power to make Regulations, or to grant, make or issue an order, writ, warrant, scheme or letter of patent, expressions used therein shall, unless the contrary intention appears, have the same respect as meanings as in the enactment conferring the power." In other words, what is expressed is not implied, as I said a little earlier, and in the meeting of the Regulations

BILL #12

Mr. Taylor continues.....

if Regulations are made, trailer must mean exactly what is says in the Ordinance. We go down into Section 17 (e) "Where power conferred to make Regulations, the power should be construed as including power, exercisable, in like manner and subject to like consent and conditions, if any, to re-sin, revoke or amend or vary the Regulations and make others." In other words what I am saying is that this is what happens when the Commissioner's Regulations replace Legislation. The Honourable Member from Dawson, a short while ago, brought up the subject, while maybe if we look at the Regulations we can buy the package. No way. We've got to specify what we want because if we don't know, and as it has been clearly stated by Mr. Legal Adviser, in this debate, that at the moment he can't come up with something to exclude this and include that and deal with this, he would rather deal with it by Regulation. I say no, I say leave us place this thing out in Legislation, spell it out so that everybody clearly knows what a trailer is and what a trailer isn't if we intend on proceeding with the Ordinance.

Mr. Shaw: Mr. Chairman, could we continue with the Bill, reading?

Mr. Chairman: Would you, Councillor Taylor, take the Chair back.

Mr. Taylor takes the chair.

Mr. Chamberlist: Mr. Chairman, there is so much that I have to say in this Section and we are not getting the answers that we are acquiring, as a Legislative Body, from Mr. Legal Adviser, because, with the utmost respect, Mr. Chairman, I think Mr. Legal Adviser should give this Council some legal advice in this matter in relation to the interpretation of a trailer as a vehicle. Now, I think there is a necessity for that. There is a necessity for Mr. Legal Adviser to say that a trailer is a vehicle and if he says well it's in this Section if it mean a vehicle. If you just take out half of the comma it says a trailer means a vehicle that is used or designed as a dwelling or sleeping place because you have that area in between where they are equipped with wheels or not or whether self prevailed or not. Just moving that part out of there trailer means a vehicle that is used or designed as a dwelling or a sleeping place. So a bus that's travelling through the Territory, they might not be in any one particular spot but they can be on tour, for six months, some of these busses are made, with living accommodation. Now, that is a trailer because it is sleeping accommodation and they are moving around, so we are going to tax them just simply because they're staying to see our Yukon Territory. There's no way that you can even give a real understanding, a clear understanding how you can refer to a trailer as a vehicle and the need to turn , to get away from the word trailer is to say clearly and distinctly what we mean, what homes we want to tax, what homes you want a licence. Then there is no point, I suggest, going beyond that area at all. Although, I think that perhaps, it has been denied, that I think that the remarks that have been made by the Honourable Member from Watson Lake are so clear and distinct in the things that can be involved into this that they should be given the upmost consideration by the Administration. I think it would be the right thing, at this time, for the Administration, themselves, to withdraw the Bill from this House until they have had time to study it, and that would be a good move to do, a smart move, so that at least the Administration will be able to say well, we have listened to the arguments and perhaps there is some merit, lets take another look at it ourselves, but instead it seems that the Administration just wants to depend on the majority, and just want to see a licencing area to come into being. I think it should be looked at and I would suggest, I would ask, now, Mr. Chairman, if Mr. Legal Adviser, would say whether or not the Administration would not consider withdrawing this Bill at this time.



Mr. Legal Adviser; Mr. Chairman, I can say that the Bill will not be withdrawn at this time. This isn't to say that anybody wants to impose taxes on anybody. It's just a necessity that, it has been decided and accepted that generally people who use services have moral responsibility for keeping the services up and this is our attempted solution to see that this is done. We are not saying it's perfect, we are not saying that there aren't other ways of doing it, if something more practible would come forward with it, but this is the way we've chosen and we think it is reasonable and we can say no more.

Mr. McKinnon: Mr. Chairman, I would gladly accept that Hounorable Members, who have had this Bill since last October could come up with a better, more equitable method of putting a licencing or a taxation fee, or whatever you want to call it, on trailers that are using the services of the Territorial Government, to pay their own fair share. I would accept those amendments and would gladly go along with them. Nobody yet to this time has come up with any answer as to how to get about it. No western province and as far east as Ontario has come up with a different method with all their years of Legislative experience and in all their years of trial and error, than finally putting a licence fee on trailers because it was the only equitable way of doing it and the only way that some monies could be collected for the services the Government was giving them. Now, with respect, Mr. Chairman, we've taken the red herring of the Regulations to try and make a stand on this Bill. There was twoland marked pieces of Legislation passed at this session, the one providing for the welfare of children and the one providing liquor that are both progressive far reaching liberal pieces of Legislation. In both of the Ordinances the Commissioner was given the power to do all ..... to bring those Ordinances into affect. He was given complete control by Regulation of power after power. Now, with respect, Mr. Chairman, this Committee, didn't ask, there was no content descision made for those Regulations under these far reaching Ordinances, to be brought before this Council, and examined. If we had to examine every Regulation made under these Ordinances and under the Child Welfare and the Liquor one. they are going to be extensive, we would never go home. We would sit here for 365 days, and 366 days in a leap year. This is exactly what's happening because in this area, of trailer licencing, the people have made stand, which, for some reason, seem to be adiment, that can't be changed. I am certainly willing to listen to reason, if Members can come up with better alternatives and better solutions. I am more than willing to listen to those changes and bring them into affect in the Ordinance, but using the concept of Regulation, you've accepted the powers of the Commissioner to make Regulation in other Ordinances and all emcomapssing and far reaching powers, then using it in this is very inconsistent and is just using something to fillabuster this House. The principle is right, it is so just that people who are using the facilities of the Yukon Territory Government, should pay for these facilities. We are hung up in a barrier that it shouldn't be called a licence, it should be a tax, call it a tax, I don't care what you call it, what's in a name? Lets just get down to brass tax and go throught this Ordinance and we can improve it as we go along, improve it, where we can change it, sound suggestions, change it as we go along but certainly lets not use these ineffective and silly arguments to just delay the business of the House.

Mr. Chamberlist: Mr. Chairman, I think the Hounorable Member from Whitehorse North occasionally becomes very adiment over areas which he doesn't have mush control because I would suggest he runs off with speaking continually without pausing to recognize the fact that other Members of this House have ideas and ideals relative to his own. Now, it has been brought forward here

BILL #12

Mr. Chamberlist continues.....

Mr. Chairman, and the suggestions that have been made, without any questioning that other pieces of Legislation have been passed in relation to Regulations. This is wrong. I would, suggest, Mr. Chairman, that the Honourable Member from Whitehorse look at the records and see how often I've fought and opposed the granting of excessive powers to the Commissioner, and where in areas I've stuck out indefinitely until we've had the word changed, in some areas, from that of the Commissioner. The suggestion that is being made from the Honourable Member from Carmacks-Kluane, has excessively spoken in an area he has become familiar with because of the fact that he has made a study in dealing with areas where the Commissioner has been given continuous and continuous powers. We are not talking about Commissioner, the man, we are talking about the Commission of the Office. We have got to understand that what we want to do is to make sure that everybody gets their fair equitable bills towards the cost of running the Territory. There is not a Member in the Chamber that has spoke against that and when I hear a Member stand up and say we have got to get this done, everybody is in agreement. Nobody is disputing it, but the Honourable Member from Whitehorse North, he says, "Lets get on with it," but lets get on with it in his way. I am not going to get on with it in his way because he's 'rying to make a play. As far as I'm concerned this is not Legislation for the people at all, it is Legislation against the people and I won't participate in that type of Legislation where the Commissioner can make a Regulation, which will deprive a man of his home simply because he lives in, what is referred to as a trailer, and if he doesn't pay his licence, he can have his trailer removed. You might say, where does it say that. It doesn't say that but he could make it by Regulation and that's what I'm afraid of. Regulations that we don't know anything about. Now, the Honourable Member from Dawson came up with a suggestion that I am prepared to accept, the Honourable Member from Carmacks-Kluane said that he was prepared to accept and I am sure if, I explain again in another moment, perhaps the Honourable from Watson Lake, bend, and accept this as well, the suggestion being that if the Regulations were here, at the same time we are discussing this Bill then we can see the Regulations, this may allay our fears. Now, I am quite prepared to go along with that, but I am not prepared to go along on the basis of one and a half pages of a piece of Legislation of an Ordinance and then later on get two hundred and fifty pages of Regulations. We've already got that in the Area Development Ordinance. We have a couple of pages of an Ordinance, if you have that much, a couple of inches thick of Area Development. This is where the who principle of Legislation falls by the way side. It falls by the way side because we are not making the Legislation, but the Administration makes the Legislation. Now I'm going to have a glass of water.

Mr. Chairman: Councillor Chamberlist, would you kindly take the Chair, please.

Mr. Chamberlist takes the Chair.

Mr. Taylor: Mr. Chairman, The Honourable Member from Whitehorse North rose a short time ago and stated that no one had proposed another solution to this problem and possibly the Honourable Member was not here, I thought he was, this morning, when I did propose a more equitable solution. A solution which would be in keeping ...

Mr. McKinnon: It's been tried all over and it can't work.

Mr. Taylor: Order, Mr. Chairman. A solution in keeping with the terms of the fiscal agreement. This is the crux

Mr. Taylor continues.....

of the argument. When we were faced with raising six hundred thousand dollars worth of revenue in the Territory or faced with the ultimatum of losing five million dollars, I think that most Members can recall the time, a very short while ago, the Federal Government, by virtue of this agreement came to us and says you better raise it, and you'll raise it through an accommodation tax and we will not permit you to take the tax off of an amusement tax and they still haven't permitted us to lift the amusement tax in this Territory. What did Council say? They say sure, O.K. go ahead. No, we didn't we stood up as a group, as this Council, and we fought it. We found other ways of raising revenue agreeable to Ottawa and this was fine. We met our commitment of six hundred thousand dollars, indeed, with the increased fuel tax and the exemptions on, under the Fuel Tax Ordinance, we raised much more money and revenue for the Territory than what was anticipated. Now, we come down to another matter of taxation and for some strange reason, Mr. Chairman, Members, or some Members of Committee are quite content to say off no we will just hand this over to the Administration, let them go and impose a tax.

Mr. McKinnon: I would like to remind the Honourable Member that the agreement that he waves up, the Honourable Member was a Member of the Council that refused to sign that agreement with the Federal Government and it never went into affect.

Mr. Taylor: Yes, well, Mr. Chairman, I submit that Mr. Commissioner be asked, and I will ask his opinion, Mr. Chairman, I am wondering if Mr. Commissioner could answer me as to whether this is the agreement, the five year fiscal agreement, if this is the agreement we are now following in the relationship to Ottawa.

Mr. Commissioner: Mr. Chairman, not in it's entirety because we extracted the first two years and have differed very considerably in the one year since and anticipate varying considerably in the one year that is ahead of this at this time. So, it would not be a correct statement, Mr. Chairman, to say that this was indeed the fiscal agreement because, in fact it is not.

Mr. Taylor: Mr. Chairman, might I ask a further question, before I continue. Mr. Commissioner, are the policies in respect of taxation, I believe Mr. Commissioner, is referring to the fiscal amounts, that the policies, water policy and this type of thing, are these policies being followed and indeed do we have any signed agreement with Ottawa at this time to provide for this current fiscal year?

Mr. Chairman: I would declare a recess at this time and perhaps Mr. Commissioner can answer that question after.

Mr. Taylor: I would like an answer before we recess.

Mr. Chairman: Very well, we will come out of recess again, Mr. Commissioner, please answer the question.

Mr. Commissioner: As I understand the Councillor's question, Mr. Chairman, that he is referring to the general policies that are contained within this, and the answer would be yes except where they have been varied to meet the changed conditions which are either referred to in the appendix, in the book, or the basic changes that were made as a consequence of the authority given to me by Council to sign the agreement that expires on the 31st of March in this calendar and this fiscal year that we are in at the present time

Mr. Taylor: A point, Mr. Chairman, and I'll continue after recess.

Mr. Chairman: I'll declare a recess at this time.

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that this is crucial for ensuring transparency and accountability in the organization's operations.

2. The second part of the document outlines the various methods and tools used to collect and analyze data. It highlights the need for consistent data collection practices and the use of advanced analytical techniques to derive meaningful insights from the data.

3. The third part of the document focuses on the role of technology in data management and analysis. It discusses how modern software solutions can streamline data collection, storage, and processing, thereby improving efficiency and accuracy.

4. The fourth part of the document addresses the challenges associated with data management, such as data quality, security, and privacy. It provides strategies to mitigate these risks and ensure that data is handled in a responsible and secure manner.

5. The fifth part of the document discusses the importance of data governance and the establishment of clear policies and procedures. It emphasizes that effective data governance is essential for ensuring that data is used in a way that aligns with the organization's goals and values.

6. The sixth part of the document explores the role of data in decision-making and strategic planning. It highlights how data-driven insights can help organizations identify opportunities, assess risks, and make informed decisions that drive growth and success.

7. The seventh part of the document discusses the importance of data literacy and the need for ongoing training and development. It emphasizes that all employees should have a basic understanding of data and be able to use it effectively in their work.

8. The eighth part of the document concludes by summarizing the key points discussed and reiterating the importance of data in the modern business environment. It encourages organizations to embrace data as a strategic asset and to invest in the resources needed to maximize its value.

9. The ninth part of the document provides a list of references and resources for further reading. It includes books, articles, and online resources that provide additional information on data management and analysis.

10. The tenth part of the document is a concluding statement that expresses the author's hope that the document will be helpful and informative. It also provides contact information for the author and offers to answer any questions or provide further assistance.



Page 227.  
Tuesday, January 20, 1970.  
3:30 o'clock p.m.

Mr. Chairman: At this time I will call Committee back to order and Councillor Taylor I believe had the floor at the time. Would you please proceed? BILL#12

Mr. Taylor: Mr. Chairman, the Honorable Member from Whitehorse North asked when last he rose, if there was an alternative solution to the problem we are faced with this afternoon, and I say that I feel that in order to be consistent with the terms of the fiscal agreement, I think that it is an agreed understanding that there can be no increase in taxation during this fiscal period. I would say this, in my opinion the proper approach to this matter would be this, to tax all trailers in the same manner as we tax real property. Now in the case of trailers in trailer courts, these trailers as cited before have a registration number on them and if they fall into this category of taxation, they are being used and lived in and this type of thing. These details would have to be worked out. Then assess them in the same manner as you assess a dwelling. I believe they are assessed on a cubic content basis plus what shape they are in and whether they are in good or bad shape, but assessed in the same as you would assess anything else in the Yukon, make land also available for trailer sub-divisions throughout the Yukon Territory where people can move out of trailer courts on to their property and thereby you would collect an additional six mills which gives you the full tax base of 22 mills outside of the municipalities of Dawson and Whitehorse. I think therein lies the approach to equitable means of taxing the people who now live in trailers and who would be quite willing to pay their fair share. That is fair and equitable but the suggestion made in this Ordinance and throughout the Ordinance is totally unequitable and that suggestion I leave with you for consideration, Mr. Chairman.

Mr. Shaw: Mr. Chairman, I would like to submit a question to the Legal Adviser. I am asking this question in view of the remarks passed by the Honorable Member from Whitehorse East. I see that he is quite concerned about what we call a trailer. Would there be any objections or why could this not be termed Mr. Chairman, an Ordinance respecting house-trailer licensing, really definitive house-trailer licencing.

Mr. Legal Adviser: I have no objections to that amendment Mr. Chairman.

Mr. Taylor: Mr. Chairman, I rose a few moments ago to propose an alternative proposal and I am wondering if this type of proposal would be acceptable to the Administration as a fair and equitable way of dealing with this problem and avoiding a licencing provision.

Mr. Legal Adviser: This particular proposal has been considered and presents certain difficulties when you start to thrash it out around the table over a cup of coffee. When you assess a piece of property, we have to be living in a fortunate age, when the real property value is depreciating. When you are dealing with trailers the value marketedly decreases year by year. So in justice the person concerned is assessed purely on a market value basis. The value of the property is marketly decreased I cannot speak of the next person but if you take a \$50,000 trailer, it will start decreasing something like about 10% per annum at least certainly in the earlier years and then hold its values about \$7,5000. Then you have to put in a set of artificial rules deeming cubic capacity to value for a certain amount measured in the cubic capacity and coming up with a complicated sum. It's not an easy thing to do but it would give us the opinions of the person who will be devising the relationship that this licence should bear to a home, a trailer

BILL#12 Mr. Legal Adviser continues...

home or a mobile home, whatever you want to call it, will be the tax assessor who will make some effort to bring forward to the Administration a set of reasoned figures to equate the value of one to another, because one of things that you would be doing is saying that when a tax on this Ordinance is charged, property tax will not be charged and vice-versa. So, the two should bear some relationship to the other, not in exact relationship but as near as can be done, but it has been done in other places. Assessments have been made on the cost of the trailer and allow for immediate depreciation, so you have got to divide into three or four years. This method has been tried and to a certain extent it has worked. Whether it would work here or not, I don't know but certainly we are willing to give it a try. The tax Ordinance itself takes a two-year connection period.

Mr. Dumas: Why couldn't we just say, \$2.25 per lineal foot of trailer. Incidentally, that's the way you price trailers, \$2.25 per lineal foot per year taxes on a trailer. Now that's an assessment. A three bedroom trailer, it's ten years old and it probably has as many people living in it as a three bedroom trailer one year old. Something like that could be worked out, I'm sure.

Mr. McKinnon: Mr. Chairman, when I first saw this Ordinance, I went to the Director of Municipal Affairs who had an extensive background in dealing with problems like this and asked him the same question. The question is not getting an equitable system of taxation done on this basis but it's a question of collection, because of the tardiness of government and jurisdictions all over the country. By the time that they assess and give the notice that they found in every jurisdiction that has tried this type of taxation, that in so many cases, when they go to collect the taxes that the trailer bay is occupied and the trailer park by another trailer and they never collect the taxes on the trailer who occupied during the two years they were doing the processing and the assessing of the trailer. It's a simple matter of the impossibility of collecting under this basis because of the transiency of the trailers living in the trailer parks. Now this is Mr. Darychuk's assessment of it and I would ask the Council to ask the same questions of him when he was here and the jurisdictions that he has served under after long years of trying it and examining other areas, and discussing the same problem with this. It was just not collectible and that was the reason that was given to me why this system was not used.

Mr. Legal Adviser: Mr. Fleming has extensive experience in northern B.C. in the same regard and according to him, there is a period of year when taxation becomes due in the various towns and then an organized move takes place as the assessors move around and the notices are issued, and everybody changes places like musical chairs within the trailer sites in a town and from one town to another. Then when the danger is passed, the assessment notices are out, they all move back. Now, there is an arrangement in B.C. whereby the Provincial Government collects taxes on trailers or licenses for trailers which are outside municipalities and the municipality collects licences for trailers within municipalities and the amount is roughly speaking the same so they make an attempt to have a contra-account. Each town has an account with the central government and there is a settlement period at the end of the year when all the taxes are paid according to the records, but this is the best they can come up with. It is still not satisfactory because people move from place to place. Now here, the reason this is done is because this in this way is that this particular licence is attempting to be a local government tax by the Commissioner or by the Government in a local government capacity. We could have abolished the power of the municipalities to charge this type of licence and the central

Mr. Legal Adviser continues.....  
government could have taken over the power of taxing in the whole of the Territory but rather than impinge on the powers of the municipalities, the power has been given to the municipality to collect the licence within his own area and to the government in the area of its site. This may be a wrong view to take but nevertheless, if we are in the position that the whole thing can be evaded if we make it a property tax by the simple movement of a trailer from outside into Whitehorse and vice-versa. Any simple exchange of two trailers on berths defeat the tax. Now the cost of moving most of these heavy trailers is too great to make it worth their while to do this to evade tax, but if any reasonable proportion of these people do in fact evade the tax, the tax becomes an unjust tax on the remains that people are forced to pay. So that's one of the reasons this particular route is chosen.

Mr. Taylor: Mr. Chairman, I respectfully submit that either way you do it, the administrative problem will still be the same, whether you impose a licence or whether you tax the trailer, regardless of where it goes in the Territory you are still going to be faced with the same problem because if the trailer is licenced and moves into the City, well you could have a double payment there, I suppose, if you enforce the fact you know he moved in and moved out, he pays twice, but outside the Territory you are still taxing no matter where they are in the Territory, under a registration number. So, administratively I see no greater problem taking the other course with the one exception, there would be a necessity to assess the trailer to assess a value on it. I might say that although a trailer, it has been pointed out that a trailer depreciates in value, that indeed some buildings also depreciate in value, so I don't feel that that is entirely a solid argument. I might say also, when you put trailers on land, land that they can own and call their own, the land has a tendency to increase in value rather than decrease. So, I can see nothing wrong with the proposal I make.

Mr. Dumas: Mr. Chairman, now we really are in a semantic argument. I thought the people who were proposing a tax per say were concerned with taxes on the land and improvements which were in this case trailers. Now, where land is bought by a trailer owner and the trailers put on, we have no problem and I think we all agree on that. The assessment is the normal taxation assessment. Now, there is a proposal from the Honorable Member of Watson Lake is that we call it a tax but we handle it like a licence so that I am prepared to call it a tax. If we are going to handle it that way, there is no problem at all and the assessment was the plan of the Administration as suggested by the Legal Adviser, was that the per month rate might be anywhere from five to fifteen dollars depending on the size of the trailer, so we have the assessment problem covered. We are back to semantics, if we want to change the Ordinance to read house-trailers, fine, if we want to change the Ordinance to read tax, fine, but we would then have to define tax under this Ordinance as a fee collected on monthly basis or whatever.

Mr. Taylor: Well Mr. Chairman, the taxation we are talking about is divided into two parts. One is school taxation charged to the rate of sixteen mills and the other tax, this is outside of the municipality which this Ordinance purports to deal with, and the other is six mills on real property. Now, if we are talking about taxing these trailers as such, we can tax them as sixteen mills for sure anywhere in the Territory. If they move on to land we get an additional six mills from them. Indeed, if we wish to consider the fact that we assess all trailers for services because indeed services in the outlying metropolitan areas of Whitehorse outside of the municipality is fire, fire trucks and this type of thing. Possibly an additional tax can be levied on them, but I feel that we must assess the trailer in an equitable manner to follow along



BILL #12 Mr. Taylor continues.....

with the way everybody else is being assessed, the owners of real property, homes and land and this type of thing. This is the job and this is why we are here as Councillors is to try and ensure that we can make this as fair and as equitable as possible. This is why you find a reluctance on my part and some other Members to accept this type of legislation because indeed in our opinion, it is unequitable and unfair.

Mr. Shaw: In the equitability of this taxing or licencing, it would appear to me that is something that could be based on a square footage payable monthly, very much the same, except instead of collecting each year, you collect every month and of course, that is usually referred to as a licence rather than a tax. I think that as far as taxing these people, I think it must be based on the value of the trailer and that could probably be based in relation to a house in the square footage which it contains. Mr. Chairman, if the Legal Adviser could answer a question in respect to this. Now, if we call this an Ordinance respecting house-trailer licencing could it conceivably be construed by a name such as that, that a camper would come under this Ordinance and I refer to something that sits on back of a one-ton or three-quarter ton pick-up.

Mr. Legal Adviser: We'll use any word in the definition section to make it simpler. It must either be an English word in common use with a generally accepted meaning so that the courts will believe in that meaning or you must give it a special meaning. If you use the word house-trailer, I'm afraid you will have to define it and the definition which would come up something like the one you have here, because it has to be movable. It has to be used or designed as a dwelling or sleeping place and you've got to take into account the fact that it may be towed, it may be on a flat-bed, it may be anything. The name that you call it doesn't make much difference but as I said I have no objection at all to calling it something else. You can call it mobile home or trailer because mobile home is beginning to have a different connotation in recent years, for the trailer that is.

Mr. Shaw: Well Mr. Chairman, there is absolutely no intention of taxing what normally we call a camper.

Mr. Legal Adviser: No, as I understand it. Just a camper which is used for vacation use.

Mr. Livesey: Well Mr. Chairman, I don't think this mess of pottage is an Ordinance. It's not worth considering. It's too hopelessly broad, we have got nothing here. When we look at this the Commissioner may by regulation prohibit the use and prohibit the owner or lessee from permitting the use of any trailer for the living, sleeping or eating accommodations of persons in any area not within a municipality for more than such number of days as the regulation provides in any period of ten consecutive months. What more impossible proposition could you hand anybody and expect him to agree to it. This is surely is taxing our understanding of reason to put something like that before a legislative body. It's a taxation on the credulity of any individual that considers himself sane. There is no question about that, absolutely impossible. When in this Ordinance, it says trailer means a vehicle. Well, you go over to the Motor Vehicles Ordinance and trailer means a vehicle that is drawn on a highway by a motor vehicle, whether or not part of it's weight or load rests upon or is carried by that motor vehicle. It does not include an implement of husbandry temporarily drawn, propelled or moved on a highway or a sidecar attached to a motor cycle. That's what it says in one Ordinance. The other Ordinance says whether equipped with wheels or not and whether self-propelled or not, but is used or designed as a dwelling for a sleeping place and

Mr. Livesey cont.

BILL#12

it ..... that trailer means a vehicle. Well in the Motor Vehicles Ordinance, vehicle means a device in a ... which a person or a thing is or may be transported or drawn upon a highway, except a device designed to be moved by a human power or used exclusively upon stationery rails or tracks. Where are we going here? I don't think we are getting any place at all and they've got trailer parks mixed up with propositions that can be looked upon as legitimate business enterprise whereby you've got trailers on land legitimately where these trailers have got to be on land unless they park them on the moon. If they don't get them up there, they've got to be on earth .... they're still on land too, and I for the life of me can't understand how this Council could possibly want to give anyone in the Administration the power of eviction and I mean carte blanche power of eviction with no restrictions, with no description, no powers of reserve or you can't tell them when to stop. You can just get them started but where do you stop them. It doesn't say, it's wide open. You can do anything you want, but this is totally ridiculous. If you went back in the dark ages and started screaming at King John, why I could understand that, but I certainly can't understand this. It seems to me Mr. Chairman we're going to need more than the bar sitting down with King John at the wash to try to get this straightened up. This is totally impossible. I would say Mr. Chairman that this is an impossible piece of legislation and surely we are reasonable enough people to see that this or after listening to what has been said this afternoon that the Administration can take this piece of legislation and work on it between now and the spring session, this isn't too far away and then come up with some thing at the spring session that we can follow. This is too big a piece of concrete just falling out of the mixer for me to swallow and I would see more sense and I could think of more reasons by my colleagues if they would think a bit along this line instead of trying to push this type of stuff down our throats is ridiculous in the first place and impossible in the second.

Mr. Taylor: Mr. Chairman, I would like to direct a question to Mr. Legal Adviser and ask him if he would feel in his opinion that after the long and lengthy discussions we have had on the subject, if he would feel it may be advisable to take another look at this situation and try and come up with something for the spring session, rather than finalize this matter at this time.

Mr. Legal Adviser: I don't think .....to meet the wishes of all the Members. Two of the Members here are opposed to this particular Ordinance in the form which it takes to licence mobile dwelling units by means of a fee. I'm not sure what the other Honorable Member wishes, but it's purely not possible to come up with something. I know the Commissioner is anxious to have the legislation decided so that the necessary preparation would be put in hand to start charging licenses in the current year because I think he is constructing a budget, hoping that this will be passed and a substantial amount of money will be garnered to the Territorial coppers from it.

Mr. McKinnon: Mr. Chairman, I would like to suggest that Mr. Darychuk come before Committee because he has lots of the objections that Honorable Members have raised and objections I raised to Mr. Darychuk on this Ordinance, and which were answered to my satisfaction after listening to him and his years of experience in this same field. I'm sure that he

BILL#12 Mr. McKinnon continues....

would be helpful to all Members of Committee and try to decide on which the Ordinance should go and which function it should serve, and how it should be termed and I would suggest that by concurrence of Committee that Mr. Darychuk be called before Committee to answer some of the questions,

Honorable Members are raising that I'm sorry, that were answered to my satisfaction but I can't answer them to their satisfaction.

Mr. Livesey: Mr. Chairman, I don't think Mr. Darychuk is going to supply any information which would satisfy me on why we should give the power to the Commissioner, the powers of eviction. This is impossible.

Mr. Taylor: Yes, I will resume the Chair. Councillor Chamberlist.

Mr. Chamberlist: Looking at the sub-section (2), I think Mr. Legal Adviser needs to take a real look at this because to tell you quite frankly, looking at it now and having another good strong look at it, if anybody refused to pay a license who was living in a trailer court, I think I would advise him to refuse to pay a licence under this Ordinance because this Ordinance says, perhaps Mr. Legal Adviser can agree with me on this, this says, trailer park, means land in or upon which any trailer used for the living, sleeping or eating accommodation of person there in his place, located kept or maintained as a camp ground for the public. Now, first of all a trailer park isn't maintained as a campground for the public because now you have to come up with an interpretation of what is a campground. Then you have got a comma, with or not a fee or charges paid or made for the rental or use thereof and includes an auto camp. Now, what is the definition of an auto camp? There would be a nice legal argument whether a person who is in a trailer court is in fact licenced within the meaning of sub-section (2) of section 2 of this area. I would question it most strongly and I think I could make a good case and win. I think Mr. Legal Adviser should take this Ordinance away and have another look at it.

Mr. Legal Adviser: I think the Honorable Member has a good point in the tracing of the commas between place and located and between located and kept. I think the best thing there would be to put in an "or" in, possibly it might have been left out.

Mr. Chamberlist: It still doesn't solve whether in fact a trailer court, you see, you said a trailer park. Whether the trailer court is the same as a trailer park, or whether a trailer park is a campground or whether an auto camp is a camp ground or a place .. you haven't tied them in, you see.

Mr. Legal Adviser: I can make it clearer. I understand this is what a court would find that we were dealing with land and there was a sub-clause then which deals with a trailer and you talk about any trailer used for living, sleeping or eating accommodations of persons therein placed, located or kept or maintained and directly made clear by saying, or which is maintained because you're referring back to land which is the subject of the sentence.

Mr. Chamberlist: But the definition Mr. Chairman, of what is a campground, you see, because it says, "or maintained, is located or kept or maintained as a camp ground. A camp ground is a place that you camp. Now does living in a house-trailer means that you are camping there. Now that would be very interesting

Mr. Chamberlist continues.....

BILL #12

to have a definition, because here you say, "maintained as a camp ground". Now if the interpretation was and is that a camp ground is where people go to camp, then living in a trailer in a trailer park is not living in a trailer in a trailer park which is being maintained at a camp ground. I don't think that is clear at all with respect Mr. Chairman. I really, sincerely think that it's because Mr. Legal Adviser has been so busy in preparing these little pieces of legislation that he has inadvertently rushed through this particular one, and I think that Members of Council should give him the time to properly go through this.

Mr. Legal Adviser: I am really charmed by the good wishes of the Honorable Member but I think this is just a minor error which was carried over from the original draft of last year. Of course it is an error. There is often errors and we are very glad to have them pointed out. It gladdens my soul but as I say, this is a minor error which can be easily changed.

Mr. McKinnon: How should it read?

Mr. Legal Adviser: I think it should read, "is placed, located or kept, or which is maintained as a camp ground" would help to make the meaning completely clear. The fact that you are maintaining a camp ground is an alternative use to the land, if you're talking of land of two kinds upon which there is any trailer, or which is maintained as a camp ground.

Mr. Chairman: I'm wondering from the Chair if I could ask Mr. Legal Adviser to give me a definition of an auto camp and just what that means?

Mr. Legal Adviser: Well, this is in the original definition and I think it arose because some of these trailer camps were advertising auto camps and not trailer camps and not camp grounds. It's just I took the exact meaning originally from Ontario, transferred to the Municipal Ordinance and transferred it to the Municipal Ordinance here. I didn't want to change it because to change a set of words ten years old in a definition unless you had a reason for changing them is not considered a wise supposition, if you have a reason, that is.

Mr. Chairman: Well, again from the Chair, would auto camp not be a motel?

Mr. Legal Adviser: I don't think so.

Mr. Chamberlist: Well, another point now. I am pleased that Mr. Legal Adviser seen my usefulness on this Council by pointing out these things. Now, I wonder if Mr. Legal Adviser will take another look at that section, where he has already suggested that trailers that are working on construction which would be here for eight weeks or six months and the Honorable Member from Whitehorse North made reference to the trailers that were in use at Anvil and he thought it was disgraceful. Let us look again, that take the Anvil area. The only two areas where a licence, would be permissible, would be in a trailer park or accepting this as camp grounds which is open for the public. That's one. The other, and this includes an auto camp. Now, a bridge is being constructed and along side of the bridge there is an area of construction camp trailers. That place is not open to the public because it is there just for the construction camps, so therefore it is not an auto

BILL#12 Mr. Chamberlist continues.....

camp, it is not a camp ground open to the public and it is not a trailer park. The same thing at Anvil when the Anvil trailers are up there, it's a private company operation on private land for the private use of those construction people for the Anvil company whose own employees are there, so it doesn't apply there. So all those trailers are exempt. Well these are the areas as I see it.

Mr. Legal Adviser: No, when I said I appreciated the help of the Honorable Member, I didn't mean that he should lean over backward to help me. We're attempting to licence trailers, we are not attempting to licence trailer parks. The only reason that trailer parks finds it's way into this particular Ordinance is that although we regulate them, we only regulate them for the purpose of zoning purposes to where .....areas. The main reason is so that we can ask the owners of trailer parks to collect licence fees for us.

Mr. Livesey: Mr. Chairman, am I correct that at the present moment, no trailer can be operated on any highway or road in the Yukon at the present moment without a licence?

Mr. Legal Adviser: Yes, this is correct but this would be for the use of a highway, the same way an automobile is licensed but when it moves off the highway there is no longer any particular necessity for it to have it licenced.

Mr. Livesey: Next question Mr. Chairman would be, if the trailer camper licence under the Motor Vehicles Ordinance, would it then be necessary to have another licence under the Ordinance respecting trailer licencing?

Mr. Legal Adviser: Yes, I would think so. Once it goes on the road it does need a licence but of course lots of these trailers or so called trailers, are placed on a flat bed of a truck and would not in themselves attract any road licence, any licence of the Motor Vehicles Act at all. They would be free provided the particular unit on which they were travelling was in itself licenced.

Mr. Chairman: Would you take the Chair, Councillor Chamberlist.

Mr. Taylor: Now, we seem to be getting in an area away from house-trailers and into construction trailers. I believe the Honorable Member from Carmacks-Kluane was dealing with house-trailers, however, there seems to me no way that the Administration at this time define trailer in this Ordinance to the satisfaction of the House. I think that is point No.1 and yet the Administration appears to be highly reluctant to withdraw the Ordinance at this time, and consider the matter further. It seems to me that unless trailer can be defined and interpreted as to what a trailer is in the Ordinance, we have no business dealing any further with the Ordinance.

Mr. Shaw: Mr. Chairman, I would like to ask that we read the Ordinance in any event. Who is the Chairman, is it the Chairman's duty to read the Ordinance or is the Chairman's duty not to read the Ordinance?

Mr. Chairman: From the Chair, might I answer this that the Chairman and the Deputy Chairman are giving the absolute extreme possible area of discussion for all Members and it is only likely being done so that every Member can have his full say and Councillor Shaw has that opportunity as well.

Mr. Livesey: Well, I'm still not satisfied that there is any clarity between the confusion between a highway licence now on a trailer and a trailer that is off the highway on the land. It doesn't seem to make any sense to me, none whatsoever. The whole Ordinance is completely incompatible with reason because it doesn't seem to me that they have described anything. All they've done is to say we've got a problem, we would like to get around it and we'll give it to you in the bare bones case, and if you want to know what is in the regulations, well we might tell you and we might not. I think that to bring this type of thing with meagre four sections before us and expect us to agree to it with no description as to what we are agreeing to and giving colossal power to the Commissioner, in relation to eviction is absolutely wrong and I can't agree with that.

Mr. Taylor: I will resume the Chair.

Mr. Chamberlist: Well, I think that because Mr. Legal Adviser, Mr. Chairman, has recognized that there needs adjustments and amendments to this Section 2. He has perhaps expressed himself in a way that only the punctuation was bad but I go further than that, I say that the language itself is bad and not clear. It is obvious what the intention is of course, to legislate against those people that are benefiting from the Yukon Consolidated Revenue Fund in as much as they are being supplied with continuous services at no cost at all. I agree that we should certainly do something about that, that the area that has been suggested and I am quite prepared if Mr. Chairman, Mr. Legal Adviser would agree to even following the suggestion that the Honorable Member from Dawson has made which has some merit, and I would tend to believe that I or most Members would go along with this, is to obtain the regulations to read at the same time as this, not do any further work on this Ordinance until Mr. Darychuk who is available but is in Takhini and it would take him some time. I would suggest that we carry on with some other business of the House, leave this in obedience and have Mr. Darychuk to answer questions while reading of the Bill. Now if that's agreeable, this can be adjourned until tomorrow and we can get on to another Bill.

Mr. Shaw: Mr. Chairman, just one thing before we get to agreeing on this..., I would ask that when we next come to this particular Ordinance, is it going to be necessary to have a big discourse and a motion that we proceed with it, as we started in this first one. It took I think two hours before we could start to discuss it. Is that going to be the same way. Will that be permitted that the next time we discuss it that it will take another two hours before we get on to the discussion of the Bill.

Mr. Chamberlist: Well Mr. Chairman, with the outmost respect to the Honorable Member from Dawson, if we would not have stood up to make any remarks a few moments ago, we would be getting on with some other business. I would suggest that we let it rest until we have Mr. Darychuk here and the regulations and then we are happy about it.

Mr. Shaw: I just want to make sure that we can discuss this Bill again Mr. Chairman. I would like the assurance from the Honorable Member from Whitehorse East who proposed this motion or proposed this suggestion that he would be quite prepared without any further adieu when we get around to completing this business.

BILL#12 Mr. Chamberlist: I am quite pleased to give my assurance that we will in the future discuss the Bill again.

Mr. Shaw: At this session, Mr. Chairman.

Mr. Chairman: Will it be your wish that I report progress on this Bill?

Mr. McKinnon: Mr. Chairman, further it is my wish that Mr. Darychuk be available for Committee tomorrow.

S.P. #29 Mr. Chairman: Does Committee agree? Is it your wish that I report progress on this Bill? Will there be any other Bills to discuss at this time. We have some Sessional Papers. Our first Sessional Paper is No. 29 of the last session. Yes, this is respecting the Visit of a C.M.H.C. official to Territorial Council and is a reference for advice from the Commissioner. What is your pleasure in this matter?

Mr. McKinnon: Mr. Chairman, I would be happy to suggest that the offices of the Commissioner are used to invite Mr. Wilson, the Executive Director of C.M.H.C. off in Ottawa to visit us at the Spring Session of Council.

S.P.#38 Mr. Chairman: Does Committee agree? Next is Sessional Paper No. 38 of last session.

Would you take the Chair, Councillor Chamberlist.

Mr. Taylor: Mr. Chairman, I had hoped that this session, that we would have had an answer to this question contained in Sessional Paper #38, as this respects the distribution of tax rebate that is coming supposedly back to the people of the Yukon who were paying utilities rates to Canadian Utilities, and at this point and time there is \$167,000 sitting there and has been sitting there for quite some time and many of the people in the Yukon Territory who are eligible to receive this rebate back again, will be possibly buried before they have an opportunity to have the benefit of this tax rebate. I was hopeful at this session we could have resolved this problem, however, Mr. Commissioner advised in the question period the other morning that he still had nothing concrete on this matter. So, I would at this time drop the subject however I would like the opportunity to bring it up again and give further information forthcoming on this matter.

Mr. Taylor: I will resume the Chair.

S.P.#4 Mr. Chairman: Next is Sessional Paper No. 4 of this session.

Mrs. Gordon: Yes Mr. Chairman, we had tabled as a result of my motion for production of papers, the boundaries and the descriptions and maps of local improvement districts within the area. You've heard the boundaries of the Watson Lake area to be extended to a very large extent. The Haines Junction map has shown or covers a fair district too. What concerns me most is that we have local improvement districts in Mayo with a very limited area adjacent to which is an area which was condemned in 1964, and it still causes a great percentage of our native population; five years is a long time to exceed and accept the fact that people are living in an area which has been condemned. Until the boundaries of Mayo are opened out and possibly the people in the area have some chance to do something and have control over an area such as this, I wonder just how long this kind of situation is going to continue.



Mr. Shaw: Mr. Chairman, I wonder if the Honorable Member from Mayo could indicate the reason that this is condemned or was condemned, this particular property or ground.

Mrs. Gordon: In 1964 we had extremely high water and flood. The area was contaminated. It has no sewer water facilities. The majority of the people ...the well which was put in when the buildings were put there and they became unusable to contamination. There are no sewer facilities. The majority of people living in that area take their water from the Stewart River below where the existing sewer and water empty into the River. In my recollection I believe there is one, possibly two outdoor privies on the whole area. The majority of the effluence of the population there is dumped on the ground. We have been fortunate that we have not had an epidemic of some sort.

Mr. Shaw: I wonder if Mr. Chairman, I have two questions. Has the sanitary inspector done anything about it and would the Honorable Member from Mayo have some proposals to eliminate or assist in getting away from this pollution problem?

Mrs. Gordon: Our major problem Mr. Chairman is with the other half of our department. The area about which I am talking is held by the Department of Indian Affairs. It was condemned in 1964 by our Territorial Sanitary and Health inspector, and he and our local Territorial officials have made no head way whatsoever in having this area cleaned up.

Mr. Shaw: Well a further question Mr. Chairman. Would this be something that perhaps would be under the jurisdiction, say the Dept. of Indian Affairs and Northern Affairs?

Mr. McKinnon: Well Mr. Chairman, can I make a suggestion that the Honorable Member from Mayo wanted the offices of this Council to help her to pressure Indian Affairs and Northern Development to move to clean up this area. I'm sure that the majority of the Members of Council would support her in such a motion. This is the only area in which we can move to bring pressure upon Indian Affairs and Northern Development to have things done which we think should be done, and I'm sure that if this were done, the Honorable Member would find support from Council.

Mrs. Gordon: Thank you Mr. Chairman. I think this is the one reason why I asked for the production of papers in order that I might point out to the Members of this Committee, the situation as it stands in relation to the rest of the communities in the Territory, and I will bring forth a motion to encompass the situation.

Mr. Chairman: Are we clear on this matter at this time? This concludes the Sessional Papers. I do have one item with the concurrence of ...it has to do with Insurance Coverage, Yukon Territorial Government and advises that a Mr. Scott of Yorkshire Insurance Managers, and Mr. Tunneycliff of Royal Insurance and Mr. Peake of Wawanesa Insurance will be arriving in Whitehorse on Wednesday 21 January to discuss the insurance coverage requirements of Yukon Territorial Government with members of the Administration and Budget Programming Committee. If it is the wish of Council, these gentlemen would be available to meet with Council on Thursday morning, 22 January, 1970. An indication of your wishes in this connection would be appreciated. This is signed, J. Smith, Commissioner. I am wondering if it is your wish that this be done and if so, would this be indicated to the Chair?

Mr. Chamberlist: Mr. Chairman, I don't think it would do any harm because there is areas of Workmen's Compensation, auto insurance and the likes that we may be able to gain some information from these people.

Mr. Chairman: What is Committee's wish in this regard so that we might give direction. Agreed? Then Mr. Clerk, would you so note. The Chair at this time in light of the fact we have dealt with everything we can deal with, would entertain a motion that Mr. Speaker do now resume the Chair.

Mr. Chamberlist: Well Mr. Chairman, the Workmen's Compensation Ordinance is something that once we get started into it, we have to break away after fifteen minutes.

Mr. Legal Adviser: Mr. Chairman, it's my reversity that Motor Vehicles Ordinance was under discussion and I am to prepare an amendment for somebody ... ski-doo's or not. Would any of the Members care to express their wishes of what should be done about the .... of licencing ski-doo's and express their views one way or other as to whether ski-doo's should be allowed to operate on roads without being subject to the Motor Vehicles Ordinance? If they are allowed on roads, then they should become subject to the same regulations so far as insurance, age of drivers, power of vehicles and so forth. It would be helpful if we could get some of the views of the Honorable Members of how this.... or whether we should.... and stick them in the Motor Vehicles Ordinance.

Mr. Chairman: Does Committee agree?

Mr. McKinnon: Mr. Chairman, I agree with Mr. Legal Adviser that it's a hot political item and I'm sorry, I'm just not qualified enough at this time to give suggestions to Mr. Legal Adviser because I haven't got the background of how other jurisdictions have handled the problem and how daft we can come about solving this problem in the Yukon Territory. There is two completely opposed schools of thought. One is saying that they should remain as they are now under the Motor Vehicles Ordinance, be allowed to use the highways of Territory, be licenced the same as any other Motor Vehicle and in general be under the same rules and regulations as other Motor Vehicles under the Motor Vehicle Ordinance. Evedently other jurisdictions and I think the ones that have been suggested to me are B.C. and Ontario, where they are not allowed to be used on the streets at all. They are only allowed to be used on trails and off the streets and highways of the Province and the City of those areas, and they are used more or less in recreational and work capacities than any being used as transportation on the streets and highways of the municipalities. Now, which one of these two schools of thought is satisfactory to the Yukon, or to whether we should be looking to something intermediary, is completely beyond my knowledge at this time. I would appreciate so much of working paper from the Administration saying that different jurisdictions found they had to do this for these reasons and then allow Members after examining the working paper, background or sessional paper to come up with suggestions, as to how the problem should be handled in the Yukon because there very squarely is a problem. Myself personally, I am not prepared to come up with an answer until I know more about the different reasoning behind the different theories that people offer for ski-doo driving and I am sure other Members would like to know the way the problem has been handled and other jurisdictions also.

Mr. Chairman: Councillor Chamberlist, would you take the Chair a moment.

Mr. Taylor: Mr. Chairman, I hardly agree with the Honorable Member from Whitehorse North but it would seem to me that in dealing with this question that we must consider local option, I think right now, we've recognized the fact that if a ski-doo such as operated on a public road or highway that it must be licensed and insured and I think this is a must. There are others who would not share that view of course. On the other hand, when we write legislation with respect of them, what we must do is give local options so that people in Beaver Creek decide they want to let them run on the roads, fine or Watson Lake, under the area development Ordinance or in the municipalities for that matter, fine make it a local option deal, but you must remember that in this day and age we all live in towns and there is some point in time these vehicles do cross streets, you know there is no way that you have ski-doos other than if you are out on a trap line completely removed from civilization that these vehicles are not going to be running on the roads. I think it should be left on a local option basis for the people in their own community to decide and if it doesn't work out, well they must hold that responsibility among themselves for whatever might occur.

Mr. Legal Adviser: Mr. Chairman, I'll arrange to put down on paper to set out what they've done across Canada as far as ski-doos are concerned. .... If that's the case and there is no amendment coming forward dealing with ski-doos all the amendments suggested by the Councillors for the Motor Vehicles Ordinance are already before the House, and I think they have all been approved.

Mr. Shaw: Mr. Chairman, I can see that there are possibly problems and different ways of thinking about ski-doos but that's all the more reason that we cook up something all of a sudden and say this is it. I think this is something that can be gone over very carefully over the spring session or fall session. Certainly, it is not something that we can just attach to the present Ordinance and pass it and let it go. I do think and feel that it would be very good and certainly knowledgeable for Council to have the data presented before Council in line as the Honorable Member from Whitehorse North has suggested and the Legal Adviser has concurred with.

Mr. Taylor: I will resume the Chair at this point.

Mr. Livesey: I am very happy to hear that we're just not going to let this get under the control of the paper mash jungle. If we ever get around it, why there will be so many regulations, you won't even be able to operate a ski-doo. This is the usual thing. At least we should allow some freedom so now we have got a vehicle where people can get up into the hills of this beautiful country for once in their lives and take a look what we have got here in the North. So, I would suggest Mr. Chairman, that in a good many instances outside of the Chinese walls that surround these municipalities where what goes on the outside is not recognizable with what goes on in the inside. I suggest that these people keep their eyes in the opposite direction for once and let this freedom of operation continue rather than come up with a whole batch of regulations, so that anytime somebody wants to step out of their backdoor and put a crank on the handle and start the motor, they have to go down to the Public Library to find out what they are going to be doing wrong.

Mr. Livesey continues....

As far as where a municipality or a city is concerned where you have a high density of traffic, I would say that the municipality can take care of that. If they don't want it on the city streets here or they don't want it on the city streets of Dawson, by all means let them make a by-law.

Mr. Chamberlist: Mr. Chairman, at this time I move that Mr. Speaker do now resume the Chair.

Mr. Chairman: Just before I put the question, Mr. Legal Adviser, would you feel that you have some indication to work on.

Mr. Legal Adviser: Yes, I can carry this out. The main indication that I have is that we don't want to rush an amendment at this particular time.

Mr. Chairman: I must also, just usually a motion that Mr. Speaker do resume the Chair must be called immediately and with your concurrence I would like to bring to your attention before we leave Committee, I've been advised by the Clerk, the following references for advice are Sessional Papers Nos. 7,8,9,10 and 15 and in the morning the Honorable Members might wish to look at these sessional papers to see if they choose to introduce them into a proceeding. Are you prepared for the question? Are you agreed? I will declare the Motion carried.

MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker: I will now call Council to order. May we have a report from Chairman of Committees.

Mr. Chairman: Mr. Speaker, Committee convened at 10:25 a.m. to discuss Bills, Sessional Papers. It was moved by Councillor Dumas, seconded by Councillor Shaw, that Bill No. 2 be reported out of Committee as amended. This motion carried with Councillor Livesey opposed. It was moved by Councillor Taylor, seconded by Councillor Livesey that Bill No. 12 be left to die in Committee. This motion was defeated. Committee recessed at twelve noon and reconvened at 2:15 p.m. I can report progress on Bill No. 12. It was moved by Councillor Chamberlist, seconded by Councillor Dumas that Mr. Speaker do now resume the Chair and this motion carried.

Mr. Speaker: You have heard the report of Chairman of Committees. Are we agreed? May I further indication to the agenda for tomorrow?

Mr. Chairman: Bills, Sessional Papers and possibly Motions.

Mr. Speaker: Are there any additions? Is there any further business?

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

Mr. Speaker: You have heard the motion for adjournment. Are you prepared for the question? Are we agreed?

Members agree.

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

ADJOURNED