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# YUKON TERRITORIAL COUNCIL

FOURTH SESSION 1968

## Votes and Proceedings

VOLUME 1

I N D E X - 1968 (4th) Session

Volume 1 - pages 1 to 467

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Session Dates - Tuesday November 12<sup>th</sup> 1968 to Monday December 9<sup>th</sup> 1968

<u>MOTIONS</u>	<u>Moved</u>	<u>Discussed</u>	<u>Results</u>
1. Low Cost Housing Ord.	6	58-61 (S.P. #50)	Carried
2. Re Sess. Papers 10, 15	92		Carried
3. Re Sess. Papers 4, 6	92		Carried
4. Re Sess. Papers 16, 26	183		Carried
5. Pollution Survey	233	320-323	Carried
6. Re Sess. Papers 5, 8,9,12	273		Carried
7. Re Sess. Papers 31,34	323		Carried
8. Re Sess. Papers 30, 35	324		Carried
9. "Klondike", use by Edmonton	324	448-459	Carried
10. Special Select Committee- Liquor	324	324-325	Carried
11. Re Sess. Paper 40	368		Carried
12. Re Sess. Paper 45	468		Carried
13. Premier Bennett & B.C. Boundary extension	468		Carried
14. Re Sess. Paper 50	502		Carried
15. Re Sess. Paper 53	538		Carried
16. Re Sess. Paper 55	583		Carried
17. Re Sess. Paper 58	583	634	Carried
18. Bridge over Yukon River-Dawson	583	635-636	Carried
19. Airports upgraded Dawson, Mayo, Old Crow	583	636-640	Carried
20. Re Sess. Paper 57	583	640	Carried
21. Re Sess. Papers 61, 62	687		Carried
22. Re Sess. Paper 54	687		Carried
23. Re Sess. Paper 63	687		Carried
24. Yukon Licence Plates, Wording change	687		Carried
25. Postal Service, Watson Lake	767		Carried
26. Re Sess. Paper 67	768		Carried
27. Financial Adv. Committee	768	784-792	Carried
28. Formulation Legislation before House presentation	767	800	Carried
29. Fed.-Terr. Financial Agree- ment consideration	801	801-807	Carried
30. Invitation to Jack Pickersgill	767	807-808	Carried
31. Re Sess. Papers 68, 70	767	809	Carried

<u>QUESTIONS</u>	<u>Asked</u>	<u>Discussed</u>	<u>Answered</u>
1. Porter Creek Lots	7	94	S.P. 17
2. Mining Waste from Faro	8		S.P. 29
3. Disallowing Gr. 13 Credits for Univ.	8		S.P. 18
4. Drilling Oil-Taylor Lake	8		S.P. 21 & 28
5. Cost of Operating YTG Trucks	8	292	S.P. 26
6. Lots from RCMP Compound	7	92-93	S.P. 20
7. Ross River Nursing Station	61		S.P. 22
8. Watson Lake Cottage Hospital	61		S.P. 23
9. Carcross Postal Service	61		S.P. 24
10. Extension of Whitehorse boundaries	61		S.P. 25
11. Noting Offences on Driver's Licences	93		S.P. 27
12. Travel Contest-Klondike Days	140	459-460	S.P. 30
13. Extension of Whse. Boundary	140		S.P. 43
14. Wide Load & Overload Permits	183		S.P. 32

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16. Lots Surveyed in Riverdale	184		S.P. 37
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18. Historical Societies	185		S.P. 33
19. Cost of Lots, Beaver Creek	235		S.P. 44
20. R.C.M.P. Detachment-Carcross	274	483	S.P. 40
21. Purchase Goods from Edmonton Suppliers	274		S.P. 39
22. Condition of Horses	274		S.P. 41
23. C.B.C. Antenna Mast-Watson Lake	325		S.P. 48
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34. Buffalo in Yukon	585		S.P. 59
35. Purchase of Artifacts	640		S.P. 67
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39. Air Traffic handled in Yukon	743		
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<u>BILLS</u>	<u>1st &amp; 2nd Reading</u>	<u>Discussed</u>	<u>3rd Rd.</u>	<u>Assented To</u>
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No. 3. Historic Sites & Mon- uments Board (as amended)	10 586)	41-53, 486, 489 497, 571	586	829
No. 4. Business Licences	10	53-56, 708-729 779		
No. 5. Hotels & Tourist Establishments (as amended)	10 810)	65-90, 95-112, 486, 571-6, 587-614, 746, 780-782	810	829
No. 6. Mining Safety	10	112-122, 445-448, 486-489, 577-578	504	829
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No. 18 Public Utilities	63	498-500,505-513, 515-536,539-568)		
No. 19 Taxation Ordinance	642	729-740,746,780		
No. 20 Expropriation Ordinance (as amended 498-819)	64	177-182, 188,218 498-819		
No. 21 Notaries Ordinance  (as amended 643)	64	219-229,498,579- 581,614-615, 690-744, 643- 645	745	829
No. 22 Evidence Ordinance	93	229,499,615,645 690	745	829
No. 23 Gaols Ordinance	93	229,645	235	829
No. 24 Fourth Appropriation Ordinance	633	658-685, 691-706	745	829
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No. 27 Fire Prevention Ordinance	94	249,746,819		
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ERRATUM

Page - 168	- Councillor Dumas - "dissentation" should be "abstention"
182	- Councillor Dumas - "not" in last line should be "now"
182	- Mr. Chairman - "not" should be "do now"
324	- Mr. Taylor - "Councillor Livesey" be included in Motion.
502	- Councillor Chamberlist - Yukon Territorial "Government" Vehicle be included in Motion.
516	- Councillor McKinnon - "for intestine purposes" should be "for all intents and purposes".
532	- Councillor McKinnon - "If a good system" should be "If a grid system".

VOTES AND PROCEEDINGS

OF THE

COUNCIL OF THE YUKON TERRITORY

Page 1.

Tuesday, November 12, 1968.

10:00 o'clock a.m.

The Fourth Session of the Council for the Year 1968, being the Fifth Session of the Twenty-First Wholly Elective Council of the Yukon Territory, was convened in the Council Chambers at 10:00 o'clock a.m., on Tuesday, November 12, 1968.

The Members present were:

Mr. John O. Livesey, Carmacks-Kluane  
Mr. George O. Shaw, Dawson  
Mr. Norman S. Chamberlist, Whitehorse East  
Mr. J. Kenneth McKinnon, Whitehorse North  
Mrs. G. Jean Gordon, Mayo  
Mr. Donald E. Taylor, Watson Lake  
Mr. John Dumas, Whitehorse West

Mr. Clerk read the Proclamation.

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

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

Mr. Clerk: There is, Mr. Speaker.

Mr. Speaker: The Fifth Session of the Twenty-First Wholly Elective Council of the Yukon Territory will now come to order. Mr. Clerk, would you please advise the Commissioner that the Council is now prepared to hear his Opening Address.

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

Mr. Clerk: Mr. Speaker, the Commissioner will give his Opening Address in the Territorial Court Room on Second Floor.

Mr. Speaker: Thank you, Mr. Clerk. Will the House now follow to the Territorial Court Room on the Second Floor of the Federal Building.

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 his Aide-de-Camp.

Mr. Commissioner gave his Opening Address. (Set out as Sessional Paper No. 15)

Sessional  
Paper  
No. 15

Mr. Speaker called Council back to order in the Council Chambers.

Mr. Speaker: I will advise the House at this time that I have received a copy of the Commissioner's Opening Address.

Mr. Taylor: Mr. Speaker, I would move that the Commissioner's Address be considered on a day following.

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

Mr. Speaker: Moved by the Honourable Member for Watson Lake, seconded by the Honourable Member for Whitehorse West, that the Commissioner's Opening Address 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

BILL NO. 1 Mr. Chamberlist: Mr. Speaker, I would move that Bill No. 1, INTRODUCED An Ordinance to Enable the Commissioner to Obtain the Opinion of the Public by Means of a Plebiscite, be given First Reading ....be introduced at this time, Mr. Speaker.

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

Mr. Speaker: Moved by the Honourable Member for Whitehorse East, seconded by the Honourable Member for Dawson, that Bill No. 1 be now accepted for introduction at this time. 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 will move that we do now adjourn.

Mr. Speaker: Is there a seconder?

Mrs. Gordon: I beg leave to second that motion.

Mr. Speaker: Are we agreed?

All: Agreed.

Mr. Speaker: The House now stands adjourned until 10:00 a.m. tomorrow morning.

Completed  
1949  
87-51



Mr. Speaker read the daily prayer and Council was called to order. All Councillors, Commissioner Smith and the Legal Adviser were present.

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

Mr. Clerk: There is, Mr. Speaker.

Mr. Speaker: I have for your attention Bills No. 2 to 30. May we proceed?

Moved by Councillor McKinnon, seconded by Councillor Dumas, that Bill No. 2, An Ordinance Respecting the Imposition And Collection of a Tax on Fuel Oil, be introduced at this time.

BILL NO. 2  
INTRODUCED

MOTION CARRIED

MOTION  
CARRIED

Moved by Councillor Chamberlist, seconded by Councillor Taylor, that Bill No. 3, An Ordinance to Establish the Historic Sites and Monuments Board of the Yukon Territory, be introduced at this time.

BILL NO. 3  
INTRODUCED

MOTION CARRIED

MOTION  
CARRIED

Moved by Councillor Dumas, seconded by Councillor Gordon, that Bill No. 4, An Ordinance Respecting Businesses and the Issue of Licences Therefor, be introduced at this time.

BILL NO. 4  
INTRODUCED

MOTION CARRIED

MOTION  
CARRIED

Moved by Councillor Gordon, seconded by Councillor Dumas, that Bill No. 5, An Ordinance Respecting Tourist Establishments, be introduced at this time.

BILL NO. 5  
INTRODUCED

MOTION CARRIED

MOTION  
CARRIED

Moved by Councillor Shaw, seconded by Councillor Gordon, that Bill No. 6, An Ordinance to Amend the Mining Safety Ordinance, be introduced at this time.

BILL NO. 6  
INTRODUCED

MOTION CARRIED

MOTION  
CARRIED

Moved by Councillor Chamberlist, seconded by Councillor Dumas, that Bill No. 7, An Ordinance to Amend the Interpretation Ordinance, be introduced at this time.

BILL NO. 7  
INTRODUCED

MOTION CARRIED

MOTION  
CARRIED

Moved by Councillor Shaw, seconded by Councillor McKinnon, that Bill No. 8, An Ordinance to Provide for Public Inquiries in the Yukon Territory, be introduced at this time.

BILL NO. 8  
INTRODUCED

MOTION CARRIED

MOTION  
CARRIED

Moved by Councillor Taylor, seconded by Councillor Chamberlist, that Bill No. 9, An Ordinance to Amend the Police Magistrate's Courts Ordinance, be introduced at this time.

BILL NO. 9  
INTRODUCED

MOTION CARRIED

MOTION  
CARRIED

BILL NO. 10 Moved by Councillor Chamberlist, seconded by Councillor Dumas, that Bill No. 10, An Ordinance to Amend the Judicature Ordinance, be introduced at this time.

MOTION CARRIED

MOTION CARRIED

BILL NO. 11 Moved by Councillor Shaw, seconded by Councillor McKinnon, that Bill No. 11, An Ordinance to Amend the Game Ordinance, be introduced at this time.

MOTION CARRIED

MOTION CARRIED

BILL NO. 13 Moved by Councillor Dumas, seconded by Councillor McKinnon, that Bill No. 13, An Ordinance to Amend the Loan Agreement Ordinance (1962) No. 1, be introduced at this time.

MOTION CARRIED

MOTION CARRIED

BILL NO. 14 Moved by Councillor Shaw, seconded by Councillor Dumas, that Bill No. 14, An Ordinance Respecting Agisters and Keepers of Livery, Boarding and Sales Stables, be introduced at this time.

MOTION CARRIED

MOTION CARRIED

BILL NO. 15 Moved by Councillor Dumas, seconded by Councillor Chamberlist, that Bill No. 15, An Ordinance to Facilitate the Division of Properties into Parts that are to be Owned Individually and Parts that are to be owned in Common and to Provide for the use and Management of Such Properties, be introduced at this time.

MOTION CARRIED

MOTION CARRIED

BILL NO. 16 Moved by Councillor McKinnon, seconded by Councillor Shaw, that Bill No. 16, An Ordinance to Provide for the Vocational Rehabilitation of Disabled Persons, be introduced at this time.

MOTION CARRIED

MOTION CARRIED

BILL NO. 17 Moved by Councillor Shaw, seconded by Councillor Dumas, that Bill No. 17, An Ordinance to Amend the Motor Vehicles Ordinance, be introduced at this time.

MOTION CARRIED

MOTION CARRIED

BILL NO. 18 Moved by Councillor Gordon, seconded by Councillor Shaw, that Bill No. 18, An Ordinance to Establish a Public Utilities Board in the Yukon Territory, be introduced at this time.

MOTION CARRIED

MOTION CARRIED

BILL NO. 19 Moved by Councillor Chamberlist, seconded by Councillor McKinnon, that Bill No. 19, An Ordinance to Amend the Taxation Ordinance, be introduced at this time.

MOTION CARRIED

MOTION CARRIED

BILL NO. 20 Moved by Councillor Shaw, seconded by Councillor Taylor, that Bill No. 20, An Ordinance Respecting the Expropriation of Lands and the Determination of Compensation for the Expropriation or Injurious Affection of Lands, be introduced at this time.

MOTION CARRIED

MOTION CARRIED

Mr. Speaker: May I enquire if it is the intention of the House to introduce all bills?

All: Agreed.

Mr. Speaker: I await your pleasure, gentlemen.

Moved by Councillor Shaw, seconded by Councillor McKinnon, that Bill No. 21, An Ordinance Respecting Notaries, be introduced at this time.

BILL NO. 21  
INTRODUCED

MOTION CARRIED

MOTION  
CARRIED

Moved by Councillor Chamberlist, seconded by Councillor Dumas, that Bill No. 22, An Ordinance to Amend the Evidence Ordinance, be introduced at this time.

BILL NO. 22  
INTRODUCED

MOTION CARRIED

MOTION  
CARRIED

Moved by Councillor Dumas, seconded by Councillor Shaw, that Bill No. 23, An Ordinance to Amend the Gaols Ordinance, be introduced at this time.

BILL NO. 23  
INTRODUCED

MOTION CARRIED

MOTION  
CARRIED

Moved by Councillor Shaw, seconded by Councillor Taylor, that Bill No. 24, An Ordinance for Granting to the Commissioner Certain Sums of Money to Defray the Expenses of the Public Service of the Territory, be introduced at this time.

BILL NO. 24  
INTRODUCED

MOTION CARRIED

MOTION  
CARRIED

Moved by Councillor Chamberlist, seconded by Councillor Dumas, that Bill No. 25, An Ordinance to Amend the Legal Profession Ordinance, be introduced at this time.

BILL NO. 25  
INTRODUCED

MOTION CARRIED

MOTION  
CARRIED

Moved by Councillor Gordon, seconded by Councillor Shaw, that Bill No. 26, An Ordinance Respecting Dogs, be introduced at this time.

BILL NO. 26  
INTRODUCED

MOTION CARRIED

MOTION  
CARRIED

Moved by Councillor Taylor, seconded by Councillor McKinnon, that Bill No. 27, An Ordinance to Amend the Fire Prevention Ordinance, be introduced at this time.

BILL NO. 27  
INTRODUCED

MOTION CARRIED

MOTION  
CARRIED

Moved by Councillor Dumas, seconded by Councillor Chamberlist, that Bill No. 28, An Ordinance to Provide for Government Control and Sale of Alcoholic Liquors, be introduced at this time.

BILL NO. 28  
INTRODUCED

MOTION CARRIED

MOTION  
CARRIED

Moved by Councillor Shaw, seconded by Councillor Gordon, that Bill No. 29, An Ordinance to Amend the Municipal Ordinance, be introduced at this time.

BILL NO. 29  
INTRODUCED

MOTION CARRIED

MOTION  
CARRIED

BILL NO. 30 Moved by Councillor Shaw, seconded by Councillor Dumas, that Bill INTRODUCED No. 30, An Ordinance to Impose a Tax on Liquor, be introduced at this time.

MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker: May I have your further pleasure. Before we proceed, gentlemen, you'll notice for some unknown reason there is a change in the listing on the order paper from the usual form. However, I don't see any detriment. We will proceed as it is for today. Are there any notices of motions or resolutions?

SESSIONAL  
PAPERS NO.  
10 AND 13

Mr. Taylor: Mr. Speaker, I would like to give notice of motion respecting Sessional Papers No. 10 and No. 13.

Mr. Speaker: Are there any further notices of motion or resolution?

LOW COST  
HOUSING

Mr. McKinnon: Mr. Speaker, I would like to give notice of motion concerning low cost housing.

Mr. Speaker: May I have your further pleasure.

SESSIONAL  
PAPERS NO.  
4 AND 6

Mr. Dumas: Mr. Speaker, I'd like to give notice of motion regarding Sessional Papers No. 4 and No. 6.

Mr. Speaker: I will have to declare this last notice out of order on the grounds that the sessional papers have not as yet been tabled. Are there any further notices of motion or resolution?

Mr. Dumas: Mr. Speaker, would you clarify what you just said, please.

Mr. Speaker: Yes; the question relates to the tabling of sessional papers, and it has been the usual practice to table sessional papers within the House and only after that point has been reached then may these questions be decided or discussed.

Mr. Dumas: I see. Then I take it all the motions regarding sessional papers are out of order.

Mr. Speaker: At the moment, yes. May I have your further pleasure on the notices of motion or resolution?

Mr. Shaw: Mr. Speaker, I believe there were some papers tabled yesterday - sessional papers - I believe I have that right - along with the Commissioner's opening address. Perhaps the Clerk might clarify that matter.

Mr. Speaker: I don't believe so. I don't believe they were, because I'm sure that I didn't table them yesterday and it would be unorthodox usually to table anything on the first day. The first day is merely the opening of any parliament or any government session, and not a day of business.

Mr. Chamberlist: Mr. Speaker, may I ask when it would be your pleasure that the sessional papers be tabled?

Mr. Speaker: Well, I think the usual practice would be tomorrow morning unless the House felt differently about it. If there are no further notices of motion or resolution, may we proceed to orders of the day? Under notice of motion for production of papers, may I have your pleasure? Are there any notices of motion for

the production of papers? If not, may we proceed to questions?

Mr. Dumas: Mr. Speaker, I'd like to ask the Commissioner if anything has been done regarding consolidation of ordinances and if anything has been done when we might expect some results?

CONSOLIDATION OF ORDINANCES

Mr. Commissioner: Mr. Speaker, might I defer that question to the Legal Adviser to bring Council up to date on that particular matter.

Mr. Legal Adviser: Mr. Speaker, I'm not in a position to bring them exactly up to date because Mr. Taylor, who was in charge of this part of the operation, is not presently with us. If I could take this as notice I could table a sessional paper on it.

Mr. Chamberlist: Mr. Speaker, a question to the Commissioner. Mr. Commissioner, when will the 14 or more lots released from the R.C.M.P. compound be placed on sale to the general public?

LOTS FROM R.C.M.P. COMPOUND

Mr. Commissioner: Mr. Speaker, could I have notice on that question so that I can bring forth accurate information.

Mr. Chamberlist: A supplementary question, then, perhaps, Mr. Commissioner, you would be able to find information on. My information has it that the Kelly-Douglas Organization is attempting to obtain this property for the purpose of constructing a large groceteria. Can the Commissioner confirm this information?

Mr. Commissioner: Could I include that in the answer to bring forth?

Mr. Speaker: Agreed. Are there any further questions?

Mr. McKinnon: Mr. Speaker, I would like to ask the Commissioner a question. I would like to ask him where Bill No. 28, the Liquor Ordinance, was drafted.

QUESTION RE BILL NO. 28

Mr. Speaker: I think it is normal under the rules that questions related to bills presently before the House - that these questions should be taken up when the bill is taken up in the House discussion. Are there any further questions?

Mr. McKinnon: I would like to ask the Commissioner whether copies of the submission of the Territorial Government before the Task Force on Housing will be made available to all Members of Council as soon as possible, Mr. Speaker?

SUBMISSION FROM YTG TO TASK FORCE ON HOUSING

Mr. Commissioner: If Council wishes, then, Mr. Speaker, we would be very happy to have sufficient copies made to circulate.

Mr. Speaker: Are there any further questions?

Mr. McKinnon: I would like to submit a written question, Mr. Speaker, concerning the lots available in Porter Creek at this time.

QUESTION RE LOTS AVAILABLE IN PORTER CREEK

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

Mr. Taylor takes the Chair.

Mr. Speaker: Councillor Livesey.

DISPOSAL  
OF MINING  
WASTES FROM  
FARO

Mr. Livesey: Mr. Speaker, I have four questions this morning to the Administration. I have written them out with the specific intention to give the Administration time and notice and a period in which they may be able to obtain the desired answers, and my first question is: Has the arrangement for projected disposal of mining wastes from the Faro operations of Anvil Mining Company been cleared by J.F. Whichard, District Engineer of National Health and Welfare as (1) non-injurious to health, and (2) free from any contribution to water pollution in rivers, lakes or streams in the Yukon Territory? My question number two, addressed to the Administration. (1) During the past five years have any Yukon school students, having completed grade thirteen, been disallowed credit for completion of such studies upon enrolment in any university in Canada?, and (2) if so, how many? My question number three addressed to the Administration is - is the Administration aware that the Great Plains Development of Canada, General Crude Oil Company, and J. Ray McDermott Canada Limited, plan to drill oil this winter at Taylor Lake in the Yukon Territory, and if so, how much acreage is involved or under lease for this purpose? and question number four addressed to the Administration - the subject is the cost of operating Territorial trucks, and the question is what is the cost per mile and the cost per ton mile to operate Territorial Government trucks in the Yukon to haul goods and materials where the total cost of operation all inclusive, including depreciation, wages, repairs, maintenance, etc. is taken into consideration? Thank you, Mr. Speaker.

DISALLOW-  
ING OF GR.  
13 CREDITS  
UPON ENROL-  
MENT IN  
UNIVERSITY

DRILLING  
OIL AT  
TAYLOR  
LAKE

COST OF  
OPERATING  
YTG TRUCKS

Mr. Livesey resumes the Chair.

Mr. Speaker: May we proceed to public bills and orders.

FIRST  
READING  
BILL NO.  
1

Mr. Shaw: Mr. Speaker, I would move that first reading be given to Bill No. 1, An Ordinance to Enable the Commissioner to Obtain The Opinion of the Public by Means of a Plebiscite.

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

MOTION  
CARRIED

MOTION CARRIED

SECOND  
READING  
BILL NO.  
1

Moved by Councillor Shaw, seconded by Councillor Dumas, that Bill No. 1, An Ordinance to Enable the Commissioner to Obtain the Opinion of the Public by Means of a Plebiscite, be given Second Reading at this time.

Mr. McKinnon: Mr. Speaker, before the question is called, I have a few comments I would like to make on the principle of Bill No. 1, An Ordinance to Enable the Commissioner to Obtain the Opinion of the Public by Means of a Plebiscite. Mr. Speaker, in the Explanatory Note of Bill No. 1 it states the purpose of this bill is to enable the Commissioner to attain an expression of public opinion on any matter where this appears desirable. Now, Mr. Speaker, I can see the desirability of such an ordinance where there is a matter before the public in an area of grave public concern or of enough public controversy that the Commissioner feels that a plebiscite should be called. Where I disagree with the principle of the bill, however, is that there may be areas, there may be definite areas where the Council of the Yukon Territory feel that it is within their prerogative and not the Commissioner's prerogative, that the question not be decided by plebiscite but rather be decided by the actions of this wholly elective body. What I am

saying, Mr. Speaker, is that this type of ordinance where unilaterally the powers are given to the Commissioner to be able to call a plebiscite on any matter that he feels is important to the public at any time actually takes away from the power of this Council, and I say it in this respect for this reason, because there could be an area where the Council feel that they should be making the decision at this Council Table, and the Commissioner feels that the Council has made a wrong decision and the decision that he feels that he should be able to go directly to the public to over-ride or circumvent the wishes and the desires and the decision that is made at this Council Table, and before I support this bill and in Committee discussions, Mr. Speaker, it's going to have to be proven to me and shown where the protection is for the elected Members of this Council if the Commissioner decides to over-ride a decision that this Council makes in calling a plebiscite before the public. Thank you, Mr. Speaker.

BILL NO.  
1

Mr. Dumas: Mr. Speaker, I concur with the thoughts expressed by the Honourable Member from Whitehorse North, and it is my intention as seconder of the bill to get it into Committee so that we can thrash it out wholly, completely.

Mr. Speaker: Are there any further discussions with respect to the principle of Bill No. 1?

Mr. Shaw: Mr. Speaker, as mover of the motion, I agree with the comments of the Honourable Member from Whitehorse North. However, I see that as the matter of principle to object to the bill, however, until we have the bill for discussion, it would be very difficult to finalize it in one way or the other and therefore I feel that it is necessary to give it this second reading in order to proceed further with it rather than not discussing it at all.

Mr. Speaker: Are there any further comments?

MOTION CARRIED

MOTION  
CARRIED

Mr. Speaker: What is your further pleasure, gentlemen?

Mr. Taylor: Mr. Speaker, now that we have come to the end of our orders of the day, I would like to propose a procedural motion that - being that I would move that Standing Order No. 41 be suspended for today only in order that we may proceed - revert to orders of the day and proceed with further processing of bills and motions.

SUSPENSION  
OF STANDING  
ORDER NO.  
41

Mr. Shaw: I will second that motion, Mr. Speaker.

MOTION CARRIED

MOTION  
CARRIED

Mr. Speaker: May I have your pleasure?

Moved by Councillor Shaw, seconded by Councillor McKinnon, that Bill No. 2, An Ordinance Respecting the Imposition and Collection of a Tax on Fuel Oil, be given first reading.

FIRST  
READING  
BILL NO. 2

MOTION CARRIED

MOTION  
CARRIED

SECOND  
READING  
BILL NO. 2 Moved by Councillor Shaw, seconded by Councillor Dumas, that Bill No. 2, An Ordinance Respecting the Imposition and Collection of a Tax on Fuel Oil, be given second reading.

MOTION  
CARRIED MOTION CARRIED

FIRST  
READING  
BILL NO. 3 Moved by Councillor Taylor, seconded by Councillor Shaw, that Bill No. 3, An Ordinance to Establish the Historic Sites and Monuments Board of the Yukon Territory, be given first reading.

MOTION  
CARRIED MOTION CARRIED

SECOND  
READING  
BILL NO. 3 Moved by Councillor Taylor, seconded by Councillor Shaw, that Bill No. 3, An Ordinance to Establish the Historic Sites and Monuments Board of the Yukon Territory, be given second reading.

MOTION  
CARRIED MOTION CARRIED

FIRST  
READING  
BILL NO. 4 Moved by Councillor Dumas, seconded by Councillor Chamberlist, that Bill No. 4, An Ordinance Respecting Businesses and the Issue of Licences Therefor, be given first reading.

MOTION  
CARRIED MOTION CARRIED

SECOND  
READING  
BILL NO. 4 Moved by Councillor Dumas, seconded by Councillor Chamberlist, that Bill No. 4, An Ordinance Respecting Businesses and the Issue of Licences Therefor, be given second reading.

MOTION  
CARRIED MOTION CARRIED

FIRST  
READING  
BILL NO. 5 Moved by Councillor Shaw, seconded by Councillor Gordon, that Bill No. 5, An Ordinance Respecting Tourist Establishments, be given first reading.

MOTION  
CARRIED MOTION CARRIED

SECOND  
READING  
BILL NO. 5 Moved by Councillor Shaw, seconded by Councillor Gordon, that Bill No. 5, An Ordinance Respecting Tourist Establishments, be given second reading.

MOTION  
CARRIED MOTION CARRIED

FIRST  
READING  
BILL NO. 6 Moved by Councillor Gordon, seconded by Councillor Shaw, that Bill No. 6, An Ordinance to Amend the Mining Safety Ordinance, be given first reading.

MOTION  
CARRIED MOTION CARRIED

SECOND  
READING  
BILL NO. 6 Moved by Councillor Gordon, seconded by Councillor Shaw, that Bill No. 6, An Ordinance to Amend the Mining Safety Ordinance, be given second reading.

MOTION  
CARRIED MOTION CARRIED

FIRST  
READING  
BILL NO. 7 Moved by Councillor Chamberlist, seconded by Councillor Dumas, that Bill No. 7, An Ordinance to Amend the Interpretation Ordinance, be given first reading.

MOTION  
CARRIED MOTION CARRIED



Moved by Councillor Chamberlist, seconded by Councillor Dumas, that Bill No. 7, An Ordinance to Amend the Interpretation Ordinance, be given second reading.

SECOND  
READING  
BILL NO. 7  
MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker: May I have your pleasure, gentlemen.

Moved by Councillor Shaw, seconded by Councillor Dumas, that the Speaker do now leave the Chair and Council resolve itself into Committee of the Whole to discuss bills.

MOTION  
CARRIED

MOTION CARRIED

Mr. Taylor takes the Chair in Committee.

Mr. Chairman: Gentlemen, we will be discussing Bill No. 1, and I'll declare a five-minute recess at this time.

RECESS

RECESS

Mr. Chairman: At this time I will call Committee to order, and we are discussing Bill No. 1, namely an Ordinance to Enable the Commissioner to Obtain the Opinion of the Public by Means of a Plebiscite, and I'll proceed to the reading of the Bill.

BILL  
NO. 1

Mr. Chairman reads Bill No. 1, An Ordinance to Enable the Commissioner to Obtain the Opinion of the Public by means of a Plebiscite.

Mr. Dumas: Mr. Chairman, in addition to what the Honourable Member for Whitehorse North had to say in the House, it seems to me that if we have villages set up as the Administration seems to want throughout the Territory, we have boards set up as the Administration seems to want in just about every field, and now we have this plebiscite - there's really not much sense in having a Territorial Council when all of this is done. I'm opposed to this on principle. I think the idea of a plebiscite - when the time comes that this Council has executive control of the Territory and is responsible, then I think we have time for a plebiscite.

Mr. Chamberlist: Mr. Chairman, I would first like to find out from Mr. Legal Adviser whether there is any type of a similar legislation in any of the Provinces of Canada?

Mr. Legal Adviser: Mr. Chairman, not only is there similar legislation in the Provinces of Canada but this particular bill is merely the resurrection of an ordinance which was in force for about forty or fifty years in the Yukon Territory itself, and it was dropped as one of about six or seven bills some few years ago because it had not been put into operation for many years before that - no plebiscite had been held, and when we were researching this particular bill itself we had the greatest difficulty in finding out what had happened to the original bill. We found that it was in existence up to a certain point and it then was repealed, and nobody could track down exactly what happened or how it came to be repealed, but we found that it was repealed in one of six ordinances repealed at that time. I've forgotten exactly what the year was, but there is no ulterior motive in the bill. It follows a common form throughout the Provinces, and the particular form that is used is to enable the Commissioner to obtain and expect an opinion because he represents in his person

BILL NO. 1 the Administration of which the Council are a part - one would hope would have a greater part, but he may direct by regulation but it is impossible for the Commissioner and Council to actually make regulation - they make a law, not a regulation.

Mr. Dumas: I think the answer lies in what the Legal Adviser has just said that this type of an ordinance is in effect in the Provinces. I think when we become a province we can put this type of ordinance into effect.

Mr. Chairman: Councillor Livesey.

Mr. Livesey: I was just about to say the same thing. I couldn't quite see how the provinces, Mr. Chairman, could possibly be operating with a commissioner. I'm sure they're not, and as long as they're not operating, I don't see the similarity, and I certainly don't agree that increasing the powers of the present Administration is the direction in which we are going. Thank you, Mr. Chairman.

Mr. Chamberlist: Mr. Chairman, I'm more concerned as to the reasons why this particular ordinance was withdrawn - repealed when Mr. Legal Adviser says that it was on the books. Obviously, even at that time when there were not so enlightened Members of Territorial Council sitting, had this piece of legislation repealed. It would seem to me that once this legislation is repealed, it shows obviously that there is no necessity for it. I, myself, agree with other Members who have spoken that the idea of extending the powers of the Commissioner should be dispensed with completely in all the types of legislation and wherever possible. I'd like to make my position quite clear and quite quickly - I will oppose the passing of this bill.

Mr. Chairman: Will you take the Chair, Councillor Chamberlist?

Mr. Chamberlist: Yes.

Mr. Taylor: Mr. Chairman, I concur and agree with the comments made by several Members in rejecting this bill. It seems to me, as it does to others, that it takes away a great deal of the responsibility and authority of the Council, and it also seems to me that if the Administration require a plebiscite on any matter, it would occur to me that the matter must be of importance to the Territory and all people in the Territory, and it seems that in the first instance the Council's opinion should be sought both in respect of the matter itself, and in respect of whether or not a plebiscite should be held, and it is still the prerogative of the Council to authorize the Commissioner to hold a plebiscite, if in its wisdom it feels it should be done, and of course sitting in the Chair I have no vote in this matter except in the case of a tie-vote, but certainly were I to be able to vote I would vote negative in this respect.

Mr. McKinnon: Mr. Chairman, if I have anything to do with this resurrection, it is going to be the shortest resurrection in western Christian history, as far as I am concerned. I agree with the concept that there should be a plebiscite, if such a plebiscite is necessary, but certainly the elected Members of this Council, and not the Commissioner, should determine whether there is a question of such import that a plebiscite should be held. I hope that next spring that we'll be holding a plebiscite

in the Porter Creek area to decide whether Porter Creek should become a village or not. I don't think the machinery is now present under Territorial Ordinance so that such a plebiscite can be held, but I believe that myself, as a Member, directly involved with the development of the Porter Creek area should be able to come before this Council at the spring session and say we have arrived at the point where we feel that we should hold a plebiscite as to the further development of the Porter Creek area, whether it should become a village, whether it should remain a Territorial subdivision or whether it should become a local improvement district, and just looking at this bill, the paragraphs that whenever it appears that an expression of an opinion of the public is necessary or desirable on any matter, the Commissioner, unilaterally, acting on his own initiative, with no directive, with no enquiry to the Council at all, may direct by regulation that a plebiscite be held. Mr. Chairman, it just seems to me that the very minimal, minor, non-existent powers of the elected Members of this House are systematically - I don't know whether it is intentional or not, but the increase in the number of regulatory - increase in the Administrative control seems to be going tighter in favour of the Administration and away from the elected Members of the Council rather than the right direction I say they should be taking, or for the Council to approve a bill of this nature putting almost the sort of power in the hands of the Commissioner with absolutely no consideration of the Council's wishes at all would be - I couldn't think of a more retrograde step in the history of the development of the Yukon at this time, and certainly if there is - if you could come to an area where it speaks that elected Members of the Council be in on legislative programming because I think you can come up with a bill that will allow for a plebiscite to be held in areas where the Commissioner and the Council feel that a plebiscite should be held, but certainly this isn't the way to go about it. Certainly, there has to be some sort of initiative on the part of the Council to see whether the matter is of enough concern or import that a plebiscite should be held, and I think that we should examine this bill further. We should get together with Mr. Legal Adviser and see if we could possibly have something that would maintain both interests, those of the Administration and those of the elected Members, so that somehow plebiscites can be held on issues but not leaving such broad and sweeping powers directly in the hands of the Commissioner and the Commissioner alone.

Mr. Chairman: Councillor Taylor.

Mr. Taylor: Well, Mr. Chairman, some time ago we held a plebiscite in respect of time in the Yukon Territory and this didn't seem to cause any problem. The plebiscite was held, and I might say it wasn't respected but it was held, and moneys were found for this. The matter seemed to function all right, and I can't understand for the life of me why plebiscites can't be held in the normal fashion even today without this legislation. I wonder if Mr. Legal Adviser could enlighten me in this regard.

Mr. Legal Adviser: We don't, Mr. Chairman, have any legislation enabling a plebiscite to be held at the moment, and to give this power for plebiscites either on a large scale or more commonly on a small and comparatively minor scale that this bill is introduced.

Mr. Taylor: Mr. Chairman, one final observation or question to Mr. Legal Adviser would be - could this matter then not be resolved by making all reference to the Commissioner in its proper form and

BILL NO. 1 make it Commissioner in Council of the Yukon Territory. Would this not suffice?

Mr. Chairman: Mr. Legal Adviser, could you answer that, please.

Mr. Legal Adviser: Sorry, I was speaking to the Commissioner, but I wouldn't.....

Mr. Chairman: Councillor Taylor, Mr. Legal Adviser, has suggested that the reference, instead of being whenever it appears to the Commissioner, should read whenever it appears to the Commissioner in Council.

Mr. Legal Adviser: Well, with respect, Mr. Chairman, this is transferring power to a position in a regulation where it should not be, and would cause awkwardness, not necessarily now, but it would certainly cause awkwardness in the future, but the main purpose of this bill being brought to us at the present time is to deal with the extension of city boundaries. It has a particular purpose.

Mr. Chairman: Councillor Livesey.

Mr. Livesey: Mr. Chairman, the Honourable Member for Watson Lake brought up a seemingly interesting point when he mentioned the time plebiscite, but it is not the only plebiscite that is being ignored, and so far in the Yukon Territory I think the history would be that we have a plebiscite and then we either ignore it or defeat it by superior powers. I think this is what happened in the Municipality of the City of Whitehorse where the people living in the area had a plebiscite and this was over-ruled by the Commissioner, if I remember correctly, where the people said no, but the power said yes. Now, on the other instance the same thing occurred on the last plebiscite on a question of whether we should have Yukon northern, eastern, western, southern standard time or not - contrary to the code on ethics of science, and contrary to the code set down by the Washington Bureau of Standards, the British Bureau of Standards and the Ottawa Bureau of Standards, the Commissioner set up something that he hadn't the power to do and he set up Yukon eastern-western standard time. I don't understand how he got this situation. Canada is a subsidiary to the convention throughout the world on the realization of what areas in the world are times. This is the law. Canada signed the agreement, but we ignored it in the Yukon, so what happened was that we got turned around and said sure, the least number of votes shall win. Now, that is a funny kind of democracy. I never heard of this kind of thing before anywhere else in the whole world. I thought it was the majority that won, but no it was the minority that won, the least number of votes got all the power. Now, we have another ordinance and we haven't of course looked at all the various side issues that can come up on a situation like this, but here we have a bill presented to the elected Members telling the elected Members that, well, in essence I don't think that you should participate in this. Your constituents might not like it but that's beside the point. It's not you that is going to make the decision, it's the people that are not elected that are going to make a decision that is going to affect you as individuals, so I can't quite see it the way it's formed. Mr. Chairman. I don't follow it. The history of the Yukon shows that this plebiscite situation is something we better look into.

Mr. Chairman: Councillor Shaw.

BILL NO. 1

Mr. Shaw: Thank you, Mr. Chairman. In retrospect, Mr. Chairman, talking about abrogation of rights, the Commissioner and the Council also abrogated the people's rights by going contrary to what the people themselves ordained should be in a plebiscite. The Commissioner is the Administration that is responsible for conducting the plebiscite and also coming to a decision. The Council agreed with the same matter and changed the time around because the pressure from Whitehorse was greater than it was from anywhere else in the Territory, so therefore that's the time we were stuck with, as it is now, two times, which was contrary to the wish of the people as put down in the plebiscite. There is no question about that. However, that's what we're stuck with right now and I don't want to get into an issue in time again. I just would concur with Councillor Livesey when he said that there is not such a thing as eastern standard time, but I hear that about ten times a day over the radio. There is only one standard time and that is standard time period. You can't have two standards. An inch is an inch. An hour is an hour. A foot is a foot. You don't have a thirteen inch foot and neither do you have any other variations from standard, so it might be a good time to clarify what is time and what is not time. The Yukon Act states that Yukon standard time shall be nine hours behind Greenwich. OK. That means the time that we had before the change was made, and I say due to pressures, not due to the wish of the people. There's no question about that. Now, we are getting back to another matter of plebiscites. I think, myself, that plebiscites are something that at times are really quite necessary. It's too bad they didn't have a plebiscite on some of the things that were around Whitehorse and then the people would know where they were situated. It would have saved a great deal of trouble, so I do think there are times when it is necessary. I would feel that when we have a plebiscite concerning the whole Yukon Territory that that should be a matter that should be sanctioned by both the Council and the Commissioner. In other words, Commissioner in Council. I agree to that, and I think the ordinance should be so changed to permit that, but on the other hand, or besides that, I should say, we do have little local expressions of opinion in certain areas, for certain reasons, and that may be too ponderous. Now, I'm not quite sure whether that is the case, but it could possibly be too ponderous to put into effect, to have to wait for a sitting of Council, so there may be some extenuating circumstances that the Commissioner would have the powers to conduct these type of small plebiscites in order to get efficient management of the affairs of the people in a local matter, but I would feel, Mr. Chairman, that when we have a plebiscite that is concerning the whole Territory that this is certainly a serious matter. It's something that effects the people and we want to have the opinions of the people and myself, I would feel that that should be something determined by the Commissioner in Council, and I would like to direct a question to the Legal Adviser, Mr. Chairman, as to any objections there may be to changing this ordinance to the effect that when a plebiscite is held over the Territory that this be changed to the actions of the Commissioner in Council. What objections would there be to that?

Mr. Legal Adviser: I couldn't give a direct answer to that, Mr. Chairman, because this is a question of policy rather than a question of law. There is no, obviously no reason why, for a matter of English - from the legal point of view you can't say whenever it appears to the Commissioner in Council, but there are policy reasons one way or another, and I wouldn't like to give a quick answer to the Council as to what the effect of this would be policy-wise as

BILL NO. 1 as opposed to legal-wise. Perhaps the Commissioner may have something to say about that.

Mr. Shaw: Mr. Chairman, I was very pleased to hear the Commissioner's comments on such a matter. I don't know how many plebiscites we have in the Territory. I've been here about thirty-two years and I think we've had one that I can recollect. There may have been another but I think there has only been one, and that was contrary to the wishes of the people so of course if you don't get too many between and if it is not desired by a powerful group of people they don't accept it anyway, so I don't know as that makes a great deal of difference, but I would like to have the Commissioner's opinion on changing this to matters, Territory-wise, the powers be invested in the Commissioner in Council.

Mr. Taylor: At this time I will resume the Chair.

Mr. Commissioner: Mr. Chairman, contrary to any opinion that Council may feel to the contrary we are not about to start embarking on a great series of plebiscites throughout the Territory to see what the temperature of everybody is on every subject that comes up, but there are certain things that require that the people who are going to be directly affected, namely the rate-payers, have got to have an opportunity of expressing themselves so that not only the Administration but Council also are going to know just exactly what the feeling of the public is. I want to refer one particular situation to you and that is the way the Municipal Ordinance calls for the extension of municipal boundaries. Now, the effect of the way the section is written, and I am subject to corrections from the Legal Adviser on this, but as I interpret this, and this is what brought about this plebiscite ordinance, is that we are called upon to ask for an expression of opinion which is laid down here in section 7 of the Municipal Ordinance, and there is no machinery set up for us to get this expression of opinion. Now, this is only one particular instance, and if Council is afraid that the Administration is going to use this ordinance as some sort of a weapon to pound the Council into submission to get something done, why I'm afraid that they have misinterpreted the thinking here entirely, and I am not too sure but what there may not be other ordinances, Mr. Chairman, where we are called upon before action is given to secure a certain expression of opinion from the rate-payers and it is my understanding that we have no legal machinery for doing this at the present time. This is the thought behind this particular ordinance that is before you right now.

Mr. Chairman: Councillor McKinnon.

Mr. McKinnon: Mr. Chairman, I would just like to ask the Commissioner whether the Administration would have any objection to section 2 being amended to read "Whenever it appears to the Commissioner in Council that an expression of opinion of the public is necessary or desirable on any matter, the Commissioner may direct by regulation that a plebiscite be held."? The amendment meaning and being that the Administrative control and the Administrative regulation of the actual plebiscite would be in the hands of the Administration where it belongs. However, the decision as to whether the matter is of enough import that a plebiscite should be held would be in the hands of the Commissioner working and with the advice and consent of the Council. That to me would seem an obvious solution. I, myself, can't see any

particular objection that the Administration should have. I was just wondering what your comments would be.

BILL NO. 1

Mr. Chairman: Mr. Commissioner.

Mr. Commissioner: Mr. Chairman, you will have to give me time to examine this particular situation, not from the point of view of the principle involved, but from the point of view of the mechanics involved. As I pointed out to you, there are certain ordinances that say that we must do certain things and we don't have the authority to do it. I'm quite prepared to bring forward and answer to Councillor McKinnon's question as soon as I have had an opportunity to take a look at the implications that are involved.

Mr. McKinnon: Mr. Chairman, this is where I become suspicious, because I hear time and time again that we have no ulterior motives - we're coming here simply because we want to set up the machinery of a plebiscite. I'm willing to go along with this. I agree it's a needed thing. It's necessary, and I'm not suspicious and I don't think the Commissioner has any ulterior motives, but then as soon as you come up with a simple solution that seems to satisfy everyone, then while we may have to look into the mechanics of this - there may be more involved than meets the eye - and we'll have to give it a thorough study and come up with an answer later. This is when I do become suspicious, and I wonder if maybe I am just a little too naive in not.....the solution to the problem.

Mr. Commissioner: Mr. Chairman, this is basically why this thing is before you is because when some of these ordinances were written that nobody took the time out to try and find out how they were going to give effect to the very things that they had before you, and this is exactly what I suggested we have a look at. I'm not against the suggestion of the Council as made, but certainly I do think that it is in the best interests of everybody concerned, and the general public in particular to take a look to see whether or not what the Councillor is suggesting is in fact applicable in those particular ordinances that we are going to be faced with here in applying in the very near future.

Mr. Chairman: Councillor Dumas.

Mr. Dumas: Mr. Chairman, two things were mentioned - one by the Legal Adviser, and one by the Commissioner. The Commissioner talks about good faith in this, and like the Honourable Member from Whitehorse North, I agree we must have good faith, but surely the Commissioner, being an astute person, realizes that you don't make laws on this basis because there is nothing guaranteeing us that the present Commissioner is going to be Commissioner forever-and-ever. Therefore you can't make a law that gives a leeway to somebody to abuse the power under that law. The other statement made by the Legal Adviser is quite astounding in view of the fact that he's a constitutional lawyer. He suggests that a law be passed now, a general law, in order to meet an immediate situation, i.e. the extension of the city boundary. Now, by all that's right and holy in the rules of legislation and of making laws, you just don't pass general laws in order to meet immediate situations.

Mr. Chairman: Councillor Chamberlist.

Mr. Chamberlist: Mr. Chairman, when the Commissioner spoke, he made reference to section 7 of the Municipal Ordinance, and he also

BILL NO. 1 said, if you recall, that the Legal Adviser will correct me if I'm wrong. Well, he was wrong but Mr. Legal Adviser didn't correct him because he is a good Administrative officer and didn't want to do that. Section 7 of the Municipal Ordinance has its own way, and it is entirely separate and has nothing at all to do with a Territorial plebiscite. Section 7 of the Municipal Ordinance denotes where a petition is received from the Municipal Council, with reference to the enlargement of the boundaries, and it calls for two-thirds of the rate-payers of the municipality voting on a plebiscite that is called by the municipality, not by the Territory, or by the Commissioner, so therefore this is not applicable. Now, what does concern me is the fact that as I have stated earlier during the past few sessions that I believe that the powers of the Commissioner, of the office of Commissioner, should be limited and gradually reduced; that the powers of the elected representatives should be gradually increased, but while we have the situation as we have within the Yukon Territory of having a Commissioner, of having an elected Council, that the Administration and the elected representatives should be working together; that any piece of legislation that is required to put administrative effect into operation expeditiously should be Commissioner in Council. I will not at any time raise any objection where legislation denotes that Commissioner in Council, that is the Commissioner from the advice and consent of Council will be able to do certain things - I will not object to that, but the moment I see any legislation that gives the power directly to the Commissioner himself without the powers being shared by the Legislative Body, I will be opposed to it absolutely, completely, no ifs and buts. If the Administration wish to change section 2 as has been suggested by the Honourable Member for Watson Lake and the Honourable Member from Whitehorse North, to read the Commissioner in Council, I will review my comments.

Mr. Commissioner: Mr. Chairman, with respect, this is the very problem that section 7 deals with here. What happens in the municipality is laid down. It is the ability to get a legal tip of the thinking of the people in the area beyond the municipality that we are dealing with here at this particular time. This is where the necessity of a law or an ordinance to give us the authority to do this is required to give effect to section 7. Section 7 calls for two expressions of public opinion. One, within the municipality, which the municipality has the authority to create by-laws to do; that which is beyond the borders of the present municipality, i.e. a Territorial administered area, is where the test in this particular case requires some specific law to permit us.

Mr. McKinnon: Mr. Chairman, all that I can say is that my curiosity is really aroused now because we're being told that we need the plebiscite ordinance so that a plebiscite can be held concerning the extension of the city boundaries outside the municipality right now, and not being privy to the policy of the Territorial Government it would certainly be very interesting to me to hear what the policy of the Territorial Government is in respect to extending the City of Whitehorse's boundary at this time. The policy is to ask the people.

Mr. Chamberlist: Mr. Chairman, how has this been done before? We have had the boundaries of the City of Whitehorse extended four times. We didn't have a plebiscite ordinance for it. Is it the suggestion that these extensions have been made illegally? Because



if this is the situation then in that case we're in a little bit of a mix-up all over again. So, all those people outside the original boundaries of the City of Whitehorse are paying their taxes to the wrong people. Any parking meters in that area? BILL NO. 1

Mr. Chairman: Mr. Commissioner.

Mr. Commissioner: Mr. Chairman, with respect, what the Councillor raises is an absolutely valid point. The only thing being that three of the boundary extensions covered an area where there were no residents to ask their opinion. One area that was an opinion asked was the area west of Eighth Avenue that happened approximately ten or eleven years ago, and there was the necessary test of their wishes was asked at that particular time. The mechanics of it, I'm sorry I can't answer.

Mr. Chamberlist: Mr. Chairman, I would like to move an amendment at this time. I would move that paragraph 2 of this ordinance be amended as follows: paragraph 2 should read "Whenever it appears to the Commissioner in Council that an expression of opinion of the public is necessary or desirable on any matter, the Commissioner may direct by regulation that a plebiscite be held."

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

Mr. McKinnon: Speaking on the motion, Mr. Chairman, the Commissioner has asked for a matter of time to review the situation to see whether or not this presents all kinds of administrative difficulties that will be completely unworkable. Before the question is put, Mr. Chairman, I would ask that the Committee give the Commissioner the indulgence of reviewing the situation and bringing an answer to Council on the question that he has asked time to be able to answer.

Mr. Chamberlist: Mr. Chairman, in view of the remarks of Councillor McKinnon, I beg leave, with the permission of the Committee, to withdraw the motion to amend.

Mr. Chairman: Does Committee agree?

All: Agree.

Mr. Chairman: Is it your wish then that this bill be deferred at this time for further consideration?

All: Agreed.

Mr. Chairman: The next bill will be Bill No. 2, An Ordinance Respecting the Imposition and Collection of a Tax on Fuel Oil. I will proceed with the reading of this bill section by section. (Reads section 1 and 2 of Bill No. 2). Clear? BILL NO. 2

Mr. Chamberlist: Question. I wonder if that interpretation section (h) "province" for the purpose of this Ordinance includes the State of Alaska and the Yukon Territory. I think the word Yukon should be put in there.

Mr. Legal Adviser: May I answer that question? I found that the Territory, as we know what it is - but also it is in conformity with the Interpretation Ordinance so that we don't have to say Yukon everytime and in every ordinance.

BILL NO. 2 Mr. Chairman: One question from the Chair. What about the Northwest Territories? We do have connecting roads.

Mr. Legal Adviser: They're in the plural, and they were included in the word province for all purposes.

Mr. Livesey: Question, Mr. Chairman. Does the Canada Interpretation Act include the State of Alaska and the word and definition of province? I don't believe it does.

Mr. Legal Adviser: What we're trying to do is be able to read the bill or the ordinance easily, and if we don't adopt this, which is a fairly common way of doing it, to include in one word what you want to include for the purpose of this particular bill and not other, then it makes drafting quite difficult, and it doesn't really matter for our purposes what the Canada Interpretation Act does. We are using our own interpretation specifically, regardless of other interpretations, for this particular bill in this particular section 2.

Mr. Chairman: Well, am I to understand then that Territory should be Territories in the plural, or in other words the Northwest Territories is not considered as part of this bill.

Mr. Legal Adviser: No. It is included in the word province as well without us saying so, Mr. Chairman.

Mr. Chamberlist: Supposing the reference is made to the Keewatin Territory or to the MacKenzie Territory. That is singular. All of them together are territories.

Mr. Legal Adviser: We're including in the word province all the rest of Canada, but we're including it in our own because when we're talking about province we're talking about interprovincial carriers who pack through one province to another and so on, and we've got to include Alaska to make it easier to draft the bill. We've also got to include territory for packing purposes.

Mr. Chairman: Anything further?

All: Clear.

Mr. Chairman: (Reads section 3 of Bill No. 2)

Mr. Chamberlist: Mr. Chairman, at this time I would like to make sure that this bill is a re-write of our existing bill and there isn't an increase in taxation. I want to make sure that this is the.....

Mr. Legal Adviser: Well, we couldn't exactly say there will be or there will not be. It is an artificial way following British Columbia of collecting our tax, so you will see from the note we're converting gallons of fuel into a rate of five miles per gallon, so the exact result of this one would think might be a slight increase of tax because of the more efficient method of collection but the purpose of the bill is not for the purpose of increasing tax. It is to change the method of collecting the tax.

Mr. Chairman: Speaking from the Chair, in view of the fact that we from time to time do alter the fuel tax and the amount of tax levied, would it not be easier to provide for this tax in a schedule to the bill rather than re-writing the bill everytime we - or is this the only way it can be worked?

Mr. Legal Adviser: Mr. Chairman, this is intended to be a permanent method of collection of tax. The rate of tax will vary but the method of conversion, five miles to the gallon, would presumably remain the same, but we don't attempt to change the rate of tax or anything about the tax in that form at all. This is merely the method of collection, and the conversion becomes automatic. So if the tax increase, the rate of conversion remains the same, but the person will presumably of course pay more tax. BILL NO. 2

Mr. Chairman: Councillor Livesey.

Mr. Livesey: Under section 3, with reference to consumers to pay tax, it states "subject to this Ordinance every consumer shall, at the time of purchase or receipt of delivery, pay to his supplier a tax of eleven cents per imperial gallon". This is imperative. He must pay it, but how about the exemption? Does this mean to say now that the tax must be paid irrespective of exemption, and the exemption is going to become a rebate, or what does it mean, because it seems to be contradictory to the next section, which states an exemption. Now, in one instance it says he shall pay, and in the next instance it says he doesn't have to. Now, just what does this mean? There is a contradiction. It seems to me there is a problem there when you state every consumer shall - he must pay whether he has been exempted or not. It doesn't make any difference, but obviously he shall, must, so, Mr. Chairman, I would like to enquire from the Legal Adviser precisely what he means by the imperative statement every consumer shall, and then quotes exemptions as second.

Mr. Legal Adviser: Mr. Chairman, anticipating the very close scrutiny that the Honourable Member would have given it, we put in the bill "subject to this ordinance" to start with to cover all the exemptions that will follow as you come through the ordinance.

Mr. Chairman: Really and truly though, I was just going to ask why pay eleven cents per imperial gallon, but you don't say of what - of fuel oil, of paint, or of water? If we were to be more specific.....

Mr. Legal Adviser: I think Mr. Chairman may have a point there.

Mr. Chairman: My point would be do you pay on the exemptions or the fuel oil? It just says imperial gallon, but it doesn't say of what.

Mr. Legal Adviser: I think, Mr. Chairman, you have a point because when it just says imperial gallon it could be for an imperial gallon of water, or anything. I think we had better say of fuel oil.

Mr. Chairman: Will an amendment be prepared to include fuel oil by the Administration?

Mr. Chamberlist: Well, it's a fuel oil ordinance, Mr. Chairman. It's not a water ordinance. We're talking about fuel oil and we're talking about an imperial gallon. Surely, it can only mean an imperial gallon of fuel oil. It can't mean anything else. This is not a paint ordinance; this is a collection of tax on fuel oil. I think it already speaks for itself. In my opinion there is an immediate innuendo that the tax is on the liquid that is

BILL NO. 2 being referred to, and in this case it is fuel oil.

Mr. Legal Adviser: With respect, Mr. Chairman, I agree with the Chairman. This is the key section of the bill, and it should be absolutely clear and precise because it imposes a tax. A tax section will always be construed in favour of the person who is avoiding paying the tax, and without the word fuel oil, I think it would be a bad section.

Mr. Chairman: Well, the Chair only observed that it might just save a lot of litigation that might otherwise start. Are we clear on section 3?

All: Clear.

Mr. Chairman: And I believe an amendment will be forthcoming?

Mr. Legal Adviser: Yes, Mr. Chairman.

Mr. Chairman: (Reads subsection (1) of section 4).  
Councillor Gordon.

Mrs. Gordon: May I pose a question to Mr. Legal Adviser? Supposing in the instance where a man has machinery he can convert to electricity to make use of these roads, but he must use the fuel oil to create the electricity. Do we collect taxation on this instance?

Mr. Legal Adviser: It's hard to give an exact answer to that, but the intention is to give an exemption to fuel used in stationary generators of electricity. One would assume if a person has a plant whereby they charge up a battery, and utilize the battery on the road, they are not using the fuel oil on the road. They are using the fuel oil in the stationary engine, and then of course if that problem became widespread, no doubt the problem would be brought to the attention to Council and a remedy would be sought, but the intention is to exempt stationary generators of electricity. This is mainly what is in light, but it could be for power.

Mrs. Gordon: Mr. Chairman, I am relating to a specific instance that was brought to me just on this particular point where a man in a plaster-mining operation could convert all his machinery to electricity and evade the tax on fuel oil.

Mr. Legal Adviser: It might be possible, but without having the exact case before us, I wouldn't like to give an opinion, but as the section stands it is intended to talk about stationary generators of electricity. If the generator starts to move on the vehicle then the tax becomes payable. If the generator moves, it is not a stationary generator.

Mr. Commissioner: Mr. Chairman, this is a very common situation in many parts of the Territory at the present time, and I think that Council will remember that we saw a very large electrical generating plant at Clinton Creek last spring and a goodly portion of the electricity was being used to operate the machinery that was digging the asbestos at the pit at the mine, and the secondary use of the fuel oil is to dig the asbestos, but it is not taxable. In the first instance the primaries of the fuel oil is in the stationary generation of electrical energy, so it is not something

that is not already going on.

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

Mr. Chamberlist: Yes.

Mr. Taylor: Mr. Chairman, just in light of what Mr. Commissioner has just stated that in some mining operations electrical energy is used, I sight the case of where electrical energy in large blocks are used in a milling process in order to run the dryers to dry the product. Why then can we not exempt those who use instead of electricity, who use fuel for drying their product in that mill process? Why can they not be exempt from fuel tax?

Mr. Commissioner: Mr. Chairman, they are already exempted. The interpretation of heat has been a subject of legal interpretation and where oil is burned for to create heat, what the heat is used for is not the question. It is what the primary purpose of the consumption of the oil that is used, just the same as what happens with the use of the electricity. We do not attempt to tax the use of the electricity. It is the stationary engine that generates it, and we have the situation where the interpretation was looked into and Mr. Legal Adviser might like to say something on this matter, but what the heat is used for is really not the point in question, it is heat and the application of it to dry ore is one thing which is exempt just the same as the application of the heat to heat your house.

Mr. Taylor: Mr. Chairman, that brings us back - it seems to me that there isn't, indeed, no clear outline or specific on just what heating is. It is not included in our definition section. Theoretically, I could argue in a court of law that the reason I put fuel in my car is to run my heater and while I'm running my heater I have to motivate the vehicle. All I'm doing is simply heating gasoline. It could go on and on and on, so would it not be wise then to spell out in the interpretation section just what heating does refer to?

Mr. Legal Adviser: Mr. Chairman, it is spelled out as well as one can do it, but law is an ongoing thing and when you attempt to make a definition or spell out what people can do, forward-moving operators are commonly one jump ahead of the government in making their interpretation of what they can do and an amendment may at that time become necessary. It became necessary for the Administration to consider what was meant by the word "for heating" which are reproduced in section 4, subsection 1, and the question was specifically asked for a particular type of operation was the tax exempt, and the question had some overtones to it, and the reply which was given was that at this time having regard to the section as it is now we would agree that oil used for a heating purpose is exempt from fuel oil taxation. That does not mean the Council could not change that overnight, but as the word stands the way we interpret it is a heating purpose is tax exempt, so in a specific instance if you had an oil heater in your car separate from the engine, and you could satisfy the Territorial Treasurer that this was so, it would in fact be tax exempt.

Mr. Taylor: One final word. The only reason I bring this up is because we're constantly being told that we have, for instance, now bill after bill that needs upgrading - our ordinances get out of

BILL NO. 2 date. My only suggestion was that if we could on these basic issues be a little more specific, we might save ourselves many trips back to the Council Table in the future. Thank you, Councillor Chamberlist, I'll resume the Chair.

Mr. Shaw: It is a little difficult some times to create laws as well as interpret laws, and I think that if we go back on this deal we'll find the tax was designed to get tax from certain things with certain objectives in view. Now, this is something that is rather difficult some times to interpret. For example, a person goes mining - we'll use that as an illustration - and he has a pump that he pumps water with for his mining purposes. Now, if that person has a generator on this piece of equipment and in turn the generator produces electricity to drive the pump then he doesn't pay tax, but if this pump is directly connected to this diesel engine then he pays tax. So, it is more, I think, a principle of what is considered should be taxed and should not be taxed, but there are ambiguities in it regardless, because there is a matter of whether there is the ultimate production is by electricity or by direct production by diesel power, and I think you'll find, for example, a company that has a large generating equipment or small generating equipment and drives the power for whatever purpose they may use for producing a product, he is tax exempt, but another person that can only have direct diesel power for that same purpose will pay tax. I think that is the way it works out. It seems somewhat unfair, but how you would straighten it out I don't know. It's a matter of whether the intention is to - for what purpose or from what sources the tax is derived from.

Mr. Chairman: Is there anything further on this section? I think in view of the time, gentlemen, we'll declare Committee in recess until 2:00 o'clock.

RECESS

RECESS

Mr. Chairman: I will call Committee back on order. We're clear BILL NO. 2 on Subsection 1 of Section 4. Subsection 2 (Reads subsection 2 of Bill No. 2) Clear? (Reads Subsection 3 of Bill No. 2)

Mr. Chamberlist: Mr. Chairman, I'd like to examine that. Are we talking about mineral oil?

Mr. Legal Advisor: I think we're actually talking about fuel oil?

Mr. Chamberlist: Should we say that Mr. Chairman is getting an advantage here?

Mr. Chairman: Are we clear on Subsection 3?

Some members: No.

Mr. Chamberlist: Medical purposes?

Mr. Legal Advisor: Liquid paraffin if fuel oil.

Mr. Chairman: Order please. Section 5. (Reads Section 5 of Bill No. 2) Clear? (Reads Section 6 of Bill No. 2) Councillor Shaw.

Mr. Shaw: I was wondering if that just means that if the Territorial Treasurer wishes to check up something that he is able to check up or does that mean that he has to produce all the invoices of all the fuel that he sells in that month?

Mr. Legal Advisor: No, the system is Mr. Chairman.....is that the distributor is actually the person who eventually pays the tax to the Territorial Treasurer and in the even of a query it is possible then for the Treasurer to go to the account.

Mr. Shaw: Thank you, Mr. Chairman.

Mr. Dumas: Mr. Chairman. Subsection (c) (Reads Subsection (c)) I don't have this quite clear in my mind as to .....does that mean when I go and buy fuel for heating I pay the tax and then later get a refund?

Mr. Legal Advisor: No, I wouldn't say this is so. If you buy fuel for an exempt purpose you fill in the proper declaration at the end of every month and you get a refund.

Mr. Livesey: Now what about retail purchasers such as the individual householder, every individual householder that purchases fuel oil for heat in the home? Will he have to produce a certificate?

Mr. Legal Advisor: No, he will be protected under the exempt sections.

Mr. Chamberlist: I think that's clear as far as I'm concerned.

Mr. Legal Advisor: This is presently in operation and we are merely reproducing the sections that are presently in force.

Mr. Livesey: This is a point, Mr. Chairman, that I couldn't understand this morning. We are merely repeating what's already in force. How is it looked upon as an amendment? This is a problem that bothered me when we were discussing the question before lunch. Surely when we talk about an amendment to an Ordinance, we're talking about something new. This is a point that puzzled me when it came up again. Is it new and if it isn't why is it an amendment?

Mr. Legal Advisor: In respect of certain uses, the method of charging the taxes is the same but all the other sections have to be reproduced in order to make it a comprehensive detailed Ordinance.

Mr. Chairman: Clear? Section 7. (Reads section 7 (1) of Bill No. 2) Mr. Chamberlist.

Mr. Chamberlist: Now, Mr. Chairman, it appears to me that there is in this a delegation of authority that cannot be given. I can't understand, quite frankly, and I think Mr. Legal Advisor should follow this particular point, that the Territorial Treasurer might enter at any reasonable time the business premises occupied by any person or the premises where his records are kept. If this is so, are we down to the stage now where any Head of a Department can authorize a person to do these things or should it not be that the Commissioner or his appointed persons can do these things. Now the Commissioner appoints the Treasurer to do it and then the Treasurer appoints somebody else to do it. This is a delegation of authority, and I don't think this can be done, and fall back the delagatus non potest once more.

Mr. Legal Advisor: I agree that the quotation is apt, delagatus non potest delegare. This is a correct use of it in a sense. But what the Bill asks the Councillors to do is allow the Territorial Treasurer to appoint somebody for the purpose. In other words they are delegating authority to the Territorial Treasurer and they're permitting him to re-delegate to an officer of the department. There is no objection in principle to a person who does the appointing being the Commissioner but the Territorial Treasurer has the responsibility for collecting the tax, he would be an appropriate person to appoint a particular auditor to go in and check a particular set of books, but from the Administrative point of view it just happens to be a convenience that the Treasurer be appointed. It would not be an improper delegation provided he has consent of the Council and it is known in advance.

Mr. Chairman: Councillor Chamberlist, would you take the chair please?

Councillor Chamberlist: Yes

Councillor Chamberlist takes the Chair.

Mr. Taylor: Mr. Chairman, I concur that I feel that if anyone should be appointed it should be .....the appointment should be made by the Commissioner and not by the Territorial Treasurer. For one thing we find the Territorial Treasurer operating our liquor business and he's our Director of Taxation and so forth but I feel that this is a field that should best be left to the Commissioner's discretion rather than the Territorial Treasurer. I believe that the Commissioner has the only rights of appointment under the Liquor Ordinance, under the Taxation Ordinance and I feel that this should follow the same trend and I would suggest that Section 7, Subsection 1 be amended accordingly. Thank you Councillor Chamberlist, I'll resume the Chair.

Mr. Taylor resumes the Chair.

Mr. Dumas: Mr. Chairman, I can't see where this should present any problem to the Administration so I'll go along with the suggestion with the Honourable Member from Watson Lake.

Mr. Legal Advisor: Mr. Chairman, is it possible if I consulted with the Administration that an amendment of these lines would be accepted, and then I could inform the House at a later point whether this is so and if it is so, I could prepare it in advance and so advise the House.



Mr. Chairman: Would Committee agree?

All: Agreed.

Mr. Chairman: I have noted this for further consideration. Subsection 2 of Bill No. 2. Was there anything further on 1? Subsection 2. (Reads Subsection 2 of Bill No. 2) I would believe that it would follow the reference to the Territorial Treasurer would be under study.

Mr. Legal Advisor: That's so except that the Territorial Treasurer occurs twice in Subsection 2 in each case a different head to it might be to change it where he first occurs in subsection 2 but it might not be agreeable to change him in the second time he appears.

Mr. Chairman: Does Committee agree?

All: Agreed.

Mr. Chairman: So noted. Clear on Subsection 2. Section 8 (Reads section 8)

Mr. Chamberlist: Question

Mr. Chairman: Mr. Chamberlist.

Mr. Chamberlist: Mr. Chairman, does this mean that somebody can travel through the Yukon with fifty gallons of gas in barrels in a pick-up truck. Leave the border at Lower Post, go right the way through to Alaska without having purchases any gas in the Territory. Has he got free passage all the way through? Does it mean that?

Mr. Legal Advisor: It's not the intention Mr. Chairman, to utilize it especially for that purpose. It's largely a question of attempting in what is a taxation of people Ordinance to allow an exemption to limit to a reasonable amount and this particular section took some thought and careful drafting to get in the quantity and the purpose for which it was drafted but it is not the intention merely to enable a person to drive through the Territory in a pick-up in this manner.

Mr. Chairman: One question from the Chair. Was it not the intention to pro-rate this on a mileage basis rather than this basis?

Mr. Legal Advisor: With inter-provincial carriers and the inter-provincial freighters, yes, but a pick-up might escape in this manner.

Mr. Livesey: Mr. Chairman, I have a point that I brought up at the last session and I brought it up at several other sessions and I don't know whether the House is aware of the fact of a change in Custom Regulations or not. At the border right now there is no specific necessity for any American car or any other car to check out of Canada. They can pass the Canadian customs and leave the country without any check what so ever. Also during the evening hours between the time when the Customs House closes down at eleven o'clock at night and opens again at seven o'clock in the morning there is traffic going both ways. When the Customs is closed and I leave it to your imagination as to what is going on there. I brought this up before but no action has been taken on it and I raised the specific question the last session, spring session, I believe it was, on the question of a number of things happening at the border. I got no satisfaction from it. The other point I'd like to bring up, Mr. Chairman, in specific reference to this Ordinance before us this afternoon is the question of truck-traffic between the Beaver Creek entrance point travelling to and from the Territory that doesn't touch Iron

Creek is any way, shape or form but turns down the Hines Cut-Off Road at Haines Junction and travels out of the Territory via Pleasant Camp. Now there's a lot of truck traffic going down this direction and there's a lot of car traffic going in this direction and there is nothing from the Territorial Government's point of view either at Mile 1202 or down at Pleasant Camp, so you've got an open sesame situation there as far as I can see you have no control what so ever in relation to this Bill and I would like to draw it to Committee's attention this afternoon because it seems to me that control that we're talking about although we are not talking about it so far in this Ordinance is Iron Creek or somewhere in that direction. This is where the control is going into the Yukon and the other two entrance points of, I think, considerable note are carried on now on an all year round basis don't seem to be covered and if there are answers to questions I would raise at this point I'm sure that the Administration can perhaps supply me with those answers. So far I don't know what they are.

Mr. Commissioner: Mr. Chairman, first and foremost I would say that the control of the Customs situation at Beaver Creek or any other port of entry comes definitely within the scheme of a Federal Government Department and if Council feels that the maintenance of the necessary Customs facility there is not in keeping with the traffic that is passing there any resolution of council made along these lines. I would be very pleased to pass it along to the Federal authorities that are involved. Secondly the question of giving effect to this Ordinance, I would say that the Ordinance before us, while it is a complete change in the manner of collecting the fuel tax is no different an enforcement than the Ordinance we have at the present time and I think that consideration would have to be given that we are going to find ourselves in a position of having to maintain check points where we could, literally speaking, control traffic at all points of entry into the Territory are not equal to the cost of maintaining these particular type of check facilities and with respect, Mr. Chairman, could I suggest that that particular aspect, you know the enforcement of this particular Ordinance, could it be left until a little bit later on here and I think there would be more than ample opportunity within the confines of the Ordinance as I understand it here when we get into the offences and penalty situation for this matter to be possibly aired more fully?

Committee: Agreed.

Mr. Dumas: One question. How did the Administration arrive at fifty gallons? It seems like it's just enough to get to Fairbanks from the border?

Mr. Commissioner: Mr. Chairman. It's a matter of what you are going to say. Are you going to say five gallons or are you going to say five hundred? You have to come up with some figure of reasonableness should I say. Also this method of permitting a certain amount of fuel to be available on a vehicle is literally speaking a reciprocal situation with the other two jurisdictions which are close to our border. Now the Legal Advisor tells me that they vary, they are not identical to the fifty gallons but there is a similar reciprocal situation, I don't know the exact gallonage between the State of Alaska and the Yukon and also something similar between the Yukon and the Province of British Columbia. I'm sure that we could determine the actual gallonage for you. I'm sure that we could do a little research on this if Council wanted to have it but it is a matter of what do you establish?

Mr. Chamberlist: My question I raised hasn't been answered. What I'm concerned about is this. It may be well true that this is a new method of obtaining the tax and it may be also true that apart from that this is almost identical to the Ordinance this will replace. But taking a rough figure and I feel that it is more important to obtain as much revenue from fuel tax, from the travel-

ling public who travel through the Yukon from outside the Yukon into the Yukon, to alleviate the taxation on Yukon people. Now if it was incorporated in the Ordinance and making it an offence that no vehicle should carry more than ten gallons in a can stand-by fuel when entering the Territory, we would find that the other forty gallons which he would have to purchase at eleven cents a gallon, is \$4.40, and taking the 10,000 vehicles, approximately would be passing through carrying fifty gallons, we would be losing \$44,000 in fuel tax revenue. Now that's no mean sum and this is one of the reasons why the Administration should recognize the need of others besides themselves to be brought into a legislative planning committee. Somebody thinking on these particular terms in a business-like manner, which obviously hasn't been done in this particular case, would recognize the fact that there is a way to get extra revenue of taxation from people outside the Territory who are going through the Territory. Now, therefore it should be obvious that this particular section should be reduced so that it should read, "not more than ten gallons" and making it an offence for anybody to transport fuel into the Territory more than than ten gallons. All that is happening is that there is a way to defeat buying gas in the Yukon Territory and so saving a matter of eleven cents a gallon on tax. We have to look at it therefore in a twofold manner which is best for the people of the Territory and I say what is best for the people of the Territory is to find ways and means of lessening the tax burden on the people of the Territory and this is a way of lessening the tax burden on the people of the Territory. As I say there's 10,000 vehicles carrying only ten gallons of gas instead of forty gallons of gas in barrels, this is going to give us \$44,000 revenue. This is my argument in this particular case.

Mr. Legal Advisor: Mr. Chairman would it suffice if I said I could ask the Territorial Treasurer exactly how the section comes to be arranged. It isn't a question of \$44,000 loss of revenue and it's an exaggeration to suggest that every vehicle passing through the check point is going to carry fifty gallons.

Mr. Chamberlist: But they may.....

Mr. Legal Advisor: It's a possibility but I could ask Territorial Treasurer.

Mr. Shaw: According to the way I read it Mr. Chairman, I can see that Councillor Chamberlist has a very good point, however I think we must consider that quite a number of tanks on standard automobiles ...larger ones contain twenty gallons for a start so that ten gallons he'd have to syphon off the gas he brought in if he happened to have a full tank so perhaps ten gallons would be a little too small for .....it doesn't say stand-by it says "brings into the Territory for his own use a quantity of fuel oil greater than fifty gallons" so what he has in his tank is a quantity of fuel I would assume. We, I believe, assuming on them carrying a barrel of gas so that I think twenty or twenty-five gallons would be a very good sum because from there on they certainly would be packing in fuel to avoid tax.

Mr. Chairman: Anything further on section 8? Section 9 (Reads Section 9 of Bill No.2)

Mr. Chamberlist: Question. That Section 9 starts with "Every distributor, supplier and person referred to in section 8" Now looking at Section 8 it only refers to every person. It doesn't make any reference at all to every distributor and supplier.

Mr. Legal Advisor: The person referred to is this mythical person who goes down every day and picks up the fifty gallons of fuel oil.

Mr. Chamberlist: I see.

Mr. Chairman: Section 10 (Reads Section 10 of Bill No. 2)  
Here again Mr. Legal Advisor, would not the Commissioner apply a bond.

Mr. Legal Advisor: This is a question of the detail of transferring the money contained in the bond to the tax which a person would owe. The Administration would be in the hands of the Council but normally speaking in other tax the Territorial Treasurer operates to collect the tax. He's actually collecting a tax by means of applying the bond but it is necessary for the Territorial Treasurer to exercise judgment in each case what the size of the bond would be having regard to business operated by the person applying for the particular exemption or permit and also having regard to the distance which had to be travelled or the regular distance the number of miles to be operated in a month and so on. So in this case it's only necessary to the judgment as to what to do with something which is laid down rather than specific judgment which might act to the detriment of the person. The Commissioner has pointed out that in section 6 of the Financial Administration Ordinance it says that "All public money shall be paid to the Territorial Treasurer deposited to the Yukon Consolidated Revenue Fund ." The principle is already accepted in other legislation it is paid to the Territorial Treasurer and that he is clothed with a particular duty as to what to do with the money that comes into his hands. The Commissioner shall establish next section "The Commissioner shall establish in the Yukon Territory accounts with such chartered banks as he designates for the deposit public money" Mr. Chairman, I'll just point out that we begin to link into the Motor Vehicles Ordinance. There's a companion piece of legislation linking in the operation the permits itself as opposed to tax.

Mr. Chairman: Section 11 (Reads Section 11 of Bill No. 2) Clear Section 12 (Reads Section 12 of Bill No. 2)

Mr. Livesey: Question. Is the assumption that five miles to the gallon a legal way of forming the basis for any tax when certain vehicles operate at five miles a gallon, some operate less, some operate more? Doesn't the Committee feel that this is a rather questionable way of determining the amount of fuel that a person has consumed especially if his record of his own purchases may turn out to be totally different from the number of miles and the variation created here by this formula. When I read that and looked it over, I thought to myself, that that was the most peculiar way of making an application for a quantity of fuel consumed by the miles travelled on the highway when obviously vehicles of the same weight and capacity and horse power may consume the same amount. This is true. But you're not talking about one vehicle, you're talking about a thousand and one vehicles all of different shapes and sizes. Wouldn't the owner of the vehicle have a very legitimate argument if he brought his case to court and pointed to his actual transactions and verified statements that he could produce as far as his actual consumption is concerned when the Territorial Government worked it out through the basis of this Ordinance that he had consumed that many more gallons because he travelled so many miles. I personally don't see the competency of the argument.

Mr. Legal Advisor: The Honourable Member has raised the key point of the Bill and as he correctly pointed out this is an arbitrary figure arrived at by finding out what other provinces do in a similar situation. It's an arbitrary figure of five miles per gallon. The situation which we're trying to avoid was where a tanker could load up somewhere south of Watson Lake and travel clean through without paying any tax, having paid tax in British Columbia. In British Columbia they are charged tax at a computed rate of five miles per gallon. We are adopting this in order to be able to collect a fair share of tax these heavy trucks

should pay on the particular runs through our Territory but as the Councillor pointed out his is a bit of an arbitrary figure and we're doing it because this is what's done elsewhere.

Mr. Chairman: Anything further?

Mr. Chamberlist: Just one question, Mr. Chairman. We are talking about inter-provincial trucks we are not talking about trucks operating within the Territory?

Mr. Commissioner: We're talking about all trucks.

Mr. Shaw: We're talking about all trucks, I do know, recollect a conversation some time ago about this person have a tractor-trailer said he got ten miles to the gallon on his tractor-trailer so I was just wondering about that. I was wondering Mr. Chairm, if the Administration might ask this question from whoever could answer it if the Administration is, say for example, contacted the White Pass Company or the Territorial Supply what are their average consumption per gallon if it does in fact, they use very large trucks, they use 318 horse power diesel jobs. Would they, a very large one, would that work out at five miles a gallon?

Mr. Legal Advisor: If I may answer that. Section 10 applies to the operator of an interprovincial carrier or a through freighter applies who applies for a permit and it also applies to a person asking for a single trip permit. These are special categories of vehicles which apply to the Registrar for certain types of permit. Either an in and out permit or through permit. Now it may be that we may have firms, within the Yukon who operate within this particular category of thinking and if so that when they're applying for their permits they will pay tax at this rate. But normally speaking it's only intended for the heavy vehicle that you're all familiar with passing in and out and through the Territory.

Mr. Shaw: One further question, Mr. Chairman, that will satisfy me in this matter. If for example a person within the Territory we'll say he had a small diesel tractor or truck would he be able to go up to a gas tank and buy the gasoline and pay the tax as he purchases it? In other words: it would be optional for a person in the Territory, kusebed within the Territory to take either one of two courses. Have the exemption certificate or draw up to a pump and buy gas in the normal manner with a tax paid?

Mr. Legal Advisor: No, Mr. Chairman, it's no visulized that we have an option. It will come into one class or the other. If they're the holder of this type of permit which they obtained from the Registrar of Motor Vehicles they will have the option in fact they're forced to pay taxes at the rate of five miles per gallon but if they're not operating the type of business which allows them to obtain that kind of permit when they want to buy their gas at the pumps in the normal way and they pay the full rate of tax. Unless they happen to be within a particualr class which entitled to an exemption for some purpose like certain type of farm vehicles in which case they would come within an exempt class. The average person operating an average business within the Territory will pay his tax in the normal way as part of his fuel cost either at the pumps or if he has an account with his supplier he will pay at the end of the month.

Mr. Shaw: There is an option then, Mr. Chairman, for local carriers to either buy their fuel at a pump or have one of these certificates.

BILL NO. 2 Mr. Legal Advisor: No; because these are type of certificates that are inter-provincially recognized and are issued in some cases not in conformity alone with a Yukon Ordinance, but with Federal Legislation which enable a delegation to be made to the Registrar to act on behalf of the Federal Government in issuing this type of permit. If the operator comes within that class and he operates his vehicle along those lines he must pay tax in accordance with a particular section of this Ordinance. He does one or the other depending on the kind of business he operates

Mr. Shaw: I'll be more specific Mr. Chairman. If I was in business and I had two or three trucks that I was doing all kinds of jobs within the Territory will I be able to go to a gas pump and pay for the tax in accordance with the amount I use or will I be forced to pay at a rate of five gallons to the mile? That is the question.

Mr. Legal Advisor: There will be no option about it Mr. Chairman. You will just pay your bill and included in the bill will be eleven cents for every gallon you use.

Mr. Chamberlist: Although Mr. Chairman, Mr. Shaw says thank you very much I don't think he is too clear in it because I wasn't quite clear. It seems to me that if a person who has a truck whether he has a permit or not and draws up to a gas pump or diesel fuel pump and gasses up and pays the retail price marked to the operator, this price that he's paid includes the eleven cents tax. So he's already paid for it. He paid at a higher price, as a matter of fact, because he hasn't taken the benefit of getting it based on five miles to the gallon so I take it that he has a choice if he wants to. If a man wants to go and pay cash at a service station for gas, surely it's not the Administration's suggestion that he can't pay cash. I'm sure this isn't the point at all. He wants to go and pay cash for his purchases why can't he pay cash for his purchases? Why does he have to go and take a permit and pay on the basis of five miles to the gallon? I have the floor Mr. Chairman, Mr. Legal Advisor will have ample time to explain himself. He's a lot of explaining.

Mr. Chairman: Order

Mr. Chamberlist: Now the other point that comes to my mind is what occurs, I'd like this explained, what occurs, say in the case of Cassiar Asbestos trucks that leaves Cassiar that loads up with diesel fuel there. Now if they have enough diesel fuel on there, and how does one check them, because the check station is in Watson Lake? How does one check them coming, I don't know how ....what size a load of diesel fuel they carry, but supposing they can carry a load sufficient to go from Cassiar to Whitehorse and back to Cassiar. Where is the control there in a case like that? I would like to have two things explained.

Mr. Legal Advisor: Mr. Chairman, I didn't intend to be (inaudible) But Cassiar as far as I know is a completely different truck than what we see on the road do not have a permit to operate either as a through freighter or an inter-provincial carrier or a single trip holder. That being so they pay their tax in the same way as any member of this House pays it when they get it delivered at the pumps. They get no exemption.

Mr. Chamberlist: But Mr. Chairman, they have to get their gas, they get their diesel oil at Cassiar which is in B. C.

Mr. McKinnon: No they don't they bring it there from here.

Mr. Chairman: I think you'll find that in British Columbia that all these Cassiar vehicles have an emblem such as we're discussing here only for the Province of B. C. they pay five cents a gallon to B. C. pro-rated, if I might say, pro-rated on the mileage that ....order please....pro-rated on the mileage that they run in British Columbia on that standard run. In the Yukon they just

pay their tax at the pump just like anybody else.

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Mr. Chamberlist: Mr. Chairman, could the Commissioner explain how this works out between these companies?

Mr. Commissioner: Mr. Chairman, it might be a reasonable situation to say that the case of the Cassiar vehicles is one of the major reasons for trying to bring equity into the taxation picture that we have here. Because at the present time the Cassiar Corporation finds themselves paying the road tax on their total fuel that they purchase here in the Yukon and then on top of that have the privilege of paying the Province of British Columbia a further tax on that same fuel which they use on that portion of the road which is within the confines of the Province of British Columbia. Now what will happen here is that we will continue to collect tax on that mileage and by this formula here which applies to that portion of the roads that the Cassiar Corporation travels in the Yukon and British Columbia will collect tax on that portion of the road which the Cassiar trucks travel in the Province of British Columbia.

Mr. Chamberlist: Now the first question hasn't been answered. Can, Mr. Chairman, can a trucker buy his gas from a gas pump and pay tax for it at the rate of fifty-six cents a gallon or sixty cents a gallon which includes the tax or does he have to pay the amount of money excluding the sales tax and then add to it for so many gallons for every five miles that he can carry.

Mr. Legal Advisor: I'm not sure what the objective of the question is. If he means does he get a choice in the manner of importance, he does. If he comes within the privileges granted by bill, which in a sense is a privilege, he can through his distributor claim a rebate of any tax paid for which produce a to somebody and he would get a rebate.

Mr. Chairman: Order please, please if anybody is going to be doing any talking it would be appreciated if they would rise and speak one at a time as it's too difficult for the recording system to pick everybody out at the same time. Would you continue, did you have something else, Mr. Chamberlist? Councillor Livesey?

Mr. Livesey: Yes, I question the validity of the Ordinance, Mr. Chairman, on two points. One is, it's all very fine having an Ordinance and having somebody down the road here going to check everybody but the top north end is wide open. Now this is wonderful, so if they happen to come that way they are going to get penalized so obviously they are going to come that way. This is what's been going on in the Alaska Highway and that's why they put up that Ferry system over there because they did nothing about the Alaska Highway so they built that thing over there to accommodate it so if they can't come that way they're going to this way and that's all there is to it and I tried to explain a few minutes ago why the place up there is wide open at the Border now. They can go out without stopping and if they come in without being checked what kind of an operation have you got there. I don't see it and on top of this, this question of five miles per gallon. It reminds me of the time when I first started up in business when I used to come to Whitehorse and haul my own gas and press a computer button here in Whitehorse when it was fifty below and well you just lost fifty gallons and I said "how come". Well be bought it at sixty above and it shrunk cause it's forty-two below zero outside and this went on for a long time and don't you ever kid yourself until I brought up the question of Weights and Measures Act. Where I was as a public citizen can't sell that gas to my customers unless I get fined for breaking the law and then they took a real jump and that settled it right there. Under the Weights and Measures Act this is a pretty strict act, Federal Statute, just laid it out plain, what you can do when you're dealing with the public. You can't gyp the public because look out you'll get it for sure. This is why we spend money checking pumps and so on.

BILL NO. 2 To make sure that only one gallon or not less than one gallon is sold to the purchaser. So here you come along with a situation and say we're not selling you gallons, we're going to sell you five miles. How much do you want for five miles and you're going to pay tax on five miles. Now this seems to me a totally inadequate and not only that but if you could have got an escape route going through there why should you come up this way. We're going to get nailed coming up this way so the other way is the easiest way. Well from 1202 to Haines Alaska, there's a wide open area there. Don't have to come this way at all. There's going to be no check, what's the point in the Ordinance if you can't police the thing. Every piece of legislation that we've put into operation with it's aim at the collection of tax, which I claim that should be fair and equitable as far as every trucker on the road. If one has to pay it so should everybody else and if we're not going to be fair between the individuals then we're not talking about anything that's equitable or reasonable. The Ordinance must apply to all people in connection with every levy that is placed against travelling on the highway. I'm not opposed to the principle behind it at all, that we have to raise revenue. This is absolutely necessary but I think the raising of those revenues should not only come within the meaning of the Weights and Measures Act, and I'm not saying it doesn't at the moment, but it certainly strikes a note of doubt in my mind when you start measuring gas by the five miles. This doesn't quite make sense and also where you have an Ordinance that isn't going to be policed. You have to have these two points. On these two points, gentlemen, this is where I will either place my desire to either agree or disagree.

Mr. Chairman: Councillor Chamberlist, will you take the Chair, please.

Mr. Chamberlist: Yes.

Councillor Chamberlist takes the Chair.

Mr. Taylor: Mr. Chairman, I've had quite a bit to do with the truckers with respect of this proposed Ordinance. In view of the fact that the check-point is down at Watson Lake and this is where the people seem to be a majority of them seem to be coming and going. In through Watson to both Northern British Columbia and the Anvil and the North Highway on through to Alaska. They are completely satisfied with the five cents per gallon. There is no doubt about this, they feel it's standardized with British Columbia or five miles, yes. But it's standardized with the Province of British Columbia and I believe the Province of Alberta and as far as the truckers are concerned I can safely stand and state that they are quite happy. As far as the Yukon truckers are concerned, the Yukon independent trucker, he's even happier because he wasn't.... and same for the fuel operators, because until this Ordinance comes into effect they are at a disadvantage being in the Yukon, both the fuel oil distributor and the trucker. In the matter of enforcement, I believe it is foreseen and I think it was discussed either here or some other discussion that I have been involved in with the Administration and it was foreseen that further check-points would be established in future years. That the check-point at Watson Lake was to be an experiment for a year in order to determine how it worked out. It was also indicated to me that when this Ordinance does come into being that there would be spot-checks taken at all points or different points throughout the Territory which could be done by officers of the Territorial Administration or officers of the R.C.M.P. I just rise to point this out to the Honourable Member from Carmacks-Kluane that I'm sure given the chance to go that we will in future see other check-points provided this system does work well and that, indeed, even today when we implement this we will have the advantage of spot-checks through our R.C.M.P. and through Territorial Officers of the Motor Vehicle Branch. Thank you, and I'll resume the Chair.

Mr. Taylor resumes the Chair.



Mr. McKinnon: Mr. Chairman I'd like to ask Mr. Secretary if his office intends putting a check-point at the north end of the highway. Councillor Livesey does have a valid point where people can come from Haines to the North. BILL NO. 2

Mr. Commissioner: Mr. Chairman, I think that you are faced with a law of diminishing returns here. This is one of the reasons why we want to have a very close look and bring forward information to Council upon the actual operation of a check-point system at Watson Lake and certainly I would be very hesitant to make any prediction as to what the results of this will be and until these results are known and have been cleared and checked with Council, I certainly would not make any prediction as to whether there would be more of these check-points or not. However, can I say something further in connection with the Administration of them. You see here where there is to be something issued here that will be a sticker of identification a trucker will carry, and I am assuming that this will be something along the lines of the supplementary licence plates that will be a portion of the size of a regular licence plate that will be attached in a conspicuous place on the vehicle the same way as a licence plate is attached, and it will be this, and possibly we might find that this identification alone will be sufficient to check the truckers to see whether or not in fact they are complying with the terms of the Ordinance in the securing of these particular permits. Now, I think we have to be very conscious here in committing ourselves to such things as checkpoints which conceivably could be very costly, that we might find that the imposition of a tax and the administration of the Ordinance leaves nothing of a net gain to the Territory, so I trust that I have answered the Council's questions satisfactorily, Mr. Chairman here that a) that we are not making any predictions about what we will do until we have been able to show Council what the end result of a year's operations of a check point is, and b) that the enforcement of this to a marked degree, particularly with the trucking industry will be the same matter as what we enforce P.S.V. and other type licences.

Mr. Chairman: Is there anything further on section 12? (Reads section 13 of Bill No. 2).

Mr. Chamberlist: Question. Now, Mr. Chairman, I would like to know why this privilege is being extended that there be a single trip permit - be free of cost. They are still using our roads. Why should they be free of tax?

Mr. Legal Adviser: Mr. Chairman, it's incorrect to say it's free of tax. He pays - section 30, subsection (1) says pay tax according to the mileage of the trip to be made in the Territory calculated at the consumption rate of five miles per imperial gallon.

Mr. Chamberlist: Why does it say then that the holder of a single trip permit may obtain or purchase sufficient fuel for the trip free of tax? Isn't it contradictory?

Mr. Legal Adviser: He pays his tax in advance and any fuel he buys then - it would be double taxation if he couldn't get back his eleven cents.

Mr. McKinnon: Mr. Chairman, I see a real administrative ball-up here. If a person for a single trip permit is coming from Alaska through Haines, who does he apply to? Everywhere else it says he applies to the Registrar of Motor Vehicles. How is he going to come to Whitehorse to apply for a single trip permit?

BILL NO. 2 Mr. Legal Adviser: He applies to the Registrar of Motor Vehicles for a permit, and they are very carefully watched.

Mr. McKinnon: Yes, but he can't. He is going to be forced to come another hundred miles for his single trip permit to come to Whitehorse.

Mr. Chairman: I believe there is a Territorial agent at 1016 - Motor Vehicles.

Mr. Commissioner: This is quite right, Mr. Chairman. Territorial agents are placed in strategic areas throughout the Territory who will have this authority and who likewise if it is found that we have to appoint agents in other strategic locations for this specific purpose, I am quite confident that we will do so. There will not be any attempt to make it difficult for people to conduct their business.

Mr. McKinnon: Well, Mr. Chairman, it's fine as long as it is understood, because as it is now they can apply nowhere except to the Registrar of Motor Vehicles. I don't see where it says or his agents in here. Does it?

Mr. Chamberlist: Mr. Chairman, I'm still not clear. To me it reads as if there is some contradiction between 13(1) and (4). In 13(1) "at the time of application for such permit, pay tax according to the mileage of the trip". Right. Now, section (4) "The holder of a single trip permit may obtain or purchase sufficient fuel for the trip free of tax." Now, in one section it says that he pays tax, or is there a comma missing somewhere? In one section he pays the tax, and in another section he can get it free of tax.

Mr. Legal Adviser: The position is that he has to apply, and these permits are applied for every day, but now when he applies he will in addition have to pay his hundred dollars for a single trip permit, and he will have to pay a tax in advance. There is a schedule kept of the distance in Watson Lake, or wherever he buys his permit, and Whitehorse, so you divide the total mileage, which might be say six hundred by five, which comes out - I don't know what it is. One hundred and twenty - is it? And then he pays one hundred and twenty times eleven cents. So, that's his tax. Now, when he buys his fuel - when he buys it at a pump, it is charged up at so many cents plus eleven cents tax. He will be able to recoup his eleven cents that he paid by handing in his duty-free permit, so he only pays once, and he pays at a consumption rate of five miles per gallon, so that actual fuel must be charged to him duty-free or otherwise he would be charged double taxation.

Mr. Chairman: Just one comment from the Chair. This is what the truckers really did want because it means that these people can't run through Yukon on B.C. fuel.

Mr. Commissioner: Mr. Chairman, I think a simple way of putting it here is that from here on in a single-trip permit costs the tariff in the motor vehicle permits plus the tax on the fuel at five miles per gallon for mileage that the permit is being issued for.

Mr. Chairman: Anything further on this section?

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Mr. Shaw: Mr. Chairman, I was just wondering if this would - it would appear to me to make a great deal more sense - I'm an average person, I'm not one of these legal minds - that if this particular subsection (4) were put to sufficient fuel for the trip free of further tax, because the tax has already been paid, might be a little clearer to a person that was reading this to find out where his rights were or were not, or his obligations were.

Mr. Legal Adviser: I'd give the matter some thought.

Mr. Chairman: Is there anything further on section 13?

Mr. McKinnon: Mr. Chairman, I was just wondering if the Legal Adviser sees any difficulty in the transfer of the administrative jurisdiction from the Registrar of Motor Vehicles to his agents under this ordinance, just so there is - I just want to be relieved that there can't be any type of an administrative ball-up on this

Mr. Legal Adviser: The only difficulty would be, Mr. Chairman, if the Council was to pass this bill and not pass the other one. Then we'd really be in trouble, but provided the two are passed, or substantially passed, then the arrangement is everything has been worked out in advance for the organization.

Mr. Chairman: Anything further? The next section is section 14. (Reads section 14 of Bill No. 2). Clear?

All: Clear.

Mr. Chairman: (Reads section 15 of Bill No. 2).

Mr. Chamberlist: Question. I'm opposed to this particular thing. I think the time has long passed when an incumbent has to be placed in the position of proving his own innocence. I think it is up to the prosecution at all times to prove the guilt of a person. To me, this is a foreign type of thing that shouldn't exist in our legislation at all. The Crown must at all times try to prove the guilt. An accused person shouldn't try and have to prove his innocence, and I will not approve that myself. I will not support it.

Mr. Legal Adviser: May I make one point on this? This is a technical section, and it does not mean that the accused has got to prove his own innocence. It means that the accused does not throw on the Crown the burden of proving a negative proposition. In other words, if a man is caught with fuel in his tank that he should have paid duty on and he hasn't, without a section such as this or some rule of law to assist, it would mean that we would have to summon into court every officer to prove that that person didn't commit the tax, and that person didn't commit the tax, and it would be a tremendous burden. When we're alleging a negative, all he has got to do is show a receipt, no more. We turn the onus back to the Crown, and they have got to prove then from there on. It's no different from charging a man with not having insurance on his car, or not having a driver's licence. You prove in court that he was actually driving a car, and then he hands in a driver's licence or something else you he is entitled to drive a car, or he is an exemption. Without a rule in that regard when

BILL NO. 2 you're charging a man with driving without a licence, you might have to bring the Registrar of Motor Vehicles, in theory, from every State in the American Union and every Province of Canada because on account of reciprocal legislation, a driver's licence is valid in the Yukon for every State of the Union and from every Province, so it is a necessary part of making the case simple, rather than have a flock of witnesses in court to prove a tiny little point. It's not a question of that he has to prove his innocence; it's nor more easy for him to be convicted, except that it saves a lot of cost.

Mr. Chairman: Councillor Chamberlist.

Mr. Chamberlist: Mr. Chairman, notwithstanding what the Legal Adviser says, I always feel that the liberty of the individual must be protected at all times, and he is not protected this way. He is not protected at all. The moment that legislation puts the onus upon an accused person to prove that he is not guilty of an offence, his liberty is not being protected. It's up to the Crown to say you didn't pay tax because we haven't issued a tax receipt for it. Then charge it, and I don't support this particular thing at all. No, sir.

Mr. Chairman: A question from the Chair to Mr. Legal Adviser. What is the provincial - how do the provinces - do they include this type of thing or not?

Mr. Legal Adviser: In all types of tax legislation, this is a normal thing. The law as such, and I, in common with the Honourable Member from Whitehorse North, would share this - it is usually unfair to cast any burden on the defendant, who is not as able to bear this type of burden as the prosecution is. In this case, it's a simple burden. It merely means that when he is questioned - when his books are checked, and he says I paid the tax. They say show us the receipt or to whom did you pay it. That's all it amounts to. Then there's no charge. If a charge is brought - because after an investigation the Territorial Treasurer is satisfied that he hasn't actually paid the tax, then all he has got to do to.....is to produce a receipt or go into the witness box and say I did pay it. No more. It doesn't say that it is deemed that he hasn't proved it, It just says the burden of proving the particular positive thing - I paid - rests on the accused until.....

Mr. Chairman: Is there anything further on section 15?

Mr. Chamberlist: I registered my opposition to it.

Mr. Chairman: (Reads section 16 of Bill No. 2) Clear?

Mr. Shaw: I just wondered, Mr. Chairman, why it is necessary to have two years and not one year.

Mr. Chairman: Mr. Legal Adviser.

Mr. Legal Adviser: It's not particularly necessary. It's just that taxation is an on-going thing. With firms one would try to keep up to date with their taxation month by month, but in the event of an investigation then you could only go back two years in their books if there was an error, or possibly a calculated

fraud when you can go back for two years, and this is limiting the amount of time you can go back. Otherwise, it would run to about six years in the case of a common debt, so this is in ease of the accused in a particular case. Now, this section is linked in with another section which passed by earlier that they must keep their books for a year after the tax is paid, so this would normally be not just a year in their case - it would mean a year after the tax would pay would give one clear financial company year extra, and the two ending together for this purpose.

Mr. Chairman: Councillor Chamberlist.

Mr. Chamberlist: To me, this is another extension of being able to catch a person over a long time. I take it that the person would be prosecuted under the summary conviction section of the Criminal Code for this. It would be a summary conviction. Now, the summary convictions section of the Criminal Code makes it quite clear and I'm sure Mr. Legal Adviser will agree, that an offence has a six-month limitation, I think, under the summary conviction area. Now, this extends it to two years, and I would suggest that the periods comply with the summary conviction section of the Criminal Code to six months, and not two years.

Mr. McKinnon: Mr. Chairman, the more I look at section 15 and 16 the more I am inclined to agree with the Honourable Member from Whitehorse East on some of the points he has raised. We say that he only has to keep his books and records for the period of one year. Alright, the Crown can bring a prosecution against him in the space of two years. Is this not correct? So, then we're saying that the burden of proving that he is innocent is on this fellow that we've let destroy his records after one year, and yet he has to produce the certificate for two years, that the burden of proof is the onus on him. It's not right.

Mr. Legal Adviser: Mr. Chairman, we're putting a limitation in this manner, that we'll assume a company year of operation is from the first of January to the thirty-first of December, and some time in December of that particular year he pays a tax. He must keep his books then for a year from that payment in December. That brings it to the month of December of the following year. Now, that's two years of his financial operation. We have a one-year limitation period after that. We can't come back with him after another year. I wouldn't see this as being unjust. Normal companies - we keep their taxation for more than just a period of a year.

Mr. Chairman: Well, gentlemen, just one moment. I think at this point in time I'll declare a recess, and we'll reconvene at 3:30.

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Mr. Chairman: I will call Committee back to order at this time and we are discussing Section 16.

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Mr. Chamberlist: Mr. Chairman, the point of the Honourable Whitehorse North Member which supported my view is with the period of time which is far too long to allow the Territorial Government to do a witch hunt on people and I would suggest it be reduced to one-year maximum.

Mr. Chairman: Any other suggestions?

Mr. Chamberlist: I wonder if Mr. Legal Adviser will consider this and bring it back again with the matters that he is taking under review.

Mr. Legal Adviser: I am certainly going to consider and discuss it and then I might let the House have the benefit of consultations with the Territorial Treasurer and Administration as well.

Mr. Chairman: Agreed?

All: Agreed.

Mr. Chairman: (Reads Section 17 of Bill No. 2) Clear?

All: Clear.

Mr. Chairman: (Reads Section 18 of Bill No. 2) Clear?

All: Clear.

Mr. Dumas: Gentlemen, I wonder how many sections of this Ordinance .... of this Bill are actually new or different from the old Ordinance. I don't expect an answer on that right now but it seems to me we are talking about streamlining Council when one of the ways to streamline Council .... in this case, as a matter of fact, it was a good thing we went through the whole Bill because there were several things we wanted to discuss, but it seems to me if we want to streamline Council we should try and stick to the pertinent sections we want to change, add or delete.

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

Mr. Chamberlist takes the Chair.

Mr. Taylor: Just before we leave this Bill, Mr. Chairman, I would like to draw your attention back to Section 13, and more particularly Subsection 3, which prescribes that a person who has applied for a single trip permit, having paid the tax, will be furnished with an emblem and in Subsection 3 it states that this emblem shall be displayed on the lower hand side of the windshield sort of thing, and I wonder here if this is a wise move. I just asked this for some advise, for this reason, that if you have someone coming into the Territory naturally we want them to take a permit and we want them to pay the tax, but I am wondering if they hold an emblem on their wind screen shall we say, if this is going to reduce the opportunity of catching this guy where he could be making several trips within the Territory with this one emblem which is firmly glued to his windshield. Now I see a through freighter, or I see a

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interprovincial carrier carrying an emblem on his windshield causing no trouble whatsoever, but I am just wondering whether or not this would lead to abuse by having an emblem displayed on the windshield of one trip party, and I am wondering if it might be better to leave the emblem, let him carry the permit and be subject to inspection because he is going to be at the check station at least he is going to be checked. I would like to ask the Legal Adviser.

Mr. Legal Adviser: I agree Mr. Chairman, that there is a definite point of thought in this to consider. What type of emblem and what is to be on it will need a certain amount of care. I don't know what type of emblem is intended to be used for it might be one just having a date, two or three dates, or a within date, and if possible, design a color scheme whereby a color would change week by week with a date, but since I have other things to raise with the Territorial Treasurer to meet the wishes of the House, I could discuss this with him and let you know his thoughts on this when I come back with a brief report on the other points of the Bill if this will be in order.

Mr. Taylor: This would be most appreciated, Mr. Chairman. Thank you and I will resume Chair.

Mr. Taylor resumes Chair.

Mr. Chairman: Was there anything else, or may I report progress on this Bill?

All: Agreed.

Mr. Chairman: We are going to turn to Bill No. 3. (Reads Sections 1 and 2 of Bill No. 3). Clear?

All: Clear.

Mr. Chairman: (Reads Section 3 of Bill No. 3). Clear?

All: Clear.

Mr. Chairman: (Reads Section 4 (1). Question. Proceed.

Mr. Chamberlist: Why would a Board of this nature have seven members? Is there any particular reason?

Mr. Chairman: Mr. Commissioner.

Mr. Commissioner: At this particular point in time to get representation from the seven geographical or electoral districts.

Mr. Dumas: Mr. Chairman, this brings us back to our problem with Bill No. 1 appointed by Commissioner, rather than Commissioner in Council, where do the elected representatives come in? You see what can happen here, and has happened already to some Councillors, man can be appointed to something like this by the Commissioner and then when the elected representative of the area makes a suggestion or statement or says something about this particular field, Historic Sites and Monuments, this fellow can turn around and say to him, 'I am sorry I am appointed by the Commissioner, I don't have to refer to you, have anything to do with you, go jump in the lake.' Nonsensical if the member doesn't have anything to do with the appointment, he could be left out in the cold.

Mr. Shaw: Mr. Chairman, in my experience this has never happened. These members are appointed by the Commissioner on the recommendation of the members in the particular district. It has been that way in many of these other things that are similar and the same thing applies to the, I believe the advisory .... financial advisory or budgetary financial group of the Territorial Council is also appointed by the Commissioner upon the recommendation of the Council. The difference in this .... this is upon the recommendations of the member of that particular political district.

Mr. Livesay: Mr. Chairman, that which is not written is not implied. There's nothing written in these Ordinances or particularly all the rest of them in the book that says the elected people have anything to do with it at all, and funny enough I have already run into this situation that has been brought up by the Honourable member of Whitehorse West, and I want to discuss a particular point because I have been talking to quite a number of other people that were not on one of these Boards, I distinctly got the impression I was non persona grata, I was no longer in operation, they didn't need me any more because they already got the ear of the Commissioner. This is the exact words I was told, and so therefore, this is something that is being channelled away from your sphere of thinking, you have now been reduced in status to the one cell has gone from your block, and this is about the size of it .... I'm not kidding - and the more I hear about this, the smaller I think the Councillors are shrinking to a mere shadow of their former sources it seems to me. Everytime I come across one of these things why somebody tells me that they no longer apply. You're .... ah .... What are you .... Oh you're the elected member, well that doesn't mean anything - you have got to be appointed before it's any good, and this is a sad fact it seems to me .... one suggested are you working on a second executive type committee, and I thought to myself, well it looks like it but I haven't heard of it yet, but I couldn't say yes or no, and that's what went on in the Northwest Territories in their past history, this is how they operated and all their executive committee was appointed people. It seems to me we are going in reverse, we're going backwards, even the elected people are beginning to see there is no necessity for an elected person at all, and if you go further and deeper into Government and take everything we discussed and talk about in this House and withered away and give it to the Administration the next thing you know we will be nothing more or less than exactly what was handed here at the last session and that was a brand new rubber stamp, and it looks as though we are going to become a skeleton of our former self. Even prior to 1958 when I first became a member of the Council I understand all the Council Members were magistrates and had all kinds of glorious affiliations, they could do all kinds of things that we couldn't do and ever since that day we are moving towards democracy, we are going to take on the Government, they are going to give us more power and every piece of legislation takes it away. Well now, somewhere along the line we have to come down to something which looks more like level headed thinking so that we won't have to face these problems when we are talking about them to people who are not in touch with our operation here, and I feel the more I see .... well the same thing in any question of political science, the larger the administrative force the more diminutive the legislative force and it can't work any other way. So I think we should think about it, we don't have to be irrational about it, just think about it.



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Mr. Dumas: I wonder if there couldn't be a few words inserted in subsection (1) of 4, something to this effect, where it says is hereby established consisting of seven members, one from each electoral district, to be appointed by the Commissioner on the advice of the respective elected representative, or respective councillor or what have you.

Mr. Chamberlist: Mr. Chairman, quite frankly I feel that everytime you set up a Board, and you set it up on the basis that the seven constituencies, so you are going to have seven members of the Board and when we increase the size of the Council, and we have a separate councillor from Ross River perhaps, and perhaps one from Teslin and perhaps we finish up with thirteen different constituencies, so everytime we have a Board following the same process we are going to have thirteen members on every Board, we are going to finish up with twenty-four Boards, we are going to have two thousand people on these representative Boards and this is what is going to go on, and then the next thing you know they are going to start providing funds and offices and secretaries for the Boards, we will have everybody in the Territory working for a Board and every Board working for the Territory and you will finish up that we'll be in the position that there will be no one doing the work. The whole of the Yukon is going to come to a standstill and everyone will walk along with a badge on them saying "I am a Board member". The whole thing is ridiculous. As far as I am concerned, the Board should consist of three people and it's up to members of this Council to choose three capable people irrelevant from what particular constituency they come from because good sound people, good sound citizens, good sound Yukoners are not going to worry about what part of the Yukon they come from if they are sincere in their feelings as good Yukoners and they are going to serve on a Board not because they are just from Watson Lake, or from Whitehorse, or from Dawson, or even from Carmacks-Kluane. They are going to serve on this Board because they want to participate in being a member of the historic sites and monuments Board to look after the history of the Yukon. Quite frankly, I would think it would be proper for us to amend this particular section to reduce them to three members and put in there appointed by the Commissioner in Council. I think this would really answer the question for future Boards that would come along, in other words, let's bring the Boards and .... we are going to have public inquiry Boards and plebiscite Boards we are going to be knocked groggy with Boards. Three if sufficient. Let's keep at it.

Mr. Livesay: Mr. Chairman, if you take a look at all these Ordinances, you will find out how many Boards they are going to get, I think this administration is going to treble by the looks of it. Oh they will have all kinds of various commissions and status but this is what it seems to me there is an increase in the appointed power, not in the legislative power, and if you go through the whole thing there is going to be Boards for practically we talk about if it comes into existence, and surely if these Boards were responsible to the elected legislative body with the Cabinet and they were responsible to that elected Cabinet government that is an entirely different thing because that elected Cabinet, I think, would have sufficient control so that things wouldn't go wrong in their operation as a body responsible to the people. This seems to be a set of Boards that are responsible not to the people at all, and we already have an elected legislative Council responsible to the public for their existence. It

seems to be a form of contradiction where you introduce questions of this nature somewhere along the line I think we should look all these Boards while we are at it. Now some I think are absolutely essential, in fact they are absolutely necessary, I can't see how much further we can go without them, but when we take a look at this entire mass of appointed people that is going to be added to the Government at certain level as appointed people not elected, it seems to me that the shift is to appointment rather than to the elected form of government that we are trying to work for.

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

Mr. Chamberlist takes the Chair.

Mr. Taylor: In the first instance I tend to agree somewhat with Councillor Chamberlist when he states 'we could have a reduced number of people on this Board, but I think at this time it might be wise to retain seven members say, for the next year or so in any event because .... eh, this is the first time we have undertaken a project of this nature to try and define and preserve some of the historic sites which have gone to the point of being derelict in the Territory, rotted away and unless they are looked after, or unless we are being made aware of where they are and what should be done with them they will disappear from your Territory. I think that the people who are now doing the work, from all reports I have heard are doing a pretty fine job and they are bringing from all points in the Territory such information to the attention of the Administration and indeed, the Administration, I believe are bringing some to the attention of Council. However, I agree that possibly after two or three years once we have made this scouring and received all this information we could well reduce the number of people on this Board. I agree whole heartedly as well that we should write into this Ordinance that these members be appointed by the Commissioner upon the recommendation of Council, or indeed by the Commissioner in Council. As Councillor Livesay has so adequately pointed out we are getting a little bored with Boards, but if we are going to get bored with Boards, why we better have some say in who is going to be on these Boards, and virtually what we are doing is sitting here legislating the Council right out of business. This would be the trend as we are only up to the third Bill so far and as you can see why we are delegating more authority to the Administration and we are retrogressing in this respect, and as I say I would very much like to see, and I will insist upon seeing as far as I am concerned, my vote on this Bill that subsection (1) is amended to include that the members of the Territorial and Legislative Council will have the opportunity in conjunction with the Commissioner in appointing these people.

Mr. Commissioner: Mr. Chairman, I am inclined to agree with the Honourable member from Whitehorse East also, however, there is only difficulty with this particular Board as it is already set up and has been functioning as a Board of seven members. I think that when we are looking to the area of appointing future Boards that they should be in the type of two, three, four man numbers. I think Mr. Legal Adviser is always warning Council by saying don't strip the powers of the Commissioners, don't dare touch them because in the far distant future when the powers that are now vested in the Commissioner are in a responsible system of government. You don't want a elected member who is actually chief executive officer to have no power at all. However, I think in this

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instance we are just doing the exact argument against this because we're going to .... if we make it as appointed by the Commissioner or this east member from this electoral district in the Yukon, how do you say who will be appointed to the Monument Board will keep it away from this being an appointment as an active political patronage if the day ever comes that the Territorial Council ever receives any type of executive authority. So I think that we should keep it at this time because it has been traditionally set up and because there is a crying need for the development of Historic Sites and Monuments in the Territory at this time. However, the members should definitely have a say in the appointments from their electoral districts, and it should be kept in perpetuity away from any accusation that it should ever fall into the type of appointment that would even be considered in the realm of political patronage. So I think that Section 4 (1) should be amended and that the second member should remain on the Board at this time, however, the elected members from each constituency should have some say in who the appointments will be.

Mr. Shaw: Yes Mr. Chairman, this Board has been going on more or less on an Ad Hoc basis for the last year or so and I think it quite some credit to the commissioner for the fact that he got this thing started and put into being. I have seen in the years I have been here where this should have been started fifteen years ago at least, or even twenty years ago the same Historic Sites and Monuments Board. Now we talk about the numbers that are on this Board, if we go back to the National Historic sites we find that each province has a member on the Board that sits and makes recommendations to the Minister in charge and, of course, in the North I assume that the Minister of Northern Affairs has the say as to what goes on in the Yukon Territory. When we are talking about membership in the Yukon what could be better than have representation from each electoral district on such a Board to give all the other members their own local knowledge of the situation and discuss matters with them, I don't go along with three members on a Board such as this I think it requires at least one from each electoral district and so far it has worked out very very well. However, this is the enabling legislation to bring this Board into being what you might term legal entity. The matter of putting .... the policy in the past been that the Commissioner has asked each member of Council to make a recommendation from their particular district now if that hasn't been applied in the case of all members here it is because there has been a carry over from the recommendations by the last or previous incumbent so that may be the case. Now, under the terms of the Yukon Act is it possible, it may be quite desirable to have upon the recommendation following the Commissioner in subsection (1) of section 4 to have upon the recommendation of each Council member that may not be possible to put in according to the legislative set up of the Yukon Act. I would like to ask the Legal Adviser if I am correct in this, is it possible or is it not possible?

Mr. Legal Adviser: I don't think there is any objection to putting that in. The actual practice for putting in an Ordinance that the Commissioner has got to appoint a nominee of each one of the individual councillors, or even the Council as a whole would be very difficult and embarrassing in this legislation and in later legislation. A compromise could be possibly suggested that a slate for nomination might be presented once a year or something depending on one or two

year appointments could be placed before Council for discussion, but the idea of the Council discussing the desirability of appointing A against B could lead to terrible events. As I say, there is no basic constitutional objection against it, but it would be a very bad precedent for drafting legislation.

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Mr. Taylor: Mr. Chairman, I think if a precedent is to be established, this is a Bill to be established in. In the first instance what is to stop the existing Commissioner, or the Commissioner who follows the present Commissioner from saying, 'Oh my my, this is no good, I think I'll just appoint seven of my department heads to this Committee and they'll look after it, we'll just take this right out of the hands of the people.' By the law that we establish today in the acceptance of this as it is written, it is possible and I feel it should be changed, it should be spelled out here, the Yukon Act gives the powers to this legislature, gives the Commissioner in Council the right to legislate in matters of a purely local nature, this is a matter of a purely local nature and I feel that the administration should have no compunction whatsoever of sitting down and saying 'we would very much agree with you we have nothing to fear from the Council, the Council has nothing to fear from the administration let us now get together and put in Commissioner in Council in subsection 4'. Now what's the matter with this?

Mr. Commissioner: Mr. Chairman, Council get their control over a particular operation of this nature when they are asked to vote the money to give effect to the continuation of this particular Board. Now if for any reason at all, Council is not satisfied with the operation of that particular Board this is where they exercise their prerogative in this particular matter, and there may be a hundred and one different ways of giving effect to what we are thinking to do here. I am not about to suggest what all of them are, but I can say this to you that we have been faced with several instances where people who have been appointed or their names have been brought forward to the administration by Councillors to sit on various Boards and we have written to them and they have declined to work on the Boards, in other instances they have simply seen fit to come to Board meetings. Now most of these things have been corrected one way or another by getting in touch with the Councillor who is involved with the particular area and we certainly have no intention of starting to operate on any kind of a different basis than what we are normally used to doing and that is, we try our utmost to consult with Councillors from the different areas concerning those matters which are of a particular interest in their area. I certainly from an administrative point of view have no objection of any kind of bringing forth the suggested list of names for Councils total ratification and our means of acquiring these names will be by prior consultation with the members of Council, but certainly I would highly recommend against putting in here Commissioner in Council, I think you are establishing a particular set of rules that would lead to absolutely nothing but administrative confusion, in other words, we can do nothing if there is a vacancy we don't have the ability to consult with the member of Council to get the vacancy filled, we are certainly compelled to go right back to the Council as a whole in connection with this and I am quite confident that we can come to some agreement concerning the manner of getting people appointed that will not necessarily require any change in the legislation before you hear, but it is going to permit us to have the benefit

Bill No. of each others advice in order to get the very best group of  
3 dedicated people that we can to act on these Boards. I think  
that all Councillors will agree with me that it isn't too  
easy in many instances to even get people to act on these  
things because all we are able to provide for them is their  
expenses and their travelling time once or twice a year  
whatever it is that we happen to bring in to meet.

Mr. Taylor: I just wanted to persue this Mr. Chairman a  
little bit further. Generally, whenever we get around to  
this Commissioner in Council bit respectfully Mr. Chairman,  
I get the same answer, 'well you fellows have control of the  
funds, it you don't vote the money the project won't go'.  
This I don't especially care for because I think we are  
setting up a program here by legislative process and I don't  
feel we should be put in that corner by saying, well take it  
fellows, if you don't like the way it is, just don't vote  
the money and it won't go. Let's shake it to some position  
where it can go. It was suggested that some people appointed  
to the Board might decline the nomination and indeed might  
have been unfit for the position, or for some reason might  
have quit it, this is merely as the Commissioner pointed out  
Mr. Chairman, is a matter for the Commissioner or the  
administration and the Councillor to deal with and a new  
appointment would be made upon the recommendation of the  
Councillor. It also occurs to me that Mr. Commissioner has  
pointed out there is no problem he said, I don't mind seeing  
this worked this way, but I wouldn't want to see it spelled  
out in the Ordinance because it would cause administrative  
confusion, I can't honestly in my own mind see where it would  
create any administrative confusion any more so than it  
already is, and indeed we would be setting a precedent, but  
a good precedent, one which would benefically add to the  
legislative responsibility of the elected representatives  
of the people and I really feel that this is one area where  
we should involve the elected representatives of the people  
in the selection of the members of this rather important  
Board and I still say, and this will be my last time,  
speaking on Section 4 subsection (1), I still say that I  
will support any motion proposed in relation to writing the  
people into this subsection, and I will oppose the very Bill  
if something is not done to amend subsection (1), 4 in some  
manner so as to provide for the involvement of the elected  
representatives of this Council.

Mr. Dumas: Mr. Chairman, I agree that this negative power  
of refusing money is not quite good enough, we are going the  
wrong way. Now I accepted as I said this morning when we  
were discussing Bill No. 1 the good faith of the Commissioner  
in what he says about how this thing would be handled under  
his administration, but I suggest on a general basis that  
this Council, in particular, is not here to maintain the  
status quo in this Territory not to maintain what has been  
the past practices, we are looking ahead towards very drastic  
changes and it is in this type of thing that we looking for  
the changes. Now getting down to the practical aspect of it  
I wonder if the Legal Adviser has an idea of what Councillors  
have expressed and if he could bring something back here  
reflecting the Councillors views on this section.

Mr. Legal Adviser: I have an idea of what the members wish. Bill No.  
I have an idea of how far the Commissioner will be prepared 3  
to go, but I am not sure if there is any meeting of the minds  
on this.

Mr. Livesay: Well the way I look upon it I am looking at it as a large question rather than just merely specific point. What I see out of it in this, and in other areas is political responsibility with legal denial of rights. This is the way I look at it. In other words, we will become politically responsible for the actions of the Board while having no legal rights to interfere with any of their decisions, or even to influence the Board, it is the same way as with anything else, in other words, when a constituent comes up to an elected member and says, 'well why did you vote for that?' you say, well I didn't vote for it, the Board did, then the question is well then who put the Board in operation, and we have to answer, well we did, then we are irresponsible, well, of course, we are once you set up a Board to operate within a Government you become responsible for all the actions of that Board or Committee, and if you are going to be responsible for what they do without having anything written into the Ordinance whereby you may influence that body then that looks to me to be a very, well I hate to use the word, asinine thing to do. I would say and this is the same way in everything else, what are you doing by placing .... you're jeopardizing your own position by by-passing your own responsibility in handing it to somebody else with the assumption that you are responsible for what they do, but you can't influence them at all. You are bound to give them rights once you set them up, they have got to have rights and as long as these people have rights the Council members cannot be responsible for them in one way and not responsible in another and when you look through this particular Bill the only time I see Commissioner in Council is where it says that a Commissioner shall make all expenditures for the purposes of this Ordinances, paid out of monies appropriated by the Commissioner in Council, that's the only time that we enter into this whole picture is when they want some money. Now I don't know gentlemen what you think about this, but I thought we were responsible for these things and under Section 16 of the Yukon Act clearly we are responsible for, as partners in this Government, the expenditures of all monies derived from the Territory, or derived from the Federal Government through the grant system because when the Commissioner in Council is responsible for all Ordinances as they appear under Section 16 then surely we are responsible for practically everything that goes on in the Territory. The position that we have been in in the past is that we are politically responsible and that legally we don't have the right to make the decisions. Now this is a very very sad picture for anyone. Anyone who enters into this picture why he is trying to keep warm like a bird in a cage with the wind blowing, and he enters it with this proposition right there, he is going to get cooled off and drafted out and that's about where we stand, and that's where we've stood for years and years and all previous Councillors have stood in the same position only they were in a better one I think, they were alot more clothed than we are. I feel we have to look at this very seriously from a broad point of view, not from a small individual point of view. Thank you Mr. Chairman.

Bill No. Mr. Taylor resumes the Chair.

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Mr. Dumas: Mr. Chairman, Mr. Legal Adviser used the term, meeting of the minds, referring to meeting of the minds of the Commissioner and his Councillor. Now the implication is clear and it has been made clear previously today also, but what I want to know is what happens when there isn't a meeting of the minds of the legislature and the Commissioner. Who legislates, is this going to be taken away also?

Mr. Legal Adviser: I am not sure whether the Councillor has deliberately misconstrued what I said earlier. Legislation as all the Honourable members know is a joint effort with the discussions and decisions here subject to assent. Now as for the meeting of the minds, what I meant was that in the discussions the views of the members were heard, you heard the Commissioner's views, and they were so far apart that I didn't think a compromise amendment just like that would at that point be of much assistance. It might be possible to refer it somewhere else to reconsider the matter at another time.

Mr. McKinnon: Mr. Chairman, I feel that I appreciate the problem that the Commissioner and his Legal Adviser find themselves in, but I am certain we are finding ourselves in just an unhappy a dilemma, and I think it can be ratified at this time by both parties involved and I would like the Commissioner and his Legal Adviser to look into something in the field of after Commissioner having 'subject to the ratification of Council', the reason that I think this area should be looked into is for many of the reasons offered by the Commissioner and also, at this time, as I understand, the Honourable member from Dawson and I have been given courtesy by this Commissioner of being phoned or contacted and said we have this Board with so many meetings now we would like a member from your constituency to serve on this Board. This has been fine, we have made the arrangements and they have worked out quite well, however I think that we have as the Honourable member from Whitehorse West has already stated to look into the area when perhaps we will not have so magnanimous a Commissioner in the Commissioner's chair. I think that we have to protect ourselves by not leaving these Ordinances open so that the Commissioner could appoint seven persons of his choice to a Board of this nature, and also if we leave this type of legislation and it comes to the point where there is a viable executive system of government formed it could lean the other way where a Board of this nature could become nothing but a Board of political patronage by the party involved in the Yukon Territory. I think we have to protect against both of these extremes and I think at this time that we can have a meeting of the minds if we consider it seriously and I think that something to the effect that after the word Commissioner subject to the ratification of Council be added it will protect both parties to almost the fullest extent because if the Commissioner doesn't get in touch with the various members and doesn't ask them for their opinion then we certainly are going to know about it before we sit in this Council and the Board will not be ratified by this Council. I think that probably if Mr. Legal Adviser could examine this with Mr. Commissioner knowing our views there is no reason why we can't come up with a workable amendment to this at all.

Mr. Legal Adviser: Mr. Chairman, might I suggest that we have moved a step nearer the meeting of the minds at this time subject to what the Commissioner might say I myself with certain objections to the Americanism introduced into the constitution, I think it might be possible to have a meeting and to come up with some suggestion that might be amicable to the members.

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Mr. Chamberlist: Mr. Chairman, Councillor Dumas picked up the remarks of the Legal Adviser in the same way that I was going to pick them up, but I would have gone one step further. I was very surprised to hear Mr. Legal Adviser say, 'I don't know how far the Commissioner is prepared to go'. Now I ... it's seems to me by innuendo Mr. Legal Adviser was suggesting that the Commissioner will decide whether or not the legislation that this chamber will put into effect will be satisfactory or not, now this is why I say that the office of the Commissioner must be limited as to powers wherever possible. It's a shame in my opinion and I'm not being critical of the Legal Adviser on this particular point, but when an administrative officer views himself that the administrative arm of the Territorial Government can deny the rights of the people through their elected representatives the things that they want in legislation. Now Mr. Legal Adviser has stated this by saying, 'I don't know how far the Commissioner will go', well quite frankly I say this from this table that I don't care how far the Commissioner will go or will want to go because if I am participating in making legislation for the people of the Territory I don't care what he thinks if the members of this Council feel the legislation put forward is the correct legislation. Now this again is not derogatory with reference to the Commissioner but the office of the Commissioner, because it is just an unwholly situation that we have in this Territory. I say that through our Legislation we must now let Ottawa know that this Council means business and that the Yukon Territory wants its strength and wants more responsible government, that we are looking towards this and that we are going to take steps everytime we go through these Ordinances. We are going to be looking for ways to cut down from the administration those things that they want to push on to the people without the elected representatives having something to say about them. I also am quite prepared to go along with the suggestion that has been made by the Honourable member from Whitehorse North, and as always, members of this Council have during the past three sessions been only too pleased to attempt to compromise and co-operate with the administration in a position that it is most difficult for them as well, as long as it is made clear to the administration that the members of Territorial Council are not going to be treated, as much as we possibly can we are going to oppose it, as the rubber stamp that we have been referred to so often. Nobody is going to stamp anything that I am against and other members are against, the majority of this Council has got to rule and has got to rule over the administration as well. Now I've had my say on this particular point and what I have said is going to apply right the way through for the rest of the legislation and it will go along with the suggestion as far as I am concerned that Councillor McKinnon has put forward.



Bill No. 3 Mr. Chairman: Will committee agree then that this Bill be deferred for further consideration.

Mr. Livesay: Mr. Chairman, before you go on are you considering going to another Ordinance? I wonder, Mr. Chairman if at this time I could ask a question in relation to something which is very pertinent as far as this Bill is concerned in view of the fact that it is based on the appointment of a historic sites Board. My question would be addressed to the administration, I would like to ask if the Centennial plaque on the cairn at Pelly River in view of the fact that it is now 1968, if this plaque has been emblazend on the cairn on top of the hill in celebration of the Centennial of Canada in 1967. I wonder if I could have the answer.

Mr. Chairman: Would this not be a question for Orders of the day, Councillor Livesay?

Mr. Livesay: No, Mr. Chairman, it is normal when a Bill is coming up for discussion a question in the question period is ruled out of order on the basis of the fact that it will be discussed in Committee in any event and that is the time to raise the question.

Mr. Commissioner: Can I please have notice on this Mr. Chairman, and I will bring forward the answer as soon as possible.

Mrs. Gordon: Mr. Chairman, may I assist on this matter. I stopped on my way down here on Sunday and there is no Centennial plaque on the cairn at Pelly.

Mr. Shaw: Does this plaque not belong to the National Historic Sites branch, and not under the jurisdiction of a Territorial Historic Sites and Monuments Board?

Mr. Commissioner: I have no idea. All I can say is that if all we have lost during the Centennial celebrations was one plaque I would think it was a miracle.

Mr. Livesay: Well my question Mr. Chairman, wasn't related to losing it, what I did ask was has it been affixed to the cairn, that is all I asked.

Mr. Shaw: I can say it was affixed, Mr. Chairman, I saw it at one time but I do not know if it is there now.

Mr. Chairman: May I proceed with the Bill? (Reads subsection 2 of Section 4, Bill No. 3).

Mr. Chamberlist: I think Mr. Chairman that the period of time should be in legislation as well.

Mr. Commissioner: Mr. Chairman, this was put in there specifically so that we could deal with the complaints that were made by the members of this Council. The complaint to me that they did not have the ability when they were newly elected to change membership on certain Boards that had been appointed by their predessors and this is exactly why this has been worded in this manner.

Mr. Chairman: I just have one question. I am having a little difficulty with this. If we accept the principal that the members be appointed by the Commissioner in Council, would it follow that the Commissioner in Council would prescribe the period during which members would serve?

Mr. Chamberlist: Mr. Chairman, this is what I have suggested to going with the other matter when it is taken under advisement under the Legal Adviser.

Mr. Chairman: (Reads subsection 3, Section 4 of Bill No. 3).

All: Clear.

Mr. Chairman: (Reads subsections 4, 5, 6 and 7, section 4 of Bill No. 3).

Mr. Chamberlist: Well Mr. Chairman, this particular part I see no reason why it shouldn't come in the Regulations, this is an administrative matter entirely.

Mr. Commissioner: Mr. Chairman, we are trying to put into the legislation here the mandatory things that must be done to properly constitute a Board. If you take this out of here you are immediately removing a requirement has got, namely: secretarial services, financial services, engineering services, goodness only knows what. This gives us the legislative authority to instruct and assign members of the public service necessary for the proper conduct of the Board to be assigned to these particular duties.

Mr. Chairman: Yes I might just point out from the Chair that this is permissive and not mandatory. It says that the Commissioner may and not shall.

All: Clear.

Mr. Chairman: (Reads subsection (8) section 4 of Bill No. 3)

Mr. Chamberlist: Well I don't quite understand this. There is a Board, there is a Chairman, the Chairman can call a meeting but only if Mr. Commissioner wants him to call a meeting, and if the Commissioner wants him to call a half a dozen meetings the Commissioner tells him when to hold the meetings. The Commissioner might just as well be the Chairman because he is performing a function.

Mr. Shaw: If you look at it the other way the Chairman could decide to call a meeting every week, then what happens?

Mr. Legal Adviser: Mr. Chairman, part of this is permissive and part is mandatory. It just means that if the Board isn't meeting then the Commissioner may have to step in to call a meeting to find out what is going on, that is all. It is not the intention of the Commissioner to call all meetings.

All: Clear.

Mr. Chairman: (Reads section 5 and 6 of Bill N. 3). This, of course, will be considered in relation with the other two sections.

Bill No. 3 Mr. Legal Adviser: I didn't understand that it was intended to use this section to pay full time salaries but rather to provide for per diem rates for attending meetings and travelling expenses.

Mr. Chairman: Yes, but this section will still have to be considered along with the other two because it states that the Commissioner is appointing the Board members.

Mr. Legal Adviser: Oh yes, of course, I take your point Mr. Chairman.

All: Clear.

Mr. Chairman: (Reads section 8 and 9 of Bill No. 3). Just as one point of interest is it the intention of the administration to have a copy of this report tabled in Council?

Mr. Commissioner: Mr. Chairman, every report will be brought forth and tabled in Council the session immediately after it is received.

Mr. Chairman: Very good, I will report progress on this Bill if Committee agrees.

All: Agreed.

Mr. Chairman: In view of the time is it your wish to proceed any further of the Bills.

All: Proceed.

Bill No. 4 Mr. Chairman: We will now proceed to Bill No. 4 an Ordinance respecting business and the Issuance of Licences therefore.

Mr. McKinnon: Mr. Chairman, I have trouble seeing how we can go through taxation Ordinances which are going to have the effect of raising taxation or modifying taxation in the Territory before we take a look at the financial appropriations Bill and the supplementary estimates Bill because there is all kinds of material in there and all kinds of things that the Budgetary Program Committee would like to bring to the attention of Council which they are not free to do at this time until study of the supplementary estimates takes place and I don't see how we can intelligently describe what effect on taxation, the different taxes are going to have on the overall picture for the Yukon until we've looked at the financial position of the Territory as it is at this time.

Mr. Shaw: Well Mr. Chairman, it appears to me that a few months ago Council asked that the business licences be brought into line. Is not this Bill the result of those discussions a few months ago.

Mr. McKinnon: Partly, but Mr. Chairman, does the Honourable member from Dawson know the exact .... what happened with the increase in taxation that was assented to by the Council at that time. Does he know exactly to the dollar what monies have been raised by this increase and the added impetuous economy of the Yukon. We were forced, and I use the word forced by the Federal Government to raise a certain amount of money by taxation, when the supplementary estimates are studied and the financial bills are studied every member

of Council will know and be able to examine what the impetuosity of the coercion that we were faced by the Federal Government had on the finances of the Territory at this time. But to go ahead and just say, well this is what we agree to regardless of what the overall economic picture in the Yukon is at this time I don't think it being too knowledgeable of the facts and figures, as to the actual sum of money that was raised by different taxes already in effect that we were forced out of by the Federal Government.

Mr. Shaw: Mr. Chairman, no I am not aware naturally not being a member of the Financial Advisory Committee of just where the dollar bills go and where they come from and the amounts involved, but I was of the understanding that aside from and apart from the coercion we were going to endeavour to make these licences equitable. Now I was asking, I see no particular schedule of rates attached to this perhaps the intent of this is to make things more equal than what they were.

Mr. Legal Adviser: Mr. Chairman, there are two purposes for the Bill, one is the purpose by the member and that is to eliminate the differential according to the motion which I think was proposed by the Honourable member for Dawson a session or two ago. Opportunity was taken to repeal an exemption which existed as you will see in the explanatory notes but reading the explanatory note gives a brief outline of the Bill and that is that municipal type legislation only operates in that area where the Commissioner does not have the authority inside the municipality. This Bill imposes a flat licence fee of \$10.00 for residents within the Territory within the area referred to in the provinces as the unorganized areas, and non-residents pay a fee of \$400.00.

Mr. Livesay: Mr. Chairman, I agree with the Honourable member of Whitehorse North, it seems to me this a complete and radical departure of previous licensing system, and a complete and radical departure it obviously has connotations and other questions of relevancy that we haven't as yet discussed and until we work on the actual budget we must .... I can certainly see this is an obvious thing there is no question about that, where you take a radical departure of this nature which I don't believe was entirely conceived a year ago after we had run into the problem of Federal Government wanting to lobe five million dollars off our budget because we wouldn't increase the taxes of the tax paying residents of the Yukon Territory, now if we are going to follow a reasonable system towards not only of the present situation and the present form of agreement which is about due to expire especially when you can come to consider there is a new agreement about to take place, I would certainly think we should know what is in the budget and what our financial position is before we start talking about amendments of this nature in relation to raising more from the tax paying public of the Yukon, I think this is the obvious method and the only way we can proceed and I would certainly concur with that thinking.

Mr. Dumas: I am inclined to agree with both the Honourable member of Whitehorse North and the Honourable member of Carmacks-Kluane, I suggest we get Bill No. 24 into Committee and discuss it as soon as possible.

Bill No.  
4

Mr. Commissioner: Mr. Chairman, I am certain everyone recalls that we were told by the Federal Government to raise so many dollars in taxation and if we didn't we would have five million dollars lopped off our program for the fiscal year so we said we don't care how you raise the money, raise it anyway you want just make sure you come out with this amount of money so I feel if we raised this amount of money because of things that happened to the Yukon economy that we are not forced to put further taxation upon our people when this amount that we were forced and told we had to raise has already been raised and if we go ahead before examining the budget and such is the case as I have mentioned may be the fact they were going to add further taxation on our people where we have already raised all the taxes the Federal Government forced upon us so certainly we have to look through the supplementary apportionment before we can do anything else.

Mr. Shaw: Mr. Chairman, this taxation is fine here we have a tax we charge someone \$10.00 for a licence fee to operate a business I pay \$200.00 for a licence fee to operate a business now if I can get by with \$10.00 I think that was pretty cheap. Now where are we imposing a lot of taxes on a lot of people for a \$10.00 fee to operate a business. Where is the reason in this?

Mr. Dumas: Mr. Chairman, I agree with the Honourable member from Dawson City in this specific case and there may be other specific cases where in fact the Bill may serve a dual purpose the idea behind what the Honourable member from Whitehorse North has said is proper I think we could have the background information before we delve into individual fact and money Bills.

Mr. Chamberlist: Mr. Chairman, I would agree with the basis that we should not be going into money Bills until such time as the information relating to the financial situation is brought before Council such as the supplementary estimate. But this particular Bill although it deals with monies it regulates the amount of monies to be paid for licences and I don't think we should use this Bill to raise the questions that the Honourable member from Whitehorse North has properly raised but it doesn't apply to this particular Bill. I will have many comments to make on this I think that in itself is totally inadequate unfair Bill that is going to have every Tom, Dick and Harry who wants to operate a business without qualifications who wants to borrow \$10.00 and put him in business and it does a lot worse which I will comment later. But the position as far as I can see there should be no objection to going into this particular Bill because it will have no bearing on the financial structure itself but it is more or less an administrative Bill.

Mr. Chairman: I wonder if I could draw your attention to the time.

Mr. Livesay: Well I feel that the proposition that has been placed before us in the thinking of those who have drafted this particular document tends towards the question of raising taxes. I really do, this is what they are thinking about. They figure they are going to tax more people at less per person they are going to embrace a considerably more people that have been taxed in the past this is the thinking behind the Bill, there is no question in my mind a year ago we certainly did agree to raise taxes on business licences, there is no question about that and anything which has a relationship

in my view towards revenue which this most certainly has - has a direct joint relationship to the budget in every way you can think of, we are talking about money so therefore, if we are not talking about money in this budget irrespective of the particular aspect of the incidental paragraph by paragraph this isn't the point I am talking about, I am talking about the fact this is a question of revenue it has to be, I don't believe the administration will come up with a Bill like this if they thought we were going to get less revenue from this Bill we are collecting today the obvious assumption they are going to get more revenue and if they are going to get more revenue I feel we should look at the budget and look at the principal of raising the money and raising funds as has accrued over the past year of operation. It has to be that way. Thank you, Mr. Chairman.

Bill No.  
4

Mr. Shaw: A I move Mr. Chairman, that the Speaker resume the Chair and here the report of the Chairman of Committees.

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

Mr. Chairman: It was moved by Councillor Shaw, seconded by Councillor Dumas that Mr. Speaker do now resume the Chair. Are you prepared for the question? Are we 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 10:50 a.m. this morning to discuss bill. I can report progress on Bill No. 1. Committee recessed at 12:00 noon and reconvened at 2:00 p.m. I would like to report progress on Bill No. 2. I can also report progress on Bill No. 3. It was moved by Councillor Shaw, seconded by Councillor Chamberlist, that Mr. Speaker do now resume the Chair and this motion carried.

REPORT OF  
COMMITTEE

Mr. Speaker: You have heard the report of the Chairman of Committees. Are we agreed? Gentlemen, at this time, I have a question to present to you and it is related to the tabling of two documents which are required by statute to be tabled at this time, and I wonder if I have your permission at this time to table these two documents, and I will give you their headings right now - "The Government of the Yukon Territory, Report to the Commissioner in Council on the Examination of the Accounts and Financial Transactions of the Yukon Territory for the Year ended March 31, 1968". That is document one, and document two is "Government of the Yukon Territory, Territorial Accounts for the Fiscal Year ended March 31, 1968". Do I have the approval of the House to table these documents at this time?

All: Agreed.

Mr. Speaker: Thank you, gentlemen, you may proceed. Is there any further business?

Mr. Taylor: Yes, Mr. Speaker. I wonder if at the same time it would be the intention to table all Sessional Papers so far received this Session?

Mr. Speaker: As this is the end of the day, I wonder if I could suggest to you that I would be prepared to table Sessional Papers along the lines that we have been following since the last Session, which was, I understood, to eliminate possible lengthy discussion on questions of information only, my understanding at the last Session was that we would only normally table those questions upon which the Administration had asked us to comply with. This was the understanding, with the further understanding that if there were further Sessional Papers that Members from the Floor of the House would make this request and would table documents on that basis. This is the way we followed at the last Session.

Mr. Taylor: Mr. Speaker, with respect, it was never understood....it was understood that all Sessional Papers would be tabled in the House but those requiring discussion would have to be moved in by individual interested Members, and I would suggest that we follow this procedure again at this Session.... table all so that Members may select from those Sessional Papers those of their choice for discussion.

Mr. Speaker: Well, if this is the view of the House, we can proceed with the tabling of these documents as normal at the opening of the Session tomorrow morning. Is the House agreed?

All: Agreed.

Mr. Speaker: May I have your further pleasure?

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

Mr. Speaker: The House now stands adjourned until 10:00 a.m. tomorrow morning.

Mr. Speaker read the daily prayer and Council was called to order. All Councillors were present.

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

Mr. Clerk: There is, Mr. Speaker.

Mr. Speaker: I have for your attention this morning the tabling of Sessional Papers No. 1 to 15, and I would also like to table at this time land transactions pursuant to section 8, Yukon Lands Ordinance, and regulations pursuant to section 37 of the Interpretation Ordinance. Are there any reports of committees? Introduction of bills? Notices of motion or resolution?

Mr. Commissioner enters Council Chambers.

Mr. Taylor: Mr. Speaker, I would like to give notice of motion respecting Sessional Papers 10 and 13.

Mrs. Gordon: Mr. Speaker, I will second that motion.

Mr. Speaker: Are there further notices of motion or resolution?

Mr. Dumas: Mr. Speaker, I would like to give notice of motion regarding Sessional Papers No. 4 and 6.

Mr. Speaker: Are there any further notices of motion or resolutions? Notices of motion for the production of papers? We'll now pass to orders of the day, and the next item will be Motion No. 1. It is moved by Councillor McKinnon, seconded by Councillor Dumas, and the text of the motion read "It is the opinion of this Council that the Low Cost Housing Ordinance be amended so that 1) first-mortgage loans be made available in the amounts of \$12,000, and 2) second-mortgage loans be made available to the amount of \$1,500 with the same waiver clause now in effect regardless of total cost of the dwelling." Would the Honourable Member care to proceed at this time with Motion No. 1?

MOTION  
NO. 1

Mr. McKinnon: Yes, Mr. Speaker, I would. Mr. Speaker, when the Federal Task Force on Housing under the Chairmanship of the Honourable Paul Hellyer, the Minister of Transport, of the Federal Government came to Whitenorse, I took the opportunity of prevailing upon the good offices in presenting the history of this motion to the Task Force on Housing; the reason being, Mr. Speaker, that I felt, and I'm sure Council would concur, that there was a complete lack of communication between the expressed wishes of the Council of the Yukon Territory, the Administration, the Government of the Yukon Territory, as between the Federal Government. I went into the history of this motion as Members around the Council are aware of it's sad course through this Chamber, and, Mr. Speaker, I would beg the indulgence of the Committee or of the Council at this time to read into the record the remarks as I, as a Councillor, felt were the expressed wishes of the people of the Territory, had been violated by the Federal Government and also as a background to the history of this motion. As you know, Mr. Speaker, the Federal Government at present runs the Territorial Government's moneys to finance the Territorial low cost housing program. **This**



MOTION  
NO. 1

highly successful plan was necessary to allow people moneys to build homes in the Territorial subdivisions and organized areas where CMHC programs were not available. The Ordinance allows for a first-mortgage loan in the amount of \$8,000, and a second-mortgage loan in the amount of \$1,000. The second mortgage is repayable over ten years at \$100 per year, waived for every year the owner stays in possession. Now, this is all well and good, but here is the catch. The second-mortgage loan is only available providing the total cost of the dwelling does not exceed \$10,000, and I'm sure we all realize what can be built at this time for \$10,000, and then take into consideration the building costs which are estimated at a third as much again in the north. In other words, Mr. Speaker, in my opinion the government is discriminating against the person who wants to build a better home to the advantage of the community and his family, and encouraging and subsidizing inferior homes. On November 21, 1967, the elected representatives of the people unanimously passed the motion that it is the opinion of the Council that the Low Cost Housing Ordinance be amended so that 1) first-mortgage loans be made available in the amount of \$10,000, 2) second-mortgage loans be made available in the amount of \$1,000 regardless of the total cost of the dwelling. The result, as all Members know, was absolutely no action. The next session of Council, my first question of the session, March 5, 1968, asked what action had been taken on the motion. The reply, Mr. Speaker, which is a perfect example of Federal Government gobbledegook that we consistently get in this Chamber, was a letter sent to the Director on December 22, 1967 requesting that consideration be given to the motion, and to date no definite word on the outcome has been received. The next session of Council on July 5, 1968, I presented exactly the same motion of November 21, 1967, and again the resolution was accepted unanimously by Council. To date, still no action and still no communication. Mr. Speaker, I would like to know if someone, anyone in Ottawa, can communicate the Members of the Yukon Legislative Council the reasons that our unanimous opinion on a matter that we are involved in as a part of our everyday life is unacceptable to those who govern the Yukon Territory. Mr. Speaker, when Members of Council receive, as has been asked for, the Government of the Yukon Territory submission to the Task Force on Housing, they will find on page 6 of this document recommendations to the Federal Government. One of the recommendations goes even further than the motion which has been passed and passed ad infinitum by this Council, and it requests that the Federal Government increase the low cost housing first-mortgage loan from \$8,000 to \$12,000, and a second mortgage with the same waiver clause be increased from \$1,000 to \$1,500 applied over the same ten-year period. Mr. Speaker, my motion has changed accordingly to go along with the thinking of the Administration on this subject. It is one matter where the Members of the Council and the Administration have agreed all the way down along the lines, that the Territorial low cost housing program in the Yukon, though successful, could be eminently more successful if the wishes of the elected representatives of this Council were listened to rather than word from the Almighty in Ottawa four thousand miles away that even though we raise the money to pay back the money that we borrow from the, we can't have a say in how we think this money can be more effectively spent in the Yukon Territory to the benefit of people in the Territory who have a crying need for housing and need it at this time and this moment right now, and, Mr. Speaker, I am positive that the Council as they have supported this motion unanimously in the past will again see fit to support this motion once more and

support it again if it is refused once more by the Federal Government. Thank you, Mr. Speaker.

MOTION  
NO. 1

Mr. Speaker: Thank you, Mr. McKinnon. Is there any further discussion? Mr. Taylor.

Mr. Taylor: Mr. Speaker, I attended the hearings of the Task Force and it was very gratifying to hear that several of the briefs did back up the position as stated by the Honourable Member from Whitehorse North, and certainly all recognized the need for the increase in the low cost housing loan. I would like to say as well that it was very encouraging to see Mr. MacDonel, the author of the Territorial Administration's submission, had the foresight to increase the position, and I wholeheartedly support the motion as presented by the Honourable Member from Whitehorse North.

Mr. Dumas: Mr. Speaker, as seconder of the motion, I'd just like to make a few practical points here. The fact of the matter is that the houses that have to be built under this loan very nearly approach NHA standards, or should very nearly approach NHA standards, and it is just an absolute impossibility to build houses approaching these standards for the amount of money allowed under the mortgage. It's just physically impossible. I've seen nine companies incorporated to do this - to attempt to do this. I think two of them are still in operation, and what they're doing is not building the houses to these standards for that \$8,000 plus \$1,000 price, the amount of the mortgage right now, but in fact there are various means of getting around this, and they have to do it if they want to build houses, and the people have to go along with it. In other words, what the government is doing is forcing contractors and citizens to be devious in their dealings with the government, and people at all levels in administration and the citizenry and the contractors, they realize that it's just necessary to do this. I think it's a very unfortunate situation when we force this type of thing upon our citizens, and the ridiculous amount of \$8,000 plus \$1,000 - you couldn't build a good-sized outhouse for that these days.

Mr. Speaker: Any further discussion?

Mr. Shaw: Well, Mr. Speaker, this is repeating practically the same thing that we had for many years in relation to increasing the amounts available under this Low Cost Housing Ordinance. It seems to be a very futile effort but none the less it is an effort that has to be done regularly to keep impressing on the powers that be that things are different in this particular area, and considerations must be given in relation to the present cost of construction, the impossibility in many cases of complying with the normal National Housing Act Regulations, and I'm just hoping that this Task Force that has recently been completed, or their studies and meetings, that they will see by the very well prepared briefs that have been presented to them that there is something that definitely is required in the northern parts of Canada, and I will concur fully with the motion. I know how it is with these motions - you bring the same thing up year after year after year, session after session, and there is a possibility that this will get some action. I certainly hope it will. I concur with the resolution.

MOTION  
NO. 1

Mr. Speaker: Mr. Chamberlist.

Mr. Chamberlist: Mr. Speaker, the motion of course is something that has a subject which is close to all Members of Council. I feel that now that the Task Force has been here, have had the various briefs submitted to them, have travelled around the area a little, and seen some of the substandard homes that people are forced to live in because of the lack of funds that are available to build proper residences, I'm sure that they will go back to Ottawa with the feeling that something must be done towards alleviating the situation that exists here now. I feel sure that in moving this resolution and sending the resolution to Ottawa that they will recognize as an additional to the meetings they have had here that it is the will of the elected representatives of the Territory that something is done immediately to give a larger amount of funds - make a larger amount of funds available for the construction of low cost housing. I support the motion.

Mr. Speaker: Is there any further discussion?

MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker: May we now proceed to questions.

ROSS RIVER  
NURSING  
STATION

Mr. Taylor: Mr. Speaker, I have two questions this morning requesting a written reply. My first question is what progress is being made in respect of construction of the Ross River nursing station at the settlement of Ross River as provided for in the current fiscal agreement, and the second question is would the Administration advise as to why the Watson Lake Cottage Hospital has been reduced to a four-bed capacity?

WATSON  
LAKE  
COTTAGE  
HOSPITAL

Mr. Speaker: Are there any further questions?

CARCROSS  
POSTAL  
SERVICE

Mr. Chamberlist: Mr. Speaker, I'd like to ask a question of the Commissioner. Mr. Commissioner, what further efforts are being made to have an increased postal service to the Carcross area?

Mr. Commissioner: Mr. Speaker, so that I could update my information on this, may I at least take notice on this subject, please?

Mr. Speaker: Are there any further questions?

EXTENSION  
OF CITY  
OF WHITE-  
HORSE  
BOUNDARIES

Mr. McKinnon: Mr. Speaker, I have a written question for the Administration, and it concerns the extension of the City of Whitehorse boundaries. Mr. Speaker, the question is what is the plan of extension for the City of Whitehorse boundaries?

Mr. Speaker: Thank you, Mr. McKinnon. Are there any further questions? If not, may we proceed to public bills and orders, and I await your pleasure.

FIRST  
READING  
BILL NO. 8  
MOTION  
CARRIED

Moved by Councillor Dumas, seconded by Councillor Taylor, that Bill No. 8, An Ordinance to Provide for the Public Inquiries in the Yukon Territory, be given first reading.

MOTION CARRIED

SECOND  
READING  
BILL NO. 8  
MOTION  
CARRIED

Moved by Councillor Dumas, seconded by Councillor Taylor, that Bill No. 8, An Ordinance to Provide for Public Inquiries in the Yukon Territory, be given second reading.

MOTION CARRIED

Moved by Councillor Chamberlist, seconded by Councillor McKinnon, that Bill No. 9, An Ordinance to Amend the Police Magistrate's Courts Ordinance, be given first reading.	FIRST READING BILL NO. 9 MOTION CARRIED
MOTION CARRIED	
Moved by Councillor Chamberlist, seconded by Councillor McKinnon, that Bill No. 9, An Ordinance to Amend the Police Magistrate's Courts Ordinance, be given second reading.	SECOND READING BILL NO. 9 MOTION CARRIED
MOTION CARRIED	
Moved by Councillor Chamberlist, seconded by Councillor McKinnon, that Bill No. 10, An Ordinance to Amend the Judicature Ordinance, be given first reading.	FIRST READING BILL NO. 10 MOTION CARRIED
MOTION CARRIED	
Moved by Councillor Chamberlist, seconded by Councillor McKinnon, that Bill No. 10, An Ordinance to Amend the Judicature Ordinance, be given second reading.	SECOND READING BILL NO. 10 MOTION CARRIED
MOTION CARRIED	
Moved by Councillor Taylor, seconded by Councillor Gordon, that Bill No. 11, An Ordinance to Amend the Game Ordinance, be given first reading.	FIRST READING BILL NO. 11 MOTION CARRIED
MOTION CARRIED	
Moved by Councillor Taylor, seconded by Councillor Gordon, that Bill No. 11, An Ordinance to Amend the Game Ordinance, be given second reading.	SECOND READING BILL NO. 11 MOTION CARRIED
MOTION CARRIED	
Moved by Councillor Shaw, seconded by Councillor Dumas, that Bill No. 13, An Ordinance to Amend the Loan Agreement Ordinance (1962) No. 1, be given first reading.	FIRST READING BILL NO. 13 MOTION CARRIED
MOTION CARRIED	
Moved by Councillor Shaw, seconded by Councillor Dumas, that Bill No. 13, An Ordinance to Amend the Loan Agreement Ordinance (1962) No. 1, be given second reading.	SECOND READING BILL NO. 13 MOTION CARRIED
MOTION CARRIED	
Moved by Councillor Dumas, seconded by Councillor Chamberlist, that Bill No. 14, An Ordinance Respecting Agisters and Keepers of Livery, Boarding and Sales Stables, be given first reading.	FIRST READING BILL NO. 14 MOTION CARRIED
MOTION CARRIED	
Moved by Councillor Dumas, seconded by Councillor Chamberlist, that Bill No. 14, An Ordinance Respecting Agisters and Keepers of Livery, Boarding and Sales Stables, be given second reading.	SECOND READING BILL NO. 14 MOTION CARRIED
MOTION CARRIED	

FIRST  
READING  
BILL NO. 15 Moved by Councillor Dumas, seconded by Councillor Shaw, that Bill No. 15, An Ordinance to Facilitate the Division of Properties into Parts that are to be owned Individually and Parts that are to be owned in Common and to Provide for the Use and Management of Such Properties, be given first reading.

Mr. McKinnon: You don't have to read the whole thing.

Mr. Speaker: Order, please.

MOTION  
CARRIED

MOTION CARRIED

SECOND  
READING  
BILL NO. 15 Moved by Councillor Dumas, seconded by Councillor Shaw, that Bill No. 15, An Ordinance to Facilitate the Division of Properties into Parts that are to be owned Individually and Parts that are to be owned in Common and to Provide for the Use and Management of Such Properties, be given second reading.

MOTION  
CARRIED

MOTION CARRIED

FIRST  
READING  
BILL NO. 16 Moved by Councillor McKinnon, seconded by Councillor Dumas, that Bill No. 16, An Ordinance to Provide for the Vocational Rehabilitation of Disabled Persons, be given first reading.

MOTION  
CARRIED

MOTION CARRIED

SECOND  
READING  
BILL NO. 16 Moved by Councillor McKinnon, seconded by Councillor Dumas, that Bill No. 16, An Ordinance to Provide for the Vocational Rehabilitation of Disabled Persons, be given second reading.

MOTION  
CARRIED

MOTION CARRIED

FIRST  
READING  
BILL NO. 17 Moved by Councillor Shaw, seconded by Councillor Chamberlist, that Bill No. 17, An Ordinance to Amend the Motor Vehicles Ordinance, be given first reading.

MOTION  
CARRIED

MOTION CARRIED

Mr. Legal Adviser leaves Council Chambers.

SECOND  
READING  
BILL NO. 17 Moved by Councillor Shaw, seconded by Councillor Chamberlist, that Bill No. 17, An Ordinance to Amend the Motor Vehicles Ordinance, be given second reading.

MOTION  
CARRIED

MOTION CARRIED

FIRST  
READING  
BILL NO. 18 Moved by Councillor Gordon, seconded by Councillor Shaw, that Bill No. 18, An Ordinance to Establish a Public Utilities Board in the Yukon Territory, be given first reading.

MOTION  
CARRIED

MOTION CARRIED

SECOND  
READING  
BILL NO. 18 Moved by Councillor Gordon, seconded by Councillor Shaw, that Bill No. 18, An Ordinance to Establish a Public Utilities Board in the Yukon Territory, be given second reading.

Mr. Chamberlist: Mr. Speaker, before the motion is put, I would like to say this in reference to this bill, that the bill itself does not go far enough, that it does not include sufficiently for all public utilities. My comments are that consideration must be given by Members of Council to include all organizations who

provide a utility service to the people of the Territory.

Mr. Taylor: Mr. Speaker, in speaking on the principle of the bill, I was about to rise to make the same point. I feel that the Administration should be commended after all these many years for finally relenting and coming up with this bill. However, it does fall short. It does not involve communications. It does not involve other areas not included in the bill that should be included in the bill, and it is my hope that before we finalize discussion, and if this bill does receive second reading, that when it's in Committee that these will be included by amendment to this bill.

Mr. Speaker: Are there further discussions on the principle of the bill at second reading?

MOTION CARRIED

MOTION  
CARRIED

Moved by Councillor McKinnon, seconded by Councillor Taylor, that Bill No. 20, An Ordinance Respecting the Expropriation of Lands and the Determination of Compensation for the Expropriation or Injurious Affection of Lands, be given first reading.

FIRST  
READING  
BILL NO. 20

MOTION CARRIED

MOTION  
CARRIED

Moved by Councillor McKinnon, seconded by Councillor Taylor, that Bill No. 20, An Ordinance Respecting the Expropriation of Lands and the Determination of Compensation for the Expropriation or Injurious Affection of Lands, be given second reading.

SECOND  
READING  
BILL NO. 20

MOTION CARRIED

MOTION  
CARRIED

Moved by Councillor Taylor, seconded by Councillor Chamberlist, that Bill No. 21, An Ordinance Respecting Notaries, be given first reading.

FIRST  
READING  
BILL NO. 21  
MOTION  
CARRIED

MOTION CARRIED

Moved by Councillor Taylor, seconded by Councillor McKinnon, that Bill No. 21, An Ordinance Respecting Notaries, be given second reading.

SECOND  
READING  
BILL NO. 21  
MOTION  
CARRIED

MOTION CARRIED

Mr. Shaw: Mr. Speaker, I would move that the Speaker do now leave the Chair, that Council resolve itself into Committee of the Whole to discuss bills and sessional papers.

Mr. McKinnon: Mr. Speaker, before the question is called, could I enquire of the Chair when these bills become public information? Is it following the introduction or following first and second reading of the bills in the House?

Mr. Speaker: If I may give an immediate opinion, I believe that once the bills have received introduction and passed introduction then they are definitely public.

Mr. McKinnon: Thank you very much, Mr. Speaker, that solves the difficulty that I thought may arise.

Mr. Taylor: Mr. Speaker, just before there is a seconder to the motion as proposed by the Honourable Member from Dawson, I would like to suggest that in view of the difficulties we are having in Committee of finding bills with which we can deal I wonder if the Council might wish to proceed into giving first and second reading to the balance of bills now before us, in order that we may have more to choose from in order that we might continue today.

Mr. Shaw: Mr. Speaker, if it is Council's desire to conclude them all - I thought that we were - we have quite a number on hand. However, if Council wishes to proceed, I have no strong feelings whatsoever. I'm quite willing to proceed with all the bills. It has merit.

Mr. Taylor: Mr. Speaker, I'm easy on the point. We do have quite a few here, but where they involve revenues, why we can't really discuss them.

All: Question.

Mr. Speaker: I'm sorry, there is no motion before the House. No seconder was provided. No motion is provided before the House unless a seconder is provided for that motion.

Mr. Chamberlist: I'll second that motion, Mr. Speaker.

MOTION  
CARRIED

MOTION CARRIED

Mr. Taylor takes the Chair in Committee.

Mr. Chairman: Well, the first bill for consideration yesterday was Bill No. 4. It was found to be a money bill, and I believe Committee agreed to defer the bill for this moment. The next is Bill No. 5, An Ordinance Respecting Tourist Establishments. I believe we could proceed with this one, with your concurrence.

Mr. McKinnon: Mr. Chairman, I wonder if I could ask the Commissioner whether Mr. Gibson could help us on this, or whether he is needed to discuss this bill.

Mr. Commissioner: Mr. Chairman, could I suggest that Council would proceed, and in the meantime I would have the Clerk alert Mr. Gibson and if he is needed he could be brought here in just a moment's notice.

Mr. Chairman: Does Committee agree to this?

All: Agree.

Mr. Chairman: Very good. I'll proceed with the reading of the bill. (Reads sections 1 and 2 of Bill No. 5.)

Mr. McKinnon: Mr. Chairman, in section 2 of the Ordinance I have two areas where I have - in my bill, anyway, instead of saying tourist establishment, it says tourist establishment - whether this is a common error in all of them - and in (e) it says tourist establishment means an hotel. I'm sure that that is almost obliterate, isn't it?

Mr. Chamberlist: When an h is in front of a word.....  
Mr. Chairman, I wonder if Mr. Legal Adviser could be here for some interpretations of some of these references that have been made here.

Mr. Chairman: I'll declare a short recess at this time.

RECESS

RECESS

Mr. Chairman: I'll call Committee back to order.

Mr. Legal Adviser enters Council Chambers.

Mr. Chairman: Would you proceed with your question to Mr. Legal Adviser.

Mr. Chamberlist: Mr. Chairman, I wasn't going to refer to section 2, but I want to go back to the actual name of the Ordinance itself. I wonder if Mr. Legal Adviser can say why this has been referred to as a Tourist Establishments Ordinance and has repealed the Hotel Keepers Ordinance, because after all a hotel isn't necessarily a tourist establishment. There are many people who stay in hotels who are not tourists, so why is a hotel being classified as a tourist establishment? What was the matter with the Hotel Keepers Ordinance?

Mr. Legal Adviser: Nothing really, Mr. Chairman. I, myself, would prefer the wording Hotel Keepers Ordinance, but the intention of the bill is to be more embracing and to embrace every form of operation, but it's considered necessary for catering to transients and Tourist Establishments Ordinance tends to follow an accepted term, but certainly we are quite in the hands of Council if they can think of a more euphonious word to describe the particular type of person we're talking about.

Mr. Chamberlist: Well, could we get an explanation of that..... I'm still going - the point that Mr. Legal Adviser has made - it appears to me that the Hotel Keepers Ordinance that exists now is in itself all embracing because it is referred to as an Ordinance Respecting Hotel, Boarding House and Lodging House Keepers. This is all embracing. It would appear to me that the name of Tourist Establishments Ordinance does not define the actual effect that we're trying to bring about, that is bring up a high standard of hotel and motel and the like accommodation. Now, it would appear to me if we want to use the word tourist in there to make it appear to the travelling public, to the tourists, who are actually tourists - there's a lot of difference between the travelling public and tourists - tourists who come up for a visit to look at the area, and the travelling public who necessarily come up here on business trips for business purposes and use hotels - they come up here not as tourists - they come up here continuously for the purposes of doing business. We can't say that they are tourists in a tourist establishment. They are travellers travelling to a hotel. Could we not amend the name of the bill to read Tourist and Hotel Establishmenst?

Mr. Legal Adviser: Certainly, I don't think the Administration has any objection to this, but I'd just like to suggest that from the public relations point of view and in order to fit in with the existing framework of legislation across Canada, if the Honourable Member could see fit to consult with the - one of the



BILL NO. 5 tourist public relations people here, and then put in an amendment, I think it would be helpful.

Mr. Chairman: Mr. Commissioner.

Mr. Commissioner: Mr. Chairman, the Administration has no strong feelings concerning the titles of the ordinances. What is inside the ordinances that we are going to give effect to - this is what we're concerned with, Mr. Chairman.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Mr. Chairman, to familiarate this in an easier manner, to make it as short as possible, could we not put An Ordinance Respecting Hotels and Tourist Establishments?

Mr. Chairman: Is there anything further in section 2? I believe there were some typing errors noted in section 2; one in section (c) - the spelling of tourist, and again in section (e) I believe there was a difference between a and an. I don't know if there's any others I've missed.

Mr. Dumas: Mr. Chairman, if we're going to change the title should we not go back to section 1 and have a motion on it?

Mr. Chairman: Well, someone would have to submit an amendment, but was it not decided that the tourist people would be consulted before amendment?

Mr. Legal Adviser: This is just a suggestion of mine, but it is just possible they might want to fit in with that type of legislation, but so far as the Administration itself is concerned, clearly, we would accept the amendment.

Mr. Dumas: I would like to move that section 1 be amended to read This Ordinance may be cited as the Hotels and Tourist Establishments Ordinance.

Mr. Chairman: Could I have a written copy of that amendment? It's rather difficult for the Chair to catch all that. Who was the seconder of this motion?

Mr. Shaw: I would second the motion, Mr. Chairman.

Mr. Chairman: It's difficult, gentlemen, with these motions right off the top of the skull, so to speak. I wonder if you gentlemen could write them out and it would certainly assist the Chair in preparing amendments.

MOTION  
CARRIED

MOTION CARRIED

Mr. Chairman: Well, at this time I'll declare a short recess.

RECESS

RECESS

Mr. Chairman: I will now call Committee back to order. Have you anything further in Section 2?

All: Clear.

Mr. Chairman: All right, Section 3. "The Commissioner may appoint inspectors and such other officers as he deems necessary for carrying out the purposes and provisions of this Ordinance!" BILL NO. 5

Mr. Chamberlist: Question, Mr. Chairman. I wonder if we can be told what the intent of this Ordinance is as far as the whole of the Territory, including the municipalities, or does it include outside the municipalities?

Mr. O'Donoghue: This includes all the Territory, Mr. Chairman.

Mr. Chairman: Clear?(Reads Section 4). Councillor Dumas.

Mr. Dumas: Mr. Chairman, I was just wondering, apart from the other question if that shouldn't now read "a hotel or tourist establishment", "and or tourist establishment"?

Mr. Chairman: No.

Mr. Chairman: Councillor Chamberlist.

Mr. Chamberlist: This Section (c), that part that reads "unless he obtains a permit for that purpose from an inspector"; now there are Inspectors in the municipalities and there are inspectors appointed by the Commissioner under this Ordinance. Now which is the inspector that is being referred to? This just says "an inspector".

Mr. O'Donoghue: Being an inspector pursuant to ....Section 2(a).

Mr. Chamberlist: Should we not say that? Should it not be in there? Unless he obtains a permit for that purpose from an inspector pursuant to Section 3.

Mr. O'Donoghue: .....

Mr. Chairman: Right.

Mr. McKinnon: Mr. Chairman, could I ask Mr. Legal Adviser, does this apply to municipalities?

Mr. O'Donoghue: Yes.

Mr. McKinnon: Now there is going to be a double expense.

Mr. Chairman: Councillor Livesey.

Mr. Livesey: Well, as far as I've gone over this Ordinance, Mr. Chairman, it seems to me the beginning of a bureaucratic pipe dream. This is certainly going to appeal to the bureaucracy of the country and the enlargement of all those things which are appointed once again. Here we go into another form of operation where we are going to have inspectors on everything

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you do you have got to call to Whitehorse from God knows where, which could be Old Crow or somewhere. And if you want to move your out house back around the back of the last building you've got to keep applying for all these things. This happened with the Labour government over in Great Britain during the War where if you grew a pig you had to grow the thing according to plan the Government gave you and you had two inspectors to watch the pig; if you killed it you went to jail, without the permission of the government. This is about the size of it. That is exactly what happened. I'm not kidding you. These are facts. And, I don't know how far we will go over this but it seems to me that I can think of twenty or thirty things that happened in my area in the last year or so that if they - these people had to apply to any bureaucratic situation in Whitehorse for permission to do what they were able to do in twenty minutes, in some instances a day, in some instances two or three days, it would probably take two or three months to get the same job done and I am not going to make any specific objection to Section 4 at this point but I hope the Committee bear in mind there are a good many things that have to be done outside the area of Whitehorse that are not going to stand any red tape proposition before they are done - I mean I have lived in there long enough to know these things.

Mr. Chamberlist: Mr. Chairman, my general impression is complete duplication in this Ordinance to the requirements of the various municipal by-laws. For instance, a person who builds a hotel now is just simply faced with a proposition of presenting his plans and specifications to the City Building Inspector and will then receive a permit to construct. Now, in answer to my question before, Mr. Legal Adviser said that this applies to the whole of the Territory including the municipalities. Now Section 4 - "no person shall do (a) (b) and (c) unless he obtains a permit for that purpose from an Inspector. Not only must a person in the municipality obtain a building permit from the Territorial Inspector, he must also obtain a building permit from the City Inspector. If there is a difference of opinion between both Building Inspectors who suffers - the person who wants to build. Now we go on to Section 5 here - Application for the Permit - an application for a permit in a form approved by the Commissioner, and two copies of all plans and specifications relating to the application. Now the Building Construction By Law in the City of Whitehorse requires also that two copies of the plans and specifications be submitted to the City administration. Now we are going to have copies of the plan to be submitted to the Territorial Administration. This will also apply in Councillor Shaw's constituency and Dawson City. If somebody builds up there you have to get, present plans and specifications to the City of Dawson and you have to present plans and specifications to the Territorial Administration. Now if this isn't a duplication I don't know what is. What is the purpose of this. What are we going to do. Choke people up - because this is exactly what it will do and I don't think that it should apply to municipalities as far as the actual construction. I agree that it should apply to the administration of these establishments and to the conduct of these establishments and to the sanitary conditions of these establishments but as soon as we try and put into effect restrictions and recommendations on the part of construction which may differ to the registrations required by municipalities it can do nothing but lead to an additional burden and cost on those people that wish to build or alter their establishment. And I think that serious consideration must be given to see that there isn't a duplication of effort being done here.

Mr. Dumas: Mr. Chairman, I don't think it is enough to say

that we have a problem of duplication. The fact of the matter is; if the Municipal Inspector, his requirements may be much less than those for the Territory so there should be some sort of a compromise where something is worked out with each Municipal Inspector. In other words he could have a copy of the requirements the Territory expects for this type of establishment throughout the Territory and he could then inspect in that area with these plans in mind and the requirements in mind but we just can't pull away from this construction because we are in a municipality and say we will leave it up to the municipal inspector entirely because there could be a wide gap between what he requires and what the Territory requires.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Mr. Chairman, I quite realize and appreciate that we must try to up-date these tourists establishments as much as possible but there are quite some difficulties that arise when you are away from this particular municipality. These heads of Departments - you see them up in my area maybe once or twice in a particular municipality; these heads of a department up in my area you may see maybe once or twice a year. They grab one plane and they go up there and they are out on the next one. Now, if somebody wants to make a change in his particular area he has to write a letter and the inspector will come when he gets around to it and probably the next month, or the next month; there are many difficulties inherent in that and if we take for example the Fire Marshal coming around, my good God he can condemn the whole town because it was built quite a number of years ago and there are limits to what you can do to a building when you have possibly a two months option. That's what has to be considered - where they insist on plaster board so you put plaster board in and the perma-frost heaves it around and inside of a year you would not know what you had there because it is all full of cracks. It won't take it so that when we say, make any structural alterations - now how far does that go. I appreciate that we have to upgrade establishments which require it but there has got to be a certain amount of reason in it and it appears to me that the standards established nowadays with the same form as what would be in say, the City of Vancouver or the City of Winnipeg or some large place whereas it is impossible to attain these particular standards in many of the outlying areas. You can do it here. You can put a cement basement in here and you can put your building on this cement basement and it will, if constructed right, it will stay. But you cannot put a cement basement when you get 350 miles north and expect it to stay because it won't. It will cave in; you will have nothing. So I mean, these are the things that have to be taken into consideration. A good illustration is the Liquor Store in Dawson. That is condemned for anyone living in there. Why, God knows. And it will cost \$50,000 to fix it up. They have been living there for twenty years and I don't think - it is still liveable as far as I am concerned and - but not according to the Fire Marshal because it doesn't comply with certain regulations that might work out in Ottawa; might work out in Winnipeg and so on and so on and I just wondered how far this particular section - make any structural alterations - now what exactly does that mean and how much power does it give a person to really be, my word is knit-picking on an establishment. That is a point; it gives a person an awful lot of power and if you are right handy to where his office is, fine and dandy, but when you are 350 miles away how are you going to contact this character and can he get up there to look at this - the practical aspect. So a person has the alternative of sitting there and waiting

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until he gets a permit or going ahead and having it condemned after he has done the construction because it does not comply with certain rules and regulations. Perhaps if we had in sub-section (c) something like "make any major structural alteration" we might have a little common sense out of it, but structural - if you move one wall ten feet there is a structural alteration and that person, the Inspector, if he so wishes, and believe me some of them are that way, they will say, "huh, what are you doing here - take it down - put it back where it was or we will change it here we will change it there, it hasn't been sanctioned by my department." So, I do along with the improvement, but let us make it so it is going to be liveable, Mr. Chairman. And I would ask, I don't know who I would put the question to, there is no inspector here to ask, but in this subsection (c) of Section 4, if it were changed to make any major structural alterations, would that not serve the purpose in a much more lenient and sensible manner?

Mr. Chairman: Mr. Legal Adviser.

Mr. O'Donoghue: It has been found in .... over the years, in many other countries.....that people who own buildings have a habit of adding on ....and another year another piece so in quite a short time the building changes in a sense so for enforcement purposes it is necessary to have some restriction such as this to forbid him to make any structural alteration to a tourist establishment.....consent shall not be unreasonably withheld and then you have got something you can go to court on.

Mr. Shaw: Mr. Chairman, a person living 350 miles away hasn't got access to court like people around here. They are in and out of Court just like a yo-yo. The least little thing and into Court and have a great big how do you do. I'm talking about a Joe who is trying to get along and have a tourist establishment and major alterations and additions. Yes, I can see that possibly, to fit in with the deal but when you say structural alterations, that can mean moving a wall. The Commissioner, I believe has some comment to make. I would like to hear it.

Mr. Chairman: Mr. Commissioner.

Commissioner Smith: Mr. Chairman, the idea behind this is not to make it difficult for any particular individual to conduct his every day business. On the contrary, the idea is to bring some kind of reasonable uniformity into the tourist establishments and hotels to assist an industry that is very important to our total economy and also I may say that when it comes down to altering of buildings it is not only the person's business who is altering this building, it is the community's business because the end result of the alterations that this man makes have an effect on many things in the community, not the least of which being fire protection and the costs of fire protection, and these costs are borne by the total community. They are not borne by only one individual. Now, I see the point that is being raised here and I would certainly strongly suggest that something would be added to this particular section here concerning the issuing of the permit that these permits would not be unreasonably withheld but if there isn't something that you have that brings these things under the surveillance of a central.....you are simply never going to have any reasonable equity of standards as far as the accommodation industry is concerned and secondly, you are never going to get the ultimate in the way of the most economical costs of protection, particularly if it applies

to fire throughout the whole Territory. Now these things are very very ..... and the method of rating for fire insurance purposes of risk is the rate that is established on the worst risk that you have in the general area. Now, Councillor Dumas, as he is involved in the selling of insurance, he knows of the high cost of maintaining business establishments in the Yukon Territory is a very high rate of insurance and much of this is brought about by the standards to which the buildings are built. Now, as from the administrative point of view, we don't want to.....to people doing things but I would say whatever wording changes if any are going to be required in this section, that it be something that is still going to require the continuing purview of some central standardized creating authority that will help over the years to assist the whole community of industry in particular.

Mr. McKinnon: Mr. Chairman, I wonder if I could ask the Legal Adviser whether the municipalities were consulted in the preparation of this Ordinance.

Mr. O'Donoghue: I don't want to bind the administration by my reply but I think it was the Tourist Advisory Committee that would be responsible for it - for consultation with the draftsman.

Mr. McKinnon: Mr. Chairman, I feel that we are really entering an area in the construction and alterations field of this Ordinance where as it applies to the municipalities is really none of this Council's business. I think it is essential, as the Member from Whitehorse East has said that sanitary conditions are involved, public health may be a hazard; that this is the Territory's business and this is where we should be acting but certainly, where we have a Mayor and Council, elected by the people; I'm using Whitehorse as an example, and a building inspector and a junior building inspector in full employ with the City, plus an engineering staff, that it is their business as to the standard of construction that they are going to allow in their City. Now we come along, as the senior government, and say well, even though you as elected representatives say that this standard of construction should be met, we want to impose another standard of construction on you and we are taking away the very prerogative from the municipality that we as the senior government are trying to obtain from the other senior government. And in the one field as it applies to **construction** and alteration in this Ordinance I just quite simply say as it applies to municipalities it is really none of this Council's business. If these people set a substandard of construction and dwelling and the people of Whitehorse want to live with it, fine. If they don't, they can get rid of the Mayor and the Council at the next election if they want to impose a higher standard of construction and alteration on the people of the City of Whitehorse. And I think there is a real conflict here and as I have been advised, the municipalities were to be consulted. We don't even know really what the City's by-laws are - as they are on building and alterations. We don't even know if they are more stringent or less strict than what we are trying to apply by this Ordinance. Quite truthfully, gentlemen, I don't think we know what we are talking about at this time.

Mr. Dumas: Mr. Chairman, I can't understand how we separate the two aspects of protecting the public - protect them on public health and the sanitary conditions if we are not concerned with protecting them in the municipality as far as the

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5. construction goes. There is a fire hazard - why don't they do the other themselves then?

Mr. Chairman: Order, order please, one at a time. Order, order please.

Mr. Dumas: The fact of the matter is that in Prince George, when you build a hotel you have a Provincial Inspector, you have a Company Inspector that you are building the hotel for, you have a Municipal Inspector and if you have a C.M.H.C. mortgage you have a C.M.H.C. Inspector come in. Now I am suggesting that if a small municipality were set up, or how about a village sets its own standards, what is to protect the general public using; this is a tourist establishment we are talking about, or a transient establishment, people coming and going all the time, not specifically for the use of the people in that area only. So I think we have a duty to protect all of these people and we can only do so by asking a set standard, I think, throughout the Territory which we could hope that the municipalities will follow, and I think that probably they will follow it. They probably would even if we didn't put this in but the thing is we should have the protection of having this Ordinance there.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Mr. Chairman, I must agree with the Councillor from Whitehorse West insofar as making an Ordinance we make it to apply to all parts of the Territory. We don't leave out a municipality, be it Dawson, Mayo or a village to be of Porter Creek or what not. We must have certain standards and that has to be, regardless, where practicable and where possible. So I am not against this and I feel that if the - for example, the City of Dawson or the City of Whitehorse, if they so wish, the municipalities, the elected body, as has happened in Dawson in the past when I was on that body, we just adopted a certain Territorial Ordinance in block and it worked out very well, so that doesn't present too many problems. The only problem I am concerned with Mr. Chairman, is that, how is this going to work out from a practical point of view with the inspector being 350 miles away and you see a lot of these characters once or twice a year. There is a practical point of it. You want - you decide you are going to add to your establishment and quite frequently it is not something that amounts to a great big one hundred thousand dollar expenditure, it may mean putting on a room. Business has been a little bit better in June so you feel you want to add another room to this. What kind of service is the person going to be able to get that lives so far away in order that he can proceed with this and know that he is doing it in the right manner. That is the point. And that is why I said, major structural alterations, or something like that, or new construction. I think that is very simple to do that.

Mr. Chairman: Councillor Chamberlist.

Mr. Chamberlist: Mr. Chairman, on looking through the existing Hotel Keeper's Ordinance I find there is no reference at all to building or construction standards. It is very obvious why this is so because there are other Ordinances and other fire prevention regulations and Ordinances which are there for the purpose of protecting the public from unsafe construction, so from the angle of construction itself and from the angle of fire prevention, so that in my opinion, and I have had some experience in the construction field, I would think that in this new Bill that is before us, Section

Mr. Chamberlist continues..

4, 5 and 6 are superfluous. While the Honourable Member from Whitehorse West made a point of suggesting that it is necessary to have further protection from the Territory, in the public's interest on construction methods, and he points out that in Prince George you have various inspectors. By the same token I suppose he would go far enough to say that the hotel, when it is constructed, not only must it have a City Inspector examine it and the Territorial Inspector examine it, that we should also have a Federal Inspector examine it. Also, by the same token, following his particular line of thought, does it mean that because a person who operates a business in Whitehorse must be licensed to operate that business must also have further protection by obtaining a Territorial licence to operate the business in Whitehorse and must obtain a Federal Licence to operate the business in Whitehorse. And you can go on indefinitely on that particular basis so that I find that the arguments that have been put forward by the Honourable Member from Whitehorse West are not sound inasmuch as they affect this particular Bill that is before us. I would prefer to follow the thought that has been expressed by the Honourable Member from Whitehorse North; that we are encroaching on the powers that have already been given to the municipality by the Municipal Ordinance, that they can in fact make by-laws for the construction and alterations of buildings, etc. We have already given them this power. Now we are going to say to them, although we have given you these powers we are once again going to supervise the powers that we have given you. This is improper. The idea, as I see it, to bring forward a consolidated type of Ordinance for hotels and tourists establishments, viewed certainly with the administration of the Ordinance, and viewed certainly with the operating requirements of these establishments and certainly as far as registration, etc., these things are a must. But when it comes down to saying within a municipality the powers that have already been given them to look after their own construction needs, and to say to these municipalities and especially when the time will come around when we may have six, seven, eight or nine municipalities, to say to them whoever wants to build hotel establishments because the next thing that will follow somebody will want to build a house and they will come around and say, supply us with plans and specifications to the house. The poor home owner, he wants to build his house, is going to have to supply plans and specifications because this is all it is doing. It is going to interfere with the function of the municipality. Now I can't help but recall this but I remember not very long ago when the Honourable Member from Whitehorse West was adamant in saying that I don't necessarily agree with the particular subject but it is the municipality and I am thinking it is something to do with traffic control and he said, but we have to go along with it and give it to them and now you are doing a switcharoo and I can't follow this. Either you go with it or you don't go with it. Now this is what occurred. You can't walk up and down on two sides of the streets at the same time. Now I would suggest then, some of us have memories you know and people should just think back a little for the support of a particular stand you know. I would therefore ask that members of this Committee consider the removal of 4, 5 and 6 from this Bill, keeping in mind that we already have Ordinances which relate to the proper construction and care of buildings; that there is ample inspection and engineering teams in the municipalities. I don't know if there is an Inspector in the City of Dawson or somebody acting as an Inspector in the City of Dawson, and amending in some way Section 7 which would say that the work in all buildings should conform to the National Building Code



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Mr. Chamberlist continues.  
and to the Fire Prevention Ordinance. Now, I think this would cover the needs, and by the same token would place in the hands of the Territorial Inspector the power to regulate the construction of hotel and tourist establishments within the Territory outside the boundaries of a Municipal Ordinance.

Mr. Dumas: Mr. Chairman, I can't let the opportunity pass. I intended to mention the very fact that the Honourable Member from Whitehorse East wanted to step on the Municipality of Whitehorse when he disagreed with them and now is one of their foremost guardians, and I am very glad to hear that. However, I was concerned with - the Honourable Member also put forward the argument, a ridiculous argument, that should we let the Federal government come in and so forth. I am concerned with this Council and this Council's powers. Whatever else happens we have no control over Parliament whatever they do. It is this Council's duty to protect the public and it is this Council's duty to protect the second biggest industry in the Yukon, which is tourism and that has nothing to do with parking meters or people parking or anything else. We are concerned with the second biggest industry in the Yukon at this point. Now the Honourable Member did make a good point insofar as he said that these protections are covered in other Ordinances and if this is so then I have no objections to going along with what he said in the end.

Mr. McKinnon: Mr. Chairman, I would just like to give an example of things that this Tourist and Hotel Keepers Establishments Ordinance would apply to in the Municipality of the City of Whitehorse within the past years that we are all familiar with. Now these types of buildings are the Stratford Motel, the Ben-Elle Motel, the Edgewater, the New North Motel, the Travelodge, the renovation of the Taku and a complete renovation of the Whitehorse Inn. The City is, without a doubt, looking after this problem to a great and a very good degree. Anything that has gone up in the nature that would come under the purview of this Ordinance that has been the responsibility of the City of Whitehorse has been a complete asset to the tourist accommodation of the Territory as a whole and a pride to the City of Whitehorse. This is the direction in which they are looking and this is the way the Building Inspectors are working and this is their responsibility and they are meeting it and fulfilling it. And for us to come down and say - why are you trying to do this to us, **these are the examples.** Aren't we doing even better than the minimums that you are going to set for us? I think they are doing one heck of a darn good job in this area that we are now trying to put more control on and I say, give them their heads. If the public and the people don't like what they are doing they have their opportunity every two years, this December 12th they have their opportunity to get rid of those elected members who are not fulfilling their obligations the people want to see them fulfill as representatives in the City and I agree wholeheartedly with the Honourable Member from Whitehorse East that the Sections 4, 5 and 6 are redundant, they are in other areas and all we are going to do is create ill-feeling between the municipality and the senior government for no reason at all.

Mr. Chairman: Councillor Gordon.

Mrs. Gordon: It would seem apparent that there has been no sort of consultation between the municipalities and their by-laws in relation to this and possibly a lot of other Ordinances, and I think in this Chamber at the moment, as much as I've listened here this morning, we are not taking a really objective view, a number of us; we are too close to our own

Councillor Gordon continues.  
particular areas that are rather confined. And taking a long range view I think with your municipality, if you will look back, their by-laws conform to Territory-wide Ordinances; nothing less. We delegate them the power where they may be able to apply stricter by-laws but nothing less. We should be concerned with the Territory as a whole, not particularly your isolated municipalities.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Mr. Chairman, I would like to direct a question to the Honourable Member from Whitehorse North. He is very well acquainted with this situation. He has been propounding how efficient the City is in looking after fire prevention and building codes and what not. Could he explain to me what would happen in the Whitehorse Inn Cafe if it were full of people and there was a fire. How would they get out of that building? And also, would that conform with any fire regulations any place in any civilized country?

Mr. McKinnon: I would go out either the front door or the back door, quickly.

Mr. Shaw: Mr. Chairman, how could you get out the front door if three or four people wanted to get out at the same time much less twenty or thirty.

Mr. McKinnon: Obviously the Honourable Member from Dawson has never seen me play hockey.

Mr. Chairman: Order please, Mr. Chamberlist would you take the Chair.

Mr. Taylor: I would like to have a word to say on these Sections 4, 5 and 6. There are two areas which I am concerned with. One is the possible conflict with the Municipality as outlined by the Member from Whitehorse North. If this be the case, it could be provided in Section 4 - other than in a municipality no person shall, if this is desirable. This I would leave to the three Whitehorse Members and the Member from Dawson to determine with the Administration. The second point is - the point taken by the Member from Dawson, and that is placing some sort of a level of alteration in this Ordinance whereby if you merely wanted to cut a door through from, for instance, a lounge into a counter at a hotel, that you would not have to go through multi days of writing letters back and forth here to the great white igloo and you could merely cut your door through. However, if you wish to alter a cafe or a series of rooms or some type of alteration which could be considered a somewhat major alteration, then certainly I feel that by all means there should be certification for it - one thing is for darn certain in the outlying districts we need an Ordinance like this; to try and upgrade substandard accommodation and to ensure that there will be no substandard accommodation constructed. And when a person comes to build a hotel in an outlying district he first of all tries to find out what all is involved so he has to go to the Fire Ordinance; he has to go to this Ordinance, he has got to go to that Ordinance, he has to come to Whitehorse at his own expense to meet with Department heads to find out just what is required. If we consider this particular Ordinance in its entirety, we can merely handle a package deal and say, there Buster, are the basics on which you will have to follow and I really think as far as we have gone, we have only got to Section 4 so far but as far as we have gone with those two observations, I think it

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Mr. Taylor continues..  
is a good Ordinance and I wouldn't like to see 4 and when we do get the 5, 6 and 7 I have been glancing ahead, I would not like to see these withdrawn at all. However, if there is a definite conflict with a municipality, I will go along with the inclusion of the words 'other than in a municipality' no person shall' but this must be determined by the other people involved in the municipality.

Mr. Dumas: I just wanted to make one observation Mr. Chairman. Three of the members from outside of Whitehorse have indicated a concern about inspectors and having to go through Whitehorse and so forth. It is the practice of the Federal government, when they have jobs done to appoint inspectors on the spot; for instance a contract in Carcross will call for the appointment of an inspector from Carcross - somebody suitable because really all you are doing is - all you have to do is follow specs and I would think that the same thing would apply so that you would not have to refer to Whitehorse continuously but to your local inspector.

Mr. Chairman: From the Chair, I understood earlier that Councillor Dumas had said that they are not interested in the Federal inspections but only this Council.

Mr. Taylor: I will now resume the Chair.

Mr. Chairman: Councillor Livesey.

Mr. Livesey: I think this Ordinance, I'm mighty sure I know what the logical intention of it is, and I think without having made too many inquiries it is more than obvious what the attempt is and this is only part of it. It is part of the problem and I am looking upon it from this point of view. It seems to me as though we are attacking the wrong thing first but there is no point in going into that at the present moment. These are the regulations which are going to be a form of education for the people in the tourist business in the Yukon without knowing the benefits and it would be, from a logical point of view, it would be much nicer, much more convenient to talk about the possibility of benefits first and the regulations second. However, we are talking now about more regulations and if there is anything the people in the outside areas hate beyond anything else is red tape, bureaucratic action and delay, application, waiting for return reply to letters, questions and their answers that go on day after day after day after day. This is the place where these people are living and where they are presently making a living and where they are presently making a living and no matter what laws exist, no matter what laws we bring about in a final answer is that you are talking to private enterprise. This is what you are talking to and private enterprise doesn't exist without a profit and the profit motive is not only heavy in the eyes, members cannot operate without it. So, there are a good many people today who are making in the outlying areas, they are following an ambition to try to do something; most of which I think are starting from the ground up and haven't got the capital to satisfy any high falluting demand by an idealist and not only that, once again we are concentrating everything in Whitehorse it seems to me, unless we listen to some other form of argument that I haven't heard of yet. I haven't seen it in here, in any event. In other words it is once again for the people in the outlying areas that if they want something they have got to go down to Whitehorse to get it

Councillor Livesey continues

you have got to come yourself, you have to come to your government, for everything else you have to come here for it. Now if you want to make a move you still have to come here and still will have to make these applications. I feel to a certain extent that those people today presently with thought in mind with enlarging their establishment naturally they are going to enlarge it in the envisioned power of the capital that they have in the bank or their opportunity to borrow either from I.D.B. or borrow from whatever source may be available to them at that time to do this particular work. So, I think despite what the benefits may look to us as being something which is absolutely necessary, I think we are going to have to look at the actual practical facts as well, and I do feel that if we are too insistent at this moment towards keeping up a standard which you may feel is necessary in the Municipality of Whitehorse; if you wish to establish that very same standard three or four hundred miles from here in an isolated area you are going to run into difficulties because what is going to happen is that if you press the point too hard you are going to have more people closing down in the winter time than ever closed before and there are certain people now who will not operate in the winter. They are not now providing an all year round service. I feel that any business that deals with the public, if it provides an all year round service it is doing - it is a far greater asset to the travelling public than one which operates for only half a year. So, all these things are not taken into consideration in legislation. Legislation merely lays down the bare facts of the issue but the application and the practical application of this I don't think has been studied yet. For instance you can go to several people I know of and you can say, well this is the standard that you are going to have to follow and for the next two years I can see that whatever move they were thinking of making right now will not be made; they will not be able to do it. They just haven't got the capital to go ahead with it. So, to a certain extent you may be upgrading in some areas but in other ways you may be also making it easier for large capital to operate and small capital to gradually fade out of the picture and I can see this happening in a good many areas. You can get this in the freighting business and all the other forms of operation where large capital is appealed to and small one is divided. Small capital pays the highest cost. So we have got a number of things to think of in the background of our minds when we are discussing this legislation and I would like to take it further with this this afternoon Mr. Chairman.

Mr. Chairman: It now being twelve o'clock, I will declare Committee in recess until two o'clock this afternoon.

Mr. Chairman: At this time I will call Committee back to order BILL # 5 and we are discussing Bill No. 5. We have arrived at Section 4. Councillor McKinnon.

Mr. McKinnon: Mr. Chairman, I just happened by accident to have dinner with His Worship, Mayor Wybrev and he informed me that the City of Whitehorse are stringently enforcing the National Building Code in inspection of all hotels and tourist establishments that are being erected in the City of Whitehorse. He also informed that they are quite proud of the way that they are enforcing building inspection. I say they are doing it strictly and that the people who are building in Whitehorse know that they are going to be inspected thoroughly. He also told me in no uncertain terms that he thought it was presumptuous of this Legislature to try and put another standard of enforcement on them. He also, before this Council, was not informed at all of this legislation that is before Territorial Council at this time and would ask the courtesy in the indulgence of this Committee before they pass this legislation, which he feels would be encroaching on the municipal responsibilities. They would have the courtesy of asking him and his building inspector before Council. He felt that the legislation was unnecessary that it was redundant and encroaching on the responsibilities that we have given the Municipality of the City of Whitehorse. Mr. Chairman, with those thoughts from His Worship, the Mayor of Whitehorse, I will leave that with Committee at this time.

Mr. Shaw: Mr. Chairman, well then if these things have been rigidly enforced can I have an explanation to this particular subject that I brought up this morning, where a public building the door enters inside into a little alcove that two people have quite a struggle to get past which has been in effect for ten years that I have been aware of. If the laws are being complied with.....

Mr. McKinnon: Mr. Chairman, the Ordinance that we are talking about deals with construction and alterations. It does not deal with present building establishments.

Mr. Shaw: Mr. Chairman this deals with safety, this deals with the building code, this deals with fundamental safety features to the public. Now I don't know just what category you would put that in exactly but that is a very good question, it's something I've noticed, in fact I've brought it up at Council about three or four years ago and the situation still exists. Now I don't know if it exists elsewhere but it certainly does in this particular case.

Mr. McKinnon: Mr. Chairman, I would say that this question that I cannot answer and should be directed to the Chief Executive Officer of the City of Whitehorse who has expressed his willingness to sit before Committee and answer just this type of question.

Mr. Chamberlist: Mr. Chairman, I don't feel that there's any necessity really for the Mayor of Whitehorse and Building Inspector to come before this Committee because as far as I'm concerned we have a responsibility in any event not to encroach upon the municipalities and the Honourable Member from Dawson should appreciate what has been said by Councillor McKinnon and what I'm saying also looks towards the interests of that other municipality in the Territory. I feel that the suggestion that was made earlier this morning by the Honourable Member from Watson Lake that either the words inserted excluding the

BILL #5 municipality should be applied or those sections 4, 5, and 6 be removed. I'm willing to go along myself with either one of the suggestions.

Mr. Chairman: Is Mr. Legal Advisor available Mr. Clerk?

Mr. Shaw: I think we must realize that tourist business is a very very important business in the Territory. It's an expanding business and as time goes on we must do what we can, all citizens to try and build it up for our mutual benefit, mutual long term benefit. There are always people who will get by with anything that they can get by with in order to save money or to make more money and that is why we have laws and building codes and this and that and so forth and they are quite a nuisance at times, I will admit. Nevertheless they are for the general protection of the public and for the general well being of the public. This Bill is a bill that sets up minimum standards. Now there are some sections of it yes, that I think we could perhaps moderate but generally speaking it's minimum standards for the whole of the Yukon Territory. I do not see where Whitehorse would have any special privileges anymore than Dawson would or Mayo or Watson Lake. I think that they should all be treated equally in matters of public safety and general standards as close as possible. One can hardly make fish of one and fowl of the other, just because they happen to be in a different locality. This is where they have to keep them in a sanitary condition and they have to do these moderate things. I think there's some that's sensible and it does not infringe. I do not think on the powers of a municipality. In the past, Mr. Chairman, I think you will agree, there has been no time, and I say not time in the years that I have been here that I have ever stated that the municipality can't do this and can't do that. I say that the councils of the municipalities are masters in their own house, subject to the general law which covers the land. Criminal law, Territorial laws, they apply equally to one section as to the other one-it comes to the well being of the people and this is no infringement, I do not believe, on the rights of the municipalities. All it does it set up minimum standards which should prevail in the Territory. Now if the municipalities are policing their establishments they have nothing to fear, nothing to fear what so ever because they are right up in the top class in looking after the safety of all concerned in cleanliness and so on. So if we are going to make a Territorial law, the Territorial law in respect to things such as this I would say should apply to all people of the Territory or none at all and I maintain and submit, Mr. Chairman, this is no infringement on the rights of a municipality, it's just minimum. They can go further than this if they so wish. That is their prerogative but certainly if the people in Porter Creek or if the people in Watson Lake or the people in Beaver Creek had to comply with certain standards then you can't exempt one group of the population because they happen to have a mayor and a council.

Mr. Dumas: Mr. Chairman, the Honourable Member from Whitehorse East suggests that we might throw out three sections or four. I think this would be a deadly mistake because we certainly need some sort of guide line for those areas that are not covered by the municipalities. I wonder if we couldn't insert something to ...in here to the effect that for the purposes of this Ordinance municipal inspectors should be deemed to be appointed inspectors, and solve the problem that way.

Mr. Legal Advisor: This can be done administerably by the Commissioner appointing certain people assuming they make the appointment but this would be an assumption of certain legislative control. They are deeming municipal inspectors to be something without asking their consent of the municipalities consent which might infringe on some honorary members who are defending the municipality.

Mr. Chamberlist: I have another reason in the back of my mind why I'm....I make objection and I'll clear it. It's very, very simple, I think and it has been done in the past. I know I was concerned somewhat in it. If, for instance, the inspector of a municipality approves and is satisfied with the construction, alterations and repairs to a specific building and the Territorial inspector is not satisfied or he's not satisfied because he's been told by the Administration offices that they don't want him to be satisfied so that this particular.....this person's particular building would not be put into use as a hotel, this can be easily done because I recall that the previous Commissioner and the previous paranoic Legal Advisor sending six different inspectors to my premises and bugging me continuously for five weeks and finding everything that's possibly wrong and going to the local fire inspector and saying to him, "Turn over that hotel there and make sure you give me a full report even if there's putty not in the windows!" and I have an affidavit on that. Now these are the dangers you have to be careful of and this is what I'm afraid of quite frankly, in this because this might not occur with this Administration but it has occurred. This is why I say that when it's in the municipality leave it to those people that have already been appointed for these things. Now I can't see really why the Administration, as far as I'm concerned, haven't come up with a sound reason as to why they want to control the inspection on repairs and construction within a municipality. I follow exactly outside a municipality. They should do it, they have every right to do it and they should administer those areas that are not organized areas. They should do this and it's only proper that this chamber gives the powers to the Administration to do this, but even then I would fear with an over zealous and improper thinking Administration, I would fear for the people in the Territory because we all know how difficult an Administration can make it for the average person if they so wish to do. Now this is another consideration that must be given. I would ask that this Committee consider that we're here not only to protect the people from the people, we're here to protect people from government. Now unfortunately, we forget this, we forget that times the worse enemy of the people are the people that are elected into positions. Normally in any other place we would know how to look after them but here we're in the unfortunate position of..... we make the legislation and have no say in the Administration so we have to be really sure that those people that we give the power of Administrators are going to administrate in a fair and reasonable manner. Now this may not occur....this is why we have to protect also from the other angle as well. I don't know how we're going to overcome this particular point but I would like to hear from the Administration as to why and apparently it seems to me, there is a reason that they have not come out with as to why they want to do exactly the same that the municipal officers are doing. Now why must a demand come for lands and specifications from the Territorial Administration when the plans and specifications are already going to be demanded by the City Administration. If the Territorial Administration want a copy of the plans and specifications why not ask that the Municipal Building Inspector supply them with it. Why make it legislative matter that the man in the street the man who's putting up his money have to be bugged by two governments instead of one. It seems to me all wrong and this is I think we have a responsibility to protect the people to see that they're not over duly given what the Honourable Member from Carmacks-Kluane as often referred to "give them the bureaucratic treatment" because this is what we'll be giving and I think we should protect the people. They're more important to me than the Administration of the Yukon Territory.

Mr. Commissioner: Mr. Chairman, the people of the Administration of the Yukon Territory are people too, I may say.

Mr. Chamberlist: They don't always act like that though.

Mr. Commissioner: I'm not prepared to accept that criticism, Mr. Chairman, we make a real effort to act like people and I can assure Council, Mr. Chairman, that as far as we are concerned there will be no earth shattering consequences of Council making whatever changes that they feel are in the best interests of the public as far as this Ordinance is concerned. From our point of view we are endeavouring to bring about a standard insofar as tourist establishments are concerned. It is just that simple. On the Tourist Advisory Committee, which is made up of people from the various ridings of the Territory, I'm sorry that I can't say exactly how often they have met in the course of the last year but I think I would be safe in saying that they have met twice. The content of this Ordinance has been gone over, in fact, I believe that this Ordinance has been better than two years in the discussion and the preparation and it...the idea of endeavouring to create standards for the benefit of the tourist industry. And ultimately to possibly lead to a suggestion that the Tourist Advisory Committee has been toying with and that is of some type of a classification of tourist establishments and it is for no other reason than this that these matters are brought forth in this part of the Ordinance...standardization. If Council feel that this particular aspect of it here is something that they are not prepared to go along with, certainly this is their prerogative to do so but if the tourist industry is going to take the rightful place in the economic structure that we seem to be building here and I think that we will agree to see any part of the Territory without tourist during the tourist season would be a most unhappy situation. I think we have got to do everything within reason in our power to bring about equitable standards that can be identified and possibly identified if the tourist industry wishes this to be done. It is certainly not going to be the Administration that will bring this about but if we recommendations, , and this is what this tourist council is for, I would further say to you, that as far as the duplication of government or the over lapping of government inspections and services is concerned, t is something that is absolutely inevitable. There's just no way out of it, now I may say this that even at the present time we have people coming and applying for liquor licences for brand new premises after the premises have been constructed without any prior reference at all to the laws of the Territory as they apply to the issuing of liquor licences. Now this is real, this is not something I'm imagining, this is a real situation. Then when we have the necessary inspections and we tell these people we are sorry we cannot issue you a licence because the laws of the Territory say that you must do certain things, why we're immediately taken to task as being bureaucratic with these people. I don't think this is a very fair criticism, I think that the law is there and it should be applicable to one as applicable to all. I would like to suggest to you, Mr. Chairman, that in particular Sections that are involved here that it may well be advisable for Council to have some of our own Administrative people here. Some of the people who come under Mr. Baker, the fire marshal, the Building Inspector or possibly, Mr. Gibson to hear something that they may have to say and if it's Council's wish I can assure that these people, I do not believe that Mr. Baker is in town this afternoon, but the rest of these people are readily available. It may well shed light on this that at the present time Council might would like to hear them.



Mr. McKinnon: Mr. Chairman, I've been beating my gums long enough BILL # 5 on the philosophy of this thing and I know the practical application of this Ordinance, I've been connected with it intrinsically in the last month or so. Now, if a person wants to build a tourist establishment or hotel in the city he has to apply to the city for a permit to get a building code ....or to get a building permit. He gets the building permit and the building permit says that he has to adhere stringently to the National Building Code and he has to submit two plans to the city to build. The Inspector, they got two full time inspectors working on just the city projects that are going on. I had a meeting a month ago with Mr. MacDonnell, Mr. Baker and all of the contractors in the Porter Creek, Crestview area because with the Administration of the Yukon Territory, the people in Porter Creek and Crestview.....three miles from the City of Whitehorse.....couldn't get inspection on the homes they were building there and the Administration, and this was followed subsequently, with Mr. Taylor and Mr. MacDonnell and with Mr. Baker were apologizing profusely for the Administration not being able to carry out the inspection when it was wanted. Now let us go back to the City whereas now have to go under the standards of the Building Code where the inspection is immediate. They also have to duplicate the manoeuvre by going to the Territorial Government and asking for another building permit from the Territorial Government and waiting upon the Territorial Government Administration to be able to go out and inspect again, a complete duplication, a complete redundancy of legislation a complete waste of time, a complete unnecessary staff and a complete fall back in just a bureaucratic regime and I'm telling you, gentlemen, with the operation as it now goes on in the City of Whitehorse, who are completely capable, who are completely responsible and are looking after diligently the requirements of the National Building Code, we're just putting a further onerousness on retrograding advancement in the city proper here and I'm speaking chauvinistically and I'm speaking just about the City of Whitehorse because I don't know the problems of the other areas and if they have to have this type of Ordinance there I'm all for it but exclude upon the advice of the people who run the City of Whitehorse this from it, because they feel, gentlemen, that you'll be encroaching on a job that they're proud of what they're doing right now.

Mr. Dumas: Mr. Chairman, what's the situation in the City of Dawson?

Mr. Chairman: To whom do you direct this question?

Mr. Dumas: To anybody who can answer.

Mr. Shaw: Might I know what situation has been requested the information on?

Mr. Dumas: Well, Mr. Chairman, I hear the Honourable Member from Whitehorse North talking about the inspection service in the City of Whitehorse and it is good. Is there an inspection service in Dawson? If we exclude municipalities do we leave Dawson out in the cold? They don't have an inspector. I'd like to know what the situation is.

Mr. Shaw: Mr. Chairman, I don't know what you would call an Inspector. We have the fire chief. The fire chief, he goes around and does the inspections, now just what he inspects ....I couldn't really tell you right down to ...to give specific details I'm afraid I wouldn't be able to answer that question with competency while I'm on my feet though, I would like to make a comment or so particularly for the Honourable Member from Whitehorse North who is in a bit of a conversation at the present time. The objections appears to be with the matter of the inspector going around..now.. I can see where the Honourable Member from Whitehorse North has a very good point in relations to this inspector and I think that that is something that can possibly be ameliorated is the problem

if he would perhaps answer this question. Would the Honourable Member, this will be a question directly to him, if some means could be utilized that whereby the local inspector could look after the inspecting whatever they're inspecting providing the city, the municipality complied with the regulations. I'm not concerned Mr. Chairman about who does the inspecting, that's academic but if the Member, the Honourable Member from Whitehorse North, the Honourable Member from Whitehorse East....are they objecting to the standards as set forth? I would like to have that question answered by both of the Members if possible.

Mr. Chamberlist: Mr. Chairman, when we're referring to standards the standards we refer to is the National Building Code and the requirements of the Fire Prevention Ordinance and all other requirements relating to construction and fire prevention. When we're talking about standards there is no reference in Section 4, 5, and 6 of this Bill before us that deals with particular standards except in 6 we are referring to the fire marshal appointed closer into the Fire Prevention Ordinance and the Fire Prevention Ordinance clearly lays down the terms of reference of the fire marshal and the standards of fire prevention required and likewise Section 7 which reads "where any work in respect of which a permit has been performed, it shall be performed in compliance with such provision of the National Building Code as the Commissioner may prescribe." The National Building Code has already been adopted as the code for construction so withstanding what the Commissioner may prescribe the National Building Code comes first. They are the standards we're talking about...the Honourable Member from Dawson is talking about construction standards. The objection that has been raised by the Member from Whitehorse North and myself is the fact that there would be a duplication, a fact that we have already given powers to a municipality, to make it's own by-laws and their by-laws have adopted already the Fire Prevention Ordinance and the National Building Code so this is why redundancy of those three Sections. There is, obviously, to anybody reading this a duplication of effort on the parts of both the building inspectors of both the governments: therefore I see no reason why we require it. Certainly in the ....Dawson City....they haven't the Administrative facilities to look after everything when one wonders why Dawson itself exists as a municipality but it's there and we remember a little bit in the past and of course we try and maintain it because of it's past and we hope that one day it may have a future too. Another moment, even if they have somebody who takes the part of an inspector there he's acting as an inspector would mean that there would be two inspectors, perhaps the Honourable Member from Dawson wants to get extra protection for that area, perhaps he could speak to the Mayor and Council for Dawson City and they wish to have additional protection let them separately by by-law adopt what is left in this Ordinance relating to construction on alterations and repairs but we must not, I feel, impose upon the municipalities more than we have already given them in authority to do for themselves. This is my objection, this is my feeling in this matter.

Mr. Shaw: Mr. Chairman, the question, the words of wisdom were most apparent and I appreciate them very much but it did not answer my question. My question Mr. Chairman, was leaving out this first Sections or the first one, two, three, four Sections in relation to the inspector. I was talking about, I think the term I used were requirements. Standards, that's the word I used Mr. Chairman, Now on the standards this is what I'm concerned with not exactly the machinery. We have that broken into ten Sections. We have operating requirements, it's down here, registrations, closure of establishments, seizure and detention of goods, sale of detained goods, liability of operators, exemption from seizure, regulations, offences and appeals. Now those parts

that I'm concerned with right at the moment. I can see the difficulties the Honourable Members from Whitehorse North and Whitehorse East have in this respect and it may be some way that this can be resolved but I am asking Mr. Chairman, are they against, are they opposed to the minimum standards or requirements by those Sections that I have stated. Forget about the inspection, just the minimum requirements of standards. Are they objecting to any of that being the law of the Yukon Territory?

Mr. Chamberlist: Mr. Chairman, we're just dealing with the Sections dealing with construction and alterations and this is the only matter before us and therefore the question that has just been asked is not applicable. My remarks are strictly dealing with that particular border.

Mr. McKinnon: I believe I was asked a direct question, I'll give a direct answer....no.

Mr. Chairman: Order please gentlemen.

Mr. Shaw: Mr. Chairman, I very much appreciate the answer from the Member from Whitehorse North. Now I think that we are getting someplace in this. We have determined, I think, with the exception of one Section of this that the standards or whatever you may call them have tried to up lift these tourist establishments and hotels and so forth is sound. Minimum standards. Now that's fine, now I think, I would suggest Mr. Chairman, that the Bill be ..... the progress be reported on the Bill and possibly there's some ways and means whereby this matter of the inspector and the rights and prerogatives of the municipalities whatnot can be resolved to the satisfaction of all. We must proceed beyond this particular point because we're stalemated on that thing. That is why I jumped across and I think it's quite in order because it has to do with this Bill, and I would make that suggestion because we are getting no place....we've been two hours on this particular subject. Now if we could just progress on it and maybe resolve this to a later date.

Mr. Chairman: What is your pleasure gentlemen.

Mr. McKinnon: Well Mr. Chairman, the problem is still going to exist if we return to it at a later date because it's only through the basis of a discussion that we can see our way through a stalement and nobody as yet have offered any way through it at this time.

Mr. Dumas: Mr. Chairman, when I started...when I took my stand on this Bill or this Section of it this morning, I was not convinced that there was not a matter of principle involved insofar as the powers of the municipalities were being you served. Now after listening for two hours and discussing for two hours I've been swayed to some extent by the loquacious and the fine arguments presented by the Members from Whitehorse North and Whitehorse East and I feel that they may have a point when they speak of the principle of your searching of power. I didn't think that this entered it at one point. Now on the other hand I've happened to have dinner with the Mayor of the City of Whitehorse and I know what his feelings are and I'm sure his Council will feel the same way. Rather than step on toes, or rather than try and unduly influence or push our will on the will on the elected people the City of Whitehorse I would be agreeable of going along with an exception being entered into this Ordinance. That exception being the City of Whitehorse. It doesn't mean that we're lowering the standards in the City because they are, as we have been assured, being protected now. In fact, at this point

the standards are protected but to help solve the stalemate from my point of view, I've changed my mind in this thing.

Mr. Chairman: Councillor Chamberlist, will you take the Chair please?

Mr. Chamberlist takes the Chair.

Mr. Taylor: Mr. Chairman, listening with great interest to this debate it occurs to me that there are points, very valid points made on both sides and I would like to ask a direct question to Mr. Legal Adviser at this time, and ask if he feels that the Administration would consider the exemption of the Municipality of Whitehorse only under Section 4, 5, 6, and 7 only? On the agreement that the....all municipalities would be involved with the balance of the Ordinance. In other words, would this be.....would the Administration feel that this is workable?

Mr. Legal Adviser: Mr. Chairman, I don't think the Administration would feel that this is workable exemption out the Administration does feel might be with the consent of the municipality involved that an attempt would be made by the Commissioner to come to an arrangement whereby the City inspectors would be appointed our inspectors for the purpose of this Bill. We cannot say that this will happen but assuming that consent on both sides is obtained and attempt will be made to resolve a compromise in this fashion if this is acceptable.

Mr. Taylor : One further question, Mr. Chairman, possibly the Whitehorse Members could answer it. Would it then be agreeable with the Whitehorse Members that the balance that this Ordinance would then apply...we've just discussed construction and renovation but this ....the balance of this Ordinance would apply throughout the municipality?

Mr. Chairman: Anybody care to answer it?

Mr. McKinnon: Well Mr. Chairman, I can hardly give a carte blanche acceptance of the rest of the Ordinance until we study it.

Mr. Taylor: I'll resume the Chair.

Mr. Taylor resumes the Chair.

Mr. Chamberlist: I would agree Mr. Chairman with Councillor McKinnon's remarks, it may be that we have other points that might have to be debated but I would be quite satisfied with myself with the suggestion that brought forward by Mr. Legal Adviser that if the municipality and Whitehorse agree to have their building inspectors department be the Building Inspectors representation for the Territory for this particular Ordinance. I would be quite satisfied that there would be no duplication of (inaudible)

Mr. Chairman: Would Mr. Legal Adviser be prepared to look at this and prepare an amendment according to it.

Mr. Legal Adviser: There would be no amendment necessary but we could cable an exchange of letters between the Commissioner and the Mayor of Whitehorse on the subject to put it in legislation is a difficult thing.

Mr. Chairman: Would Committee agree to this procedure?

Mr. Shaw: Mr. Chairman, I think that was part of my suggestion

Leave this in abeyance for the time being and at least....particularly this first section and communications could be entered into with the Municipality of Whitehorse and the Municipality of Dawson it may be possible that the Municipality of Dawson prefer to have Territorial Inspector on the other hand maybe they provisions for one. That I'm not competent to state at this particular time. But could we not go through the rest of the Ordinance starting at Operating Requirments and leave the balance of that for these letters to go back and forth to arrive at an answer.

Mr. McKinnon: Mr. Chairman, I think that this is acceptable at this time and that why I can think of other arguments against it. The only thing is that in 4, 5, and 6 in this. Everything that oweness on the person who wants to invest his money in building a premise, a hotel or tourist keepers, he has to do everything under 4. He's obliged to do it by city by-law, he's obliged to do everything under 5 by city by-law and he's obliged to do everything under 6 by city by-law. Then once he's done that and got the okay then he's obliged to do everything under 4 by the Territorial Government, everything under 5 by the Territorial Government and everything by the Territorial Government and 7 which is applicable to the City. Mr. Chairman, when a person wanting to invest his money in the City and all these precautions are taken by the City to have to go around and duplicate, the whole thing with the Territorial Government it's just putting too much oweness, when all he wants to do is put his money in the Yukon and the City of Whitehorse and if through exchange of letters to assuring that the...for the purposes of this Ordinance the Inspectorial staff that they already have on salary in the City of Whitehorse are adequate for the purposes of this Ordinance then to me the problem is resolved. I just will not stand for Government making the poor guy duplicate all his efforts to be able to invest his money in the Yukon. I just won't accept it.

Mr. Chamberlist: Mr. Chairman, I think perhaps with respect to the Honourable Member from Whitehorse North, a little bit hasty in agreeing to this particular thing because if it's not in the Ordinance, the exca nge of letters means nothing, if there's an infringement of the Ordinance itself. Exchange of a letter does **not make** correct a breach of the law. Now as far as I'm concerned there should be something in that section, there should be something in that section. If this will be put into a regulation not by an exchange of letters but once it's agreed and this is one of the Commissioner's regulations that this will be done, because if it is not done, the next time around I'm going to move to have this part of it replealed. Once this is passed the next time I find that there are no regulations to this effect doneand gone ahead without that as it well may be, I would move to have this section **repealed**. So I'm just taking on the Administrations' word that they are going to do this, there will be an exahange of letters and if the Municipality accepts there will be a regulation put into this effect.

Mr. Legal Adviser: I can't guarantee we do a regulation. It may not be proper to make a regulation for a special narrow situation but I can guarantee that there will be an exchange of letter and the exchange will be tabled for the House and the House can see what is in the exchange of letters.

Mr. Chairman: Will Committee agree then? I will move to Section 5.

Mr. Livesey: Not clear yet, Mr. Chairman. We've heard from the Municipality of the City of Whitehorse. We haven't heard from the outlying areas as far as I can see, not very much at any event.

This question of inspection, may or may not bother a good many of you but it certainly bothers me. I can certainly remember how the Government were very kind to me when it took me five years to purchase some land in the Yukon Territory. Five solid years of bureaucratic investigation before I could even put my money on it and I had the money the first year I applied. This is a bureaucracy I'm talking about and what I'd like to know, Mr. Chairman, when the hilarity ceases, is how many inspectors are we going to get and for inspectors what are we going to get? Football players, department store managers, hockey-stick packers, or what are we going to get? That's what I want to know. I've seen this go on before, believe me, it went from redundancy to the waste basket. I want to know how many we're going to have too and do they come from Whitehorse. That will be Whitehorse will be exempt but the people from Whitehorse will be regulating the outside areas. This is fine, this is usual and that's par for the course, par for the course, that's exactly what it will be. Now does this Section cover only new construction or does it cover old construction. If it doesn't cover old construction then quite obviously then only those who are willing to put their money down during the inflative era we are at presently established in are going to be bothered with this thing and those who have been carrying on the old equipment can carry on until the old equipment falls apart. So you'll have a difference between the one who wants to make a new investment and the one that already has an investment and there'll be a conflict of opinion over that. The question of what is necessary in the outlying areas from a business point of view, apart from safety, and a number of other aspects that I can think of are totally different. What applies to business in this area in a twelve month period doesn't apply to this business four hundred miles from here. Totally different. The situation is totally different, the materials that are available are totally different, the land structure is different. Everything's different but the results are to be the same. Now this is the problem that bothers me and it not only bothers me but it bothers a hundreds of other people that I've talked to about this. They say, what are you going to do about this. Well I say I don't know, I haven't seen what has been provided for us yet and it certainly bothers me. What I fear in a good many instances that if you make the thing too strict, you'll find out you may get your improvements in an area where you are close to available (inaudible) and where you are close to certain types of facilities that don't cost too much money to obtain. But the further you go from Whitehorse, which after all is only a communications and distribution centre as far as the industry of the North is concerned, the outside areas, it seems to me, these are where you're looking for your products. This is where the economy is going to come from, the bulk of it, as far as I can see. No less the tourist industry than any other industry we're looking at and I know perfectly well that a good many people that are, maybe now, thinking of further investment, will certainly be interested in the passage of this Ordinance. There's no question about that and I would like some of these questions answered if I could get them Mr. Chairman, and that is how many inspectors are we going to have, are they going to come from Whitehorse, and are we talking about the same standards for the Municipality of the City of Whitehorse as we're talking about five hundred miles in the bush? The same standards?

Mr. Chairman: To whom do you direct your questions?

Mr. Livesey: To the Administration.

Mr. Commissioner: Mr. Chairman, first and foremost, the standards that will be applied are those standards which are already been adopted in the Territory, namely the National Building Code standards. I believe, it has in brackets, "Northern" after the proper title. I'm subject to correction on that but I believe that is the category they fall into. Secondly, the number of inspectors will be depended upon the amount of work that is involved, as to where these inspectors will come from, it will be up to the people who are charged at the administrative level with the giving effect to the Ordinance as to where they get them from and when they get them from. I can assure you that as we have a very penurious Budget Programming Committee at the present time there will probably be about half as many inspectors as what we should have and only half of those jobs will be filled at any one time. I think you're quite safe, Mr. Chairman, as far as the bureaucracy is concerned when it comes to the inspection services that will be required here. I would like to suggest, Mr. Chairman, that nothing but good will adhere to the Territory as a consequence to those Sections of the Ordinance which it will appear that we have to have an agreement on at the moment.

Mr. Livesey: I don't feel that I got the questions answered in way in which I made application, however, does this Ordinance apply to new construction only not old construction, presently established construction in the rural areas of the Yukon?

Mr. Legal Adviser: Mr. Chairman, I think it's clear that no person shall, in the future that is, consult the Tourist Establishment but (b) of Section 4 is talking about ...can talk about existing buildings...and (c) talks about a structural alteration which also is in the future but can be a structure alteration to a building that is presently in existence. So it mixes present and future.

Mr. Livesey: Yes, Mr. Chairman, the question is, for instance now, I believe in the Canada Building Code you can't have an oil storage tank containing more than two hundred gallons of fuel less than ten feet from the building that is directly connected to a piece of machinery on the inside of the building or heating equipment. Now, this is what I'm talking about, this type of thing. Now, if you're going to enforce the National Building Code on the basis of this Ordinance, do you apply it in that respect or are you talking about strictly new types of construction? This is my question.

Mr. Commissioner: Mr. Chairman, one of the main reasons that Council along with the Administration was most anxious to get our own Fire Marshal here, was to assist us in upgrading the general fire protection situation throughout the Territory, and I think it is very much easier for the person that they know before that they proceed to build a building that there are going to be certain requirements and you have inspections to insist that these things be done, and what it is to come along after the building has been built. Now, in the process of upgrading throughout the Territory for health and fire and sanitation standards, I think that all premises that are being occupied by the public are under continuous scrutiny by these inspection people, and I'm sure that they are endeavouring by pointing out where deficiencies exist to present operators and encouraging them in every way possible within the capabilities of these people and the facilities that they have available to work with to try to bring their present premises as up to or as close as practical to bring them to the safety standards that are required for the protection of the public in general, but I certainly not aware, Mr. Chairman, of any one going running around

BILL NO. 5 the Territory with a bulldozer bulldozing people's businesses into oblivion simply because they have got a fuel oil tank two feet closer to a building than what the National Building Code calls for. I'm certainly not aware of this.

Mr. Livesey: Mr. Chairman, no one said it was any different at all. What I did was ask a question, not make a statement. My question was are you by the virtue of this Ordinance going to enact the principles clause by clause of the National Building Code, as soon as this goes into effect, so that you go over the whole of the National Building Code and start looking what already exists and working it towards the exact requirements of the Code. This is a question, it's not a statement. I didn't make any statement. I want to know - if we're not, fine. If we are, yes, this is what I want to know.

Mr. Chamberlist: Mr. Chairman, I am somewhat familiar with the National Building Code and you will find the National Building Code itself is very flexible, and it covers perhaps ten different circumstances relating to the particular subject that the Honourable Member from Carmaks-Kluane is referring to. I don't think for one moment there is a suggestion, and in this I must agree with the Commissioner - I don't think there is any suggestion that an inspector would go along to an existing building - an existing structure and take his tape measure out and say, Oh ho, I got you this time. This should be ten feet and it's only eight feet. You'll have to strip your boiler and move it back. This is not - this would not be the purpose, just by recent structure under any ordinance. That's not the purpose. If, of course, you put in a new establishment, then you would be asked to comply with the National Building Code in putting in a new establishment, but if you were going to make - say, if you decided you were going to move your tank, your oil tank, and you put it in a certain place, you're supposed to make an application - you have a hotel - you're supposed to make an application for a permit to move it and then you would have to comply with the regulations of the Building Code for moving it, but there's no suggestion that what is existing, an inspector will come along and make you comply because it's not even accepted as such, but I think that the Honourable Member is going to an extreme in putting that question because I don't think quite rightly you should think about it, but I don't think it would occur.

Mr. Livesey: Mr. Chairman, if I might add a few remarks here. That is precisely the position I want to find out. Is it or isn't it? Well, fine and dandy, we know where we're at right now. Then what we're doing then is we're going to say yes to the one that has to comply with the Building Code, and they're going to say no to the new construction, so you're going to have in the same level - business level - have one who isn't following it and one who is, and I've discussed this irrespective of what some honourable gentleman might think about the questions I'm raising. I have discussed this with the people that count, the people that are involved with this same problem. They say well now, look at old so and so down the road - he's going to - look what's he got, and you say that next year I'm going to have to do this and that and something else, and yes. Well, how about him? What are you going to do with him? Alright, I'll go to Whitehorse and find out, and I found out - nothing is the answer, so you're going to have a difference in the standard applied to the same licence. That's it - fine.

Mr. Chairman: Gentlemen, it now being 3:00 o'clock, I just want to declare a very brief recess just for a moment.

RECESS

RECESS



Page 91  
November 14, 1968.  
3:00 o'clock p.m.

Mr. Chairman: At this time I will call Committee back to order, and what is your further pleasure at this time?

Moved by Councillor Shaw, seconded by Councillor Dumas, that the Speaker resume the Chair.

MOTION CARRIED

MOTION  
CARRIED

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

Mr. Chairman: Mr. Speaker, Committee convened at 10:45 a.m. to discuss public bills. It was moved by Councillor Dumas, seconded by Councillor Shaw, that the title to Bill No. 5 be amended to read An Ordinance Respecting Hotels and Tourist Establishments. This motion carried. Committee recessed at 12:00 noon and reconvened at 2:00 p.m. I can report progress on Bill No. 5. It was moved by Councillor Shaw, seconded by Councillor Dumas, that Mr. Speaker do now resume the Chair and this motion carried.

REPORT OF  
CHAIRMAN  
OF  
COMMITTEE

Mr. Speaker: You heard the report of the Chairman of Committee. Are we agreed?

All: Agreed.

Mr. Speaker: Do you wish to provide the Chair with any information with reference to tomorrow's business?

Mr. Taylor: Mr. Speaker, at the present time we have only bills in Committee and I would suggest that we continue with public bills tomorrow.

Mr. Speaker: Is there any further business, gentlemen?

Mr. Shaw: Mr. Speaker, I would move that we call it 5:00 o'clock at this time.

Mr. Speaker: Are we agreed?

All: Agreed.

Mr. Speaker: Order, please. The House now stands adjourned until 10:00 a.m. tomorrow morning.

Mr. Speaker read the daily prayer and Council was called to order. All Councillors were present.

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

Mr. Clerk: There is, Mr. Speaker.

Mr. Speaker: I have for your attention this morning Sessional Papers No. 16, 17, 18, 19 and 20. Are there any reports of Committee?

Mr. Chamberlist: Mr. Speaker, as Chairman of the Financial Advisory Committee, I wish to report that the meeting held between the Salary Negotiating Committee of the teachers and the Government side, the report of that has been submitted in accordance with the Ordinance to Amend the School Ordinance, being Chap. 15 of the ordinances of 1967 - has been submitted to the Commissioner and to the Financial Advisory Committee in accordance with that statutory requirement.

Mr. Speaker: I thank the Honourable Member for Whitehorse East for his report. Are there further reports of committees? 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 now pass to orders of the day, and we pass to motions. Motion No. 2, moved by the Honourable Member for Watson Lake, seconded by the Honourable Member for Mayo, Sessional Papers No. 10 and 15 be discussed in Committee of the Whole.

MOTION  
NO. 2

MOTION CARRIED

MOTION  
CARRIED

Mr. Speaker: And Motion No. 3, moved by the Honourable Member for Whitehorse West, seconded by the Honourable Member for Mayo, that Sessional Papers No. 4 and 6 be moved into Committee of the Whole.

MOTION  
NO. 3

MOTION CARRIED

MOTION  
CARRIED

Mr. Speaker: Are there any questions?

Mr. Commissioner and Mr. Legal Adviser enter Council Chambers.

Mr. Speaker: Are there any questions this morning, gentlemen? I wonder if I could enquire from Mr. Clerk as to the possible limitation of time required for questions presently on the order paper?

Mr. Clerk: Mr. Speaker, I believe by Monday morning we will be able to table answers to all of the questions now on the order paper.

Mr. Speaker: Thank you, Mr. Clerk.

Mr. Chamberlist: Mr. Speaker, I'd like to address a question to the Commissioner. Mr. Commissioner, will the land which will be made available in the R.C.M.P. compound be used in accordance with the metropolitan planned area or otherwise?

QUESTION RE  
LAND IN  
R.C.M.P.  
COMPOUND

QUESTION RE  
LAND IN  
R.C.M.P.  
COMPOUND

Mr. Commissioner: Mr. Speaker, the responsibility for property use zoning within the confines of the City of Whitehorse is a municipal responsibility, and I am not familiar enough with the City zoning of that area at the present time to say whether or not it conforms with the Whitehorse Metropolitan Area Plan, but it would be a City responsibility in this regard and whatever the City zoning was, this would be the limitation on the use to which the property could be put.

Mr. Chamberlist: Supplementary, Mr. Speaker. As a preamble, the Metropolitan Area Plan recommends as follows: it is recommended that the R.C.M.P. subdivision facilities and municipal detachments be re-located in the Federal Building and the new City Hall respectively, and their existing sites be restricted to residential use. My question before, and the supplementary question now, is this - is the Metropolitan Plan to be followed in this particular instance?

Mr. Commissioner: Mr. Speaker, I think that it would be a little presumptuous on my part to infer any interference on the right that the City of Whitehorse has under their zoning by-laws to say whether their zoned or recommended use would differ from the recommendations of the Metropolitan Area Plan.

Mr. Speaker: Are there any further questions?

QUESTION RE  
NOTING OF  
OFFENSES ON  
DRIVER'S  
LICENCES

Mr. Taylor: Mr. Speaker, I have a question to direct to Mr. Commissioner this morning. In view of the fact that last spring in amending the Motor Vehicles Ordinance, we provided that only certain offenses under the Criminal Code would be noted in licences, and indeed offenses under the Motor Vehicles Ordinance not be noted on motor vehicle driver's licences - could the Commissioner inform me this morning as to why the practice in Whitehorse would appear to be the noting of motor vehicle offenses on driver's licences?

Mr. Commissioner: Mr. Speaker, I would have to ask for time on that question, please.

Mr. Speaker: Are there any further questions? If not, may we pass to public bills and orders. May I have your pleasure?

FIRST  
READING  
BILL NO. 22  
MOTION  
CARRIED

Moved by Councillor McKinnon, seconded by Councillor Dumas, that Bill No. 22, An Ordinance to Amend the Evidence Ordinance, be given first reading.

MOTION CARRIED

SECOND  
READING  
BILL NO. 22  
MOTION  
CARRIED

Moved by Councillor McKinnon, seconded by Councillor Dumas, that Bill No. 22, An Ordinance to Amend the Evidence Ordinance, be given second reading.

MOTION CARRIED

FIRST  
READING  
BILL NO. 23  
MOTION  
CARRIED

Moved by Councillor Dumas, seconded by Councillor McKinnon, that Bill No. 23, An Ordinance to Amend the Gaols Ordinance, be given first reading.

MOTION CARRIED

SECOND  
READING  
BILL NO. 23  
MOTION  
CARRIED

Moved by Councillor Dumas, seconded by Councillor McKinnon, that Bill No. 23, An Ordinance to Amend the Gaols Ordinance, be given second reading.

MOTION CARRIED

Moved by Councillor Dumas, seconded by Councillor Gordon, that Bill No. 25, An Ordinance to Amend the Legal Profession Ordinance, be given first reading. FIRST READING BILL NO. 25 MOTION CARRIED

Moved by Councillor Dumas, seconded by Councillor Gordon, that Bill No. 25, An Ordinance to Amend the Legal Profession Ordinance, be given second reading. SECOND READING BILL NO. 25 MOTION CARRIED

Moved by Councillor Gordon, seconded by Councillor Chamberlist, that Bill No. 26, An Ordinance Respecting Dogs, be given first reading. FIRST READING BILL NO. 26 MOTION CARRIED

Moved by Councillor Gordon, seconded by Councillor Chamberlist, that Bill No. 26, An Ordinance Respecting Dogs, be given second reading. SECOND READING BILL NO. 26 MOTION CARRIED

Moved by Councillor Chamberlist, seconded by Councillor Taylor, that Bill No. 27, An Ordinance to Amend the Fire Prevention Ordinance, be given first reading. FIRST READING BILL NO. 27 MOTION CARRIED

Moved by Councillor Chamberlist, seconded by Councillor Taylor, that Bill No. 27, An Ordinance to Amend the Fire Prevention Ordinance, be given second reading. SECOND READING BILL NO. 27 MOTION CARRIED

Moved by Councillor Taylor, seconded by Councillor Dumas, that Bill No. 28, An Ordinance to Provide for Government Control and Sale of Alcoholic Liquors, be given first reading. FIRST READING BILL NO. 28 MOTION CARRIED

Moved by Councillor Taylor, seconded by Councillor Dumas, that Bill No. 28, An Ordinance to Provide for Government Control and Sale of Alcoholic Liquors, be given second reading. SECOND READING BILL NO. 28 MOTION CARRIED

Moved by Councillor Dumas, seconded by Councillor McKinnon, that Bill No. 29, An Ordinance to Amend the Municipal Ordinance, be given first reading. FIRST READING BILL NO. 29 MOTION CARRIED

Moved by Councillor Dumas, seconded by Councillor McKinnon, that Bill No. 29, An Ordinance to Amend the Municipal Ordinance, be given second reading. SECOND READING BILL NO. 29

Mr. Chamberlist: Mr. Speaker, speaking on the principle of this bill, I feel that it is time that the Municipal Ordinance be thoroughly overhauled, that an amendment to the Municipal Ordinance does nothing more than further involve the people of

municipalities into a most obnoxious piece of legislation because they cannot follow what it's all about. I feel, Mr. Speaker, that the time has come when we should also include beside any amendments or any complete revision of the Ordinance the idea of revoking the split Council set-ups that we do have now so that the people of the municipality, of any municipality, can vote out of office all the Members of Council at any given election, and not have to wait for intermediate years for this to happen. I speak on the principle in that regard.

Mr. Speaker: Is there any further discussion on Bill No. 29?

MOTION  
CARRIED

MOTION CARRIED

Mr. Chamberlist: I move that Mr. Speaker do now leave the Chair.

Mr. Speaker: It has been regularly moved by the Honourable Member for Whitehorse East but no seconder has been provided.

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. Taylor takes the Chair in Committee.

BILL NO. 5

Mr. Chairman: We'll proceed with our deliberations on Bill No. 5. We have concluded sections 1, 2 and 3 and are awaiting further amendments to section 4, and we have arrived at section 5. (Reads section 5 of Bill No. 5.)

Mr. Chamberlist: Mr. Chairman, I think that section 4, 5, 6 and 7 all very much tie up with one another, and that the information that we are waiting on should apply to these particular sections as well and we should continue with section 8.

Mr. Chairman: Yes, well I must remind the Honourable Member that in order for the bill to become law it must be read in Committee of the Whole. Clear?

All: Clear.

Mr. Chairman: (Reads section 6 of Bill No. 5.)

Mr. Chamberlist: Mr. Chairman, I don't think we should ask for it to be cleared but we should ask for these sections to be deferred.

Mr. Chairman: The next section is section 7. (Reads section 7 of Bill No. 5.) Clear?

Mr. Chamberlist: It's not clear. Mr. Chairman, with respect, when Mr. Chairman asked if this is clear it would intimate that we are approving of the particular section. I'm not in approval of the section because of the remarks that I have made already with reference to 4, 5, 6 and 7, and I wonder if Mr. Chairman intends that this be deferred until the information that has been requested comes along?

Mr. Chairman: Well, the Chair has indicated that this is the case. It has also indicated the point that these sections must be read and the only descending voice I've heard so far is from the Honourable Member. I'm quite sure that the Honourable Member will appreciate that we will be returning to this section. (Reads section 8(a), (b) and (c) of Bill No. 5.)

Mr. Dumas: Question. Does this mean at all times while the operation is in fact in operation? How about the outfits that close down for the winter?

Mr. Chairman: Mr. Legal Adviser.

Mr. Legal Adviser: Mr. Chairman, this particular subsection caused a certain amount of heartburn in drafting, and it has been polished and repolished in order to get its meaning clearly precise. At all times during the operation of the tourist establishment means to us when it's operating. Now, at least one person capable of operating the establishment is an attempt to cover the case of a family where if we had set a limit of persons over 18 years of age or a person with certain qualifications, a certain type of family unit would be hurt by the subsection so we've attempted to make it a paragraph or subsection which is capable of being operated in a reasonable manner by both big establishments and small establishments alike.

Mr. Chairman: One question from the Chair. Will this insist that in hotels and such places that a night man will be in attendance in case of fire controlling that hotel?

Mr. Legal Adviser: I don't think it could be read as meaning that the person must be awake and on their feet in the establishment. To be in attendance could be that the person is living on the premises within reach. We have attempted to make it broad enough to fit all situations

Mr. Dumas: Mr. Chairman, I want to go back to this other point now. At all times during the operation of a tourist establishment, what determines the term of operation - the day he opens and the day he closes, or in fact the length of time for which the licence is issued? In other words, a year, generally.

Mr. Legal Adviser: Operation is not an easy word to narrow down. It means while the establishment is being operated - it means while it's working, so one would assume that during the winter a person can give notice in accordance with the section which is coming later and say it is actually closed, and this obligation would cease.

Mr. McKinnon: Mr. Chairman, if one goes to the offensive penalty of this Ordinance, you'll find that anyone who contravenes the provisions of this Ordinance is guilty of an offence and is liable upon summary conviction to a fine not exceeding \$500. Now, I have trouble with the definition in this Ordinance when we're going to make him liable up to a fine of \$500 under the operating requirements. I would like to know what does 'good repair' mean? What does 'clean and sanitary condition' mean? What does 'in good order' mean? What does 'capable of operating the establishment in a proper manner' mean? What does 'in such a manner' mean? We're putting the onus on a person to be liable for a fine of \$500, and these are all beautiful platitudinous phrases, but to me they don't mean anything. What do they mean in law?

BILL NO. 5 Mr. Legal Adviser: They may be meaningless to some people but to a judge, he is able to assign a meaning to them, and so far as possible we have chosen words which have been from time to time judicially interpreted in courts and there are thousands of cases deciding what is good repair and what is not good repair. There are thousands of cases deciding what is a clean and sanitary condition and courts over the years, by referring to earlier decided cases, have come up with a fairly workable method of operating certain types of words, and the word good repair has a known judicial meaning. Clean and sanitary condition has a known and judicial meaning, but if we attempt to define exactly in precise English words what we mean, and take the discretion away from the court to decide whether the thing is in good repair or is not in good repair, we would come up with an ordinance that might run to a thousand pages.

Mr. McKinnon: What is the legal definition, Mr. Chairman, of 'in such a manner'?

Mr. Legal Adviser: 'Such' is a referral adverbial word referring to an earlier mention of a substantive in an earlier sentence or paragraph.

Mr. Chamberlist: For example?

Mr. Legal Adviser: Commonly throughout every ordinance or every bill we use the word 'such' when we're talking about a noun to indicate the fact that the particular noun we're talking about a noun to indicate the fact that the particular noun we're talking about in that sentence is the same noun or type of noun or substantive that we referred to earlier and no other.

Mr. Chairman: (Reads section 8(d), (e) and (f) of Bill No. 5.) Clear?

All: Clear.

Mr. Chairman: (Reads section 9 of Bill No. 5.) Clear?

Mr. Chamberlist: It's not clear until I refer to 21 and 22 because..

Mr. Legal Adviser: Section 21 and 22, Mr. Chairman, are the normal sections that come from the old former Innkeeper's Act determining the liability of an innkeeper but only in the event that he posts a notice limiting his liability.

Mr. Chairman: Would anybody care to move to those two sections at this time or shall we just proceed in the normal.....?

All: Proceed.

Mr. Chairman: (Reads section 10 of Bill No. 5.) Was it not intended that the guest's name also be registered?

Mr. Legal Adviser: One would assume so, Mr. Chairman, but one allows the guest to do that. In section 11 every guest shall enter his name in the register. Well, you establish the register first, Mr. Chairman, and then you say who does what.

Mr. Chairman: Clear?

Mr. Chamberlist: Mr. Chairman, it means that the person's name is registered twice - once by the owner, once by the guest? Just a

minute, please. Please. This is what it reads - it reads: "Every operator shall maintain a register in which he shall enter..". Right, that means the operator. Now, we go on to number 11. It says "Every guest shall enter his name...". So he signs it twice. This is how it reads, now. Please correct me. It reads - section 10: "Every operator shall maintain a register in which he shall enter the name or number of the sleeping unit, cabin or cottage occupied by each guest; and the date and arrival of each guest..". Oh, "name or number of each sleeping unit". I beg your pardon. I withdraw that.

Mr. Chairman: Are we clear?

All: Clear.

Mr. Chairman: (Reads section 11 of Bill No. 5.)

Mr. Livesey: Question. This is a departure from normal, eh? Normal procedure - the registration of a person's vehicle number on the register? I've never seen it.

Mr. Chairman: Are we clear?

Mr. Shaw: Just as a matter of - is that necessary say in a place, an hotel as opposed to a tourist establishment, having to put down the licence number of a car?

Mr. Legal Adviser: I'm not sure that it's necessary, Mr. Chairman. It just has become the custom in the form of card which is now usually used to have a space for it and occasionally for police purposes this turns out to be extraordinarily useful.

Mr. Chamberlist: And for the operator's purposes, Mr. Chairman, if the guest takes off without paying his account.

Mr. Chairman: Clear?

All: Clear.

Mr. Chairman: (Reads section 12 of Bill No. 5.) Clear?

Mr. Shaw: I just want to get this clear. In the hotel now, if one goes to one in this town you have to put your licence plate down if you have a car, whether you've got the car there or not and his vehicle licence plate number? It doesn't say where the car should be. It says you put down your vehicle licence plate number period. I believe your Right Honourable Member from Whitehorse East said what is not written is not implied, and if it's down there that's what it means. So, perhaps that could be explained. It doesn't say the vehicle he has there. It says his vehicle licence number period. Correct or not?

Mr. Legal Adviser: The Honourable Member is correct. One hopes it will be interpreted reasonably, but if one wished to carry it to extremes it would mean that a man owning a large business would have to put down maybe fifty or sixty truck vehicle licence numbers. If the Honourable Member wishes, I could draft an amendment to take care of the point.

Mr. Livesey: Question, Mr. Chairman. As usual it is not the law but the interpretation thereof. That's the problem. There are many interpretations and usually the court is the only ones I know is capable of making an interpretation of the laws.....  
.....run into the same problem all over again. Someone else



BILL NO. 5 is trying to interpret what we're talking about. There is a problem with relation to this particular section on the Alaska Highway where you have truckers going through during the night and travelling public travelling along the Highway during the night, when in some hotels there is no one on duty because they just don't have that kind of staff, and - or they're on sort of half sleeping and half awake duty and they wander in and if there's a room open, they take that room whether they sign their name on the register or whatever is contained in section 10, 11, 12, 13 and 14 - I don't understand how that could be carried out.

Mr. Chairman: Anything further on this section?

Mr. Shaw: I would just think, Mr. Chairman, just for clarification that we'll put down to the effect that the persons do have vehicles with them. Then it could be entered. Otherwise, it looks like you have to put your - I mean, hotel keepers can be quite within the law and say well give me the licence number of your car. Where is that? Well, I haven't got it with me. Well, it says you've got to put the licence number down. So, okay, it's put down.

Mr. Legal Adviser: To meet the wishes of the House, Mr. Chairman, I could co-operate with the Honourable Member and we could draft a short amendment that would be agreeable and it could be later proposed.

Mr. Chairman: Does Committee agree?

All: Agree.

Mr. Chairman: (Reads section 12 of Bill No. 5.) Clear?

All: Clear.

Mr. Chairman: (Reads section 13 of Bill No. 5.) Clear?

All: Clear.

Mr. Chairman: (Reads section 14 of Bill No. 5.) Clear?

All: Clear.

Mr. Chairman: (Reads section 15 of Bill No. 5.) Clear?

Mr. Chamberlist: I wonder, Mr. Chairman, if it would not be efficient instead of a sign saying this establishment is closed, people can't use their existing no vacancy sign. It would appear to me that you are imposing upon a hotel proprietor the cost of purchasing another sign - making another sign simply to say that the place is closed.

Mr. Legal Adviser: Mr. Chairman, it seems that the - if I may say so, that the Honourable Member knows something more than most other people about signs - would he be prepared to consult with the administrative officer in charge of the particular bill and if an amendment was reasonable, then I'm sure the Administration would be prepared to draft it - I would draft it - and it could be introduced to meet the particular case, because the purpose of the section is clear. It may not be happily expressed in practical terms.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Mr. Chairman, I think that this is quite in order. No vacancy - you're travelling on the road and it's 40 or 50 below and you see no vacancy sign. Well, I haven't got a place to sleep but by gosh I've got a place where it's warm and I can get a meal or gasoline or something like that. There's a great deal of difference between no vacancy and closed.

Mr. McKinnon: Mr. Chairman, just to give an example of this. I was over to Haines last week-end and Dezadeash Lodge was closed for the winter. On every one of their signs as you come along the Haines Highway they have put a cardboard partition covering their ordinary sign and have 'Closed for the Season, See You In March', which is no expense at all, just a fix over their regular sign, and it's really helpful because I intended to gas up on the way back at Canyon Creek Lodge at 996 which happened to be closed for the season with absolutely no signs at all, and there was nobody at the Lodge at that time and I was in trouble and had to borrow gas at Champagne from Alex Van Bibber to get back to Whitehorse because of no indication whatsoever that this lodge was closed, and there's no added expense at all, just the onus on the hotel innkeeper that he marks over his regular signs on the road that he is closed for the season, and I don't think it's any real great difficulty for a person to have to do this on the signs that he already has up, and it's certainly a benefit and a great help to the travelling public to know where he can expect to get a meal or where he can get gas when the signs are up there, and then he arrives at the place and they are closed.

Mr. Chamberlist: Mr. Chairman, the Honourable Member seems to forget some hotels don't serve meals, some don't serve gas, and some haven't got wooden signs that you can just cover up. Some have neon signs where you can't replace the tubing, so their circumstances differ between lodges on the highway and hotels and accommodation within a municipality or enclosed area. Something has to be thought out in that particular line, but I think it's too stringent to have it fixed to one particular method.

Mr. Legal Adviser: I agree, Mr. Chairman, it is stringent and particularly where there are these very, very expensive and elaborate neon signs which it might be difficult to deal with adequately, so, as I say, this is the offer I make, if it is acceptable to the Committee, I think it would deal with the situation.

Mr. Shaw: I just wondered what neon signs we have in the Territory except in the City of Whitehorse. Have we any?

Mr. Chamberlist: Oh yes, quite a few.

Mr. Shaw: I've never seen any anyway.

Mr. Chamberlist: I'm afraid, Mr. Chairman, I regret that Councillor Shaw hasn't seen many. Travelling just between Dawson and Carmaks, he doesn't see too much but there are other places in the Territory, too.

Mr. Shaw: I just come from the area, Mr. Chairman, where they produce the minerals and bring it down here so you can have the neon signs.

Mr. Chairman: What is your desire? Is it your desire that this

BILL NO. 5 be amended or be retained, or what is your direction?

Mr. Chamberlist: I think Mr. Legal Adviser's suggestion may be beneficial.

Mr. Chairman: Does Committee agree?

All: Agreed.

Mr. Chairman: (Reads section 16 of Bill No. 5.) Clear?

Mr. Dumas: Mr. Chairman, I wonder how soon can you do this, or under what circumstances can you do this? Obviously, if a fellow is - you mean if I check - Mr. Legal Adviser, if I check into a hotel or a motel and the next morning they want me to pay right away and I don't do it, they can seize my luggage then? Is that correct?

Mr. Legal Adviser: Mr. Chairman, this is an old established custom dating from many hundreds of years that a person who is in debt to an innkeeper and does not pay is liable to have his goods seized and claims and to be subsequently sold to pay the indebtedness.

Mr. Dumas: Well, Mr. Chairman, do I have til the checking-out time, then?

Mr. Legal Adviser: Well, presumably the debt wouldn't be incurred until something had dhappened. I presume checking-out time would be available.

Mr. Chairman: Clear?

All: Clear.

Mr. Chairman: (Reads section 17 of Bill No. 5.)

Mr. Chamberlist: Question. This is an unfortunate section because some of the goods that have to be detained you want to get rid of them as quickly as possible. It's quite often that you finish up with a suitcase with about twenty pounds of dirty washing that is just absolutely smelling and you're compelled to keep it and you want to get rid of it. As a matter of fact, you'd pay the people - you'd pay your guest to take it away and forget his bill, but this compels you to keep it. I have an instance where I would gladly give the fellow \$25 and forget his fifty dollar account if he would take his stuff away, but I've got to keep it because this is what is required of me before I can sell it. This responsibility for the safe-keeping, you know, of four or five dirty pairs of underpants and whatnot and what else goes into that bag is really something, and I don't see why the responsibility has to be there.

Mr. Chairman: Well, as I see it, this is not mandatory. This is just permissive. You don't have to keep it if you don't want to. It says 'may'; it doesn't say shall.

Mr. Dumas: Mr. Chairman, in addition to what the Honourable Member said, how long do you - say you do seize the stuff, how long do you have to keep it?

Mr. Legal Adviser: Mr. Chairman, the Commissioner has been good enough to point out to me that in fact in his opinion, and clearly

I think there is a lot to be said for this - he's absolutely correct - the terms of the rights to seize and detain goods is too stringent, and the allowances which are normally made against a seizure should apply so that a man's tools and the method of his earning his livelihood should not be available for seizure in a normal case, so if the Honourable Member would make a motion in that regard I think we should produce an amendment.

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Mr. Chairman: Would Committee agree then in light of this that an amendment be forthcoming?

All: Agree.

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

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Mr. Chairman: At this time I will call Committee to order. BILL NO. 5  
(Reads Section 18) (Reads Section 19(1)).

Mr. Chamberlist: The person's last known address is the hotel or establishment at which he was registered and left his clothes. What point is it in sending a piece of mail to that address?

Legal Adviser: The Honourable Member has a point, but the last known address is not necessarily the place at which he left his goods because he may have filled in a form and that may be known to be his then address, but it might be better to add in a few words saying "other than the premises in question".

Mr. Chairman: Does Committee agree?

Mr. Dumas: Question, Mr. Chairman, does this mean that the hotel operator then has to hold these goods for a total of sixty days?

Mr. Chairman: Mr. Legal Adviser.

Mr. Legal Adviser: Well they must hold them at least for a month after the notice is forwarded. I'm not sure if that means a total of sixty days.

Mr. Chamberlist: Mr. Chairman, I can help; it's more than that because it takes thirty days before he can open it, before he calls the Peace Officer to open it and then he requires thirty days to give a person time and then thirty days within which to advertise to sell it so it is more like ninety days.

Mr. Chairman: Are we clear on that section for amendments?  
(Reads sub-section (2)).

Mr. Chamberlist: One point, Mr. Chairman, I think I should clarify as this often occurs. And, Mr. Commissioner would be well aware of this particular situation that arises. A person checks into a hotel, he is there on a daily rate, he is there for four or five days, the maid goes to make up his room and finds that he hasn't been in his room and this goes on for the next number of days. Now his luggage is in the room so by rights he is in possession. He is the tenant of that room. So when do you say that he is no longer the tenant? When does his indebtedness finish? Now when do you say, well this man uses for thirty days, forty days or fifty days because if he is in possession of that room, his luggage is there, his clothing being there, you can run an account for him indefinitely by keeping the room occupied. I think we should make quite clear for how long it is before the hotel operator can say that this man is indebted from one date to another date, as if he has taken off and left his stuff. I wonder if Mr. Legal Adviser can.....that point?

Mr. Legal Adviser: This is a difficult question to resolve Mr. Chairman because the fact of each case governed the law to be applied. A person may stay one night and run away, in which case he is clearly able to argue subsequently that he only stayed there one night and he he went and he hadn't booked in for the next day but if a person books into a hotel room for a week and leaves after the first night, he has made a contact in advance and the operator should keep the hotel room vacant for the week and then bill him. Otherwise there is a breach of contract. If the contract had to be resolved in

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Mr. Legal Adviser continues...  
each case, what is the booking in respect of?

Mr. Chamberlist: Well Mr. Chairman, surely somebody that checks into a hotel doesn't necessarily have to say how long he is going to be there. After he checks in; he has checked in as a guest of the hotel and for every night that he is in possession of that room, and I take it that by his being in possession and has his goods and chattels in the room he would then be responsible to make room for that room. I have a particular instance that I know of where a guest stayed for seventeen days and then took off and he was picked up last week in Winnipeg. We have his five pairs of underwear, incidentally. There is a point where, where do you - it was almost three or four days before we had discovered that he had taken off because they happened to be people who worked on equipment on the highway. They would go off for one day and perhaps not be in for two days. When do we know that they have taken off. How long do we permit this person to be in possession of that room before we can say that he has left. I think there should be something in this legislation to say that-when he is responsible for payment for his room, and we haven't got that clarified at all.

Mr. Legal Adviser: This piece of legislation does not set out to be an omnibus lexigon of the law between a guest and an inn keeper. Its regulations basically as to the rights an inn keeper has against his guests for collection and the duties of an inn keeper and to set out to define the whole law of contract in relation to the occupying guest and the owner of the establishment would take up a tremendous amount of legislation. These things can be regulated by internal management and by the custom of the trade. It is common to have a notice saying "if you wish to reserve this room for a further day please notify the manager before twelve o'clock", and such like things. And this is capable of being proved in court. It is basically an.....customs in these instances largely created by the operators themselves.

Mr. Chairman: Clear?

All: Clear.

Mr. Chairman: Sub-section 3.. Councillor Shaw.

Mr. Shaw: Mr. Legal Adviser, looking at how these things occur for protecting the inn keeper but also we have got some protection perhaps to give to the person that is staying in the room. And some of them I believe do need little protection from time to time. Now, if a person goes in a room and he stays in a room for say - he is living in a hotel; he lives there for a week, for example, and then he does skip. Now he is certainly doing wrong and he should pay for that but what is to prevent the hotel keeper, say business is not too good, they just keep filling up this room to this person. He hasn't checked out. He could give him a bill for thirty days then. He might have some valuables there; he might have had a lapse of memory, or various other things could happen. Is that what you would say is something that has to have normal relationship and the courts will decide and so on and so forth?

Mr. Legal Adviser: Again it is a question of the reasonableness of the relationship. If a person checks in for a week, disappears

Mr. Legal Adviser continues and his room is kept vacant; the inn keeper, in the event of a dispute, the only way this can be handled; in the event of a dispute in court it would be a question of evidence. If the man said 'but I didn't engage it' then it is a question of who the judge believes is telling the truth. If the inn keeper commits a fraud and is believed by the Court it is difficult for a statute to do anything about it.

Mr. Chamberlist: Mr. Chairman this seems to be a little contradictory. Last year I know a very peculiar case of where a person checked into a room, left his luggage in there and paid for that day. Now the following day, unbeknown to the operators of the establishment he had to go out into the bush. He was in the mining business and as mining people do they gave him something to do and had to do it quick. He went out into the bush. Now, the operator didn't see him for two days, took his luggage out, put it in the lobby and re-rented the room to another guest. Now when this person came back the hotel is full, all the places, all the rooms are occupied. Now he had what I consider a legitimate beef - "I didn't check out!". "That is my room". Now they took his stuff out and he has no place to stay. All the City was crowded..... Now, what is the position of the operator; did he do right by taking the stuff out of his room or did he do wrong by taking away a room that was already registered to a guest?

Mr. Legal Adviser: There is no question of right or wrong in such a case, Mr. Chairman. I think it should be sufficient to say that in my opinion, if I was a judge assigned to the case, I would decide that the operator had not acted in any improper fashion.

Mr. Chamberlist: Thank you.

Mr. Chairman: (Reads sub-section 3). Clear?

All: Clear.

Mr. Chairman: (Reads Section 20).

Mr. Dumas: Mr. Chairman, one question. I assume by this then that if the sale does not cover the cost, or the indebtedness that the proprietor could then go through the regular channels to try and reclaim that. Is that correct?

Mr. Legal Adviser: Oh yes, his remedy would lie in common law, by contract.

Mr. Dumas: Thank you.

Mr. Chairman: (Reads Section 21 (a), (b) and (c)).

Mr. Chamberlist: Question. Should not there be provision Mr. Chairman, that the, that where these are located in a sleeping unit, that the sleeping unit must be locked. Many guests, through their own neglect loose things from their room because they neglect to lock their door. The onus is then placed upon the operator if the guest hasn't locked his door.

Mr. Legal Adviser: It is not your fault ....operator.

Mr. Chamberlist: Well, I suppose it can be interpreted that way.

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Mr. Chairman: Reads Section 21 (2)(3) and (4). Councillor Livesey.

Mr. Livesey: It seems to me that the operator under this Ordinance, unless I'm reading this incorrectly, is responsible for an undeclared value. In other words if the man is packing a box full of money and another one is packing a box full of marbels and both boxes are the same size and they are given to the operator of the hotel, one is certainly of more value than the other, how is the risk that the operator is taking? It seems to me quite plain. Now how does he decide on the question of value as to how much you will and how much you won't accept?

Mr. Chairman: Mr. Legal Adviser.

Mr. Legal Adviser: I don't think there is any option, Mr. Chairman. I think if it is a valuable article and it is declared to be a valuable article, the operator can say "I want you to put it in my safe". I don't think he can say to him "Take it away and put it in the bank".

Mr. Dumas: What if some one comes in with a box to the operator and says: "Look, this box is worth \$10,000, I want you to put it in your safe". So then it is stolen. So then I have a claim for \$10,000 - in fact it might have had fools gold or glass or marbels or what have you.

Mr. Legal Adviser: This is a thing that only the court can decide. The operator would automatically put in a defence and say "the claim for \$10,000 is not admitted because we admit that we lost the box so we do not admit the value of the contents of the box". Then it is a question for the judge to decide what is the value of it and of course the owner would have to .....in fact two things happened. One was that the goods were of that value and two, they were in the box when he didn't show the goods to the operator.

Mr. Chamberlist: I have a habit that when people give me this money ....safe, I give them an envelope. I don't want to see what they put in there. They seal the envelope, put their signature across the flap so that their signature is on the flap itself and I give them a receipt for a sealed envelope and I don't give them a receipt for anything beyond that. And they then give me the receipt back when I hand them the envelope. And I would not give them a receipt for the contents of a box or the contents of an envelope or the value of the envelope or the value of the box. I would just give them a receipt without any value.

Mr. Dumas: Mr. Chairman, in a case like then, if a person came and put a stack of bills of....in the envelope, or whatever it was, and the safe was robbed and the envelope was gone, he then says I had \$10,000 in the envelope; in fact he might have had \$100. This is a possibility.

Mr. Legal Adviser: A question which arises constantly in claims made against insurance companies. I am sure the Honourable Member knows quite well. It is a question for a decision as to whether you admit the value of the article or you dispute it. If you dispute it then there are known methods to the Court ....difference of opinion is. But one would hope that in most cases the operator would for quite a modest sum insure his liabilities ..... There is one thing, if I might take the opportunity, Mr. Chairman, of pointing out .....this particular section is dealing with the safe custody, duty of an operator of a motel and such places, it has been pointed out that it does not cover the case of a car which is brought



Mr. Legal Adviser continues..  
and is put in a designated parking lot at the instance of the operator of the establishment. It is a question as to whether or not the operator should have a liability for this. If he should have, then it should be in this section and a special sub-section should be drafted to take care of it.

Mr. Chamberlist: Mr. Chairman, the Legal Adviser suggests that an operator of an hotel or motel would be responsible for the contents of a vehicle that is parked within a parking area that belonged to a motel?

Mr. Legal Adviser: I wouldn't like to give a fast answer to that question as the law stands at present. The law we operate comes from the common law and at that time an innkeeper had a responsibility for the horse and carriage..

Mr. Chamberlist: In the stable?

Mr. Legal Adviser: Yes, in the stable. And in that case, of course, then the Honourable Member will note, will be acting as an Agister and Livery Stable Keeper. Now, in modern times the travelling guest uses a motor car and quite commonly is told by the operator 'bring your car around to the back and put it there'. So the question is, if he puts it in the designated place, should the operator have a liability to some extent to damage done to the car other than damage which might be normally covered by insurance.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: There is one question I would like to direct to the Legal Adviser, Mr. Chairman. I note that there is no limit placed on the responsibility of the innkeeper. In other words a maximum of say \$500. It is completely open. Is there a reason for not putting, for omitting any designations as to liability?

Mr. Legal Adviser: If there is an exact reason I don't know what it is. I know that in the old Innkeeper's Act there were limits in certain cases but the limits was not what the Honourable Member suggests, I think. The limit was that in default of negligence the innkeeper had an absolute duty up to, I think the figure that I have, is thirty pounds. I presume that would be say something like one hundred dollars Canadian. And this was the limit of absolute liability. He was only liable to an excess of that through negligence. In this case we are taking away that and we are not giving him, except in certain circumstances, any absolute liability so the innkeeper is gaining that much.

Mr. Shaw: Well, Mr. Chairman, it would seem to me to be somewhat fair if an amount was put in there, say a maximum of \$500 as liability unless absolute negligence could be proven. At least it would make a person operating an establishment- it would not completely break him if someone should happen to come in there and could be quite phoney and have a huge claim against the operator. There must be reason to this. Let us put it this way. If one has a large amount of money or valuables that go into the thousands of dollars, generally speaking you would look after them yourself rather than put them in a room and leave them there and hope that they are there when you get back. That is negligence which would appear to be on the part of the person that owned the property rather than the innkeeper and therefore I feel that there should be

BILL NO.5 Mr. Shaw continues...  
certain limitations on what this person would be liable  
to, within reason.

Mr. Legal Adviser: I don't think there is any absolute  
policy. It is not an earth'shaking decision or another.  
I am sure the Administration is in the hands of the wishes  
of Council in formulating some type of limitation at some  
point. The limitation would have to be, I think, that the  
innkeeper was absolutely liable regardless of negligence or  
not of losses to a certain amount and then beyond that be  
only liable through his own negligence.

Mr. Chairman: Clear?

All: Clear.

Mr. Chairman: (Reads Section 22, Section 23, Section 24).

Mr. Chamberlist: Question. Mr. Chairman, one section of  
the public ...not protected in this is the section of the  
public that creep up fire escapes and through windows to  
get into lonely men's rooms. It appears to me that there  
should be some protection given, and an offence made where  
any guests, any registered guests, brings in to the hotel,  
without the operator knowing through other than the main  
entrance of a hotel or motel, that is by bringing them up  
through fire escapes and through windows, making this an  
offence because - I do feel that we should somehow we should  
look for protection for that particular thing. I wonder if  
Mr. Legal Adviser can say how this can be placed in here.

Mr. Legal Adviser: I think that this is varying towards  
something that should be dealt with in the Criminal Code  
rather than be dealt here. I think that it is a general  
case of immoral conduct on the part of the guests. If so,  
the lady who has been brought up the fire escape - I'm  
not sure if a suitable vehicle .....this Ordinance.

Mr. Dumas: Mr. Chairman, it says that an operator may remove  
any person from his establishment - what means can he use  
for removing a person. Does this allow a person, an  
operator to use force or call the police or - I think it is  
too broad, if that is the case. What is to stop an Operator  
from slugging him over the head and throw him out the door.  
We had a charge laid under that a couple of years back.

Mr. Legal Adviser: The operator here has been given no  
greater power than he would have if it was his own private  
house. This is the common-law right of every Canadian to  
call his house his castle and to put anyone out that he  
doesn't want to be there and he can use reasonable force  
and rightfully he should be able to use reasonable force  
to remove a person who won't go peacefully.

Mr. McKinnon: Mr. Chairman, what is the legal definition of  
undesirable?

Mr. Legal Adviser: It has a different meaning in different  
senses. A clear English meaning of undesirable in one  
sense might be somebody that one does not desire for ones  
self and this person might be desired by the person who is  
occupying the rented room. I don't really know how you  
define it except that you accept it at its face value.

Mr. Chairman: (Section 25 is read).

Mr. Legal Adviser: If I might make the same point with this. This could be reconsidered in conjunction with a .... amendment to deal with the earlier point.

Mr. Chairman: Committee agreed?

All: Agreed.

Mr. Chairman: (Reads Section 26 and Section 27).

Mr. Chamberlist: Mr. Legal Adviser - Mr. Chairman, I wonder if Mr. Legal Adviser would say what offence can be committed by a guest. The only offences that are here can only be committed by an operator. I wonder why the legislation is set up so that only the operator can be penalized and not the guest.

Mr. Legal Adviser: With respect, Mr. Chairman, I don't think this is correct. In section 11 the guest shall enter his name and his place of residence so at least there appears one offence he can commit.

Mr. Chamberlist: Mr. Chairman, if he doesn't enter his name there, he is not a guest.

Mr. Legal Adviser: Wrong name.

Mr. Chamberlist: Well it doesn't say that.

Mr. McKinnon: Mr. Chairman, I have trouble trying to put into line in my own mind Section 4 (1) of the Fair Practices Ordinance which states: "No person shall, because of race religion, religious creed, colour, ancestry or ethnic or national origin of any person deny to that person accommodation, service or facilities available any place to which the public is customarily admitted." And then in Section 24 of this new Ordinance it says that the operator may remove any person from his establishment who, in his opinion, is undesirable. Just where is the connection between the two? If an operator says "I say this person is undesirable, I am given the right under this Ordinance to throw him out".

Mr. Legal Adviser: The intention of the.... is, and what, with respect, Mr. Chairman, I think is the meaning when it says "subject to section 4 of the Fair Practices Ordinance an operator may remove an undesirable person". It means that the reason he becomes undesirable must not offend against the provisions of Section 4 which guarantee to everybody fair and equal treatment.

Mr. Chairman: Are we clear?

Mr. Shaw: Just one matter, Mr. Chairman, we have to go back a little. It was brought up a moment ago. On Section 11, every guest shall enter his name, usual place of residence and so on. Would that not be better if it were "enter his correct name".

Mr. Legal Adviser: Mr. Chairman, I don't think it is necessary. A guest has a name and changes. He has to go through a certain procedure to have another name. It is his name. If he enters an incorrect name it is somebody else's name or it is nobody's name. I don't think it is necessary to change it.

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Mr. Shaw: Mr. Chairman, when people get married sometimes they have different names and they both - their name. Just because they changed it by contract doesn't mean to say they are still not such and such and I just wondered how..

Mr. Legal Adviser: It is true that some people retain their maiden name but it is a privilege which women connected with the entertainment world wish to preserve and I would hate to prosecute Sophia Loren because she isn't using her husband's name when she stays in a motel or hotel. I wouldn't be prepared to enter into an argument with Miss Loren.

Mr. Chairman: Clear, gentlemen? (Reads Section 28).  
Mr. Chamberlist, will you take the Chair.

Mr. Chamberlist: Yes Mr. Chairman.

Mr. Taylor: Mr. Chairman, just before we leave for the moment this Ordinance, I am concerned over Section 8, subsection (c) which states that the operator should have in attendance, at all times during the operation of his tourist establishment, at least one person capable of operating the establishment in a proper manner. In querying this from the Chair I have learned that this person could indeed be sleeping or could be handy to the premises, possibly in another building. And my one big concern in relation to this and more particularly in relation to an hotel is that during the evening hours when you have many of the travelling public in this building, that there should be a night man, or what is commonly referred to as a night man, on duty, awake and indeed making period patrols through the building, basically for the purpose of fire, secondarily for the purpose of ensuring that undesirable or unauthorized people are not in the lobbies or the hallways and that type of thing. And I feel, Mr. Chairman, that Committee should take a look at this because I think that we owe it to the travelling public or people staying as guests in the facilities to ensure the protection during the normal sleeping hours. It has been shown over past years in the Yukon and indeed across Canada and the United States that quite often mattresses, somebody will leave, put a cigarette in a mattress and this mattress will smoulder and smoulder and smoulder in an upper level of the building and indeed could wipe out or asphyxiate quite a number of people before anybody even gets wind of the fact that anything is going on. If such a person, or if it were such a mandatory requirement that during night hours in such accommodation that someone patrol the halls, the incidence of this type of thing would be reduced greatly. So I would ask that Committee give some consideration to specifying in this Ordinance that someone be available in hotels for this purpose.

Mr. Legal Adviser: Mr. Chairman, I've been discussing this matter with the Commissioner and the Commissioner suggests that in an Ordinance it would be extremely difficult to detail out minimum requirements and the size of establishment which must have a night man and so on and he suggests that consultations could be held with the tourist committee to decide would it be possible to draft a section to allow such regulations to be made applying to different levels of establishment. This might meet the point made by the Honourable Member. If we put in a subsection saying "notwithstanding so and so, the Commissioner may, by regulation, delineate the type of establishment where you have a night man and so on, if this meets the wishes of the House.

Mr. Taylor: Mr. Chairman, certainly anything we could do to improve this Ordinance would be welcome.

Mr. Taylor continues..

However, I question the time that would be involved. I see another year going by. It seems to me that when we are dealing with this Ordinance that what we are really doing is writing safety to life and property into it when we consider such an amendment as I suggest and I am amenable to anything Committee would decide in this regard but I feel it is of that importance that we deal with it now.

Mr. Legal Adviser: Mr. Chairman, if I can interpret the way the Commissioner is shaking his head, he is suggesting that that could be handled without any difficulty, and before the Council would rise and be able to deal with the Bill.

Mr. Livesey: Mr. Chairman, I am quite sure that a good many members in the House at present that have not had any practical experience with this type of operation and when you have had practical experience with it you see things that you normally would not otherwise do. As far as I can see there is a tremendous difference between a large establishment and a small establishment. There is no point in creating legislation which is going to create not only a hardship but it may eventually, without necessarily being any object of this House, or any discussion in connection with it of shutting this operator down, because we may arbitrarily place an impossibility in his path; with good intentions, but nevertheless this has to be taken into consideration. I would suggest, Mr. Chairman, that we think before we act on this particular point.

Mr. Taylor: Well, Mr. Chairman, I refer to multi occupancy dwellings; for instance hotels where you have a number of people in one particular building and it seems to me that with the legal drafting techniques available to us, that we should be able to overcome, or isolate this particular type of structure from say a scattered motel setup but I really feel that it is vitally important that it be done at this Session and I will say no more on it at this point and time but possibly when we return again to this Ordinance at that time it could be considered. Thank you Councillor Chamberlist. I will resume the Chair.

Mr. Chamberlist: Councillor Taylor has brought up a very, very valid point. I know that in a recent fire in town in my own establishment, if it hadn't been for the fact that there was somebody on duty in the night time, the fierceness of the situation may very, very easily have been a darn sight worse and I agree with the necessity of having somebody on duty active in a certain sized premises should apply and at the same time I agree with Mr. Legal Adviser that the ....Councillor Livesey on this point that one must be careful not to make it so that an establishment that can ill afford because of the number of units might only have six or eight units; it just could not afford to pay a night man to be on duty all the time. So there are different circumstances to apply.

Mr. Shaw: Mr. Chairman, I would like to ask one question. The proponents for and against; where do you start and when you should have a night man; perhaps that would be a good question. How many rooms do you have one and how many rooms you don't. It appears to me that it is somewhat difficult to make regulations such as that. I think that you have fire inspectors and these kind of people that go around and make provisions for whether they should have a night man and there are many other forms of making it safe, I think, rather

BILL NO.

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Mr. Shaw continues  
than in an Ordinance where we start telling them how many men they should hire and when and how and which, I think that a person in attendance is fairly satisfactory when we come to hotels and large buildings usually they are located in fairly settlements and that particular area itself - ... that section I would imagine. I am thinking a lot Mr. Chairman if these smaller places on the highway, if they are going to start having night men, the proprietors as a general rule work about twelve or fourteen hours themselves in any event in order to eke out a living. Now if you are going to say that you have to have a night man there because you have fifteen rooms, well I think it is going a little too far.

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Mr. Chairman: Gentlemen, are you clear on the Ordinance at this time? May I report progress? We will now proceed to Bill No. 6. (Reads Bill No. 6, Section 1 to "2. (f)).

Mr. Livesey: Question. Before we turn the page, Mr. Chairman, may I enquire if dust exposure in subsection (c) of Section 2 includes silicosis without reservation?

Mr. Legal Adviser: This particular expression "dust exposure occupation" and all its cognate expressions throughout the Ordinance have been the subject of a tremendous amount of research and correspondence back and forward to every mining expert in Canada before it came to this recommended form of word, and I would request, Mr. Chairman, not to tamper with these technical things because they really are tied up.

Mr. Livesey: Well, Mr. Chairman, I don't feel that I have had my answer. I wanted to know if this subsection includes silicosis without reservation. That was my question. Does it or doesn't it?

Mr. Chairman: Well, just from the Chair I would say it does because you speak of rock being crushed and silicon is rock being crushed.

Mr. Livesey: I wonder if Mr. Legal Adviser, Mr. Chairman, could give me the answer.

Mr. Legal Adviser: Silicosis is a form of tuberculosis and we deal in this Ordinance throughout with tuberculosis of which silicosis is one of its forms. We specifically avoided using silicosis as such because it would restrict the miners to too great a degree. So, it covered every possible type of occupation which could be termed a mining occupation and which carries a danger to a miner of a respiratory disease.

Mr. Chairman: Are we clear?

Mr. Chamberlist: Is the answer yes to that question, I.

Mr. Chairman: (Reads (g), (h), (i), (j), (k), (l), (m). At this time I will declare Committee in recess until two o'clock.

RECESS

Recess.

Friday, November 15, 1968  
2:00 o'clock p.m.

BILL # 6

Mr. Chairman: At this time I will call Committee back to order. We're on Bill No. 6, page 3, (m) (Reads Subsection (n) of Section 1 of Bill No. 6) (Reads Subsection (o) and (p) of Section 1 of Bill No. 6) (Reads Section 2 of Bill No. 6) Clear? (Reads Section 3 of Bill No. 6) (Reads Sections 4, 5, and Subsections 10 (1) and (2) of Section 6 of Bill No. 6) Clear?

Mrs. Gordon: Mr. Chairman, in some places in British Columbia, they have mines where their complete milling operation is underground...was underground. If they wanted to create their office there this section as to previous definition of "shaft" would cover that?

Mr. Chairman: Mr. Clerk, would you be able to answer the question?

Mr. Clerk: No.

Mr. Shaw: Mr. Chairman, I wonder why women would be prohibited from working in a mine if she wanted to work in one?

Mr. Chairman: Would you wish to refer back to this when the Legal Adviser is here?

Mr. Shaw: Please.

Mr. Dumas: Mr. Chairman, where is the Legal Adviser?

Mr. Chairman: He apparently is in Court defending Mr. Clerk. I believe on a Labour Provisions case. May I proceed? Three (Reads Subsection (3) of Section 6 of Bill No. 6)

Mr. Dumas: Mr. Chairman, I suggest that this whole section has to be taken up when the Legal Adviser comes here. The emancipation of women seems to have a forefront these days. What with Task Force etc. If they want to be wholly emancipated they should be allowed to work underground if they're capable and if they wish to.

Mr. Chamberlist: I am at the moment perusing the Labour Provisions Ordinance and there appears to me to be some conflict between some of the items in this particular Ordinance and the Labour Provisions Ordinance. I think it's necessary for Mr. Legal Adviser to be here to answer questions relating to both of them at the same time.

Mr. Chairman: Four (Reads Subsection 4 of Section 6 of Bill No. 6) We will return to this when the Legal Adviser comes.

Mr. Chamberlist: Mr. Chairman, I wonder if we might defer this particular Ordinance until the Legal Adviser comes. He might be tied up for a short while, I understand he's prosecuting in a matter in court, until he returns we can pass onto another Ordinance.

Mr. Chairman: It would appear to the Chairman, that we could reasonably proceed with some of this, it's just that we need the Legal Adviser for Bill. I would suggest that we proceed with your concurrent. Seven (Reads section 7 of Bill No. 6) Clear?

Mr. Shaw: Mr. Chairman, does it say that ...it appears that a non-competent hoistman may work four hours a day. Now if that person is not competent, a half an hour a day is disastrous. How do they figure that out?

Mr. Chairman: Mr. Legal Adviser?

Mr. Legal Adviser: You have me at an advantage, Mr. Chairman.

Mr. Chairman: Page 5, Section 7.

Mr. Legal Adviser: I have Section 7 now, what's the question please?

Mr. Chairman: Would you kindly repeat your question Councillor Shaw?

Mr. Shaw: Mr. Chairman, it says "Where one of the regular hoistman is absent from duty and no competent substitute is available, the remaining hoistman may work extra time not exceeding", and so on. Now ...if no competent substitute is available then a non-competent substitute can operate for four hours, I don't quite see the point. It appears to me that they may not be the regular person but they must be competent.

Mr. Legal Adviser: Mr. Chairman, it says where one of the regular hoistman is absent from duty, we're talking about regular hoistman, and one must assume that they are competent. We're limiting it down to regular hoistman and the remaining hoistman are regular hoistman who are still on duty.

Mr. Chairman: Mr. Legal Adviser, we'd like to come back to Section 6 which we deferred till your arrival. Would you proceed. I believe Councillor Gordon had a question.

Mrs. Gordon: Yes, Mr. Chairman, I will pose the question to Mr. Legal Adviser. Where there are underground operations within the Province of British Columbia, with which I am familiar. When they were in operation, the entire milling operation was underground. Now it was inconceivable that other operations of a mine including marital status could be underground. This section would be very discriminatory.

Mr. Legal Adviser: But it's not, Mr. Chairman, to be discriminatory in a sense. It's, I think, possibly, stands from the natural chivalry of people who are in charge of this operation. They don't want women to be in a position of danger and one could hardly say that was discrimination. It's rather a chivalrous conduct rather than the reverse.

Mr. Chamberlist: I'd like to remind Mr. Legal Adviser that over the years many women placed themselves in equal danger to that, than men. A matter of chivalry does not come into matters of legislation. I think that is discriminatory, it should be left to the discretion of a firm to whom they wish to employ. They have every reason they might wish to employ a woman who is a trained geologist. There are many women who are now taking geology. It was a suggestion that a woman could not go underground even though she is a professional geologist. This is why that must be removed from there.

Mr. Legal Adviser: If I might, Mr. Chairman, refer the Honourable Member to Subsection 3 is an exception that a female can be employed who is not performing manual work and not engaged in health services or is spending a period of training underground and who may occasionally have to enter the mine for a non-manual occupation. It's basically intended to prevent them from doing manual labour underground. The exceptions cover the other occupations such as a female geologist.



Mr. Shaw: Mr. Chairman, there have been a group of militant women quite recently having considerable discussions across the country. They want equal rights with men. That's what they ask for so in all exceptions. Now there's nothing forcing a woman to work in the mines digging out coal or whatever it is, if she doesn't want to but if she wants to, for goodness sakes. I've seen a contract let by the Federal Government where they put up a fence and there was a man and a woman and they were both putting up this fence and both doing manual work. The same thing, digging holes and putting this fence around the schoolyard. It did seem a little bit strange to me to see that occurring but that's what the lady wanted to do and that's exactly what she did. Now if she wants to go and work in a mine, the same person, why should you say she can't work in a mine. That's the way I feel about that. Chivalry is one thing and as we have found out quite recently, taking away persons rights or they feel are their rights is another thing and just...I can't see the point in having something like that....such a prohibition...I can't see the point in it. I really don't.

Mr. Chamberlist: Mr. Chairman, one of woman women general contractors here has been making outside "biffies" now for a couple of years, contracting to the Territorial Government. She's been doing this very successfully as well I understand.

Mr. Legal Adviser: I would hesitate to tackle with the Ordinance or Bill as draft. I'm not suggesting that the reason is international convention but many of the safety regulations in mind. They are inserted into regulations or Ordinances because of convention either recommended to or in which the Federal Government of Canada has become a party which are sponsored by various inter-national organizations associated with the United Nations. I'm not suggesting that this is one of them but it's possible it may be inserted in accordance with international accord or with interprovincial accord. While the House might like to have the Commissioner investigate ratio behind section. I would hesitate to go along with suggestion that we just change it out of hand.

Mr. Livesey: Well, Mr. Chairman, with respect to all ratios who put it in there is what I'm worried about. This is like absolute discrimination and I can't see it. If they want to work down surely they can't say a woman is unsafe. Why do they want to go... this is a falicy.

Mr. Dumas: Mr. Chairman, I can't agree with the rational of the Legal Adviser. I don't think that it's necessary for the Yukon always to follow what others are doing. In this one instance let's emancipate our women and let's lead

Mr. Chairman: Mr. Chamberlist will you take the Chair please?

Mr. Chamberlist takes the Chair.

Mr. Taylor: Mr. Chairman, there are, no doubt, very sound and valid reasons, some of which occur to me, why women do not work in mines and in some areas are not permitted to work in mines. I would suggest, as Mr. Legal Adviser has pointed out, that there are reasons, possibly the Mine Rescue Superintendent may wish to come and give Committee some of those reasons, without my trying to go into them at this time.

Mr. Taylor resumes Chair.

BILL # 6 Mr. Chamberlist: Mr. Chairman, one thought did come to me. Just like sailors in a sailing ship don't like the idea of women aboard ship, it might be that miners don't like the idea of women being in the mine. I think this perhaps is the side reason that is being thought of by Mr. Legal Adviser in this matter. I think we must dispense with superstition and chivalry and things like that when we're bringing forward legislation. It has to be legislation of a nature that is there on the books so that we don't in anyway show any discrimination against the fairer sex. If there's a necessity to employ them the employer will employ them. If the woman wants to be employed she will accept the situation. If she doesn't want to be employed she won't accept the situation, but I don't think there should be a difference made in legislation. We.....don't forget we have a Fair Practices Ordinance as well, a section that is already been referred to, Section 4, dealing with people. There should be no discrimination because of race, colour or creed. I think it also applies to sex as well that this should not.....this discrimination should not be in. This is my side .....in other words my .....on it.

Mr. Dumas: Mr. Chairman, I'd like to hear Mr. Legal Adviser once again on this if he has anymore to say.

Mr. Legal Adviser: Mr. Chairman, as I see it, it's not really legal reasoning. The standard of civilization is often judged by the chivalry they show the women who live there and I would not attempt to prevent women going down in mines if they want to do it but I would be against amending this section because this section and all of this Bill, in fact, has been channelled through many sifts before it arrived here. It follows accepted lines for underground work and deals with women in this way by forbidding them to manual work but permitting them to do other work and I think the Council will be well advised to seek expert advise as to the real reason for the insertion of this section which may appear to be discriminatory but in fact probably is not intended to be.

Mr. Dumas: Mr. Chairman, I would have thought the Administration would have sought expert advise before presenting a Bill.

Mr. Legal Adviser: We did and we accepted the advice of the experts to put the section in.

Mr. McKinnon: Mr. Charrman, the Bill is discriminatory and I'm all in favour of the discriminatory of this Bill. I don't think that at this time and place in the Yukon history that we are to point of emancipation that we believe that our females should be down in a hard rock mine mining. I just don't accept it and I agree this is discriminatory for a good reason. I think it should be. Our girls, thank God are still females and let's keep them that way.

Mr. Chamberlist: No, but Mr. Chairman this isn't the point at all. I'm not going to like the idea of women going down in the mines. I don't like the idea of a woman going down in the mines working either but we should not have it in the legislation that we're discriminating against them. I agree. I don't like the idea at all but we shouldn't legislate against them. Because if we're legislating against them this is the beginning of the wedge that we're getting into and we shouldn't allow it to happen.

Mrs. Gordon: I think when it comes to women and speaking as a woman, I wouldn't be underground myself. I would be one of nine hundred and ninety-nine who wouldn't go underground but I do not believe we should create the legislation against that one woman who might want to go underground.

Mr. Livesey: Mr. Chairman, if we're going to talk about discrimination this is discrimination. If they want to go underneath the ground let them go, if they don't want to they don't want to. That's the answer to the question. I don't see why we should legislate against women in any way shape or form. You wouldn't expect miners to stand up while the others are riding down there on the trolley cars or anything like that but this is just rank discrimination against the sex of a person. If they want to do it they should be able to do it.

Mr. Chairman: What is your pleasure gentlemen.

Mr. Chamberlist: Mr. Chairman, I would ask that this be amended. I would move at this time that Section 10, subsection 2 be deleted. I should correct that Mr. Chairman, it would be Section 6, subsection 2 of Section 10 of the amendment in Section 6 of this Bill should be deleted. I think this is the way Mr. Chairman would put it.

Mr. Chairman: It would depend largely on ...do you have a seconder and your written copy of the motion.

Mr. Chamberlist: Well I'm asking for your guidance. Is this the correct way to put the motion.

Mr. Chairman: I must advise that as long as you wish to amend Subsection 2 you have to amend Section 3. I would suggest that some consideration be given to the amendment and be drafted and presented in that form.

Mr. Shaw: Mr. Chairman, how about having one of these expert explain why the mother can't go down in the mine. It's ....it does appear that we are putting into legislation something that really is if you put chivalry as fine and the matter of many things but when you're talking about legislation I think we have to take a slightly different look at it. As far now in this day and age men and women are doing the same jobs and in fact the women are wearing the pants and the men are growing long hair so most of the time you don't know what you're looking at till.....So perhaps we won't rush into this particular thing and we'll have this expert explain the biological difference between men and women working in a mine.

Mr. Chairman: If you wish the Mine Rescue Superintendent be.... who do wish to get a hold of here?

Mr. Chamberlist: Perhaps Mr. Legal Adviser will consider the matter that this can be amended to leave out this discrimination against women in legislation. We cannot even encourage it in any way that there should even be legislation against women that would discriminate against anybody of any sex.

Mr. Legal Adviser: Would it please the House if I request the offices of the Administration in charge of this particular Ordinance to prepare short sessional paper giving any background to this particular section for submission in the next two or three days.

Mr. Chairman: Committee agreed. May I proceed? (Reads Section 8 of Bill No. 6) Does that read right?

Mr. Chamberlist: It doesn't sound right to me.

Mr. Legal Adviser: I'm not sure. If you could leave it stand and if it's a typing error we can correct it.

Mr. Chamberlist: Mr. Chairman, I wonder if I could interupt at this time to put a question, which might apply to all the way

around to Mr. Legal Adviser. Mr. Legal Adviser is there anywhere that this Ordinance conflicts with the Labour Provisions Ordinance?

Mr. Legal Adviser: Not to my knowledge, Mr. Chairman.

Mr. Chamberlist: It was looked...the Labour Provisions Ordinance was looked into at the time these labour items and conditions of labour in this particular Bill before us has been studied.

Mr. Legal Adviser: This was adverted to and the Labour Standards Officer and the mining people have borne this item.

Mr. Chairman: May I proceed. (Reads Section 14) Clear?

Mr. Dumas: Mr. Chairman, just one question and I suppose it goes right back into the definitions. Is a medical officer normally a doctor?

Mr. Legal Adviser: Yes it intended to be a doctor.

Mr. Chairman: Reads Section 14A) Clear? (Reads 14B) Clear? (Reads 14C) Clear? (Reads 14D) Clear? (Reads 14E) Clear? (Reads Section 15 of Bill No. 6 as all the above section refer to) Clear? (Reads 15A of Bill No. 6) Clear? ( Reads Section 15B of Bill No. 6) Clear? ( Reads Section 16 of Bill No. 6) Clear?

Mr. Chamberlist: What happens here?

Mr. Chairman: I'm wondering at the lettering of this Ordinance Mr. Legal Adviser. If you could give me some guidance here? We seemed to have jumped from Section 15 to 9 in here. Mr. Legal Adviser I note in our Bill we're on page...what is the discrepancy from page 8 where we are on Section 16 and then we move into Section 9 again?

Mr. Legal Adviser: You're dealing with Section 9 of the Bill You were dealing with Section 16 of the amendment.

Mr. Chairman: I have it, thank you. So we're clear on Section 10 or Section 8, pardon me? Section 9 ( Reads Section 9 of Bill No 6.)

Mr. Livesey: Who will make the decisions in this respect and on what basis. I have already asked a question about the mine at Anvil in connection with pollution in the Yukon Territory and I was wondering; if anyone here, Mr. Chairman, could give me the answer. What, precisely does that passage mean?

Mr. Legal Adviser: Mr. Chairman, as I see it. The inspector makes the decisions and he is the person with that knowledge, capable of seeking expert advice and he makes the decisions, as the Section says.

Mr. Chairman: Clear?

Mr. Livesey: No it certainly isn't, Mr. Chairman, that to me is an offhand way of putting something down in very broad language but specifically it means absolutely nothing, as far as I'm concerned, absolutely nothing.

Mr. Chairman: Are we now clear? Section 10 (Reads Section 10 of Bill No. 6) Three. Should this not be a Subsection 2, Mr. Legal Adviser?

Mr. Legal Adviser: It's only Subsections 1 and 3 of Section 20 that are appealed.

Mr. Chairman: Oh, I see...alright. Subsection three ( Reads Subsection 3 of Section 20 of Section 10 of Bill No. 6) Clear?

Mr. Chamberlist: Mr. Chairman, why the Receiver General of Canada why not the Yukon Consolidated Revenue Fund. Can we have an explanation as to that please?

Mr. Legal Adviser: I thought this might come. Well to be quite frank with you, there's a reason for this and I'm not sure the exact reasons but I know there is a reason and the question of who pays the expenses of this and how the budget for the operation of this is concerned has been a source of some difficulty and the solution has come with administrative reasons has been the Receiver General of Canada. This may not clear up the issue too well but believe me there is a reason even though I can't carry it all in my head.

Mr. Chamberlist: May I suggest that Mr. Legal Adviser obtain the reason and present it to this Committee when we next go over it so I can be assured that the right thing is being done.

Mr. Chairman: Is this the wish of Committee.

Mr. Shaw: Mr. Chairman, mineral resources of the Yukon Territory belong to the Federal Government. They pay the inspectors and they pay all the cost of these and they obtain the revenue. That, I think, is a simple form of putting it. So if there's anything left over they get it back but if there's anything that requires expenditure they pay it. It's....I think we've gone over that for weeks and months and years as who owns the mineral resources, and it is the Federal Government.

Mr. Chamberlist: Mr. Chairman, with respect, let Mr. Legal Adviser come up with the reason and we might be able to debate reason for it that. Committee has agreed to this already

Mr. Chairman: Is it your wish that Mr. Legal Adviser pursue this or..... Would those in favour or agree that Mr. Legal Adviser do this, kindly indicate by showing a show of hands? Would those in disagreement? Mr. Legal Adviser would you get that information please? Section 11 ( Reads Section 11 of Bill # 6) Clear? ( Reads Section 12 of Bill No. 6) Clear? ( Reads Section 13 of Bill No. 6) Clear? ( Reads Section 14 of Bill No. 6) Clear ( Reads Section 15 of Bill No. 6) Clear? ( Reads Section 16 of Bill No. 6) Clear?

Mr. Chamberlist: I don't agree very much with this section where an individual who is employed by a company may be prosecuted but the company who's responsibility it is to see that the proper protection is taken from mining equipment if not prosecuted. Now the way this reads, that, if for instance, for some reason or other the Commissioner decided not to prosecute a corporation. He can pick any individual in that corporation and prosecute the individual the corporation gets away scot free and one poor sap who is employed by the company takes the rap. Now that doesn't seem to me to be fair at all. Most of the mining companies are companies or corporations and there should be provision made that the corporation can be prosecuted for the same offence as the individual could be prosecuted for. And it would appear to me, Mr. Legal Adviser that this does not exist here.

Mr. Legal Adviser: Mr. Chairman, let me make one point before I answer the question raised by the Honourable Member. The word "offence" in the fifth line at the end should be in the singular and not in the plural. The "s" should be crossed out.

Mr. Chairman: Which Section?

Mr. Legal Adviser: In Subsection 4, the subsection we're talking about.

Mr. Chairman: Offences.

Mr. Legal Adviser: "In the commission of the offence" is should be. It refers to a corporation that is guilty of an offence. Now, Mr. Chairman, the Section bringing in an officer or a direct name of a corporation only applies where a corporation is guilty of an offence so it would be impossible for the Commissioner to prosecute an individual without prosecuting to a successful conclusion the company or corporation which would be guilty of an offence.

Mr. Chamberlist: But surely, Mr. Chairman, the corporation cannot be presumed guilty of an offence until such time as the alleged offence has been heard before court so that it would follow then that the corporations would be prosecuted. Then why would you have here those final words "provided for the offence whether or not the corporation has been prosecuted or convicted." Why would that be in there?

Mr. Legal Adviser: A corporation can be guilty of an offence but for some reason or another, it remains to be said, it's not to prosecute but the corporation has to be guilty of an offence before the director is involved. For various reasons the corporation may be a shell corporation. It might be no point in carrying it to conclusion, it might be impossible to prove it, but you might be able to prove the person on the spot of which who did it. It would be a very unusual case to prosecute an officer of a corporation for something a corporation was equally guilty of without also prosecuting the corporation. Very unusual.

Mr. Chamberlist: Yes, Mr. Chairman, but Mr. Legal Adviser will agree that the way this is written this can be done. If an individual can be prosecuted and the corporation must be prosecuted. Now this is what I'm objecting to, is this, is this leave a gap for the prosecution to get out for the corporation to get out of being prosecuted by having an individual being prosecuted. We have similar type of thing, that I hope will be rectified, when dealing with liquor offences, where an individual can be prosecuted but the corporation doesn't get prosecuted. Now this the thing I'm concerned about that if a corporation has been charged can be charged with an alleged offence it should be charged, not left along and an individual, someone who can be referred to as an agent of that corporation, being prosecuted where the successful prosecution might interfere with his livelihood because the corporation may then say, then you Joe Blow have been convicted so you've therefore cannot be employed with us anymore. Now he goes to another firm and he ceases to have the clean record. He cannot get another job because the corporation wasn't prosecuted, so consequently this should be clear so that the a corporation should be prosecuted. I don't want to wake everybody up with this idea but I think it brought to the attention of the Committee.

Mr. Legal Adviser: Mr. Chairman without appearing to appear pompous the Honourable Member is treading on very dangerous ground indeed in his remarks. I think it would be improper of this House or any House to attempt to impose itself any rule as to whether or not prosecution should be taken against any particular person. This is a discretion that is exercised by the Queen's Officers on behalf of the Queen and in each case it duty to function and the decision to prosecute or not should rest on whoever is in charge of the prosecutions.

Mr. Chamberlist: Yes, this may well be but corporations have a far greater influence on government than the individual and I am quite concerned that the ordinary working stiff gets equal protection as the large corporations. You might have a large mining corporation who has been guilty of an offence by not protecting those people who are working in that particular mine and when it comes to the prosecution the government prosecutes the man who is in charge of that particular operation. Perhaps the manager of the operation, and his position is jeopardized because he may have a conviction registered against him, yet the company who he was employed for and whose policy he has to follow is allowed to get off scott free. Now I think I make myself quite clear on this particular point, that the protection must be afforded all way round and not only must the protection be afforded all the way round but it musn't be made to appear that a corporation has any better chances of getting away with alleged offences. This is the way it reads to me that is reason to by-pass prosecuting corporations for any alleged offences and that should not happen. It should certainly not be in legislation.

Mr. Legal Adviser: With respect, Mr. Chairman, I don't think it's proper to accept the implication that a prosecution would ever be initiated by Queen's Officer for an improper reason. The discretion must be left to the Queen's Officer in charge of prosecution.

Mr. Chairman: Is Committee clear on this.

Mr. Chamberlist: Mr. Chairman, I give notice that I will oppose the passing of this particular Bill if this isn't amended to make it quite free and equal to all people, individuals and corporations. I see no reason why corporations should have any benefit and this is a benefit that is given to a corporation. I am connected with corporations and I would not like to have corporations that I am connected with have any benefits. I think it's wrong.

Mr. Chairman: Well we have some areas of the Bill we must await further information so is it your wish and pleasure that I report progress on Bill No. 6?

Mr. McKinnon: Mr. Chairman, I wonder before the final disposition of this Bill when it is in it's amended form whether the Administration could then send a copy of it to all those mining companies active in the Yukon Territory at the time with a advice with ...asking for their comments on it. I think I'd like to .....I always find when Council does pass legislation of this nature which seems very sensible that we always find that we've overlooked something or not done something that is quite acceptable that could have been if we had of listened to the advice of people who are actively engaged in the mining industry and this generally is just a flaw that could be corrected at the next session but it seems a valuable thing to make them aware of what we are doing.

Mr. Legal Adviser: I was just discussing the point with the Commissioner and what I say should not be taken to represent what the Commissioner has said but consultation.....I want to try and make it clear that this the Legal Adviser's opinion.... consultations have been constantly held and often held with the people in the industry leading up to the drafting of this particular Bill. If consultations are desired with the mining industry at this point it would verge on the improper of the Administration to go seeking for opinions on the Bill at this stage when it's before the House but it would act as a Post Office in circulating the Bill and saying that the House has before it the particular

Bill for consideration and on behalf of the Council any representation which they wish to make on the Bill could be channelled to the Council. I would hesitate to infringe on the privileges of this Honourable House in any other way.

Mr. Chamberlist: Mr. Chairman, I for one don't see very much point in passing it around to the mining industry because I know quite simply that no corporation would oppose this section because they have protection. They have protection. They can see an opportunity where they can never be prosecuted because they can always have one of the hiring be prosecuted and this is the way it reads. As far as I'm concerned this section is being put in there deliberately to protect corporations from being prosecuted and that's how it reads to me.

Mr. Legal Adviser: Mr. Chairman, "deliberately to protect a corporation" is quite a harsh word.

Mr. Dumas: Mr. Chairman, I agree that the Bill should be passed around for advice but I think that we could go even further and make sure that it reaches the people that the Bill in fact most directly concerns. The people who work underground. Therefore if the Bill is going to be sent out I suggest it be sent out to the locals involved in each mine also. The Union locals so that the unions may comment, either to the Council or to the Administration officer.

Mr. Chairman: Well may I conclude that at this moment have cleared this Bill.

Mr. McKinnon: Very extremely interesting for me, Mr. Chairman, to hear that the members of the mining industry were in on consultation for the legislation already. This is a privilege denied the members of this Committee.

Mr. Legal Adviser: Mr. Chairman, this is not what I said, what I said was, in the various talks leading to the drafting of this Bill the mining interests views are well known. We don't make a practice of consulting every interest other than the Council and I would not like my words to be misused in that fashion that we have held secret consultation in any fashion with anybody. But it is the privilege of the Administration to seek the views and to listen to representation of all sections of industry and all sections of the people.

Mr. Dumas: Mr. Chairman, I wonder if the Legal Adviser can tell if the views of Union members or miners were sought?

Mr. Legal Adviser: I could not say specifically. It was not in my function to deal with this but there is a mining safety officer and if you wished to ask him with whom he had preliminary talks with a view to bringing in proposals for this legislation, I'm sure he would have no objection to answering any question to any Honourable Member.

Mr. Chairman: Anything further on this Bill?

Mr. Livesey: Report progress, Mr. Chairman.

BILL # 7 Mr. Chairman: We'll then turn to Bill No. 7. Bill No. 7, An Ordinance To Amend The Interpretation Ordinance. (Reads Bill #7)

Mr. Chamberlist: Mr. Chairman, I wonder if Mr. Legal Adviser could briefly give an explanation as to why this is necessary?



Mr. Legal Adviser: Well I can give the answer in one phrase and that is "the Honourable Member from Whitehorse North".

Mr. Chamberlist: Well a little bit more.....I would like my question answered. You might have, Mr. Chairman, Mr. Legal Adviser might have answered some close joke with the Member from Whitehorse North but I would like an explanation so that other members of Committee can get into the joke as well if there's a good one available.

Mr. Legal Adviser: It was pointed out consistently that we had omitted to prescribe certain things which were ....it was compulsory to prescribe by regulations and it was assumed and wrongly assumed by me amongst others that where the word "prescribe" occurred in an Ordinance it meant prescribed by the Commissioner but when this was questioned and I went to look through the laws to find my authority for saying that "prescribe" meant automatically prescribed by Commissioner the authority didn't exist. So it was decided to cure the lacuna by inserting this particular definition that when the word casually occurred throughout Ordinances that something must be prescribed that unless it says specifically who is to do the prescribing that it means Commissioner.

Mr. Shaw: Mr. Chairman, what is a lacuna?

Mr. Legal Adviser: A gap between a....an unfilled gap.

Mr. Chairman: What is your pleasure with this Bill at this time?

Mr. Chamberlist: Mr. Chairman, I would move that Bill # 7, An Ordinance To Amend The Interpretation Ordinance be passed out of Committee.

Mr. Dumas : I second the motion.

Mr. Chairman: With or without amendment?

Mr. Dumas: Without.

Mr. Chairman: It has been moved by Councillor Chamberlist and seconded by Councillor Dumas that Bill No. 7 be reported out of Committee without amendment. Are you prepared for the question?

Mr. Livesey: Question

Mr. Chairman: Are you agreed?

All: Agreed.

Mr. Chairman: I will declare the motion carried. Committee will stand in recess for fifteen minutes.

RECESS

Mr. Chairman: At this time I will call Committee back to order. (Reads sections 1 and 2 of Bill No. 8). Clear? BILL NO. 8

All: Clear.

Mr. Chairman: (Reads section 3, subsections (a) and (b) of Bill No. 8). Clear?

All: Clear.

Mr. Chairman: (Reads section 4 of Bill No. 8).

Mr. Chamberlist: Question.

Mr. Chairman: Councillor Chamberlist.

Mr. Chamberlist: Once again the Commissioner may appoint a Board of one or more persons, I'm objecting to that, we have raised the same objection before although in a paragraph earlier on paragraph 3 section 3 "The Commissioner may cause an inquiry to be made into any matter within the jurisdiction of the Commissioner in Council" I therefore suggest 4 read the Commissioner in Council may appoint a Board of one or more persons to make an inquiry and to report thereon. It's exactly the same objection that has been raised before now we have to stay with the same thing.

Mr. Legal Adviser: Mr. Chairman, I agree that the Honourable member has a point but the reason the word is inserted any matter within the jurisdiction of the Commissioner in Council is to make it clear that when a Board of Inquiry is instituted by the Commissioner it would not infringe on the prerogative of the Federal Government and this covers the matters which he can put to the Board for inquiry. It's not intended in any way to reflect on the Council but it's intended to define shortly all the matters which are listed out in section 16 of the Yukon Act which specifically lists out what the legislative powers of the Commissioner in Council are. Now so far as section 4 is concerned it's an executive responsibility to appoint a Board and decide who the Board is to be. This is uniform throughout the provinces in Canada that the Government decides to set up a Royal Commission. We have presumed to use the word Royal Commission and the choice of the word Board is not to lessen its power but to make it clear what any Board is sitting or appointed that it has no connection with the Commissioner. If the Commissioner went on by another title then it is safe to use the word Commissioner inquiry it's purely an obvious choice of the word Board.

Mr. Dumas: Mr. Chairman, the difference that I see between this and the other Boards or Commissions or what have you that were to be set up by the Commissioner as opposed to Commissioner in Council is this, and I certainly agree with the Honourable member from Whitehorse East that we don't want to enlarge upon the soul powers of the Commissioner, but this is a Board not a permanent Board the way I see it but a Board set up for a specific purpose or a specific inquiry and I think it would just be unmanageable to have the Commissioner in Council do this if something were to arise when the Council was not in session it would create a great amount of delay and so forth I think to try and call Council in together in order to have an inquiry into something that may and should be immediately looked into.

Mr. Chamberlist: Mr. Chairman, it would appear to me the Commissioner would have the right to call a Board for any reason that he would wish a public inquiry. This is what I am objecting to. If it was clear that he would only be able to call a Board

BILL NO. 8 for a public inquiry that has been requested by this body that would be a different body entirely but as it is now it would appear to me and I think if I recall correctly the Honourable Member from Whitehorse North aptly put it when he showed objection into Bill No. 1 which was presented to us in this session. The reasoning is exactly the same removal the right of Council to choose what public inquiry would be wise to have would be the main theme, now as I say I'm not objecting to the Commissioner appointing a Board but I do object if he can call the Board without the legislative body saying the Board is required to be called for a specific reason. Now this is my objection to that Bill.

Mr. Chairman: One question from the Chair Mr. Legal Adviser, is it intended this type of Board would be an impromptu type of operation, for instance fire or flood or something?

Mr. Legal Adviser: Mr. Chairman, it is intended to be not an impromptu in the sense that the Commissioner will do it without talk, but if a fire takes place ... say you want an inquiry set up in the Northwest Territories to inquire into liquor control, to inquire into the conduct of a public officer who was accused by an Honourable member by the public of misconduct he could set up a Board of inquiry and it would have quasi legal power but to appoint this Board and to set it up is an executive function and I've had time to think over what the Honourable member has said in relation to the same type of power in other Bills and afford the Council as a legislative body to attempt to impose its wishes on the executive in the appointments he made on such a Board would be contrary to Canadian constitutional practice.

Mr. Dumas: Mr. Chairman, is the Legal Adviser suggesting that for instance in the case of parliament, parliament doesn't in the end oppose its wishes on the executive by means of a vote in the House?

Mr. Legal Adviser: In appointing a Royal Commission a government acts sui juris, they inform Parliament what they are doing but they do not necessarily have to have any authority other than the wide legislative authority given to them by an act by the federal parliament previously passed which empowers a government of the day to set up a Royal Commission and then they choose the terms of reference and they choose the number of the Commissioner of inquiry, but of course if they act wrongly they are subject to a vote of censure and then they would have to resign, but if an executive function nonetheless and this body is not an executive body it could create an executive body from amongst its members but it in it's self not an executive body.

Mr. Livesay: Mr. Chairman, there is a significant difference between what parliament does in this respect and what we are able to do, in fact all these Boards that are being set up apart from certain types of Boards that the Federal Government may have such as CBC and so on in that line of thinking they have certain immunities what is being set up here in the Yukon Territory is several sets of Boards who are responsible according to the legislation to an appointed member of government who represents the Minister of Indian Affairs and Northern Development. This is an entirely different thing to what happens in parliament. There is no connection between it here is a straight question of more power for appointed government and obviously that much less for elected government. It can't be anything else, everytime a Board is set up in the Yukon Territory or in the Northwest

Territories especially I would say in this particular area we detract from the normal field of democratic government. This is what we are doing you can't help it even in parliament in the British parliament it's the same thing, there has to be a constant watch that the appointed members don't act in a capacity or get to a point of tyranny not to mention anything else towards the people of the land, and this is what we have to protect here and this is all we are watching I feel is that we are watching the balance of power and the balance of power, seems to me coming up lately is a rather unsatisfactory solution to what I feel we are moving towards in the last decade we have the Public Inquiry Board, Utilities Board, Historic Sites Board, Tourist Advisory Board, Physical Fitness Board, Local Improvement Districts, Hospital Board, how much more are we going to get that is all .... all each and every one of these particular items are responsible to the administration to appoint in power they are not responsible to elected power. In the House of Commons of course we have the government and surely what they create they can take away and in this instance we are doing an entirely different thing we are adding to administration, adding to an appointed power I don't feel that parliament is doing that in the same sense that we are doing here in the Yukon.

Mr. McKinnon: Mr. Chairman, I have to agree whole-heartedly with the Legal Adviser's assessment of the problem. He says we are encroaching on the executive it's exactly what we're trying to do, we're trying to somehow fit in into the executive branch of government. At this time it is one of the ways that we can see we can do it and certainly Mr. Chairman if the administration is not going to go along at this time with the wishes of Council, that this Council should be able to decide and it should be under their control if a matter is important enough to hold a plebiscite or if a matter is important enough to hold a public hearing or an inquiry that this is the function of this house and we are going to make it our function and not leave it in the hands of the Commissioner that anytime he decides it he can hold a plebiscite on whatever matter he wants to hold a plebiscite on or whenever he thinks that he should hold a public inquiry he can do so. This is this Council's function and this Council is going to move in the field of encroaching on the executive branch of government and if the Commissioner and his officers don't like it then I'm afraid we're on diametrically opposed sides.

Mr. Legal Adviser: Mr. Chairman, I think it is the duty of the Commissioner to preserve intact the correct forms and framework of government, and if the members wish to change the form and framework of the present government there are methods available to them to do it without destroying in advance the correct form of government which may change at a future time. If they wish to pick a battleground there are ways of doing it but I would suggest that to destroy our present set up without replacing it is not a desirable thing. If they wish to pick a battleground well then let them take it but not in this Bill.

Mr. Chamberlist: Mr. Chairman, I am hearing Mr. Legal Adviser come up from time to time with sayings like .... things you know, there are ways and means of changing it and if you would want to pick a battleground pick another way, but he hasn't come up once with a suggestion of how to do it here. We have been told and Mr. Chairman I recall

BILL NO. 8 you told me in a previous session that Mr. Legal Adviser is the Adviser to the Administration as well as to the Territorial Council but we are not getting the advice from you Mr. Legal Adviser as how to do the things we want to do and that is to take over helms of executive function which the Honourable member from Whitehorse North has spoken about, and I concur with it fully that we have got to show the administration that we intend to wherever we can encroach upon the executive by making sure that we mean business, that we intend to wherever possible perform an executive function and participate in executive functions. We are being deprived slowly but surely if we allow especially on new legislation that comes before us and obviously the new administration hasn't learned the lesson of the past year and hasn't taken to heart the feelings of this Territorial Council that we want to take a greater responsibility in government because you still come forward with legislation extending the powers of the Commissioner. Now I have no wish to support extension of power for the Commissioner we all recognize the fact of what powers he has; he maintains but on a new legislation we don't have to give way and we're not going to give way, I hope and all members of Council will follow this thing that where the need in new legislation for the elected people to participate can be placed, then we participate. This is another place where we can participate and we want to do that and this is the only way known to us now of letting the administration know that we intend to participate wherever possible in the Government of the Yukon Territory.

Mr. Chairman: What is your pleasure in relation to Section 4?

Mr. Dumas: Mr. Chairman, I'd like to suggest that we reserve right to come back to this at a later date.

Mr. Shaw: Mr. Chairman, could I inquire as to what this Board would be inquiring into other than everything .... is that correct?

Mr. Legal Adviser: Well apart from the issue of appointing members of the Board this Bill has several other useful functions, in the other sections of the Bill Honourable members will see that there is power for the Board to take evidence to enforce the attendance of persons as witnesses; to compel them to give evidence and to compel them to produce documents and the Board has the same immunities when it's acting in it's capacity as a Board .... as a High Court judge has. In other legislations coming before the Council wherever a power is given to a Board to hold an inquiry the short phrase is used, the Board in this particular function shall have the same powers as a Board of Inquiry set up by the Public Inquiry Ordinance and it was intended to use this scheme towards our legislation wherever it occurred because an objection has been made in the past by members not a thousand miles away from me, but Boards have not held hearings in a proper judicial fashion and it is intended that any Board with a set-up will set up eventually with Rules and Regulations about witnesses, attentive witnesses, the fact that every party must be given the right to appear before the Board, in some cases either by himself, or by Council and so on. To regularize informal hearings insofar as that is possible and this Ordinance is the first attempt to perform this function.

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

BILL NO.

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Mr. Chamberlist takes the Chair.

Mr. Taylor: Mr. Chairman, I might just say from my own part that this appears to me to be one .... of all the Boards and all the Bills in front of us that are proposed in legislation this is the meat of the whole works because it occurs to me if we failed for instance to approve any number of Boards involved in these future Bills and yet approve this one Ordinance we give a cart blank permission to the administration to set up Boards in any matter as stated here within the jurisdiction of the Commissioner in Council which is contained in the Yukon Act, which indeed is our total power, that gives the Commissioner the right to make inquiries into anything from liquor to game to anything, and with this very Ordinance the Commissioner does not need the right under any other Ordinance to compose a Board, under this one Ordinance he can do the whole works and frankly it scares me under this so called benevolent or otherwise dictatorship that we exist in today, and consequently I concur with those who have risen before me, of course I am in the Chair and I don't get the chance to debate very often but I do want to make my comments known in this and I too feel that we must write the Commissioner in Council into this Ordinance. Thank you, Mr. Chamberlist and I'll resume Chair.

Mr. McKinnon: I think this Board is a necessity because with all the other Boards we are going to have to have a Board to look into the conducts of the other Boards.

Mr. Shaw: Well Mr. Chairman I do feel that certainly .... a Board of Inquiry is what we call it is very necessary for many many reasons. It is necessary for the look in multitudes of public matters, public utilities but then it would appear to me until you get something enabling a Board to be set up first in an Ordinance .... of the powers to set up a Board first the other ones won't operate I don't know whether I am wrong or right but it appears that's the way it would be. I'll ask the Legal Adviser if this is not passed ....are the other ones not .... is this the enabling Ordinance to provide for Boards?

Mr. Legal Adviser: Not quite, Mr. Chairman, the intention is to lift powers of the Board and these are pretty much the same powers when it's sitting as the Territorial court judge would have to compel witnesses and so on to appear. If this particular Ordinance is not passed it will mean when we come to the Public Utility Ordinance instead of having a simple section saying, when holding an inquiry into a public utility matter the Board shall have the power to a Board of Inquiry under the Public Inquiries Act. We would have to set out the exact powers recalling witnesses to get details for this section and so on, and the projective code which we would hope would eventually build up around the Board would not operate but not passing the Bill would have no effect otherwise on the Public Utility Ordinance or any other Ordinance which was giving these powers but the purpose of holding a Board is not to .... as suggested to take over the powers of a game Board or a Public Utilities Board, it is so that matters of general inquiry complaints were made of pollution of the Yukon River, a Board could be set up to inquire was this so, and then they could summon witnesses and summon documents to see was the river being polluted. If a complaint is made against the conduct of the public

BILL NO. 8 servant or a public officer, a Board of Inquiry could be held with a specific kind of reference, is this true and there are Boards of Inquiry, Royal Commission set up by each of the Provinces in Canada from time to time. There was one recently set up by the Prime Minister of Alberta to inquire into allegations made by a member of the Provincial parliament, Gary Turcott, into the conduct of the provincial treasurer. There was a Board of Inquiry recently set up by the Ontario government headed by Chief Justice McClure to inquire into the administration of justice in the province and so on. Each province as a matter comes sets up a Board. The Board is always set up by the executive.

Mr. Shaw: A supplementary question, Mr. Chairman. If that is the case then is it any objection on an important matter such as this that the matter be discussed relative to each Board with the concurrence of Council to create this Board for the specific duties, in other words that would be putting that Commissioner in Council. Are there any objections to that?

Mr. Legal Adviser: If we put in .... the Council may appoint a Board then the Commissioner has to come with his recommendations and do it as Commissioner in Council. The details of the reference must then be agreed by Council, the members of the Board must be agreed by Council and in canvassing potential members a Commissioner would have to ask the members in advance whether they are willing to come to the Board and it would be subject to debate and it would be difficult to frame the terms of reference unless we had the agreement of the majority of the House at that time, and it would be open to debate.

Mr. McKinnon: Mr. Chairman, with respect there has not been one member who stood up here who has even suggested that we take away from the executive, or that the executive do not appoint and do not administrate the Board. All we have said everyone of us in debating on any one of these Ordinances is that we have the right to say, what should be a matter for a Board to be set up, what should be a matter for a plebiscite to be held on, this and nothing else and you try to draw that if we say that this is the matter we should have the plebiscite and this is the matter in which we should have a public inquiry then it also follows that we have to, we must appoint the people and take on the administration of the Board I don't think it follows and I think it's unfair for you to suggest that this does follow.

Mr. Legal Adviser: I didn't intend to be unfair, Mr. Chairman, I would take it that the meaning of the word Commissioner in Council may appoint a Board to make inquiry reports means what it says, it means the Commissioner in Council ....

Mr. McKinnon: No, the Commissioner in Council may cause an inquiry Mr. Chairman, this is where the in Council comes in the Commissioner in Council may cause an inquiry to be made in any matter within the jurisdiction of the Commissioner in Council, section 4 stands on its own merit that the Commissioner administrates and appoints and the executive does this action, all the Council says is that we should have a say into what matters constitute an important enough issue to hold a plebiscite or to hold a public inquiry and certainly Mr. Chairman .... Mr. Legal Adviser with his astute mind can see the thinking behind this, that if a Commissioner is empowered to hold a plebiscite or an inquiry in any matter that he sees fit that it could come to pass that the Council

determines one issue, the Commissioner doesn't see it that way and goes over the heads of the elected representatives and asks the people and this has happened in Canadian history. I'm not just using false analogy. We've got to protect ourselves from these types of things from happening.

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Mr. Chamberlist: Mr. Chairman, as an example I might give Mr. Legal Adviser that he could follow very easily the Commissioner decides to hold a public inquiry into housing he makes a public inquiry himself notwithstanding all the remarks and debates that have gone on in this House relative to housing, he goes ahead his own way he hasn't consulted us and asked whether a public inquiry is required so that he gets a result from this Board and goes ahead and acting upon the recommendations of the Board to him. We've had nothing at all to do with it so he goes and institutes a policy because of an executive that we have had nothing to do with, now what we want is that the Commissioner place before Council a reason why there should be a public inquiry into housing, Council off the debate says, yes we think this is right then he starts the authority then as Commissioner in Council to go into a public inquiry, then he appoints the Board we are not taking away from him the function of appointing the Board we want him to know that we want to have some say in the matter as to what public inquiry he shall conduct we are part of the government, you know this get together kind of thing you talk about so much, and we want to be participated in that - it's as simple as that.

Mr. Legal Adviser: May I intervene this point, Mr. Chairman, this definitely narrows the issue I don't think the issue was clear before exactly what the Honourable members wished to do .... well let me put it this way I may have been dense but the insertion of the word appoint where it was suggested would not mean what the members now suggest, it would mean extensive redrafting of section 3 and 4 to make this wish come true if that were possible. Now if I might suggest if we kick for touch at this stage and let the matter be thought over there might be no head-on collision.

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

Councillor Chamberlist takes the Chair.

Mr. Taylor: What seems to be going on here is that we are constantly reminded that the Administration here are to help you the representatives of the people, my staff will work night and day to assist you, we are going to bend over backwards to help you, we have gone through six or seven Bills and everyone of them, all but one has been deferred because the Administration want to think about this or that and we can't get any acceptance on anything and it's one of the most frustrating experiences, here we on this side seven members strong are doing our doggonst to try and produce good legislation and yet from the administration side comes these constant refusals and it's very frustrating Mr. Chairman. Now in this Bill this is a cart blank power as I stated before indeed we go further in this Bill as we proceed into it and we provide for things that even we do not have the power to do in this legislative Council that is the summoning and paying of witnesses in the immunities as judge of the Territorial Court and privileges and all this sort of thing, we don't even have these powers. I believe at one time we did but I understand and possible Councillor Livesay might be able to enlighten



BILL NO. 8 the Committee on this, we had them at one time but the administration took them away from us another erosion of the legislature - this was before my time but I know it did exist and possibly as I say Councillor Livesay could outline that and as far as I am concerned, as I stated earlier, we have to involve the Commissioner in Council in this Bill and that's the only way or I'll certainly not go for it. I think the time has come when we have to make a stand in these issues certainly the Minister has the right in his wisdom to refuse assent to the Bill, the Minister can then have the prerogative of saying, well Yukon Territory won't have this Board or that Board or that facility, that is his prerogative but at least for our own part I think we should stand our ground and write the people into some of these pieces of legislation. Thank you Councillor Chamberlist.

Mr. Taylor resumes Chair.

Mr. Shaw: Mr. Chairman, could we defer this Bill and proceed to the next one?

Mr. Chairman: Do you wish to continue with the reading of the Bill at this time? Would that be agreeable if we read it through and then we could be dispensed with that?

All: Agreed.

Mr. Chairman: (Reads sections 5 and 6 subsection (1) of Bill No. 8).

Mr. Chamberlist: Question may we have a clarification of things please?

Mr. Legal Adviser: Objective, an old fashioned English way of saying 'exhibits' an exhibit is a latin word, we use the english word for preference.

Mr. Chairman: (Reads section 6 subsection (2) and Section 7). Do you wish I report progress on this Bill?

Mr. Chamberlist: Could I just ask one question, Mr. Chairman?

Mr. Chairman: Proceed.

Mr. Chamberlist: In respect of this Board do you have a situation in this Board where if we look back what has just happened in Vancouver, British Columbia where some trust company has been doing certain things whereby apparently it has been under investigation in a part manner for some considerable time. Had that first gone to the legislature and been debated then of course, this company may have had the opportunity to cover up alot of the stuff that before the evidence could be procured and I'm wondering if in this particular section whether that may be one of the reasons that as it is, and if so we do have another group on this Council namely Financial Advisory Committee could possibly have the power for something like that together with the Commissioner, I mean there are ways and means where something like that could be handled if there is necessity which there may be for secrecy in some instances such as I have stated, would that possibly be some of the reasons, or the reason or have no bearing. I would refer that to the Legal Adviser, Mr. Chairman.

Mr. Legal Adviser: It's not really a question for me to answer, if there is an executive and the Commissioner becomes the agent of that executive at this time he is the agent of a different executive and it's a matter for constitutional advance for the Council to create something, but to attack the Bill and knock it down is not necessarily the best way of doing it but it may be possible to defer consideration of this matter to a later date. BILL NO. 8

Mr. Chamberlist: Mr. Chairman, I think that the reference that the Honourable member from Dawson made was to the various Commonwealth corporation companies. This was a matter where the B.C. Securities Commission as a body stepped in. They were appointed for the specific reason of looking after the companies who have their stocks to sell to the public and in a Securities Commission .... when and if we proper security regulations we would have a Commission set up for the particular purpose separate from this particular thing.

Mr. Chairman: I shall report progress on this Bill.

Mr. Chairman: (Reads Sections 1 and 2 of Bill No. 9). BILL NO. 9

Mr. Livesay: What seems to be the problem down in this department, this is something I can't figure out I believe the last session was something came up or the session before the same thing, same area. Is this the same problem once again or a different problem in the same area?

Mr. Legal Adviser: It's not a new problem Mr. Chairman, this is a question of delineating out the books and forms and so forth that should be kept when we put through the last amendment we left in by accident, what had to be done and repeated it. We are merely eliminating the duplication and in the judicial Ordinance the same thing happened and the formula is being made exactly the same for one Court as the other so that the forms can be printed and read off easy and reports made in the normal way by the Territorial Treasurer.

Mr. Chamberlist: Mr. Chairman, if my colleague from Carmacks-Kluane would appreciate it I have thorough note of this and I can advise him it is quite satisfactory.

Mr. Dumas: Mr. Chairman, I would like to move that Bill No. 9 be reported out of Committee without amendment.

Mr. Chairman: It has been moved by Councillor Dumas, seconded by Councillor Chamberlist that Bill No. 9 be reported out of Committee without amendment. Are you prepared for the question? Are you agreed? Contrary?

MOTION CARRIED.

MOTION CARRIED

Mr. Chairman: And we shall proceed to Bill No. 10. (Reads section 1 of Bill No. 10). BILL NO. 10

Mr. Chamberlist: Mr. Chairman, I would move that Bill No. 10 be moved out of Committee without amendment.

Mr. Chairman: It has been moved by Councillor Chamberlist, seconded by Councillor Shaw that Bill No. 10 be reported out of Committee without amendment. Are you prepared for the question? Are you agreed? Contrary?

MOTION CARRIED.

MOTION CARRIED

BILL NO. Mr. Chairman: And now we shall proceed to Bill No. 11.  
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Mr. McKinnon: Mr. Chairman, one of Mr. Legal Adviser's principal arguments on Bill No. 8, The Ordinance to Provide for Public Inquiries was that in all these other Bills that have Board set up that all we have to say is that a Board will be set up as required under the Public Inquiries Act of the Yukon Territory, however in not one of these Bills where a Board is set up do I see this type of a clause in them, every Board that's established that we are establishing including the Public Utilities Board is a Board that stands on its own under legislative powers given to it in the Ordinance. There's not one area where this argument that Mr. Legal Adviser was using is in essence being used in the Ordinances.

Mr. Legal Adviser: Mr. Chairman, this depends on the point you come to when you are dealing with the Board. You give these powers, the powers of a Board of Inquiry or the Board of Inquiry Ordinance when it is hearing something within its discretion or complaint or something like that, you give the power to someone .... and this would be done in the ease of the accused and it appears somewhere in the Ordinance.

Mr. Chairman: Proceed?

All: Proceed.

Mr. Chairman: (Reads sections 1 and 2 and 25.A(1) of Bill No. 11).

Mr. Chamberlist: Question.

Mr. Dumas: Mr. Chairman, could we just skip over that and come back to it later because it's the same argument that we have been presenting and rightly so and every other Board of this type of appointment.

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

Mr. Chamberlist takes the Chair.

Mr. Taylor: Mr. Chairman, this is one I am not prepared to skip over and it isn't the same argument in my opinion it's another argument however, the argument put up by the Honourable member from Whitehorse West forms a part of it. As far as I am concerned and I make it clearly known to all members of the Committee at this time I am unalterably opposed to the appointment of this Game Advisory Board in any way, shape, manner, form or otherwise or to ever at any time in the immediate future to authorize the Commissioner on this or any other Ordinance to provide a Game Advisory Board. What this territory needs is a Game Department not a Game Advisory Board, now it's stated here in the explanatory notes that the object of this Bill is to create a Game Advisory Board, the Board will assume certain powers of the director of Game and the Commissioner in connection with licence applications. This is the duties of a Game Director and this is not the duties of a Board, in every province in Canada, in every civil authority anywhere in the world .... in the world they have game departments, call them what you will they are still game departments, each one comes under a director and they have conservation officers in the field and that's what this Territory needs not Game Advisory Boards so you get every bird watcher in Whitehorse down there telling

the game department how to run a big game management district at Watson Lake, which they possibly never seen, or never will see or know anything about, people who haven't trapped, hunted, fished other than possibly fished down the river down here - no way - as far as I am concerned I am unalterably opposed to this. I've said ever since I come into this Council through constant fiscal negotiations that we have the one resource in the Yukon Territory the one natural resource that the Federal government have given us is this game resource, game and fisheries are completely unexploited with the exception of big game hunting in the fall. The trapper he is on his own, the outfitter for that matter is on his own there are no big game management districts, you can't see a moose out of Mayo so you shot it down for the whole territory even though it is over populated with moose at Watson Lake, now this makes big sense but this is the big sense we had to live with in this Territory for years and years. The need for big game management districts is recognized a long time ago, I think that a child .... a school child of eight years old up here in the Selkirk St. School could tell you that but for some reason we can't get big game management districts. We ask in these fiscal negotiations why not set up maybe a conservation officer this year in Dawson, Mayo district maybe next year put one in Watson Lake area, maybe the following year put one in the Whitehorse North highway area and start developing slowly gradually a game department as we can afford to do it. Get out and manage our game - no way - can't do it all that we hear is that either we are going to sterilize the country and tie it up with a national park or else we are not going to do anything with it, we'll do what little we can. As far as I am concerned the Game Advisory Board is an unnecessary Board and if our game director, and this is no personal reflection upon himself, but I say if we have a function of a game director let's get somebody that can do the job, rather than a Board, we don't need a Board if we have somebody that knows game, we have the full facilities of the British Columbia game department, they have been offered to us time and time again, send us the men and we will train them for you we'll train them as fully qualified conservation officers and the offer still stands or did stand to the last that I talked to the director of that department this summer. They would be more than pleased to assist us to establish a department and for these reasons Mr. Chairman I'll have more to say as we go through this Bill but I am unalterably opposed to the appointment of any Advisory Board on game. Let's develop the department in what it was set up to be and that's a Game Department under firm directorship and with trained, qualified personnel.

Mr. Dumas: Mr. Chairman, I wonder if we could have a comment from the Administration as to why they want this Board set up because it does in fact seem like a duplication of the services and duties that should now be carried out by the game director of the Territory as pointed out by the Honourable member.

Mr. Commissioner: Mr. Chairman, one particular glaring instance came up I would suggest about two years ago and in the particular instance that is involved it came to my desk that a particular big game outfitter's licence should be cancelled as a consequence of what the game director felt was a justifiable complaint over a period of time, and when I began to take a look at this to see what the situation was there was very little option as I could see but the game

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director's advice on this matter and I suggested at the time that there should be some means of appeal to this .... or for this particularly affected party. Now this is only one situation and I felt it was a very serious one at the time even now complaints of any kind that are lodged against people who we licence such as big game outfitters, or guides any complaints that are lodged wind up as a personal responsibility where they arrive in the hands of possibly one person to pass judgment if there is to be any kind of action taken, and personally I just don't feel this is a proper approach I feel it should at least a group decision on these matters and I also feel that there should be some means of allowing the affected people a hearing and likewise the opportunity of getting an unbiased and unaffected opinion available to the Game Department and to the Commissioner before we are called upon to take action which in many instances affect the livelihood of people who are involved. Now I realize there have been possibly more things dealt with this than just the matters .... these two matters that I bring to Council's attention but I would say this to you that from an administrative point of view it is a highly desirable situation to have a Board of this nature so that affected people would have the opportunity of appearing before it and have their particular case heard. Now there may be just as many arguments that say this is an administrative responsibility and that we should act within the confines of our own administration to give effect to these things and if indeed this is Council's ultimate wish this is what we will have to be guided by.

Mr. Taylor: Mr. Chairman, I would just like to say that under the Game Ordinance it is my understanding if anyone feels he is being aggrieved for instance in the case of this outfitter who was in the opinion obviously .... I don't know the circumstances behind the case but obviously if there was a game outfitter refused a licence, his licence was withdrawn from him and he felt aggrieved he can still take civil action through the Courts, and if he can't we can amend the game wardens accordingly to ensure that he has that right cause he certainly has that right in the Province of British Columbia to appeal under the B.C. Game Act and our Act is patterned after that Act. Now that is no problem this doesn't mean bringing in a Board if that person feels he is being aggrieved then he can appeal and as I say, we can propose an amendment to that Ordinance if it's not there I always assumed it was. No. 2 if we have a Game Department who, for some reason feel that an outfitter is not doing his job and withdraws his licence this is good, this is what we want, we want somebody in administration to say well I'm not going to hanky panky around and call in a Board and talk about this in my opinion of me the director that man should not be guiding and cut him off and give the area to somebody that can guide and will guide it responsibly. This is possibly what we need around here from what I'm beginning to see at this session from these Bills nobody seems to want to make any decisions anymore. Our Prime Minister when he took power in Ottawa the first thing he did was to clean out his Cabinet and he said, 'no more Cabinet Committees giving me advice I want action I want decisions, I don't want advice' and that's what this country is running on today and I think we could use a little of that around the Yukon Territory as well.

Mr. Shaw: Mr. Chairman, I can see the merit in a person who has had his licence taken away having the opportunity to present his case to some other party to find judication. I can very honestly see the difficulty in one person having to make a decision on some of these matters and that decision shall be final. There should always be some recourse for some person to take the complaint to, to see whether it was justified or otherwise that's an admirable facility. Now I note in here where the Board recommends the approval of licencing and all that I'm inclined to agree with the Honourable member from Watson Lake that the game director I would feel would be more qualified to know who should get a licence under what terms and conditions then say a Board who was picked up from the street. A Board in all probabilities would be picked up from this particular area where the majority of the people they wouldn't know a spruce from a balsam and much less all the ramifications of game, the director would be the man that would be real knowledgeable and I think we do have a knowledgeable director, but at same time I would feel that in all fairness there should be some provision made that when something like this happens that a Board could be called to discuss this person if he wished to make an appeal, there should be a Board he could make an appeal to, that's one thing I would agree with, so I think that's very necessary. I'm inclined to agree the director should have the .... he's a knowledgeable man and he should accept .... he shouldn't advocate his responsibility he should be able to accept the responsibilities of giving a licence or taking one away, but the person the agreed one should have the opportunity to go for someone other than the Court, it's very easy for some people to go to Court and as the Right Honourable member on my left will agree that for other people it is very difficult, I wouldn't know how to go about it I can usually emunerate my problems without having to recourse the Court but some people can't and they become most proficient in this, so there should be some Board or something like that in which someone can appeal to if it's available and it doesn't cost them a fortune, he doesn't have to have a habeas corpus and corpus delicti and all these other kind of stuff that they rattle out so a person doesn't know what it's all about and that's what I would think.

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Mr. Dumas: Mr. Chairman, I can't see any point in setting up this Game Advisory Board the only reason we have been given by the administration was that somebody to go to for an appeal or so of course, the same thing that we would say here if they don't like the decision of the Advisory Board they go to the Court and what applies now if they don't like the decision of the Game Director they can go to Court, so I don't think we are getting anywhere.

Mr. Chamberlist: Set up a Board to hear its complaint.

Mr. Taylor: Anyone else who would like to make a comment?

Mr. Livesay: Well there is one point I would like to draw to the attention of the Committee and that is subsection (2) of 25.A where it says, "where there is no vacancy on the Board, or only one vacancy, two members constitute a quorum, but where there are two vacancies, the member holding office may execute and perform all the powers and duties of the Board under this Ordinance". Well if that's the case then it's just like shooting three crows on a tree and after you've knocked two off you surely must have one left and in this case of course, you haven't he's probably flown away and in this case you are back to one and I'm just

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wondering what's it's all about, I mean if you're back to one - one what, I mean if that's the point I can't see the sense in it.

Mr. Legal Adviser: Apart from what the Commissioner has mentioned in the subsidy of the Board there are one or two other purposes of this Bill, the Game Advisory Board is not to advise on game or the preservation of game, it's to be a Board what we would hope independent people to whom an application would be referred when an outfitter wanted a licence, when a licence being taken away they would hear what the accused had to say and be compelled to hear this and this is the discretion which is presently vested in an executive officer either the game director or the Commissioner and it is the general policy of the administration to where possible hold such inquiries in public and let the public be aware of what the reasons are that a charge is brought against the person and that the Board be an independent Board to hear the charge and evidence on both sides and make a recommendation and this is the basic policy behind this Board apart from one or two small housekeeping points. If this policy is not acceptable to the Council well then the Council can vote against the Bill and pass it out.

Mr. Livesay: Mr. Chairman, I am somewhat worried about the cost of all these things, these additions I notice we are going to have Public Inquiries Board, Utilities Board, Historic Sites Board, Tourist Advisory Board, Physical Fitness Board, Local Improvement District Board, Hospital Board, Game Board and maybe a lot more Boards now I wonder if the administration could possibly give us a rough estimate of what this addition to appointed government will be to the taxpayers of the Yukon and budget in general. Is that a fair question, Mr. Chairman?

Mr. Legal Adviser: I couldn't give an estimate, but I could ask for an estimate to be made of the cost in a full year of what this Board would cost to operate which would consist of the expenses of the Board and estimated number of hearings and any clerical assistance they might need, beyond that I don't think there would be much expense, they might have expense occasionally in bringing a witness but this would be an unpredictable type of expense to predict.

Mr. Livesay: My question, Mr. Chairman, was the cost of all the Boards as I had mentioned.

Mr. Legal Adviser: Well I think we would want written notice of what Board the Honourable member had in mind so that a proper answer could be prepared.

Mr. Chamberlist: From the Chair I was wondering what further Boards the administration had in mind before we can do that. Are there any further comments? Councillor Taylor, would you take the Chair.

Mr. Taylor: I have just been attempting to show for the editification of the administration, Mr. Chairman, in the British Columbia Game Act under the section referring to guides .... I have just now found it subsection 10, "A person who thinks himself aggrieved by a refusal to grant him a guides licence may appeal to the County Court of the County within which he made application for the licence at any sittings thereof" and then it goes and dedicates a whole

page to ensure that this man has a right of appeal and then how it shall go on down through the Courts and there's absolutely no reason why, and it's odd, it seems very odd to me that when our Game Ordinance was drafted it was patterned after this that this was never extracted and placed into our Yukon Game Ordinance. There lies our problem and not in the Advisory Boards it just means taking a look at the Game Act. Thank you, I'll resume Chair.

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Mr. Chamberlist: Mr. Chairman, I would like to have a further comment on this. I agree with the Honourable member from Watson Lake and I would oppose this Board because quite frankly I am fed up with seeing so many Boards and going to be fed up and yet to finish up with more Boards than people in the Territory to fill the Boards position if this goes on indefinitely. We have Courts of Competent Jurisdiction on which appeals could be made to, I think it's a slap in the face to our Courts when you deprive the Courts the right to adjudicate, mind you it might well be that there is reason for lack of confidence in the Court from time to time it's very difficult when perhaps Courts in their extra judicial duties that take place with someone sitting on the Courts are unable to fulfil, but we must not take away from the Courts the obligations that they have and it is an obligation on their part to hear an aggrieved person and we should include this in wherever possible way the administration comes forward to say that it's a protection of the individual that these Advisory Boards and these different Boards are being set up, I think it's a red herring that's being drawn across the real reason and that the real reason is to perpetuate the existence of the executive branch of government here and to continue as much as possible room for the elected representative what little powers they have and this is where we have a clash taking place all the time between the administration and the elected Council and I repeat again doesn't the administration recognize that the members of this Council are watching these things very carefully and watching bit by bit taking away those little things that we all are able to take care of. I would feel it would be quite satisfactory for an appeal to be allowed for in the legislation and it should be I agree every person should have the right of appeal, but the right of appeal can go direct to the Court, why should it go to an Advisory Board and then if the person is not satisfied with the Advisory Board then they have to go to Court. I mean why not cut this out and save the taxpayer some money, because you know this is where it comes from, the next thing I'll know the Financial Advisory Committee will be after a sum of money to set aside for the payment of Boards consisting of about two thousand people where the administrative staff and then we'll have to be asking Mr. Lynn if he'll construct another building so that they have committee rooms for Boards to set up and then the personnel officer will come along with a long list of secretaries II, III and IV and then come up with new personnel officers, new administrative officers and next thing you know Parkinsons theory going into effect - bingo. We are going to have a big staff, big Board what a time we are going to have, I've got to agree with Councillor Taylor you got to stop this nonsense, you've got to stop dipping your hands into our pockets all the time and let's get down to some serious business and say, well we have the Court, sure if the Courts are going to get too busy, the Department of Justice is a responsible ability of the Federal government let them put out another Court and put on another magistrate on to hear some of these appeals. No let them do that.



BILL NO. 11 Mr. Chairman: Gentlemen, I draw your attention to the time.

Mr. Shaw: Mr. Chairman, I would move that the Speaker now resume the Chair.

Mr. Chairman: It was moved by Councillor Shaw, and seconded by Councillor Dumas that Mr. Speaker now resume the Chair. Are you prepared for the question? Are you agreed? Any contrary?

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 10:30 a.m. to discuss Bills and Sessional Papers. Committee recessed at 12:00 noon and reconvened at 2:10 p.m. this afternoon. It was moved by Councillor Chamberlist, seconded by Councillor Dumas that Bill No. 7 be reported out of Committee without amendment and this Motion carried. It was moved by Councillor Dumas and seconded by Councillor Chamberlist that Bill No. 9 be reported out of Committee without amendment and this Motion carried and it was moved by Councillor Chamberlist, seconded by Councillor Shaw that Bill No. 10 be reported out of Committee without amendment and this Motion carried. I can report progress on Bill No. 5, 6, 8 and 11. It was moved by Councillor Shaw and 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 Committee. Are we agreed?

All: Agreed.

Mr. Speaker: What is your further pleasure?

Mr. Shaw: Mr. Speaker, I would move that we now call it 5:00 o'clock.

Mr. Chamberlist: I'll second that Motion, Mr. Speaker.

Mr. Speaker: Does the House agree we call it 5:00 o'clock?

All: Agreed.

Mr. Speaker: The House now stands adjourned until 10:00 a.m. Monday morning.

Mr. Speaker read the daily prayer and Council was called back to order. All Councillors and Mr. Legal Adviser were present.

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

Mr. Clerk: There is, Mr. Speaker.

Mr. Speaker: I will now call Council to order. I have for your attention of the House this morning tabling of Sessional Papers No. 21, 22, 23, 24, 25, 26 and 27. Are there any reports to the Committee? Introduction of Bills? Notices of Motion or Resolution?

Mr. Dumas: Mr. Speaker, I'd like to give Notice of the following Motion that Sessional Papers #16 and 26 be moved into the Committee of the whole. NOTICE OF MOTION NO. 4

Mr. Speaker: Thank you Honourable member from Whitehorse West. Are there any further Motions or Resolutions? There are no Motions for the Production of Papers. May I take your Orders for the day? There are no Motions for the Order. Are there any questions?

Mr. Shaw: Mr. Speaker, I do have a question directed to the Commissioner. I would like to know Mr. Speaker, if it is correct that the Canadian Government Travel Bureau have endorsed a travel contest which gives away a prize of a seven day visit to Edmonton's Klondike days? QUESTION RE TRAVEL CONTEST

Mr. Commissioner: Mr. Speaker, I will have to have notice on this before I can secure the answer.

Mr. Shaw: Mr. Speaker, I do have it written out, but if it would help, I could make that a written question.

Mr. Speaker: Are there any further questions?

Mr. McKinnon: Mr. Speaker, in view of the totally inadequate answer received on question No. 10, I would like to rephrase the question as directed against the administration as a written question, What are the possible proposals presently under study for extension for the City of Whitehorse boundary? QUESTION PROPOSALS OF EXTENSION OF WHITEHORSE BOUNDARY.

Mr. Speaker: Are there any further questions? If not, may we pass to public Bills and Ordinances.

Mr. Dumas: Mr. Speaker, I'd like to move Third Reading to Bill No. 7, An Ordinance to Amend the Interpretation Ordinance. THIRD READING BILL NO. 7

Mr. Shaw: I will second the Motion, Mr. Speaker.

Mr. Speaker: May I inquire from Mr. Clerk, if this Bill has cleared Committee?

Mr. Clerk: Yes Mr. Speaker, it was moved out of Committee on November 15 without amendment.

Mr. Speaker: Moved by the Honourable member of Whitehorse West and seconded by the Honourable member of Dawson that Third Reading be given to Bill No. 7, An Ordinance to Amend the Interpretation Ordinance. Is Council prepared for question on Ordinance? Are we agreed? THIRD READING BILL NO. 7

MOTION CARRIED

MOTION CARRIED

Mr. Speaker: Is Council prepared to adopt a title for Bill No. 7?

Mr. Dumas: Yes Mr. Speaker, I move that title to Bill No. 7 namely, An Ordinance to Amend the Interpretation Ordinance be adopted.

Mr. Speaker: Moved by the Honourable member from Whitehorse West, seconded by the Honourable member from Dawson that Bill No. 7, An Ordinance to Amend the Interpretation Ordinance be adopted as written. Is the House prepared for question in Motion? Are we agreed?

MOTION  
CARRIED

MOTION CARRIED.

THIRD  
READING  
BILL NO. 9

Mr. Shaw: Mr. Speaker, I would move that Bill No. 9, An Ordinance to Amend the Police Magistrate's Courts Ordinance, be given Third Reading at this time.

Mr. Chairman: There being no seconder, Mr. Speaker, I am wondering if I can have the indulgence of the House to withhold further action on Bill No. 9 and 10 as I do have impossible amendments to fulfil .... that is further amendment.

Mr. Chamberlist: Mr. Speaker, in respect that this Bill has already passed out of Committee.

Mr. Chairman: Yes Mr. Speaker, I am endeavouring to get some further information in respecting both the judicature and the police magistrate's Ordinance and it may be that I might propose a Motion that it be moved back in the Committee.

Mr. Speaker: House Agreed?

All: Agreed.

Mr. Speaker: May I have your further pleasure?

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

Mr. Speaker: Moved by the Honourable member from Dawson, seconded by the Honourable member from Whitehorse West that the Speaker do now leave the Chair and that the Committee be reconvened as a whole to discuss Bills, Memorandums and Sessional Papers. I would declare the motion carried and would the Honourable Member from Watson Lake please take the Chair in Committee.

MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker takes Chair.

BILL NO.  
11

Mr. Chairman: We will proceed to Bill No. 11. We concluded at Section 2, 25.A subsection (1). Is there anything further in this section? (Reads section 2, 25.A subsections (2) (3) (4) (5) (6) and (7).

Mr. McKinnon: Mr. Chairman, I would request the presence of Mr. Fitzgerald to the Committee at this time.

Mr. Chairman: Agreed?

All: Agreed.

Mr. Chairman: I will declare a short recess.

RECESS

RECESS

Mr. Chairman: At this time I will call Committee back to order. We have with us Director of Game, Mr. Fitzgerald. Would you proceed Councillor McKinnon.

Mr. McKinnon: I would like the Director of Game's thoughts and comments on the Game Advisory Board whether he feels this is a priority item at this time, or whether he feels there are other items that he would like to see given priority in his department.

Mr. Fitzgerald: Well I think it is rather important, although there are a lot of things really are probably more important, at least one and that is game census or game count. This Board it was felt would be of some assistance to the branch and Commissioner deciding certain matters and conduct of guides and outfitters and I might mention that such a Board exists in Alaska and I think eleven members together on the Board, mind you they deal with a much larger number of outfitters and what have you, I think there are 350 there now quite an increase over the last ten years.

Mr. McKinnon: May I add a comment, I'm not going any further on this, but I agree completely with the Director of Game, I just can't see the priority of setting up a Board and issuing licences or cancelling licences when we don't even know what we have to give licences for at this time, and I've always said this in the matter of the Game department that the priority item in this, this is any area of the Yukon in the field of economics, in the field of our social development, in the field of all our life, we have to know what we are talking about before we can start legislating for it in the Yukon at this time we just don't know what exists in as far as our game population and what techniques we should be using for game management should be used, and to me we are just putting the cart before the horse and this has to be the number one priority item in this department, and I think a Board is completely unnecessary at this time until we know what the heck we are talking about.

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

Mr. Chamberlist takes the Chair.

Mr. Taylor: Mr. Chairman, just to restate my position in respect of this, as I stated on Friday night, I'm not in favour of this Board in any way, shape or form. I would like to ask the Director of Game, Mr. Fitzgerald, Mr. Chairman if .... or why he feels the Game Department can't cope with this particular problem of issuance of licence or resolving disputes at this time. Is this a real problem or can the Game department as small as it is cope with this without a Board?

Mr. Fitzgerald: There's not the real question of not being able to cope with it, I think it was agreed and been discussed on several occasions that Mr. Commissioner and myself, of course moreso on the Commissioner's position we have considerable powers under the Ordinance and it was felt that the Board's recommendation would probably be taken into consideration before taking certain action. Now we only have ordinarily 22 registered big game outfitters in the Territory. I suppose we could have a great number more but I personally would not be in favour of this, this profession or business that's operating here is continually bringing in around \$300,000.00 or more each year to the Territory and if we had 70 outfitters I would imagine that in ten years the revenue would drop off, it wouldn't even make it worthwhile probably to conduct such a business, but with the number we have I think it could go on indefinitely but in conjunction with proper game management.

BILL NO.  
11

Mr. Taylor: Mr. Chairman, this is the very point of it I think that what we must do is get some conservation officers in the field, I quite frankly living in the bush and discussing this with people who live in the bush cannot see the benefits of a game count on a basis that it is proposed at the present time. It's nice to sit here in Whitehorse in the great ivory tower and discuss game inventories and indeed Ottawa is the type of thing they do as well, but I maintain that the game inventory is virtually impossible except at some extravagant outlandish cost until you have conservation officers in the field to co-ordinate within his district, information from trappers, hunters and people living in the country and even at that you won't get an accurate count but you may be able to make an estimate shall we say, of the assessment of the game in that particular individual area, and as I stated on Friday last what this Game department needs is to be built, it needs conservation officers trained in the field far worse and I think it needs an Advisory Board. Now discussing this Advisory Board on Friday, Mr. Chairman, Mr. Commissioner in reply to a question of why we needed this Board pointed out a case of where an outfitter had lost his licence and had no right of appeal and I've suggested in vast that Mr. Legal Adviser could possibly assist me in preparing an appeal section to the Ordinance to our existing Game Ordinance which, of course, was based on the B.C. Act and I am wondering now in consideration of this if Mr. Game Director could advise me if there is any other area within the Ordinance that .... or could be amended to alleviate this problem.

Mr. Fitzgerald: Well I think the case the Commissioner made reference to was suspension under certain conditions were well in the Commissioner's power and the man had to abide if he could rectify the situation by a period set down or date set down would depend to be reinstated and this was done. He brought his outfit up to meet the provisions of the Ordinance and he was reinstated. Most other trap mine dispute and so on if there is an appeal there I can make a certain ruling on it and then give a dispute and then decide on it and if I .... if the people are not happy with the decision handed down and then have power under the Ordinance to take the appeal before a police magistrate, and I of course then would have to comply with the Summary Conviction Ordinance or whatever it may be by handing over certain evidence and notes taken at such a hearing. There is a provision for in that, but with regard to outfitters or guides it is pretty well a cold cut thing whether either you are suspended or cancelled out.

Mr. Taylor: Mr. Chairman, in British Columbia as I say the director is the respondent of any action taken in the Courts in respect of a cancellation or suspension of licences and I was trying to determine from Mr. Game Director whether he feels that this would be wise at this time and possibly to overcome this Game Advisory Board to include a Right of Appeal. In British Columbia as I say it's conservation officers and all references are made to conservation officers and the director and of course there is no Board and with the concurrence of Mr. Game Director I will try and get together with Mr. Legal Adviser and see if I can draft an amendment which would provide for this Right of Appeal.

Mr. Legal Adviser: In connection with the amendment could I say that if the policy of having a Game Board is not acceptable to the House, it might be a wise procedure, it's a suggestion I make, to allow the Bill to die in Committee and in that event, in the event of it dying because the reason is the policy of having a Board was disapproved of we would prepare a fresh Bill, I wouldn't guarantee exactly how soon it would be prepared but not too far away. Prepare a fresh Bill extracting from the Bill all the

other points of policy other than the references to the Board and certainly one of the points which would appear in a fresh Bill would be an appeal in somewhat similar form to be existing drafted section which appears here at 25.B subsection 6 and subsection 7, which in effect gave an appeal from a decision of the Board to the police magistrate and the form of the appeal will be similar, except in this case it would be from the decision of the existing administrative officer would, of course, be the Commissioner his decision would be appealable to the police magistrate. This would take care of the point raised by the Honourable member, the point that an appeal should lie from the decision to a court, if this would meet with the wishes of the House it could be arranged for this to be done, but the Bill would need re-examination because certain points that appear here need to be extracted to be put into a fresh Bill because there would now be no Board appearing in the Bill.

Mr. Taylor: Mr. Chairman, I would certainly go along with such a suggestion as there are some no doubt further items to amend the Game Ordinance which no doubt have come up since this was written, one I noted was the Provision for Conservation Officers does not yet appear and I was hoping this could be done at this session but I'm unalterably opposed to the Game Advisory Board and I'm a real pro of the Department I'd like to see build this Game Department to something which is good, sound and solid and get some conservation officers in the field and I would disapprove of the principal of a Game Advisory Board. Thank you, Mr. Chairman. Yes I will resume the Chair at this time.

Mr. Taylor resumes Chair.

Mr. Dumas: Mr. Chairman, getting back to the game count, would the director advise us as to approximately how much .... what this would entail and how much it might cost, just roughly?

Mr. Fitzgerald: We have already made representation to Ottawa, as a matter of fact sometime ago we received acknowledgment of our inquiry and this consisted of five or six questions, tried to get an estimate of the actual cost of the game survey of the Territory whether or not the Canadian Wildlife Service would participate, and if they would participate, what would the charge be and generally what the cost to the Territory would be. Now I'm not prepared to say even a wild guess I'm afraid it would cost considerable money, but if they cannot participate, if the Canadian Wildlife Service cannot participate in this and we are going to build what we can anyway on our own. I'm fortunate in having few men in our branch who have a good idea more than an average idea of what this consists of, but we will have to do the best we can on our own if we do not get this assistance. I'm afraid higher technical men and I think we all appreciate this is a highly technical field now anyway, it would cost an awful lot of money and I definitely think this is necessary and if we can't get the money or get the assistance I think we'll have to do the best we can and try and come up with zoned barriers and just where our game concentrations are and what they are. I think in a case of this kind you would have to depend on information from prospectors, trappers, guides and so on and our own observations along the lines of Mr. Taylor as he made reference to.

Mr. Chamberlist: Mr. Chairman, besides the remarks that have been made by other members of this Committee in opposition to the assembling of a Board by legislation for the Game Department I take particular note of Section 25.A (3) which I hold is a 'catch-hole' and it's a 'catch-hole' that we must keep away from. Now when I read this and it says, "The Commissioner may assign powers and

BILL NO.  
11

duties to the Board in addition to those 'specified in this Ordinance' why have the Ordinance at all, why have the legislation at all if the Commissioner can in any event give more powers and more duties. If it would have just said duties only, one would think they have additional work to do but when the Commissioner may extend any powers that he wishes to extend to a Board of this description it deprives the people of the right of protection of legislation and places in the hands of one man the power of practically of life and death especially when it comes to people who are working in the Game industry to run their livelihood. I'm prepared to accept the suggestion that has been made by Mr. Legal Adviser that the Bill in itself die in Committee and a new Bill which would be more satisfaction to the members of this Committee and I think in all fairness to the people in the game industry itself that there be a method of appeal which would be directly to the Courts instead of being dependent on the Board and to appoint from a Board to an Appeal Court. It seems to me the method is being duplicated in this particular instance and I feel that the suggestion that has been made Mr. Legal Adviser should be complied with. At this time I would move that this Bill be allowed to die in Committee. Motion, if I could get a seconder.

Mr. McKinnon: I will second that Motion, Mr. Chairman and while I am on my feet I would like to ask Mr. Commissioner if he has had any communication with the Canadian Wildlife Service for the purpose of setting up some kind of a continuing conservation policy for the Yukon Territory.

Mr. Commissioner: Mr. Chairman, this is part of the communications that we have been having with the Canadian Wildlife Service and is part of the whole idea of not only a game count or a game census, but the setting up of a complete conservation program which would allow us a course of action that would prevent a continuing game harvest and I would like to assure Council that this is a matter of very high priority as far as the Game Department and other members of administration are concerned and it doesn't only consist of just one particular aspect of it, it is a total package that we are seeking in the Canadian Wildlife Services Assistance.

Mr. Chairman: I have before me a motion that we moved by Councillor Chamberlist, seconded by Councillor McKinnon that Bill No. 11 be left to dying Committee. Are you prepared for the question? Agreed? Contrary.

MOTION  
CARRIED

MOTION CARRIED

Mr. Chairman: I wonder if Mr. Fitzgerald could be excused at this time.

Mr. Shaw: Mr. Chairman, I wonder if I may be permitted to ask a question, it's relative to Game, it's not in the Bill at this time?

Mr. Chairman: Proceed.

Mr. Shaw: It's in relation to the other poor animals that get involved in this game business namely horses without giving any particular names, they .... it was an outfitter last year that had a number of horses, his horses were put out to pasture and I believe most of them died during the winter for lack of care, so on and so forth. I would like to ask the Mr. Legal Adviser, Mr. Chairman if the Director of Game has authority in a matter such as this, or if not, is there any authority in the land that this kind of situation could be stopped?

Mr. Commissioner: Mr. Chairman, with respect of this matter I do believe that the general policy with regard to the humane treatment of animals I think was discussed in Council at a session not too long ago and I do believe at that time the answer falls under Federal Legislation. Now Mr. Legal Adviser could correct me if I am wrong on this.

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11

Mr. Legal Adviser: I am fortunate in having Mr. McKinnon pointing out that Section C, 187 covers this which says, "Everyone commits an offence, who wilfully causes or being the owner wilfully permits to be caused unnecessary pain, suffering or injury to an animal or bird, or by wilful neglect causes damage or injury to animals or birds while they are driven or conveyed", and the section then continues on this strain and creates an offence punishable on some of the convictions which would be a six month penalty.

Mr. Shaw: Mr. Chairman, in being advised of such an occurrence then all that would be necessary would be to go to the local detachment of the R.C.M.P. and lay a complaint. Is that correct?

Mr. Legal Adviser: That is correct, Mr. Chairman.

Mr. Chamberlist: I already have the rest of the legislation from seven of the provinces which I will be bringing forward, it was a matter I said I would bring forward next time around. The Criminal Code does not deal with horses at large and unable to find feed for themselves. This is not an offence because wild horses can find feed for themselves it's when they are treated in a bad manner, or when they are kept in a closed stable and they are not given food then, but when they are out in the open and they forage for themselves and they die because they were unable to get food it is not a criminal offence. There are two cases on it and this is why it is necessary to have some legislation for the prevention of cruelty to animals.

Mr. Legal Adviser: A legislation to expand may be necessary but it's mainly a question of proof. Any person who wilfully causes may be difficult to prove in any given case.

Mr. Shaw: That's why I raised the question. I don't want at this time go to into any names, but apparently the law was contacted and the law was most anxious to act and were very concerned about it but they were powerless to do anything in this particular instance. That's why I raised the question and I think this is one that could be very well gone into, I am very inclined very much to believe what the Honourable member for Whitehorse East has just stated that when you get wild animals out to grass and these horses Mr. Chairman were there with their shoes on and I understand quite a number in fact most of them died before spring came around. Now this is a terrible situation and I am sorry that I didn't hear about it until this fall. This to me would be the most important addition to the Game Ordinance or to any Ordinance to prevent this.

Mr. Chairman: Is there anything else gentlemen, or can Mr. Fitzgerald be excused?

All: Agreed.

Mr. Fitzgerald leaves Chamber.



SUPPLEMEN- Mr. Dumas: Mr. Chairman, I wonder if I may ask the Commissioner  
TARY when the supplementary estimates will be tabled? How long do we  
ESTIMATES have to wait and hold these Bills up?

Mr. Commissioner: Mr. Chairman, I am sorry I am in no position to give a day certain but I will say this that it will be just as quickly as possible.

Mr. Dumas: Mr. Chairman, I would like to remind Council that we did have the book before us and it was pulled out and we were told there were a couple of small errors to be changed. Now they were taken from us last Thursday and I hope that they will be back before us this week.

BILL NO. Mr. Shaw: I would propose Mr. Chairman that we go to the Bill  
14 No. 14. I am anxious to find out what registers are.

BILL NO.  
13

QUESTION RE  
LOW COST  
LOANS

Mr. McKinnon: Mr. Chairman, I wonder if I could ask Mr. Commissioner to make all effort to find out what the feelings of the powers that be in Ottawa would be towards motion No. 1 which has been passed continuously by this House with the approval of the Administration respecting the raising of first and second mortgage loans on this low-cost housing prior to us discussing the Bill and making a decision on it.

Mr. Commissioner: Well I am certainly in no position to assure Council that I can get a Reading on what Ottawa's feelings are in this particular regard but I am certainly quite prepared to tell Council that we will continue to press for a Reading from Ottawa and make it available for Council just as quickly as possible. I hope that Council realize that from the administration's point of view we are just as anxious as Council to try to get verification of this.

Mr. McKinnon: If it will be any help to Mr. Commissioner for ammunition when he discusses this with Ottawa the Government of the Northwest Territories in their brief to the task force on housing also recommended that the first mortgage loans be raised they used some quite strong language as the Council has around this table stating how unworkable \$8,000.00 is in the Territories at this time. All of the people of the North are united in this and we just don't seem to get anywhere with it.

Mr. Chairman: Is it your wish that we leave Bill No. 13 at this time.

All: Agreed.

Bill No.  
15

Mr. Chairman: (Reads Bill No. 15).

Mr. Livesay: Mr. Chairman, may I ask the Commissioner if there are any more old ordinances of this type and description still on the books perhaps back as far as 1914, 1915 and 1918

Mr. Commissioner: Mr. Chairman, bringing the business and particulars of legislation of the Yukon Territory from the nineteenth century into the twentieth century is a continuing exercise and I can assure Mr. Speaker that when he asks the question I am quite confident that he is probably he is even more aware than I of the many Ordinances which were put into effect around the turn of the century which have outlived their usefulness and I think that Council will find that as we are updating the Ordinances that such things as we have before us now will be coming forward on a continuing basis. The question was asked and I am sure it will be getting answered here in the next day or two of Mr. Legal Adviser to

advise Council how the new revision of the Ordinances is coming and I am sure that part of his answer will be an indication of what is being done to try to read out those Ordinances which for all practical purposes are no longer necessary.

BILL NO.  
14

Mr. Chamberlist: Mr. Chairman, in question to the Commissioner relating to this Bill are there any agisters left in the Territory?

Mr. Commissioner: Mr. Chairman, as I have just recently familiarized myself with even what the term means I think it would be a reasonable statement on my part to say that in so to the best knowledge of the administration there are none of these professional types left here in the Territory.

Mr. Chamberlist: What would occur Mr. Chairman, if somebody was boarding animals, funny enough a woman came the other day and asked if I had stable room to keep a colt because she was feeding this colt herself now under what Ordinance .... how would I apply the law to keeping looking after a horse or a colt this is the thing somebody might open a livery stable somebody might open a sale stable somebody who is selling horses, what legislation would be required for them to comply with the law?

Mr. Commissioner: I will answer the first part of it but I would say any request made to Councillor Chamberlist in his capacity as a local businessman would be subject to the bylaws of the City of Whitehorse I would trust that they would see fit to deal with this matter in such manner as they so see fit and the balance of the question could I have Mr. Legal Adviser answer.

Mr. Legal Adviser: Well to a large extent the agisters and keepers of livery, boarding and stables ordinance is a restatement of the common law on the subject and you would fall back on the common law in default of a special contract.

Mr. Chamberlist: I move that Bill No. 14, An Ordinance Respecting Agisters and Keepers of Livery, Boarding and Sales Stables be passed out of Committee without amendment.

Mr. Shaw: I second the motion, Mr. Chairman.

Mr. Chairman: It has moved by Councillor Chamberlist, seconded by Councillor Shaw that Bill No. 14 be reported out of Committee without amendment. Are you prepared for the question? Agreed? Contrary?

MOTION CARRIED

MOTION  
CARRIED

Mr. Chairman: Gentlemen, at this time I will declare a brief recess. RECESS

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Monday, November 18, 1968.  
11:00 o'clock a.m.

Councillor McKinnon not present.

Mr. Chairman: At this time I will call Committee back to order, and we will proceed to Bill No. 15, An Ordinance to Facilitate the Division of Properties Into Parts That Are To Be Owned Individually And Parts That Are To Be Owned In Common And To Provide For The Use And Management Of Such Properties. (Reads Section 1 of Bill No. 15.)

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Mr. Chamberlist: Mr. Chairman, I wonder if Mr. Legal Adviser could give this Committee a background on the whole necessities of this particular bill.

Mr. Legal Adviser: Well, Mr. Chairman, I'm not too sure about the exact necessities for it at this moment, but it's a wise piece of legislation, I think, to have on our statute book because of the advance and the increase in the number of properties of this type in other provinces, and particularly in the United States of America, and fortunately are being favoured by one of the Honourable Members with a number of bricks which will demonstrate how the Ordinance is supposed to work. Normally speaking, property is described by relation to the ground upon which it stands, and it is impossible without very, very complicated and devious legal documents to describe apartment ownership without a description of the land on which it stands, but the intention of the bill is to enable joint ownership, not only of pieces of property on the ground, but of apartments as they rear their heads skyward, so that the intention is that an individual person will be able to own his own apartment regardless of whether it's a ground-floor apartment, first floor, second floor or third floor. Now, this will facilitate the building of accommodation sometimes in a cheaper fashion, and the owner will be able to finance his own apartment individually without too much difficulty by having a title, which is a valid title, to his own apartment, and the bank or mortgage company would be willing, under this form of legislation, as has happened already in Ontario, in Manitoba, in Alberta and in British Columbia and in the United States of America, to make loans to individual owners for the purchase of their own apartment. Now, I'm quoting from an article which appeared in Chitty's Law Journal in June of this year, and the writer of the article was helpful in drafting some of the legislation across Canada, and he says "that the demand for such legislation arises from two economic and social factors: (a) the high cost of service land has contributed to a strong trend towards high density housing such as a high-rise apartment and the townhouse; (b) ownership of a home is generally considered superior to renting." Now, the particular set of circumstances which brought the necessity, or the possible necessity, for this type of housing or apartment ownership, was the discussions taking place in relation to the new town of Faro, and some of the people partaking in these discussions had been to Russia, and in far northern communities in Russia there was evidence to show that the cost of heating and other servicing for numbers of families was reduced if a high-rise apartment was in fact built, and some Russian towns consist solely of one or two high-rise apartment buildings with all the services concentrated within the one share, and they constitute towns in themselves in that they are very, very big buildings and they have shopping centres, educational facilities, recreational areas, and so on, all

BILL  
NO. 15

within the same share and heated, and this obviates the necessity for the type of utilidor facility with which Honourable Members are familiar is necessary in Inuvik and similar places. Now, we do not say that this is a definite probability within the next year, but by making this type of land ownership available, an apartment ownership available, it should be possible for groups of people to finance ownership of their own dwelling in this type of new construction without inordinate difficulty. With the legislation - the legislative history of this in Canada appears to be that - in Florida and in California, Canadians became familiar with the ownership of apartments....., and moves were made, articles were written attempting to solve the legal difficulty. B.C. appears to have had the first act through. It was followed by Alberta, then Ontario had a special task force devoted to organizing the legislation and the history and the desirability of this and eventually a report came through which was followed by a bill. Their bill departed in some ways from the methods - the legislative methods - of B.C. and Alberta, and when we were drafting our legislation, we unfortunately wasted a lot of time - part of it was due to ignorance, and we started a draft based on B.C. law because that was familiar to us. We crossed that in favour of the Alberta-type of draft. In turn, we picked up Ontario and we were designing it on Ontario when fortunately we became - I visited Ottawa and found that Manitoba had been through exactly the same exercises as we had and they have the same type of lands registration as we have and their bill was exceptionally well drafted. It's a very, very fine piece of draftsmanship, so we adopted the method of drafting and the general principles of the Manitoba legislation and we would now be the fifth, I think, jurisdiction in Canada to produce this, and we have made great use of the experience of the other provinces. Now, Ontario and Manitoba - particularly Ontario - their commissions studied the legislation in force in a number of American States, in New Zealand and Australia, where they already have this type of legislation; they made a study of the English legislation, but the English appeared to have been more adaptable in their legislation, and they were able to get their condominium bill by a series of cross-linking covenants between land owner and tenant and the banks and financial institutions in England accepted the sets of covenants as ownership, but Canadian banks and institutions refuse to follow the English lead, so legislation was necessary in Canada and, with respect, I would suggest that to make the matter simple and remove all doubts from the subject of this legislation - if the principle is accepted of the desirability of a high-rise apartment or row housing being owned in common, I think we should accept this particular bill and go on the latest and most up-to-date Canadian experience in the matter.

Mr. Chairman: May I proceed? (Reads section 2(a), (b), (c) and (d) of Bill No. 15.)

Mr. Chamberlist: Question, Mr. Chairman. "by-law means a by-law of a corporation;" - are we referring to a municipal corporation or a business company corporation by-law?

Mr. Legal Adviser: No, Mr. Chairman. This is a highly technical ordinance, and we are cutting down the drafting by saying by-law, and by-law would appear a hundred times throughout this bill. The idea is that we create a corporation, but the corporation is not to be governed by the Company's Ordinance, only by this ordinance. The members of a corporation then have certain rights and duties. The general scheme is that if a group of people wish to build a set of apartments in a high-rise building and to come under this

form of property, they get their scheme down on paper and they go down and they register the condominium. Each of them then is a member of a corporation. The degree of membership rights he has is exactly controlled by the proportion of his apartment, though he may have more than one - his apartment to the total value or area, depending on how it's organized, of the high-rise apartment, so his share in the corporation - if there were six apartments, he would have a one-sixths share. Now, he will own personally in his own right, his apartment, but in every apartment or row of housing there are certain things in common such as elevators, staircases - in a luxury-type building there may be a swimming pool, there may be lounges and TV rooms, and reception rooms, or there could even be a shopping centre. Now, he owns in himself his apartment, and he owns his one-sixths share in a common area, and all these things travel together - his indefeasible ownership of the apartment and his proportionate share of the common area.

Mr. Chamberlist: Well, Mr. Chairman, all I - thank you very much for a very expanded answer, but I asked a simple question, and I asked whether it is meant a corporation by way of a business or a business by way of a municipality, and looking further down it tells you what a corporation is, so thank you very much for the extra information.

Councillor McKinnon enters Council Chambers.

Mr. Chairman: (Reads section 2(e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s) of Bill No. 15.) I have a question I'd like to direct from the Chair to Mr. Legal Adviser. Just briefly, why do we make reference to the Land Titles Act of Canada?

Mr. Legal Adviser: The Land Titles Act of Canada is used as a vehicle and the regulation is passed.....the Registrar of the Land Titles Act in appointing the registrar as the registrar for this plan, so the whole thing will be streamlined in the same office and they would be linked together. It's very convenient.

Mr. Chairman: Thank you. Are we clear on section 2?

All: Clear.

Mr. Chairman: (Reads section 3(1) and (2) of Bill No. 15.)

Mr. Chamberlist: Question. Mr. Chairman, I wonder if Mr. Legal Adviser could give an explanation of that. When we're talking about space, are we talking about space above the land or space on the land?

Mr. Legal Adviser: This is a draftsman's convenience which also has advantage to owners. Without this particular section, it has been thought that every single floor would have to have a plan both above and below, so when you describe it in a box-shape by reference to fixed points above and below, you can get a comparatively simple plan. If you don't, then the difficulty can be understood if you could describe the difficulty of calling in our Dominion Land Surveyor and ask him the cost of making an exact plan of an apartment which contained first of all a balcony, then a small sunken garden inside the apartment, plus in the bathroom a sunken bath, and then possibly a split-level livingroom - now, every single level would have to have a plan delineated out and it might cost several hundred dollars, but if you can just say take it box-

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like and enclose in space - everything within that space is yours, and you can cut down the cost of a plan to a very small cost. This has been considered - really well considered. It's an unusual thing to own space but it costs less to own space than it is to build.

Mr. Chamberlist: I don't follow, Mr. Chairman. I mean this is what I asked. Is it the space above the land?

Mr. Legal Adviser: It is the space within which, if I might say.

Mr. Chamberlist: Well, I don't understand it. I don't understand the way it's written. It says "For the purposes of this Ordinance, the ownership of, or leasehold interest in, land includes the ownership of, or leasehold interest in, space." Now, when do you own space and when do you lease space? Are you leasing the land or do you own the land, and if you do this then where does this leasing or ownership of space - what are you leasing and what are you owning?

Mr. Legal Adviser: You're taking the ground-floor plan, which might be a hundred square feet of an apartment block. Normally speaking the person who owns the ground owns the space down as far as Hell and up as far as Heaven, except in so far as international convention may allow aircraft across an apartment block. We are now delimiting that space and we're going to sell the first floor with the space between the floor and the ceiling to Mr. A, but space above that to the first floor belongs to the man who owns the apartment block immediately above that. That space is his and it's a separate piece of space from the piece of space on the first floor, and each piece of space is, for the purpose of the bill, divided into segments or sections and everything in that space belongs to somebody. Otherwise, you'd have normal common law that whoever owned the ground owned the space, and you couldn't sell the apartment block itself.

Mr. Chairman: Councillor Dumas.

Mr. Dumas: Would it be correct then to say land is owned in common and the space is owned individually?

Mr. Legal Adviser: Some of the land is owned in common and some of it is owned individually. You've got the central court area of an apartment block may contain the elevator and the staircase. They would be owned in common. It's a matter of difficulty now. I can only go so far - dividing the space into blocks like that - we're describing an apartment as having a roof, ceiling and four sides for a simple survey plan and that's mine, even though it happens to be there or there. Otherwise, the man on the ground floor would be able to claim right and title to all the apartments above him.

Mr. Chamberlist: Well, Mr. Chairman, I don't quite follow. Supposing, for instance - you mean to tell me that I can now go and lease or own space. Can I go and lease the space above the top of that hill - not the land - separately lease the space above it? So, if I can lease the space above it, it means that nobody can build through the space that I've leased.

Mr. Legal Adviser: This doesn't necessarily follow. You can - if you file a plan under the ordinance, you can lease blocks of space above the piece of ground on top of the mountain, but only in conformity and other rules laid down here, not just to free space, and you can sell this place in advance without having a building there at all.

Mr. Chamberlist: Well, this is what I'm getting at, because it might be interpreted that - I think what it should have is that only space above the land that there is a title to can be leased or owned, but this hasn't got that in there. This says "For the purposes of this Ordinance, the ownership of, or leasehold interest in, land includes the ownership of, or leasehold interest in, space.", and so this is why I say what is to prevent - with an ordinance like this, what is to prevent somebody coming along and saying, well, I want to lease all that space ten feet above this particular piece of land? I don't want to buy the land, but I want all the space, so that stops anybody from building because he's got a lease on that space, the way this thing reads.

Mr. Legal Adviser: I agree that ownership of the space - space can be owned; space can be bought and sold, provided a plan is filed, but it's only for the purpose of this ordinance, but further on in the ordinance you can't stop a person building above you. You've only got a block of so much space, but there's an easement created by the ordinance so that anybody can go through your space for the purpose of building on top of you and servicing the space above it.

Mr. Chamberlist: Okay. Alright.

Mr. Chairman: May I proceed? (Reads section 4 of Bill No. 15.)  
Clear?

All: Clear.

Mr. Chairman: (Reads section 5(1), (2)(a) of Bill No. 15.)

Mr. Chamberlist: Question. Supposing it isn't a corporation that is building this. Supposing it's a partnership or firm or an individual. You see this refers to the corporation, and it says "Upon registration.....issue a certificate of title in the name of the corporation as hereinafter provided," but supposing it's not a corporation. Should it be the person?

Mr. Legal Adviser: Mr. Chairman, it's got to be a corporation. There is no other way of doing it except in a corporation, so if two partners go down and they want to build this in common, then they, the two members, incorporate....

Mr. Chamberlist: No, but they're not. They're two partners. They don't want to incorporate as a company. Now, you can't compel people to incorporate as a company.

Mr. Legal Adviser: In this bill we can, Mr. Chairman, and do.

Mr. Chamberlist: Well, then that's wrong. If an individual wishes to - are you suggesting now that a person that wants to construct a building must incorporate? But he shouldn't be compelled to incorporate. He wants to take all the risk himself. He's putting his own money into it.

Mr. Legal Adviser: Then it wouldn't be a condominium. It would be an ordinary apartment block and he doesn't have to incorporate and he can own all the houses by himself, but to get them owned separately he's got to conform with the rules laid down here.

Mr. Chamberlist: You're compelling somebody to do something that he doesn't want to do.

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Mr. Chairman: (Reads section 5(2)(b), (c) and (d) of Bill No. 15.)  
Clear?

All: Clear.

Mr. Chairman: (Reads section 6(1) of Bill No. 15.)

Mr. Dumas: Mr. Chairman, are there forms going to be drawn up for this type of thing?

Mr. Legal Adviser: A very detailed and explicit form is drawn up. We wouldn't expect to have a rash condominium to register, but forms would be available for the purposes.

Mr. Chairman: (Reads section 6(2) of Bill No. 15.)

Mr. Dumas: Question. Mr. Chairman, it says at the start of that "a declaration may contain". I wonder why it says 'may' and if it's not mandatory, why this whole section is in there?

Mr. Legal Adviser: Largely for the guidance of people who will be drafting the specifications. The specification is, in effect, the ..... This is a guide as to what really should go in there and they should consider all these points, but if they decide, either accidentally or otherwise, not to deal with a particular type of specification, a special rule, then the registrar will still register the declaration, but if they omit any of the essentials of section 6(1) - if any of those are omitted, it would be checked in the office as it goes in, and it will be returned to the lawyer responsible - I presume it would be a lawyer - and he will be told 'you've omitted something. We cannot register it until it is in order.'

Mr. Chamberlist: Reading right the way through there's been something bothering me that's been my question before. I can't see how there can be a compelling of a corporation to be formed to build a type of structure like this. Now, reading this - and perhaps Mr. Legal Adviser can put my mind to rest - reading this, it appears to me that the condominium are the people who are buying the apartments, that they're the condominium. Now, they do not form part of the corporation. It's the corporation that own the building according to this, and the condominium are the group of people who buy from the corporation. Now, I am saying now - and I want it made clear to me - why are we making this type of legislation only that people can buy from a corporation to form a condominium. Why cannot they buy from an individual or a partnership who do not wish to form into a corporation, and yet still have legislation for the purchase of this type of building? Now, Mr. Legal Adviser has said that unless they have a corporation they can't have this type of operation. Now, I can't see that at all. This is why I feel that it should make it clear in the legislation that others than a corporation can build a structure of this description and then sell the buildings - sell the different apartments to people who are formed into a condominium. Now, this is the way I would read it, and this is the thing that's disturbing me and perhaps Mr. Legal Adviser can put my mind at rest from this.

Mr. Legal Adviser: Mr. Chairman, the word condominium itself is basically a Latin combination of two words meaning co-ownership. A corporation is the expression of this ownership, so even an individual who wants to build what is commonly known as a condominium, which is in fact either a row of row housing or an apartment block - even one person must form himself into a corporation within the rules, and must register and say the rules because



it is presumed he wants the advantages of a co-ownership by which he wants to be able to sell individual apartments to outsiders. The rules must be complied with and the rules must be registered and known in advance so that any person who is purchasing any individual apartment blocks knows, and can take up the rules and they are filed with the registrar. Some of them can be changed by consent but many of them are fixed and unless the fixed rules are adhered to, this form of ownership would lead to injustice and oppression because a person who lives on the third floor - if the rules were changed so as to deny him the use of either the staircase or the elevator except on the payment of a fee, the whole system would collapse. If they want this privilege they've got to conform with the rules. This method of doing it by having to form a corporation in advance, which is not a company, it's a corporation specially for this ordinance. If they don't want to, well then they don't make it. They can build a high-rise apartment with his own name on it in partnership with anybody else, but it does not form a condominium until he comes into the registrar's office and says 'I want to form a condominium, and here are the rules.' and hands it in.

Mr. Chamberlist: Well, it's a long explanation that's been given, with respect, Mr. Chairman, but not an answer to the question that I have put. I follow completely the explanation that Mr. Legal Adviser has given in the way that this bill has now been written up, but my question is why must there be a corporation to sell parts of a building - apartments in a building - to individual purchasers? Why can't Joe Blow build the building, get the title to the land and sell apartments of that building? Now, why can't Joe Blow do it? Why does he have to be Joe Blow Limited? Because the people that are purchasing the apartments are not part of Joe Blow's corporation. They're part of the condominium of purchasers, and they're the people that are purchasing. They have - you've got two separate bodies as far as I see it. You've got the person that builds who is selling, and the people that buy. Now, the person that's selling can be a person, not a corporation, and this legislation is saying that it's just available to a corporation. Now, why? Why cannot Joe Blow and Joe Green, in partnership, put up the money to get title to land to build a building and to sell apartments in that building? Now, why can't they do it? Why can't Joe Blow on his own put up the building, sell the apartments? You're saying in this legislation that before he can do this - before he can buy a piece of land, it's got to be a corporation to do it. Why? I haven't had a satisfactory explanation as to why. Because it is certainly contradictory to any other land deal or construction deal that can be made anywhere. Anybody can go and buy land - a corporation can buy land; an individual can buy land. Why can't they do it for this particular purpose? Why say that they must be a corporation? This is the explanation that I'm trying to get.

Mr. Dumas: Mr. Chairman, two points here. First of all I'd like to know if this is the way this is drawn up in the provinces, and secondly, I wonder if it's not to protect - this legislation is not to protect the person that buys the apartment, and if they were just to buy the apartment from Joe Blow and Joe Brown, as it was put, what protects them in their space if not this legislation? I mean - I wonder - maybe this is the reason for the corporation.

Mr. Chamberlist: Let's get it all from the Legal Adviser. I want to get explanations on these things.

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Mr. Legal Adviser: Mr. Chairman, this ordinance does not provide that Joe Blow Limited can build and develop in this way, and an individual cannot. If Joe Blow Limited, being a company under the Company's Ordinance wants to develop in this manner, it itself has to form a corporation for the purpose in the land registry's bill. This is a convenient method of dividing by a hundred, and a company has a legal existence without persons. The ownership of the condominium is split between individuals who own the units and the condominium corporation is a vehicle which operates the elevators, the staircases and so on. The individual owns his own unit, but he owns in common the staircase, the elevator and other common parts of the building, and the corporation then is a convenient vehicle for dividing up into many proportions and for having meetings and everything else. There is no reason in the world why you couldn't call it a condominium club, because basically it is more a club than it is a corporation, and the corporation is formed in this ordinance, by this ordinance, and for the ordinance, and a corporation cannot, except in relation to its apartment or extending the apartment block, getting a piece of land - it cannot enter into normal forms of business as a corporation. To do that, Mr. Blow would have to form his Joe Blow Limited, in accordance with the Company's Ordinance, but you need this because - with this form of corporation - because you've got to sue and be sued in relation to the common ownership of a certain area and this is a convenient, easily understood method of doing it. I could, if I was given time - I could design a set of documents which would enable Mr. Blow to build his high-rise apartment and to sell his apartment without using this form of ordinance at all but it would need a series of inter-locking agreements with copped covenants on Joe Blow's part plus each of his tenant's and then a series of covenants linking each tenant to the other allowing passage to his apartment, allowing the maintenance of telephones, pipes and so on, and it could be done. It would be costly the first time out. It would cost as much as it would cost to go to the Supreme Court of Canada, but you could then copy the documents from then on, but there is no guarantee that the bank, when this wheelbarrow full of documents is wheeled down to the Bank of Commerce, and wheeled in the door - there is no guarantee that the manager will understand it all or that his lawyer will understand it all, and he will just say 'No, we don't deal in that sort of mortgage business', but this he can understand.

Mr. Chamberlist: Well, Mr. Chairman, you still haven't told me why Joe Blow himself - he doesn't want to be - he wants to construct a building like this, but he doesn't want to be a corporation. Now, why can't he buy this land and why can't he put this high-rise apartment building up, and why can't he sell these apartments to individuals? You haven't explained that to me. Why he can't do it as an individual? Why he must be a corporation, and I want to know - you give me a satisfactory explanation, Mr. Chairman - if Mr. Legal Adviser can give me a satisfactory explanation as to why the individual can't do this that a corporation must do? This is something that is worrying me here. You are trying to compel somebody, an individual, to do this, and this I can't understand.

Mr. Legal Adviser: Mr. Chairman, I thought I'd made it clear that Joe Blow can if he wants to build this high-rise apartment. This law does nothing to enable him or to stop him. The law as it exists enables people to do whatever they want, but in order to do this as the law stands at the moment, you have to have a wheelbarrow full of legal documents - all difficult to draft and difficult to understand. But he can do it. We're not stopping him. What we

are doing is, by designing an enabling ordinance - we're trying to make it simple for Mr. Blow and his friend, if they want to put up a high-rise apartment, and when we're making it simple, we'll make it as simple and as easily understood and as easy to organize as possible. This is the particular vehicle which has been chosen to help Mr. Blow. If he doesn't want to use it, it's his privilege, but if he wants to use it, then he's got to comply with the rules because it helps to protect other people as well as Mr. Blow.

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Mr. Chairman: Well, in view of the time, we'll stand Committee in recess until 2:00 o'clock this afternoon.

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Mr. Chairman: At this time I will call Committee back to order. Councillor Shaw has indicated that he will be here in a few minutes. (Reads Sub-section 3 of Section 3, also (4). Are we clear? BILL NO. 15.

Mr. Dumas: One question, Mr. Chairman, we are presuming here that if a declaration is drawn, it is registered. Is that correct?

Mr. Legal Adviser: Yes, that is so, Mr. Chairman.

Mr. Chairman: (Reads 7(1), (2), (3) and (4).

Mrs. Gordon: Question.

Mr. Chairman: Councillor Gordon.

Mrs. Gordon: In item 7(2), in the past there has been considerable time between, in relation to changes in the Territory and the Surveyor General of Canada. Is there any way whereby this can be speeded up so these amending changes will be given ease of facility sooner than what was effective in the past?

Mr. Legal Adviser: I don't know what procedure can be instituted. The Dominion Surveyor will actually prepare the survey so I would not anticipate tremendous difficulty. But I appreciate this delay. What can be done to unravel delays I just honestly don't know. It is a question largely, I suppose, for communication.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: This is a question I would like to ask so I have it clear in my mind, Mr. Chairman. I am sorry, but it is necessary to go back to item(j)(reads (j)). I was wondering if the 'majority' meant the majority of the shares held percentage wise or the majority of the people. The reason I say this is that one person may own three or four of the affairs and of course he would not have an equal share if it were the majority of persons that he would if it were the majority of the percentage owned and I just wondered exactly what that means, in that respect.

Mr. Legal Adviser: Mr. Chairman, it doesn't mean either one or the other; it just means that specification means a statement. A statement of whatever plan is agreed upon by the original people as to what majority will be necessary for a change. They can specify either by units or by percentages.

Mr. Chairman: (Reads 8 (1) to (4); 9 (1) to (11)).

Mr. Dumas: Question, Mr. Chairman, on sub-section (1). Does this mean that each unit owner will be paying individual municipal taxes?

Mr. Legal Adviser: Yes, this is the intention, and the common elements would be treated as if they were not taxable, not unlike a street in front of a man's door. His interest is taxable on it but not the actual street itself.

Mr. Chairman: Clear?

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Mr. Dumas: Mr. Chairman, how would the municipality assess the amount of taxation to be charged to each unit?

Mr. Legal Adviser: We will assume a tower block with say twenty-five units. They might have, say, four elevators and two staircases, then clearly there is a value which can be put on the elevators and on the boiler room and the furnace room and all the others. But that value will be divided, will be taken to say, an assessment value of say \$20,000.00. And there are twenty units; each units takes on a thousand dollars of it and it is shared out.

Mr. Chairman: Clear? (Reads 10 (1),(2),(3). Clear?

Mr. Legal Adviser: This is a beautifully drafted section; this particular section. I didn't draft it myself but it is a beautifully drafted section.

Mr. Chairman: (Reads 11 (1) to (3).

Mr. Chamberlist: This I cannot understand. The Companies Ordinance makes it quite clear that no company shall operate without being registered under this Ordinance and now we have a section which says the Companies Ordinance does not apply to a corporation yet this corporation, before it - the corporation to be registered, must register in accordance with the Companies Ordinance. Where do we get this gibberish straightened out. The language has got to be clear enough so the guy in the street can understand it and certainly when you get a section like this which says the Companies Ordinance does not apply to a corporation yet the Legal Adviser said earlier on that the Company is a corporation; now would you please try and straighten that out?

Mr. Legal Adviser: Mr. Chairman, as was said before me, there were more things dreamed in heaven and earth before this thing was thought of and and the time of the drafting of the Companies Ordinance this type of operation was not dreamt of. This is a corporation and is not a company. It is an agglomeration of persons artificially formed by this Ordinance for the purpose of this Ordinance and only that purpose. The Companies Ordinance forms a group of people into a company for another purpose.

Mr. Chamberlist: Mr. Chairman, I don't understand that language. This is a coroporation, not a company. Well, what is a company? It is a corporation; it is made up of people who incorporate to form a company. How can we say that it is not a company, it is a corporation. I just don't follow this at all; there is something wrong with it. There is something wrong with the legality of it. I would like to take a little time to refer to the Companies Ordinance because I think we are going to get ourselves into trouble. I think we are going to get companies into trouble before the law; I think if **this Ordinance** goes through like that without sufficient explanation and clarification, begin to find that some poor blighter is beginning to get himself tied up in litigation which might go into years on end just simply because of a section like this; which says "the Companies Ordinance does not apply to corporations". Now I wonder, Mr. Chairman, if Mr. Legal Adviser can show - I can't put my hand on it right now but I have marked where I read through this two or three weeks ago - can show where, anywhere in the Companies Ordinance, which is an existing piece of legislation,

Mr. Chamberlist continues

where a corporation of any description, apart from a municipal corporation, can be treated as other than a company. I wonder if Mr. Legal Adviser -

Mr. Legal Adviser: I'm not sure exactly what the question is, Mr. Chairman, but corporation is defined as item (i) of sub-section 1 of Section 2 as being a corporation incorporated under this Ordinance. This section we are speaking about specifically says "if a Companies Ordinance does not apply to a corporation; meaning a condominium corporation and we don't want it to apply because if we apply it we are then creating a second form of company under a different Ordinance which is not the Companies Ordinance and all the attributes and rights and duties of a trading corporation begin to apply. We don't want it to apply for the simple reason we are designing a very special type of corporation for this Ordinance with no normal rights at all except what is specially given by this. And it does not include a municipal corporation or any formal corporations, just this.

Mr. Chamberlist: Mr. Chairman, how can a corporation, let me put it this way. What legal entity has a corporation of this manner have when, if it is not a corporation or company within the meaning of the Companies Ordinance, how can it be sued? And how can it sue? Where does the shareholding status come into it. Who is the president of this corporation? Is it a president liable to the legislation laid down for officers of an incorporated company. If they are then the Companies Ordinance must apply; if they don't how can there be a president; how can there be a shareholder. Will there be secretaries; will there be officers, directors and secretaries. Will there be a requirement to file under the Companies Ordinance? These are the things that to me it appears if we are going to have a body set up, a corporation set up with no legal protection for anybody who perhaps is, has been a desk created by this Corporation. How, for instance, if a Corporation was set up to build a structure and it ran into debt. Does the Mechanics Lien Ordinance work to protect the general contractor working on this proposition. Can he sue according to the Companies, under the Companies Ordinance? There are many things involved and when this item in there, the Companies Ordinance does not apply to a corporation, what Ordinance, if any, apart from this particular Ordinance which appears to me to lay down the rules of how this type of Company can be incorporated, what protection is there. I haven't got that.

Mr. Chairman: I wonder if I could suggest section 13 of the Interpretation Ordinance to you gentlemen, might clear up the question. Mr. Legal Adviser.

Mr. Legal Adviser: My new assistant will give the answer to that one, Mr. Chairman.

Mr. Dumas: It is all of this that was mentioned by the Honourable Member from Whitehorse East is in the Bill later on. "A corporation may soon be sued, judgment against corporation, Board of Directors, duties of Board, by-laws, corporation consistent with the Ordinance, prohibition, rules for common elements, etc. etc. etc."

Mr. Chamberlist: I read it. This only applies, with respect, Mr. Chairman, I haven't come to this Interpretation Section, this doesn't apply to those sections under a Companies Ordinance which normally apply to corporations. Now the

BILL NO. 15. Companies Ordinance is - clearly recognizes only two types of corporations and that is the Municipal Corporation and another corporation which is set up in business and I take it that this is a corporation that is set up to do business. And I am sure Mr. Legal Adviser will also recall that the Supreme Court Rules of British Columbia also set out only two types of corporation; a corporation which is a company and a corporation which is a municipal corporation. Now in what part of the law does this type of corporation come? Now this is something that is not defined. In other words there is no, in the B.C. rules, which are our rules, there is no way that a corporation of this description could be sued. I mean although it says it can be sued and it can sue, but how do you get it into Court when there is no way of suing the corporation of this nature. There is a way of suing a corporation which is a company and there is a way of suing a corporation which is a municipal corporation so this is the difference that I am trying to get at. Where does this fit in. Section 13 in the Interpretation Ordinance deals with, in a corporation which is a company but this is not a company, not a company within the meaning of the Companies Ordinance. If it is not a company within the meaning of the Companies Ordinance and if Mr. Legal Adviser suggests that it is not a company but a different type of corporation, well where does it apply, where can you apply this in with our legislation or is it absolutely free itself, separate from all other legislation. This is what I would like to know. Is it separate from other legislation?

Mr. Legal Adviser: Mr. Chairman, this is a point that the Honourable Member had touched on but didn't pursue it. But to answer his first question first; Section 11 and 12 and 13 delineate very clearly and precisely exactly what the powers, duties, responsibilities and so forth of this corporation are and in particular they naturally, of course, they can sue and be sued in its own name. But there is one distinct difference between this and a normal corporation is the basic reason why the Companies Ordinance could not be all allowed to apply to this Corporation, and that is that a judgment against the company is a judgment only against the company and you cannot carry on that judgment against the individual members of the corporation. In this case under certain circumstances you can go past the corporation; in other words there are circumstances which to use a recently coined expression; where one can pierce the corporate veil and go behind it.

Mr. Chamberlist: What is the other point, Mr. Legal Adviser, that you wish to speak about, I didn't pursue.

Mr. Legal Adviser: That is the point.

Mr. Chamberlist: That particular one, oh yes.

Mr. Chairman: Clear?

Mr. Dumas: Just one further clarification. As the Honourable Member from Whitehorse East asked this legislation sets up a corporation notwithstanding any other legislation in the books.

Mr. Legal Adviser: I'm completely independent of it.

Mr. Chairman: Are we clear.

All: Clear.

Mr. Chairman: (Reads 11(4) to (12)).

Mrs. Gordon: Mr. Chairman, there is a spelling error in item 11(5) which should be corrected, I assume.

Mr. Chairman: What is the error?

Mrs. Gordon: "Corporation is responsible.....".

Mr. Chairman: So noted. (Reads 12 (1),(2),(3). Clear?

All: Clear.

Mr. Chairman: (Reads 13 (1),(2),(3),(4),(5). Clear?  
(Reads 14(1),(2),(3).(Reads 15(1),(2). (Reads 16(1) to (b).

Mr. Dumas: Question. Mr. Legal Adviser, or Mr. Chairman, if Mr. Legal Adviser could tell us why only the Public Administrator in subsection (b)?

Mr. Legal Adviser: Because the Public Administrator represents the estate of the deceased persons in this Territory. We don't have...an insane person represented by the Public Administrator. This is our law.

Mr. Chairman: (Reads 16 (1)(c), (4), (5), 17(1),(2),(3),(4). Clear?

All: Clear.

Mr. Chairman: (Reads 18(1),(2),(3),(4),(5),(6). Clear?

Mr. Shaw: I note on sub-section (2) of Section 18 that a person is not allowed to insure his unit in respect of any damage done. They are allowed to insure in a sum equal to the amount owing at the date of any loss referred to. Further along it states that a person may insure any way they may see fit. One seems to be a little opposite the other. Would the Legal Adviser mind explaining that?

Mr. Legal Adviser: I had thought of explaining this section even apart from the question. Under basic law, when a case occurs of double insurance, each insurance company only has to pay his rateable proportion of the damage. In the case of this type of operation it is considered fair that apart from insuring the building as such, each owner should be able to insure against his debt or his interest at least up to that amount and this section removes the penalty which would otherwise ensue for a double insurance position.

Mr. Dumas: Mr. Chairman, I didn't quite get that. There is no way that they are going to collect double insurance on the unit. That's not the intention of this.

Mr. Legal Adviser: It is not the intention to collect double insurance but an owner has got an interest in the section and so has the corporation and there will be a situation where a certain amount of overlapping occurs because the owner has not paid for his unit but he is insuring, what's common form actually; he insures the remainder of the debt he owes the finance company or the bank and that will be paid off but not to him. It will be paid off to the person to whom the money



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Mr. Legal Adviser continues.  
is owed. But because of the risk of a double insurance situation it is far better to put this section in although double insurance would not in fact be collected at least by the same person.

Mr. Chairman: Clear?

All: Clear.

Mr. Chairman: (Reads 19 (1),(2),(3),(4),(5),(6),(7); 20(1). I might ask Mr. Legal Adviser the Board referred to here?

Mr. Legal Adviser: It is defined as the Board of Directors, Mr. Chairman. It is a Board of Corporation.

Mr. Chairman: Thank you. Sub-section (2).

Mr. Dumas: Question. Mr. Chairman. How did we arrive at 60 days on this. What if they decided that they wanted it done within 90 days or 30 days.

Mr. Legal Adviser: The actual number of days is merely picked out of the air as a reasonable number. You've got to put a limit some place because you have a none-going and worsening position. You just put a time limit and if they don't determine one way or another an action for mandamus would likely make them do something. The Board will take it over at that point.

Mr. Chairman: (Reads 21(1),(2),(3); 22(1),(2),(3),(4),(5)(a). Councillor Shaw.

Mr. Shaw: I'm going a little slow on this to pick this up Mr. Chairman. I notice in item (b) under subsection (3) "be executed by the corporation" and go on to say that "and that all persons having registered claims against the property or the part of the common element being sold have consented in writing to the sale". I was wondering, if one person had a relatively small claim against this corporation in... all people have to agree consent in writing, could that hold up the possible sale or progress of this particular...

Mr. Legal Adviser: I am not sure but the Ordinance is not designed that one person can hold up a sale. Certainly one owner cannot because he can be bought out forceably and compensated. He can opt not to agree and he can be bought out.

Mr. Shaw: This appears to be someone that is out of the corporation in which they owe money to - all persons having registered claims. Now that could be a local grocer or a building supplier that has supplied say \$300.00 worth of building material and they were not solvent and he said "well until I get paid I will not agree to get paid in full because of the possibility of a bankruptcy and getting a lesser amount and unless I am paid in full I will not agree to this and therefore on account of his saying all persons having registered claims I wondered if that would hold up the whole sheebang.

Mr. Legal Adviser: That could, it is possibly proper it should be allowed to hold up the.... It would be improper if there is an outstanding debt and a person has a registered security against that property. It will be improper to allow the.... which would damage or destroy or diminish his security.

Mr. Shaw: Mr. Chairman, in the case of bankruptcy, for example, where only so much on the dollar is going to be paid, can one person hold up the whole proceedings. I just wondered if that

Mr. Shaw continues...  
was the case.

Mr. Legal Adviser: In that case the person who has owed the money has no real right to transfer into the hands of the trustee and the trustee then says for the benefit hold the money in trust for the individual debtor. That isn't the situation here but the court can take over and an administrator can be appointed in certain circumstances. They are not ...into a bankrupt position here.

Mr. Chamberlist: Mr. Chairman, by the same token what happens if under the Mechanics Lien Ordinance there is a registered mechanic's lien - what is the position there? A person is covered by other Ordinances, would he not be covered by the same, under the same token as well? Could he not hold the sale up?

Mr. Legal Adviser: There is provision that a mechanic's lien can hold a sale up but it depends against which property a mechanic's lien is registered, and things like that. It might hold up the sale of a unit but if you had a mechanic's lien against the common elements well then any individual can set it apart by paying off his particular portion, proportionate share of the mechanic's lien, the \$20,000.00 mechanic's lien for putting in elevators and one owner of a block or apartment wants to sell he could say, O.K., my share of the mechanic's lien is one-sixth and pay his proportionate share thereof, in which case the owner of the mechanic's lien must give a good receipt and permit the sale of that apartment to take place.

Mr. Chamberlist: Well, I don't think he would be compelled to do that, if a mechanic's lien is against the whole structure. Mr. Legal Adviser speaks of the elevator. Suppose ..... happened to be, doesn't happen to be the elevator company who installed the elevator in one of these type of buildings, registers a mechanic's lien. Now he registers a mechanic's against the building, not against any particular part of it and he is not concerned with the internal dealings that take place in this particular type of corporation, but is registered against the building itself, not against the corporation. I don't see how it can be broken down that the person who has the mechanic's lien has to accept on the basis of twenty units and \$20,000.00 outstanding where he accepts payment of \$1,000.00 and then says to that party O.K., I've got a thousand dollars from you. You can sell your unit; he wouldn't take it for the simple reason that this would damage his mechanic's lien. It would damage his mechanic's lien because his mechanic's lien is for \$20,000.00 against the whole building and this where I think it is necessary for all transactions to be held up subject to the clearing of that mechanic's lien and this is not covered in this particular thing.

Mr. Legal Adviser: It is not covered in this section, Mr. Chairman, but it is covered in the Bill and we've gone through it in an earlier section. Any incumbrance which includes liens, any incumbrance which is registered against the common elements; so this covers the case of the elevator company for installation of the elevator, must, by the terms of the Ordinance, allow any one person to pay off his proportionate share and give him a receipt and in that event he is discharged in relation to his own little apartment from the main mechanic's lien. But of course the main mechanic's lien is thereby reduced by that much on the remainder of the property. But an elevator

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5. into a building, they should know in advance that they have got security against the whole of the building; they can sell it. But if they leave it there just as a lien then it is dealt under this Ordinance in this particular way. He could enforce it by selling all the elements - the whole building. If he chooses not to and one person wants to sell his own apartment it is only fair that he should be able to, otherwise he owns nothing.

Mr. Chamberlist: Mr. Chairman, the idea of a Mechanic's Lien is to protect by way of .....a building and structure where a mechanic has placed labour and materials on that whole project. When a....service company carries out installations, say plumbing, heating or electrical work, he carries it out in accordance with a contract or sub-contract as the case may be, on the construction of the whole building. He doesn't enter into separate contracts with each unit holder.....be in that building because he may not know them and the units themselves may not have been sold. They belong to one organization; one owner whether it be a corporation or an individual. I wonder whether or not it would be defeating the Mechanic's Lien and whether or not it is in conflict with the Mechanic's Lien Ordinance. It appears to me that it would be in conflict. How is the - what protection does the servicing company have to recover his funds from the owner of the building who originally contracted with him in the first place.

Mr. Legal Adviser: This is dealt with, Mr. Chairman, in Section, page 6, section 8, sub-section 6 (Reads 8(6). Sorry, Section 9 (6), sorry. Section 9, sub-section 6 on page 6. Subsection 5 says (Reads subsection 5), the elevator and stairway mainly, shall not be partitioned or divided. (Reads (6) and (7)and (8)). In other words his fair share. He can pay his share of the joint bill and get out from under it.

Mr. Chamberlist:- Mr. Chairman, these seem to be hypothetical answers to matters that may not be hypothetical themselves. For instances, supposing the building was being constructed; this is in the process of construction, there are no occupiers or owners of these individual apartments because they have not been sold yet so that they belong all to one corporation; that is the owner of the building itself. Well supposing there hasn't been a payment made to the contractor while the construction is taking place and he registers a lien. Now he registers this lien and perhaps three months afterwards the building is completed. He still hasn't recovered his money. How can any of these apartments be sold to individuals while there is a lien on the whole building. I wonder if Mr. Legal Adviser can explain that.

Mr. Legal Adviser: I'm not sure exactly how it can be sold because it is sold subject to the right of the lien. But assume ten apartments and assume a \$20,000.00 lien, the original registration in the Land Titles Office of the lien puts a lien against the whole of the building. Assume then a plan is registered and this becomes a condominium. That converts the Mechanic's Lien automatically into ten Mechanic's Lien of \$2,000.00 each; one against each apartment in the block and then each apartment owner, if he wants to deal with his own property, can get out from under by paying off the \$2,000.00 he owes in respect of his apartment. This is not-very unfair.

Mr. Chamberlist: Except that 9(6) reads: "No encumbrance is enforceable against the common elements after the declaration and plan are registered". So what happens when the Mechanic's Lien is registered against the.... declaration and plan is registered.

Mr. Legal Adviser: If it is registered beforehand it - as far as the common elements are concerned it is wiped out on registration and it is transferred to the unit. The common elements are only the staircase and you are not allowed to enforce your mortgage against pieces of staircase and take it over so you can stop the tenants from going up and down or block the elevator so you get out the elevator and walk up to another elevator and walk up the rest of the building. It is a transfer. The common elements are never divided. They are kept there as the core of the building which must be. Each apartment owner has a right to use them; that is all he has really. So the Mechanic's Lien, or any other form of mortgage.....is transferred to the, in shares, depending on what the proportion is in the common declaration ....transferred.

Mr. Chamberlist: Is there any way under the Mechanic's Lien Ordinance where the Mechanic's Lien is transferrable. Now there are many cases of Mechanic's Lien being thrown out of Court because somebody has tried to transfer the ownership of the Mechanic's Lien from party A to party B. Now it would appear to me that if Mr. Legal Adviser says that the Mechanic's Lien becomes transferable, would it be a legal transfer when the Mechanic's Lien Ordinance itself doesn't provide for transferring of a lien from party A to party B.

Mr. Legal Adviser: It doesn't really matter what is in the Mechanic's Lien Ordinance. What this Ordinance says is: "an encumbrance which except for section 6 would be enforced against the common elements", which is what we are talking about. It is not enforcement because it is Section 6 - is enforcement against all the units and common interest and this is very clear. It's an automatic amendment to that extent of a Mechanic's Lien Ordinance. It changes the effect of the Mechanic's Lien. In some ways he gets a better security and some ways he gets a worse security. It is hard to say which is a better form.

Mr. Chairman: Are you clear?

All: Clear.

Mr. Chairman: (Reads 22 (5)(b),(c); (6), (7),(8),(9)).

Mr. Chamberlist: Explanation, Mr. Chairman. I wonder why this should occur, Mr. Legal Adviser. Why people would be penalized if they don't get sufficient proceeds to have to pay out of their own pocket. This is what it means, I take it.

Mr. Legal Adviser: Maybe it is to prevent, I suppose, one group of owners ganging up and selling the premises when another person wants to sell, or vice versa. This is what happens on termination. It is when the termination point comes after a fire when it is half destroyed. They may gang up on the people who either had their apartments destroyed or the ones

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who still have their apartments there, and an objector is entitled to have his property valued and get a fair value of it. They won't let him go and sell it to someone else; well they should be responsible for the loss that through their voting has been caused their fellow owner.

Mr. Chairman: (Reads 23 (1),(2),(3); 24 (1),(2),(3),(4),(5); 25(1),(2),(3),(4); 26. Gentlemen, at this time we will

a recess.

RECESS.

RECESS

Mr. Chairman: At this time I will call Committee back to order. What is your dispensation of this Bill?

Mr. Dumas: Mr. Chairman, I have one comment to make as I'm involved in the real estate business in town I do not intend to vote on this Bill, however it's my opinion that this an excellent piece of legislation and will be of much value to the Territory, not only in the immediate future but in the long range future. I think it could conceivably alleviate the housing shortage in the Whitehorse area particularly in the next year or so and it's the type of legislation that should be on the books for all future reference.

Mr. Shaw: Mr. Chairman, I would like to move that Bill No. 15 be reported out of Committee without amendment.

Mr. Chairman: Is ther a seconder?

Mr. Livesey: Before a seconder is found, Mr. Chairman, I have one question. The only one I have is I'm wondering if this legislation has been drafted as permissive legislation towards new government policy or is it permissive legislation created to facilitate new moves by private enterprise?

Mr. Legal Adviser: This is purely a matter to enable groups of people with modest amounts of money to acquire capital or loans and create apartments for themselves with or without mortgage money from a government source.

Mr. Chairman: Do we have a seconder to the motion stated by Councillor Shaw?

Mr. McKinnon: I'll second that motion, Mr. Chairman.

Mr. Chairman: It has been moved by Councillor Shaw and seconded by Councillor McKinnon that Bill No. 15 be reported out of Committee without amendment. Are you prepared for the question?

Mr. Livesey: Question.

Mr. Chairman: Are you agreed?

All: Agreed.

Mr. Chairman: On the contrary?

Mr. Dumas: Mr. Chairman, I ask that you record my dissention.

Mr. Chairman: I will declare the Motion carried. We will proceed to Bill No. 16. This is an Ordinance To Provide The Vocational Rehabilitation of Disabled Persons. (Reads Sections 1 & 2 of Bill No. 16) Clear? (Reads Section 3 of Bill No. 16) Clear? (Reads Section 4 of Bill No. 16) Clear? (Reads Section 5 of Bill No. 16) A question I'd like to direct from the Chair to Mr. Commissioner. In the appointment of a coordinator what type of person would be solicited and who would he be paid by?

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Mr. Commissioner: Mr. Chairman, if this Ordinance is passed by Council, to give effect t this requirement here, the coordinator of rehabilitation services will be Mr. Baston or the encumbent in the particular position that Mr. Baston holds.

Mr. McKinnon: Mr. Chairman, I would like to ask Mr. Commissioner whether this is simply enabling legislation, which is already effective in the Provinces, to allow yourself, Sir, to enter into an agreement with the government or with the Manpower and whether this type of Board that is set up is the same type of Board that is needed to put effect to this type of legislation.

Mr. Commissioner: Mr. Chairman, the answer is in the affirmative. This bill is brought forth as a consequence of certain information which was tabled to Council at a previous Session.

Mr. McKinnon: Mr. Chairman, I don't understand Section 4, which states that a disabled person who is eligible for vocational rehabilitation under the Veterans Rehabilitation Act of Canada may also apply for rehabilitation under services under this Ordinance. Is this a dual rehabilitation function?

Mr. Legal Adviser: Apparently yes, Mr. Chairman. He is eligible but a person who was receiving benefits under Workmen's Compensation, of course, is not eligible.

Mr. McKinnon: I would understand, Mr. Chairman, this would be different type of benefits that are available under the Veterans Rehabilitation Act or are these going to be one Act?

Mr. Legal Adviser: I couldn't give an answer to that, Mr. Chairman, I just honestly don't know. There is an officer present in the Chambers who you would wish to hear on that subject seeing that we're in Committee.

Mr. Dumas: Mr. Chairman; I think it would be a good idea.

Mr. Chairman: Mr. Clerk, would you bring the gentleman in?

Mr. Clerk: Yes.

Mr. Commissioner: Mr. Chairman, Mr. Roddis, the local manager of Canada Department of Manpower is the officer.

Mr. Chairman: Gentlemen, we have with us, Mr. Roddis, of the Manpower centre here in Whitehorse and he may possibly be able to assist you in any questions you have in relation to this Bill.

Mr. McKinnon: Mr. Chairman, can Mr. Roddis help me with 4A, the distinction?

Mr. Roddis: I think that the implication here is that a person who is eligible under this Act is not restricted to that, that the benefits under the Vocational Rehabilitation Of Disabled Persons agreement would be wider than were available to him under the Veterans Rehabilitation Act.

Mr. McKinnon: Thank you, Mr. Chairman.

Mr. Commissioner: In other words then, Mr. Chairman, I would take it that Mr. Roddis' answer, that it doesn't disqualify him to get benefits under this Act.

Mr. Chairman: Are we clear on 5? Six. (Reads Section 6) Clear?

Mr. McKinnon: Mr. Chairman, this is quite a responsibility for a Board that has only really not one professional person on it. Is the type of make-up of a Board in the Provinces, without the real professional help of people trained in this area to make the decisions as to the degree of both mental and physical disability of the people that apply for help under this Act?

Mr. Chairman: To whom do you direct that question?

Mr. McKinnon: To Mr. Roddis.

Mr. Roddis: The Board, as laid out here, has three people the Manager of the Manpower centre, who would be expected to be professionally capable to pass an opinion on the chance of finding employment for the person, Superintendent of the Department of Health & Welfare, who should be able to pass an opinion on his physical capabilities or mental through the resident physiologist and visiting psychiatrist and the social welfare department to state whether it would be better, for instance in the case of a married woman, with children at home, would it be better if she didn't go to work.

Mr. Chairman: Are we clear on this Section? Section 7 (Reads Section 7 of Bill No. 16) Clear? (Reads Section 8 of Bill No. 16) One question I direct to Mr. Commissioner from the Chair. Is this cost shared as under the Canada Assistance Plan?

Mr. Commissioner: The answer is in the affirmative, Mr. Chairman.

Mr. Chairman: Section 9 ( Reads Section 9 of Bill No. 16) Clear? (Reads Section 10)

Mr. Livesey: Under 5, Sub. (b), Mr. Chairman, the Yukon Rehabilitation Services Board consists of: (1) Chairman, who shall be the co-ordinator; (2) the manager of Canada Manpower Centre in the City of Whitehorse; (3) the Yukon Superintendent of Department of National Health & Welfare of Canada; (4) the Head of Department of Social Welfare. To me looking at this particular point, I see: (1) a doubtful situation, we don't know if this is going to be Territorial or Federal, (2) the manager of the Canada Manpower Centre is Federal, the Yukon Superintendent of National Health & Welfare is also Federal and the only Territorial person known on this Board, so far, is the head of the Department of Social Welfare. Now if this Board is apparently, looks to me to be an entirely government Board within the meaning of the Administration of the Yukon Territory, is this going to be balanced with two people from the Territory, two from Federal employment, or just what is the situation going to be there?

Mr. Commissioner: Mr. Chairman, with respect, I believe that the answer I gave to your question, Mr. Chairman, concerning co-ordinator rehabilitation services would be quite the balance here that this is a Territorial position that will be filled by Mr. Baston or the person who fills the particular position that Mr. Baston holds as the Director of Vocational Training in the Yukon Territory.

Mr. Chamberlist: Mr. Chairman, Section 10 is an offence and penalty cause. I would like to know, perhaps Mr. Legal Adviser, can point this out to me in this Ordinance. Who can commit an offence in this Bill. The Commissioner can, but who else? Who else does it refer to?



Mr. Legal Adviser: Mr. Chairman, by regulations, people would be making applications, filling in forms and would be required to state the truth of what they say. This is a precautionary measure because application would be made for government funds and there's a possibility, possibly not the likelihood but there is always the possibility of a fraud or a misuse of some fashion. If you offend against the regulation this is the penalty as well as the Ordinance. It's not only the Commissioner who breaks the law, he doesn't break it at all, he makes them.

Mr. Chamberlist: Well, Mr. Chairman, I still haven't who, in this Ordinance, show me the person; it says "every person who violates provision of this Ordinance" Now what person referred to in this Ordinance can violate this provision? I would like to know that?

Mr. Legal Adviser: Well, Mr. Chairman, under the current Interpretation Ordinance, regulations include an Ordinance and it's merely put in here as necessary as the drafting of it, as to say, "a provision of this Ordinance or the regulations" The words, "the provisions of this Ordinance" includes a provisions of the Ordinance or the regulations.

Mr. Chamberlist: I still haven't got an answer, Mr. Chairman, I want to know who, now please can I get an answer to that. Please can I get an answer from Mr. Legal Adviser to my question? This is a simple question and I would like a simple answer.

Mr. Legal Adviser: I'm never quite sure the Honourable Member questions are simple as he would like me to believe. But clearly the answer, the disabled person who is not a disabled person could committ an offence.

Mr. Chamberlist: We haven't an reference in here to a person who is not a disabled person. All we refer to is a disabled person. A disabled person who is eligible. Now I bring this point up because people who are, perhaps, not mentally right when making an application, might inadvertantly fill out an application and they have made an error in their application. Now that error is an offence, I think it would be damaging to the person concerned who, without any intention, fills out an application and makes an error that he can be subjected to a penalty of five hundred dollars or imprisonment. We're here to help disabl'd persons and I feel this deeply because I know people who hav'n't got their mental health or their lost to them to the loss to the community is so high to enter a fear in them they will not come forward and make application if they know that they're subject to imprisonment if they, in error, do something that can be considered an offence. It might be say...well....you know people take that into consideration and it might not be an offence but when you're dealing with government and people in the public service and some of them just read by the book only. They have no concern about the moral aspects of things but if somebody has broken a regulation inadvertantly string them up in the yardarm, you know ....just because he's just done wrong. There's no room for errors in the minds of some people that work for government. We have a Section here, number 10, that said every person who violates this provision and there's nobody referred in the body of the Ordinance itself that can violate the provision because we have a disabled person. Now if he's not a disabled person he's not a person who violates the provision because it's quite simple it's only if he's a disabled person, we're talking in reverse. So I would wonder if it not be right to place in there somewhere a protection for those people who

especially those people whose fully mental, compus, non mental compus. This is alright....there\*s something that I can't take into humour and this is a particular Bill that I don't wish to be humourous about. I know the seriousness of this thing. I think there should be protection so that no person can inadvertantly ...who inadvertantly makes an error be penalized and made his penalty or offence. I think perhaps Mr. Legal Adviser should take a look at this and bring forward a little amendment to correct that particular thing.

Mr. Legal Adviser: With respect, Mr. Chairman, it is the law of Canada that mens rea is necessary in every offence unless it's specifically accepted so it's necessary for any person who is charged with an offence of this Ordinance to have mens rea guilty minded ...an intention and that must be proved by the Crown before the Courts when he's charged. If we were, in every penalty section, to list out all the exeptions when.....it wouldn't apply it would be merely duplicating provisions of the criminal code of Canada quite unnecessarily in my respectful opinion.

Mr. Chamberlist: But surely, Mr. Chairman, we shouldn\*t even have the thought of having a person of this description taken before the court so that he had to prove he had a guilty knowledge of the matter at all. He shouldn't have to be taken to court and this gives office to some over zealous public servant to drag anybody before the courts. This is what I'm talking about not waiting until he gets into court and then prove before the court that he didn't have guilty knowledge of it. He shouldn't even have to be taken before the court. This again, this is something that has to be looked at from that angle that no person that is not in his right mind at the time that he makes out an application should be placed in the position of having to be taken before a court to prove that he didn't have guilty knowledge of making an offence while making out these application form. I don't see why we should have to wait until you get him before the court and let him prove he's innocent. That's the wrong part about it.

Mr. Legal Adviser: This is not the law, Mr. Chairman, the exercise of a discretion to prosecute or not to prosecute is exercised in every case. It would be looked at very, very carefully before a prosecution be brought under this Section, especially in the case of a person whose mind was not as alert as that of his fellow man but the Ordinance needs teeth to deal with false application and fraudulent claims and I would advise, Mr. Chairman, that this be left as it is and that the exeptions come under the ordinary law of Canada, like every other statute.

Mr. Chamberlist: Well, Mr. Chairman, while that is in there I say it's a penalty imposed against people who are not as alert as others and if the Administration wants to leave it in there I won't support it because I'm not going to support anything that takes advantage over those who have a little bit weaker in the mind and this is what it does. It takes advantage of those people who are not fully capable of thinking for themselves. An application for a type of Ordinance such as this that should be permission for a guardian to fill out that application form not the applicant, not the disabled person themselves and this is what this piece of legislation has left out. It's alright for men who is disabled by having one leg off or an arm off, his is bad enough but an applicant who is not mentally alert should not be forced or asked to fill out an application form. The very fact that he is a disabled mentally, that in itself should make this Administration

realize that they're not capable of making application form and there should be proper circumstances surrounding the legislation to make it convenient for the next of kin or a guardian to make the application on the disabled persons behalf. Now this is where the Bill fails because it has failed to make provision for disabled persons whose mentally disabled.

Mr. Legal Adviser: Mr. Chairman, the ordinary law of Canada is that when a person, for some particular reason, is mentally unable to control their own actions somebody acts on their behalf. In the Yukon Territory, this person is a Public Administrator and the Public Administrator would act legally on behalf of that person and if the Public Administrator offends against the law, he would be equally guilty. The law is not, in Canada, an insane person is responsible for his own acts. The reverse is true, it's unnecessary for repeat in this Bill.

Mr. Chamberlist: Who is talking about insane people? I'm not. I'm talking about parents who should have the right as guardians to make an application for a disabled person, or older brothers or older sisters, not the Public Administrator. The Public Administrator is not taking care of the persons of the disabled but the guardian or the parent are taking care of the person that is mentally disabled and they should have the right to make the application on their behalf and there is nowhere in this piece of legislation which is covered by just two and a half pages any provision made for that sort of thing and I think there should be provision made for that.

Mr. Shaw: Mr. Chairman, how far would we go when we go when we talk about mental impairment, I will direct this to Legal Adviser, would that be a person with just a screw loose here or there. That is rather an indefinite term.

Mr. Legal Adviser: Mental impairment is a very wide term and has no legal term as such. In a criminal case a person is either responsible for his actions or he's not and he's insane if he's not responsible for his actions, in a legal sense, under the McNaughton rules in force in Canada this moment. This Bill is intended to cover physical as well as mental rehabilitation. It's a question of degree. If a person is not responsible for his actions it would be difficult for him to get rehabilitation, except in a certain sense, he would get mental treatment but he would have to come to a certain position with regard to his mental capacity before he would be eligible for rehabilitation, which would be a slightly different thing. This would be a matter for the Board to decide in each case. They consist of professionals chosen for it and the Bill is wide enough to cover every case and to give rehabilitation wherever that is reasonably possible and I don't think we can go past that point.

Mr. Dumas: Mr. Chairman, I think that the Honourable Member from Whitehorse East has a good technical point that isn't in fact covered in the Bill, although in fact, I don't think it's highly unlikely that a person would be taken advantage of or treated badly. I wonder if under Section 4, an amendment such as...where it says, "may apply for rehabilitation services under this Ordinance", it might read, "may apply in person or through a guardian or with the assistance of a guardian for rehabilitation services under this Ordinance", if that might not solve the problem?

Mr. Chairman: Just for edification of Committee the Interpretations Ordinance provides that a person includes the corporation and the heirs executors administrator or other legal representatives of a person. This may be of assistance to you.

Mr. Chamberlist: Mr. Chairman, the Honourable Member from Whitehorse West has perhaps brought an answer forward and I think it should be in there because the way it reads now, and this I would ask Mr. Legal Adviser, to follow me on this particular section in Section 4. It says a "disabled person who is eligible for Vocational Rehabilitation" can do certain things. Just a disabled person, that's under that section but nowhere else does it go on. It just deals with that particular one.

Mr. Legal Adviser: I agree, I'm not trying to cut the Honourable Member short. I'm not sure that this is necessary but for the sake of clarity and to make it quite clear I would be prepared to draft an amendment to meet the point which would run something like this. "Application may be made by or on behalf of a disabled person" and leave it as wide as possible for an application to be made by somebody on another persons behalf.

Mr. Chairman: Does Committee agree to this?

All: Agreed.

Mr. Chairman: Is it your wish then that this Bill be left for amendment?

Mr. McKinnon: Mr. Chairman, I have a few questions that I would ask of Mr. Roddis if I may? Mr. Roddis, what help is now available prior to the passage of this Ordinance for disabled persons at the present?

Mr. Roddis: There are facilities available in the various Provinces and at the present time quite a lengthy negotiation to get a provincial authority to accept a person from outside the Province, to get their services to receive the services that they offer.

Mr. McKinnon: Well will this legislation speed up reciprocal arrangements between the Provinces and the Territory so that this type of help from the Provinces will be more readily available for disabled persons from the Yukon Territory?

Mr. Roddis: Yes.

Mr. McKinnon: What does this actually represent in money... say for the parents of a disabled child where there are not facilities available in the Yukon for this child to get the help necessary? What type and what in actual amounts of money will be available to that parent who has to send his child to a centre in the Province for the help that child needs?

Mr. Roddis: As far as I know there is no...in past practice...there has been no limit on the amount of money available. It was whatever was necessary to provide the required service.

Mr. McKinnon: Mr. Chairman, we know that in the field of incarceration of juvenile offenders, particularly, that the Provinces are more than overloaded in their institutions with people from their own Provinces, are more or less unwilling at this time to take people from outside the Provincial jurisdiction. Is such the case with the type of school, say, that deals with disabled children?

Mr. Roddis: There are long waiting lists.

Mr. McKinnon: Mr. Roddis, can you see the day in the not too distant future where the Yukon Territory will have to make some kind of accommodation for, say let's particularize, for children with more serious mental retardation than they now have facility for in the Yukon?

Mr. Roddis: Now this I haven't considered personally because this is a Vocational Rehabilitation Act or Ordinance. I haven't become too involved in the past in this because the facilities haven't been available to us. If we were going to provide facilities here such as...there are sheltered workshops outside which are provided. This is an area where there is a long waiting list to get people, young people or older people in, who then could be productive in that situation. To have a sheltered workshop, you have to have a market for the end result. You can't have people doing things just for the sake of keeping busy, they have to be constructively employed so that the local situation would govern what facilities what can be made available here.

Mr. McKinnon: Do we know what numbers we're talking about when we talk about the people who will come under the of the Bill in physical impairment and mental impairment?

Mr. Roddis: We did make a survey and the results of the survey were then circulated among the departments. A second look was taken of this and we are talking initially of 40 people a year, a minimum. The various departments concerned felt that at the present time there were probably 400 hundred people who could use rehabilitation help in this Territory but they did feel that to be practical the number that would be willing even to partake in this program would probably amount to about 40 a year.

Mr. McKinnon: What percentage of this, Sir, would be physical impairment and would field would be mental impairment?

Mr. Roddis: The largest number were physical.

Mr. McKinnon: More physical?

Mr. Roddis: Yes.

Mr. McKinnon: Thank you, Mr. Chairman, I have no further questions.

Mr. Dumas: It may be possible to move this Bill out of Committee. I would like to propose the following amendment. A new Section 4 be inserted which would read, "Application for Rehabilitation Services under this Ordinance may be made by or on behalf of a disabled person,  
(a) who is eligible for Vocational Rehabilitation under the Veterans Rehabilitation Act of Canada; or  
(b) whose disability is not the result of an injury in respect of which benefits are payable to that person under any workmen's compensation law.

Mr. Chairman: Is this not what Mr. Legal Adviser is going to do?

Mr. Dumas: I'm just suggesting, Mr. Chairman, that we could clear the Bill today if this is acceptable to Committee.

Mr. Chairman: Yes, well unfortunately we have to have the Bill retyped to provide for the amendment. If it's Committee's wish that you propose a motion of amending now, the Chair is easy either way. Either Mr. Legal Adviser could present it or....it will have to be moved at some time or another.

Mr. Shaw: Mr. Chairman, would this not be more practical to ....possibly Councillor Dumas could give that to the Legal Adviser and the Legal Adviser could bring up the amended Bill? We cannot pass this today and there may be a word here or a word there that may need changing.

Mr. Chairman: Well is it your wish then that I report progress on this Bill?

Mr. Livesey: As you know I have taken quite an interest in Welfare situation in the Yukon Territory over the past number of years and the spiralling cost of Territorial government. I wonder, Mr. Chairman, if Administration could assist me with my thinking that the possibilities that may be seen by the establishment of this Ordinance in conjunction with those benefits provided by the Federal government, that they will have, perhaps a beneficial effect on reducing the cost of social welfare in the Yukon Territory, by providing employment for those now, possibly, who have no other means of support? Would I be correct in this thinking, Mr. Chairman?

Mr. Commissioner: Mr. Chairman, I think this is a reasonable assumption. Any person who can be helped, assisted, guided to become a productive member of the community, is certainly going to lessen the cost to the community of responsibility for that person and I would certainly say this is a very reasonable assumption, that eventually such a program and our participation could certainly have a beneficial effect as far as the welfare cost of the Territory are concerned.

Mr. Chairman: I wonder if Mr. Roddis could be cleared from the stand? Thank you very much, Mr. Roddis, for your very kind assistance. We'll now proceed to Bill #17. I believe Bill No. 17 and 18 are related.

Mr. Legal Adviser: Mr. Chairman would it be possible ....I'm not sure I'm in order making this suggestion....if the Committee could move to Bill No. 20, Expropriation Ordinance because there implications in dealing with the Board in **between**. **If you could find some method of suggesting that Committee to the House.**

Mr. Chairman: Might I ask from the Chair, Mr. Legal Adviser, is Bill 20 the sounding board the utilities board that is referred to in.....

Mr. Legal Adviser: Bill No. 20 is the expropriation of land. There's no board that I can find.

Mr. Chairman: Right at the moment we have come to Bill No. 17, To Amend the Motor Vehicles Ordinance, and it makes reference to a Public Utilities Board.

Mr. Legal Adviser: That is the Public Utilities Board.

Mr. Chairman: And Bill No. 18 is the Public Utilities Board Ordinance. Would it not be wise, possibly, to go to 18 and get over it first and then go back to Motor Vehicles Ordinance. Because I believe the rejection or acceptance of the Public Utilities Board will determine what is done by this Committee

with other Bills.

Mr. Legal Adviser: That thought is on my mind, Mr. Chairman, that's why I'm suggesting we should move to Bill No. 20.

Mr. Chairman: What is Committee's pleasure? Do you wish to deal with 17, 18 or.....

Mr. McKinnon: Twenty, Mr. Chairman.

Mr. Chairman: What point in time would you gentlemen like to deal with the Public Utilities Bill?

Mr. Shaw: Anytime, we'll take them all.

Mr. Chamberlist: Mr. Chairman, I think the Utilities Board will take about at least a month so let's leave it until we have lots of time.

Mr. Chairman: Well I'll have to make note of all these things ...then I have it you do not wish to discuss the Motor Vehicles Ordinance, Public Utilities and Taxation, no Taxation isn't in Committee yet.

Mr. Shaw: I didn't infer that I didn't wish to discuss the Public Utilities Board, the Honourable Member on my left did. Is it correct the members of Council or certain members object to having a Public Utilities Board? To protect the public?

BILL # 20 Mr. Chairman: We'll proceed with Bill No. 20, if this is what your wish is? (Reads Section 1&2 of Bill No. 20) Clear? (Reads subsection 1 of Section 3 of Bill No. 20)

Mr. Chamberlist: It appears to me, perhaps Mr. Legal Adviser could correct me if I'm wrong. It appears to me that there is already provision for expropriation in a municipality? I was just looking for it. I know I came across it..... I can't put my finger on it immediately, Mr. Chairman, but there is a section dealing with expropriation of land in the Municipal Ordinance and I would like to know whether there is any conflict between the...especially in view of this last section with the Municipal Ordinance. I know it's in there. I'll find it and bring it forward but there is a section dealing with the expropriation of lands in the municipality by a Municipal Council and.....

Mr. Legal Adviser: The only thing I can find, Mr. Chairman, is the Council may pass by-laws authorizing the municipality to acquire, hold, sell, lease or otherwise dispose of any real or personal property. There may be something else dealing with streets and roads.

Mr. McKinnon: May we come back to this Mr. Chairman, because I'm of the opinion that this right should be vested in a municipality and it's up to the municipality to make their own expropriation and manoeuvres if they so seem fit.

Mr. Chairman: Councillor Chamberlist will you take the Chair please?

Councillor Chamberlist takes the Chair.

Mr. Taylor: Mr. Chairman, I think this is a much needed piece of legislation. We have found ourselves in real plight in years past in trying to acquire land, both in Whitehorse and in Carcross, and had quite time with it anyway. This might be the avenue which we can get some of this land for the beneficial use of the people. However, when you're talking about municipalities and giving the right to municipalities

to expropriate land, this is generally given to the Mayor and Council of a municipality, if I'm not mistaken, by by-law and it seems to me that the Commissioner in Council could well be written in to this Ordinance without giving the Commissioner the sole right to expropriate without first having consulted the legislature.

Mr. Livesey: Mr. Chairman, would not any legislation from a secondary government be superior to that of a municipality in the same way that a federal legislation be superior to provincial statute.

Mr. Chairman: Who was that question addressed to?

Mr. Livesey: The legal department, Mr. Chairman.

Mr. Legal Adviser: I'm not too sure what the Honourable Member means by the question? A law made by this Council is law within the framework of their powers, a law or by-law made by the municipality is equally law, and quite commonly we can give more power, as a Council, to the municipality than we can retain for ourselves, so in one way their law might be superior.

Mr. Taylor: Mr. Chairman, I'm still a little concerned over the giving the Commissioner, the office of the Commissioner not the gentleman personally, the office of the Commissioner the sole of exclusive right of expropriation because this power can range far and wide, to walk off with the Council chamber someday, take the building, might even take all the parking meters out of Whitehorse, Mr. Chairman, No in all seriousness, I feel that this is the power that should be vested in more than one office than the Commissioner, possibly Mr. Legal Adviser could add something to this.

Mr. Legal Adviser: Well to have delays in expropriation can cost the government a tremendous amount of money. The procedure is very, very firmly laid down in the rest of the Ordinance, exactly what steps must be taken, what notices must be filed and how justice must be done to the person from whom the land is being expropriated and the procedure in this Bill and the type of compensation paid to the person from whom the land is taken is, if it is passed by this Council will be the most advanced and most fair law in Canada.

Mr. McKinnon: Mr. Chairman, this is why I think we should come back to Section 3, which is extremely important section but we can all understand it a heck of a lot better after we have been through all the terms of the Bill and see the subjects and conditions that the Commissioner has to meet before the ...by through this Expropriation Ordinance.

Mr. Taylor resumes the Chair.

Mr. Chamberlist: Mr. Chairman, if I draw Mr. Legal Adviser attention to Section 81 (2) (e) which reads "for determining the compensation to be paid by the municipality to any person for any lands taken for or unjustly affected by any work of the kind contemplated by paragraph (a) or (b) for the authorizing of the payment thereof". The point that I make,



If the Municipal Ordinance, and this is what I would like Mr. Legal Adviser to comment on, if the Municipal Ordinance which is a child of this Body, the Territorial Council, secludes for the expropriation of lands, can we make a separate Expropriation Ordinance to...which affects the powers that we have already given in another Ordinance?

Mr. Legal Adviser: For what it's worth, Mr. Chairman, I wouldn't be of the opinion that Section 81 is in fact a general expropriation law, power given to Council, it's a very, very, limited power and the paragraph (e) of Subsection 2 of Section 81 allows them to give compensation for damage or for land taken but it is not intended that they put main highways through using this particular by-law. It's a necessary thing to having it there if you're having a detour through a person's land but it's not intended and I think it would be a misuse of this power for the municipality to merely using this particular section to start acquiring land for general purposes.

Mr. Chairman: Section 4 (Reads Section 4 of Bill No. 20)  
Clear ?

Mr. Chamberlist: That, Mr. Chairman, is exactly the position that I mean.

Mr. Legal Adviser: In a sense, Mr. Chairman, Section 4, Subsection 2 is tough talk but it's necessary because it has happended in expropriation cases in the Provinces, that where there's a clash and one statute says you do one thing and another statute says you do another under different circumstances. The judges have said, "we're not sure which is which ", and it has happened that a different element of compensation has been given to a person who has been affected by one statute or another and in other jurisdiction as well as this one, it is necessary in this particular type of legislation to make it clear once and for all when the court is arriving at a decision that it is this Ordinance ...that payment is made under this Ordinance the rules of this Ordinance and no other will prevail when man's private property has been taken from him by the Crown.

Mr. Chairman: Clear?

Mr. Livesey: No, it isn't Mr. Chairman, This seems to me that there would be injurious to debate on this particular aspect of discussion because this Subsection indicates there would be discussing in effect two Ordinances at once, while only one may be before the Committee.

Mr. Chamberlist: Mr. Chairman, notwithstanding what the Honourable Member from Carmacks-Kluane has said, I think Mr. Legal Adviser has brought a very sound and valid argument forward. In cases of expropriation and before a court, which Ordinance are you agree over, the one that says that this is the Ordinance that matters as it is an Expropriation Ordinance, this is the law of expropriation or do we ask the Court to look at the Municipal Ordinance which gives powers to the muni ipality to make by-laws in relation to expropriation of certian things within exboarders I think it's necessary to have legislation make it quite

clear where the argument lies, whether the law of expropriation if the law of the whole of the Territory or whether it's just a by-law to govern the municipality. I think that's a necessity for the language to be clear. An Expropriation Ordinance is required. I'm not quite sure as to whether there is a conflict between this Bill and the Municipal Ordinance but if Mr. Legal Adviser puts it in the way he has put it, in that it's necessary to make it clear to the court in the case of litigation the Expropriation Ordinance is a piece of legislation that applies. I think we should support that particular thought because we must have something in that regard.

Mr. Livesey: Mr. Chairman, in this Subsection, in my view, not only creates a conflict of interest between the municipalities and the Territory but it seems to me, it also places another situation in evidence whereby in by-laws, now, of the municipality, if such as there may be, are now subject to this Ordinance. That is precisely what it is doing. It's an overriding piece of legislation. That's the way I see it. So therefore as I said before, we are actually discussing two pieces of legislation, meaning the Municipal Ordinance and this Ordinance, both at the same time, while only having one piece of legislation before Committee.

Mr. Legal Adviser: Mr. Chairman, it's not intended always in the Yukon, to retain this power in the hands of the Commissioner. There may be public corporations set up by the government or there may be other authorities besides municipalities and the Council, in its wisdom, give to that body the power to compulsory acquire land for its own particular purpose. In that event the legislation will provide that the procedures in payments to be made by that body which have been given by statute, particular power must follow the lines of this. This is intended to be long lasting and wide ranging statute but in the case, as the Honourable Member pointed out, with municipalities they sometimes get powers for this and sometimes get powers for that. If they in anyway, within or without their powers attempt to abridge the procedures or shorten the procedures or in anyway to do something that this Council would not wish it to do, at the time it might be argued that there was a conflict. Now our intention is not to create a conflict it's to end any possibility of conflict by saying, where there is a conflict this or this Ordinance prevails.

Mr. Chairman: Section 5 (Reads Section 5 of Bill No. 20)  
Clear? (Reads Subsection 1 & 2 of Section 6 of Bill No. 20)

Mr. Livesey: Question. "Where an expropriating authority has exercised the statutory powers to expropriating land, who may this be, who is the expropriating authority, is it the Commissioner or is the person who wants the land or just what? I don't see it Mr. Chairman, who is the expropriating authority. That's what I want to know.

Mr. Legal Adviser: In this Ordinance, at the moment, it's the Commissioner, but some Honourable Members hope that the expropriating authority may be another body or another person.

Mr. Shaw: A question to the Legal Adviser, Mr. Chairman, when we refer to the land we refer to the improvements thereof, is that correct?

Mr. Legal Adviser: This will be clear as the Bill progresses.

Mr. Chamberlist: Expropriation of land, I support the expropriation of land but you'll have to go further to explain to me why anybody should have the right to expropriate somebody else's improvements on this land.

Mr. Legal Adviser: When you expropriate the land, you are normally bound to expropriate the improvements on it as well. It would be a difficult position if you took the land from under a man's house and said, "here's your house",

Mr. Chamberlist: This is done often.

Mr. Legal Adviser: If he asks, in this Bill, if he asks you to take the house with the land you have got to take it.

Mr. Chairman: (Reads Subsection 3, 4, & 5) Does that read correctly, Mr. Legal Adviser, Sub. 5?

Mr. Legal Adviser: I think the intention is that where a electricity authority is putting a line, say from here to Faro, that the engineers put it across the rough terrain and they tie up land in the Land Registry Office so that people will know where the line is going but once they do that they have two years to find the detailed plan showing the exact location in relation to surveyed ground over which they're travelling. At that point of time then they have to deal with the question of property. It gives them a two year interval.

Mr. Chairman: Yes, but I note here you say "shall be registered within two years after the registration of the preliminary plan in substitution for the preliminary plan".

Mr. Legal Adviser: Two years after the preliminary plan and in substitution.

Mr. Chairman: I draw your attention to the time, gentlemen,

Mr. McKinnon: Mr. Chairman, how do people become aware of these laws? When a person bids on a contract for a right-of-way line is this...are the laws concerning the right-of-way concluded in a tender for contract given?

Mr. Legal Adviser: Normally speaking, the position on a bidder clearing contract on an electric line from here to Faro is entitled to make the assumption but the electrical company will open the land for it legally in a sense, that they will expropriate or compensate for all necessary disturbance. He wouldn't be compensating the people, the electricity authority would allow for this in the cost of the bid and of course they would have to acquire or otherwise get by private agreement, the right for the company to move his line and his men through the area. This will be normal. The Committee will agree this is a very normal thing.

Mr. Chairman: (Reads Section 7 of Bill No. 20)

Mr. Shaw: Mr. Chairman, in the event that somebody should want to expropriate a section of land, and this person said I want \$500.00 for it, well we said we'll give you fifty cents and he didn't agree and they still went and expropriated it, and said we'll give you fifty cents or whatever the case may be, this person would have to take action, I assume, the offended person and who....would he have to pay the costs of bringing this Board into being, the expropriation authority

because I'm thinking that so many cases, by the time you get it into lawyers hands, he gets it all you get nothing anyway. What would happen in a caselike that?

Mr. Legal Adviser: Briefly the position is, this could I ~~answer~~ that question tomorrow, if I give the procedure now it's going to take about five minutes. I think that maybe the Council want to call at five o'clock. It's laid out late on in the Ordinance, in quite fine detail.

Mr. Dumas: Mr. Chairman, in view of the fact that some of us have a meeting with the Administration at five o'clock I'd like to move that Mr. Speaker do not resume the Chair.

Mr. Shaw: I second that.

Mr. Chairman: It's been moved by Councillor Dumas and seconded by Councillor Shaw that Mr. Speaker do now resume the Chair and be prepared for the question. Are you agreed? Declare the motion carried

Mr. Speaker resumes the Chair.

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

Mr. Chairman: Mr. Speaker, Committee convened at 10:15 a.m. to discuss Bills and Sessional Papers. It was moved by Councillor Chamberlist and seconded by Councillor McKinnon that Bill No 11 be left to die in Committee. This motion was carried. It was moved by Councillor Chamberlist and seconded by Councillor Shaw that Bill No. 14 be reported out of Committee without amendment. This motion was carried. Committee recessed at 12:00 noon to re-convene at 2:00 p.m. It was moved by Councillor Shaw seconded by Councillor McKinnon that Bill No. 15 be reported out of Committee, without amendment, and this motion carried with Councillor Dumas abstaining. Mr. Roddis of Manpower attended Committee to discuss Bill No. 16. We can progress on Bills No. 16 and 20. It was moved by Councillor Dumas and seconded by Councillor Shaw that Mr. Speaker do not resume the Chair and this motion carried.

Mr. Speaker. You have heard report of Chairman of Committee is everyone agreed?

All: Agreed.

Mr. Speaker: May I have your further question?

Mr. Shaw: Mr. Speaker I will move that we call at 5:00 at this time.

Mr. Speaker: Agreed?

All: Agreed.

Mr. Speaker: The House now stands adjourned until 10:00 a.m. tomorrow morning.

Mr. Speaker read the daily prayer. All Councillors and Mr. Legal Adviser 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.

Mr. Dumas: I arise on a question of privilege on page 168 on the Votes and Proceedings about discussion on Bill No. 15 one-third from the bottom, it quotes me as saying 'Mr. Chairman, I ask that you record my dissention' in fact I asked that my abstention be recorded and I feel it does make a difference.

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

NOTICE OF  
MOTION NO.  
5

Mr. McKinnon: Mr. Speaker, I have a notice of motion this morning respecting the pollution study.

Mr. Speaker: Are there further Notices of Motion? Notices of Motion for the Production of Papers? May pass to Orders of the Day, Motions for Production of Papers there are none, and none under Motions for Production of Papers passed. The only Motion now on the Order Paper being Motion No. 4.

Motion No. 4 moved by the Honourable Member from Whitehorse West, seconded by the Honourable Member for Mayo. The text reads that Sessional Papers No. 16 and 26 be moved into the Committee of the Whole.

SESSIONAL  
PAPERS, NO.  
16 & 26

MOTION CARRIED

MOTION  
CARRIED

Mr. Speaker: Any questions?

Mr. McKinnon: Mr. Speaker I have a question to direct to the Commissioner in view of the welcome news as reported on the CBC world at six last evening that the Prime Minister of Canada had seen fit to include amongst the Federal delegation at the forthcoming constitutional conference elected members of the Yukon legislative Council. Could Mr. Commissioner please give the details of such representation at this time?

QUESTION RE  
DELEGATION  
OF CONSTIT-  
UTIONAL  
CONFERENCE

Mr. Commissioner: Mr. Speaker, I am not in a position to give this at the present time.

Mr. McKinnon: Supplementary, Mr. Speaker, could the Commissioner find out the details at his earliest convenience and let this House know.

SUPPLEMEN-  
TARY  
QUESTION

Mr. Commissioner: Yes, Mr. Speaker.

Mr. Taylor: Mr. Speaker, I have a question, a written question, this morning (1) Have arrangements been made with the Federal Department of Public Works whereby wide load and overload permits can be available at the Watson Lake check station covering both Federal and Territorial roads and (2) If not, is this matter presently under consideration?

QUESTION RE  
PERMITS AT  
WATSON LAKE  
CHECK  
STATION

Mr. Speaker: Are there any further questions?

QUESTION RE Mr. Chamberlist: Mr. Speaker, I would address this question to  
CEMETERY AT the Commissioner. Mr. Commissioner, what is being done to the  
CARCROSS AS cemetery at Carcross as a historical site in the matter proposed  
HISTORICAL at the previous session on this Council?  
SITE

Mr. Commissioner: Mr. Speaker, could I have the opportunity of  
bring forward a written answer on this question.

Mr. Speaker: Agreed?

All: Agreed.

Mr. Speaker: Are there any further questions?

QUESTION RE Mr. Chamberlist: Mr. Speaker, question is asked to the Commissioner,  
STREET when will the street lighting for the Carcross area which was  
LIGHTING AT budgeted for last year be put into effect?  
CARCROSS

Mr. Commissioner: I would need notice on that Mr. Speaker, I  
am sure I can bring an answer forward on that promptly.

Mr. Taylor: Mr. Speaker, supplementary to the last question  
in view of the fact that many communities went without street  
lighting this summer, even though the street lighting was required  
and the money was budgeted, possibly the Commissioner could also  
advise why did this come about, why we did not get our street  
lights in the Yukon communities this year?

Mr. Commissioner: Mr. Speaker, would it be reasonable that we  
could have this as an all encompassing question to which I would  
get a written answer.

Mr. Speaker: Are there any further questions?

QUESTION RE Mr. McKinnon: Mr. Speaker, I have a written question, How many  
LOTS SURVEY-additional lots will be surveyed in Porter Creek this winter?  
ED IN PORTER  
CREEK.

QUESTION RE Mr. Dumas: Mr. Speaker, I have a question, How many lots will be  
LOTS SURVEY-surveyed for release in the Riverdale area for next year?  
ED IN RIVER-  
DALE.

Mr. Commissioner: Was this a verbal answer that was requested  
here, Mr. Speaker?

Mr. Dumas: If it can be answered verbally, that will be fine.

Mr. Commissioner: Mr. Speaker, if I may be permitted the privilege  
we have requested through the necessary channels that 300 lots be  
surveyed in the Porter Creek area in the course of the winter and  
the same number of lots in the Riverdale area to be surveyed in  
the course of the winter and I will keep Council advised of our  
progress on these matters.

QUESTION RE Mr. Chamberlist: Mr. Speaker, I wonder if Mr. Commissioner say,  
LOTS AVAIL- what lots will be available in the Whitehorse West constituency  
ABLE IN during the next few weeks?  
WHITEHORSE  
WEST

Mr. Taylor: Mr. Speaker, I have a question I would like to direct to the Commissioner this morning, sometime ago there was in the Riverdale area a proposal for a shopping center complex and I am wondering if Mr. Commissioner could advise me at this time as to what progress is being made?

QUESTION  
RE SHOPP-  
ING CENTER  
COMPLEX IN  
RIVERDALE.

Mr. Commissioner: Mr. Speaker, could I have permission from the Councillor from Whitehorse West to answer this question before I get in more trouble than I am in now .... Whitehorse East, Mr. Speaker. Well like all other matters that the Council request the administration to take under advisement this one also has been attended to Mr. Speaker, and it has been advertised on the closing date for tenders is sometime early in the month of December.

Mr. Shaw: Mr. Speaker, I wonder if the Commissioner would know if it were possible for the C.N.T. to have some agency in Dawson where bills, monthly accounts could be paid periodically, or each month I should say.

Mr. Commissioner: Well Mr. Speaker, as I have enough troubles of my own without attempting to instruct other crown agencies as to how they should conduct their affairs, I hesitate to tread on this maybe very ticklish ground, however I say this in answer to the Councillor's question Mr. Speaker, that on normal business practice is to permit any normal bill to be paid at a chartered bank, there's nothing new about this it's been going on in Canada for many many years, it's a regular practice and I would certainly be very pleased to have a letter written to the Canadian National Telecommunications people and see if there is any reason why bills that are owed to them in any area or any part of the Territory could not be paid at a chartered bank.

Mr. Dumas: Mr. Speaker, a question to the Commissioner, in view of the fact that the Northern Canada Power Commission made a net profit of \$130,536.00 in the Whitehorse area last year, would Mr. Commissioner endeavour to find out if it is that corporation's intentions to pass on a reduction to the consumer in the Whitehorse area?

QUESTION  
RE REDUC-  
TION TO  
CONSUMER  
IN COST OF  
POWER.

Mr. Speaker: I believe this question would be more proper if it was written out and proper notice given to the administration I would therefore refer this question to the Order Paper.

Mr. Chamberlist: Mr. Speaker, I raise the question with reference of the Carcross postal service I wonder if Mr. Commissioner can give an answer to that question now I notice it has been removed from the questions on the Order Paper. There has been no answer given to it. I withdraw my question.

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

Mr. Taylor takes Chair.

Mr. Livesay: Mr. Speaker, I have a question this morning addressed to the administration and the text reads, 'where a historical society is once registered under the Societies Ordinance as such entity it is permissible for such a society to later amend its own constitution to constitute other than in historical society without application for registration under the terms of the Societies Ordinance presently in force'. Thank you, Mr. Speaker.

QUESTION  
RE SOCIET-  
IES  
ORDINANCE

Mr. Speaker resumes Chair.

Mr. Speaker: Are there any further questions?

QUESTION RE Mr. Chamberlist: Yes Mr. Speaker, I have one re Carcross postal  
CARCROSS service the question addressed to the Commissioner, Mr.  
POSTAL Commissioner the answer given on Sessional Paper 24 relative to  
SERVICE the Carcross postal service only deals with the postal service  
delivery by rail between Carcross and Whitehorse. What efforts  
are being made to arrange a postal service delivery between  
Carcross and Whitehorse by road?

Mr. Commissioner: Mr. Speaker, can I have the opportunity of  
answering that as a supplementary answer to what has already been  
tabled on that subject?

Mr. Speaker: Was there a point you wished to raise, Mr. Commissioner?

Mr. Commissioner: Yes, Mr. Speaker, I was asked a day or two ago  
concerning the centennial plaque at the Pelly Crossing and I would  
like to advise Council that the report given to me has of yesterday  
is that the plaque has been affixed and is affixed to the cairn  
at Pelly Crossing.

Mr. Speaker: Are there any further questions? May we pass to  
Public Bills and Orders and may I have your pleasure?

THIRD Mr. Taylor: Mr. Speaker, I have now determined that there are  
READING no further amendments will be proposed on Bill No. 10 and I would  
BILL NO. 10 move that Third Reading do now be given to Bill No. 10, An  
Ordinance to Amend The Judicature Ordinance.

Moved by the Honourable Member for Watson Lake, seconded by the  
Honourable Member for Whitehorse East that Third Reading be given  
to Bill No. 10, An Ordinance to Amend the Judicature Ordinance.

MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker: Is the House prepared to adopt a title to Bill No. 10?

TITLE Moved by Councillor Taylor, seconded by Councillor Chamberlist that  
ADOPTED the Title to Bill No. 10, An Ordinance to Amend the Judicature  
BILL NO. 10 Ordinance, be adopted as written.

MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker: I will declare that Bill No. 10 has passed this  
House.

THIRD Mr. Shaw: Mr. Speaker, I would move that Bill No. 9, An Ordinance  
READING to Amend the Police Magistrate's Courts Ordinance, be given Third  
BILL NO. 9 Reading at this time.

Moved by Councillor Shaw, seconded by Councillor Chamberlist that  
Third Reading be given to Bill No. 9, An Ordinance to Amend the  
Police Magistrate's Courts Ordinance.

MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker: Is the House prepared to adopt a title to Bill No. 9?

TITLE Moved by Councillor Shaw, seconded by Councillor Chamberlist that  
ADOPTED Title to Bill No. 9, An Ordinance to Amend the Police Magistrate's  
BILL NO. 9 Courts Ordinance, be adopted as written.

MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker: I will declare that Bill No. 9 has passed this House.



Mr. Dumas: Mr. Speaker, I would like to move Third Reading to Bill No. 14, An Ordinance Respecting Agisters and Keepers of Livery, Boarding and Sales Stables.

THIRD  
READING  
BILL NO.  
14

Moved by Councillor Dumas, seconded by Councillor Gordon that Third Reading be given to Bill No. 14, An Ordinance Respecting Agisters and Keepers of Livery, Boarding and Sales Stables.

MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker: Is the House prepared to adopt a Title to Bill No. 14?

Moved by Councillor Dumas, seconded by Councillor Gordon that the Title to Bill No. 14, An Ordinance Respecting Agisters and Keepers of Livery, Boarding and Sales Stables, be adopted as written.

TITLE  
ADOPTED  
BILL NO.  
14

Mr. Speaker: I will declare that Bill No. 14 has passed this House.

Mr. Speaker: May I have your further pleasure?

Mr. Shaw: Mr. Speaker, is Bill No. 15 ready for processing for Third Reading .... is that correct? Mr. Speaker, I move that Bill No. 15, An Ordinance to Facilitate the Division of Properties Into Parts That Are To Be Owned Individually And Parts That Are To Be Owned In Common And To Provide For The Use And Management Of Such Properties, be given Third Reading at this time.

THIRD  
READING  
BILL  
NO. 15

Moved by Councillor Shaw, seconded by Councillor Taylor that Third Reading be given to Bill No. 15, An Ordinance To Facilitate The Division Of Properties Into Parts That Are To Be Owned Individually And Parts That Are To Be Owned In Common And To Provide For The Use And Management Of Such Properties.

MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker: Is the House prepared to adopt a Title to Bill No. 15?

Mr. Dumas: Mr. Speaker, I'd like to ask the House to record my abstention on that vote.

Moved by Councillor Shaw, seconded by Councillor Taylor that the Title to Bill No. 15, An Ordinance To Facilitate The Division Of Properties Into Parts That Are To Be Owned Individually And Parts That Are To Be Owned In Common And To Provide For The Use And Management Of Such Properties, be adopted as written.

TITLE  
ADOPTED  
BILL  
NO. 15

MOTION  
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Mr. Speaker: I will declare that Bill No. 15 has passed this House.

Mr. Speaker: What is your pleasure gentlemen?

Mr. Taylor: I would move that Mr. Speaker do now leave the Chair and Council resolve into Committee of the Whole for the purpose of discussing Bills and Sessional Papers.

Moved by Councillor Taylor, 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.

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Mr. Taylor takes the Chair in Committee.

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Mr. Chairman: We will proceed the Bill No. 20, page 4, section 8; subsection (1) .... is there anything further on section 7? Clear.

All: Clear.

Mr. Chairman: (Reads section 8, subsections (1) and (2) of Bill No. 20). Clear?

Mr. McKinnon: Mr. Chairman, I am sorry I am a little slow on the draw this morning but in section 7, subsection (1) Mr. Legal Adviser, now the expropriating authority which I determine and for the terms of the Ordinances is the Commissioner this is correct, now he serves the registered owner within sixty days after the date of registration and notice of expropriation and then in the last sentence, but failure to serve the notice does not invalidate the expropriation, it seems to me that the Commissioner does not have to live up to the terms of the Ordinance and yet the expropriation is validated. Is this correct?

Mr. Legal Adviser: Well when the matter gets to Court the lawyers get extremely technical and if the failure of a notice was proved the danger that the whole thing would collapse, but in most cases alot of these transactions take place by telephone or ordinary letter and everybody is aware of what happens but it's the tying down to the registration of the plan and so on that actually validates each step but failure to serve a particular notice, or rather I say a notice to quit is often caused because the owner already knows what is taking place and the formality of the notice is not considered absolutely essential to make it a detailed or legal step at that particular point of time.

Mr. McKinnon: But certainly Mr. Chairman, when we are dealing with expropriation we have to be extremely careful of being as formal as possible all the way along the line and in section 6 (1) all the Commissioner has to do is to register without undue delay a plan of the land signed by the expropriating authority and that land is then expropriated, is this not correct, so that it seems to me that under 7 (1) the owner has to be on the expropriating authority to live up to all the terms and agreements in the Ordinance and if means serving a formal notice, then a formal notice should be served in that means of expropriation, and a failure to serve the notice should not .... or should invalidate the expropriation. I think we have to be extremely careful when we move in the field of expropriation every step has to be laid out, every step has to be followed so there can be no question whatsoever of any kinds of deals being pulled or that people are trying to get land without following the astringent procedures laid down in expropriation Ordinance and I think the owners should be on the expropriating authority and namely the Commissioner to make darn sure he does serve the notice of expropriation of the land in the prescribed form.

Mr. Legal Adviser: Mr. Chairman, the onus is clearly placed squarely on the Commissioner or the expropriating authority for the change is made later on to serve this notice and he must serve it, the law says you shall serve it, but if through some technical omission it wasn't served then it might destroy the whole scheme but the penalty provided by subsection (2) if the notice isn't served then the compensation will be payable with effect from the date of the registration of the plan which means that the owner will have the benefit of his property and he will also have interest at bank rate for the duration of the period while he is still on the property. Now this is an advantage to him and I can hardly say

that the Commissioner or his staff would not take very kindly to being penalized at bank rate back-dated to the date to the filing of the plan was, it's quite a severe penalty.

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Mr. McKinnon: Mr. Chairman, I want to follow this through I don't see the difficulty in leaving section 7 sub (1) stand excluding the last part of the sentence, but failure to serve the notice does not invalidate the expropriation. It seems to me when you are moving in the field of expropriation that the expropriating authority may serve the owner and shall serve the registered owner within sixty days after the date of registration of the plan with a notice of expropriation of his land in the prescribed form. I can't see any difficulty in this I can't see .... it's clear, it's concise and the onus is on the expropriating authority, it's laid down in law what the steps are and it's astringent and that's the way it should be in an expropriation Ordinance and when you add sentences like, but failure to serve the notice does not invalidate the expropriation, even though it may not be, a man reading through this Ordinance that there goes the doggone tentacles of Government again trying to get around the law. This is how it looks to me as a layman and I assure you Mr. Chairman this is the way it will look to the person reading this Ordinance. The owner should be on the expropriating authority it's not a difficult thing for him to do under section 7 sub (1) and I think the last part of that sentence should be amended and should be removed from the Ordinance.

Mr. Legal Adviser: It's a very very difficult thing sometimes to serve an owner and to find him, extremely difficult and you may even have a Court case to try and find the registered owner it says, may serve the owner and shall serve the registered owner, one of the most difficult things in the administration of Justice in the Courts is commonly to serve a person who may be in some way obscure by reason of their address, by reason of their identity or hundred and one different things, it's at this point if the expropriation was to fail because of the failure to serve a particular owner it would be extremely dangerous for the Bill as a whole, there might be three or four people who are disputing, there may be no registered owner, there might be some person who is dead who is still the registered owner because somebody hasn't taken out a grant of administration to his estate and we can only control what's within the Yukon Territory. I would ask that it not be such a heavy penalty but failure to find the registered owner and actually physically serve him with a document should not carry a penalty of the whole of the scheme falling to the ground and it might be one key piece of property in the new road and if that expropriation fails then the whole .... millions of dollars worth of work may be wasted, the onus is heavy it says that in effect that once the penalty is registered if we haven't served it in sixty days then the compensation is dated back and bank rate commences to run, and the obligation which we assume the Commissioner will undertake when he says, he shall serve, he must serve, these words, but failure to serve the notice does not invalidate the expropriation are uncertain because in the original jurisdiction where this draft came at some point of time a failure to serve a notice upset a major scheme and they amended their Bill eventually to take care of this particular point and was put in for that specific purpose so that the whole scheme would not collapse in the failure to serve one owner who might have just been a small tenant or may have been absent and he may have avoided service.

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Mr. McKinnon: Well Mr. Chairman, then the wording of the section should be amended so it doesn't appear to the average person as it it's an attempt of government to circumvent the law and this is exactly what it looks like to me, and it's exactly how it reads in the Ordinance and it's exactly how it's going to read to anybody going through this expropriation Ordinance, it looks exactly .... well here everybody has to go through these steps and these procedures that if government doesn't comply with these regulations well it doesn't matter anyway and this isn't the way the law should read to the layman.

Mr. Legal Adviser: I can see the American's point and I would certainly be prepared to attempt a preparation of an amendment which would make it possible to make application to a Court, you know for an extension of time or something like this which might control it in some fashion but this might meet the point if we had to go to the Court to get an extension of time or two even if we had to go after the sixty days we still had to serve it, or for the direction of the Court as to how we were to serve. Something like that might possibly meet the objection.

Mr. Chamberlist: Mr. Chairman, the first thing that strikes me is in this particular debate in this item is if the Commissioner expropriates and he doesn't or by some error fails to serve the notice the person whose land is being expropriated has no knowledge whatever that this is taking place. In other words the way it is set up now is the Commissioner can expropriate anybody's land without notifying that person I'm talking about a live person not a dead person so consequently in the position the man can have his property taken away from him arbitrarily without having the right to appeal now it doesn't appear to me, I may have overlooked it that any appeal to the Courts to the expropriation authority taking land, now this deprives a person of natural justice because I think it only natural that a person should have a right to appeal against expropriation Order because it must be shown by the expropriation authority that there is a necessity in the public's favour for a piece of land to be expropriated. Now I would like to see a method of the power of appeal which should be given in all circumstances of common law to a person where in this particular instance where expropriation takes place. Now the Honourable Member from Whitehorse North has raised more than a valid point it's an important point, now I see no reason at all why if a person cannot be served personally or physically as Mr. Legal Adviser puts it why you cannot have registration for a substitutional type of service which occurs in many legal procedures, that is of the sixty days if the person is not able to serve personally or the person's estate is not able to be served personally at least some provision should be made for a publication in a newspaper in a area where the person was last known to have been to the effect that this land was to be expropriated, now if there is not appeal to the expropriation of land really the point of a notice doesn't matter because what does a notice do, a person having a right to appeal really what difference if he gets a notice or not you just give him the powers in the hands of one person and in this case the Commissioner who expropriates somebody's land, he hasn't the right to appeal so if he's not served with a notice it doesn't matter to him the idea of serving a notice in normal legal matters is to give the person full knowledge as to what is taking place so I concur fully with the remarks that have been made by the previous speaker to the effect that that particular section should be withdrawn .... that particular part of section 7 (1) should be withdrawn and also provision made for substitution of service as Mr. Legal Adviser says perhaps a court application for substitution of service although it can be placed in the legislation itself. I'm sure this is done in many instances but certainly this should be the right to appeal and expropriation of land if you

take that right away you are depriving, as I said earlier, a person of natural cause of justice and this is something .... of course my feelings I don't agree with I think that at all times the public must be protected and we are not servicing the public here we would be servicing the public if the land is required for the public use and the person from whom the land is to be expropriated knows why this land is being expropriated.

Mr. Dumas: Mr. Chairman, I have a picture in my mind of a retired couple taking an extended tour to Europe or something and coming home and finding a highway where their house once was. I would like to ask the Legal Adviser how other expropriation Ordinances read in regard to this respect and also ask if there is a redundancy in this section quite apart from what we have discussed as to the expropriating authority may serve the owner, and shall serve the registered owner?

Mr. Legal Adviser: Mr. Chairman, this particular Ordinance is a type of code and it was drafted to try and bring some uniformity into the laws of the Province of Ontario which had something like 15 different statutes and they had something over a 100 different bodies who could expropriate land and using various statutes between railways, highway authorities, gas boards and pipeline Boards and so on. The scale of compensation differed in each case it was a different way of assessing it, a different way of arriving it, it was a different way of serving a notice, a different way of filing a plan so it was the law in relation to it, it was so difficult and complex it formed a major subject in lawyer's education in Ontario that part of it alone there were special seminars dealing with how to circumvent a notice, how to circumvent an expropriation and how to attack this and how to attack that and a long list of notices that should be served and not be served so eventually the Province of Ontario codified so far as they could all the law relating to the procedure of dealing with expropriation, and to try and remove some of the technicalities from it they set out a scale of notice, notice and that is the exact way the compensation has been arrived at and we have closely followed their Bill. Now when expropriation takes place it is almost always after the government or the municipality as the case may be have made an attempt to acquire land for their needs in a normal fashion like anyone else, no government and no authority goes around in the dead of night just whipping up land and telling nobody about it and waiting until somebody is on a Mediterranean cruise they could do it but they don't because it is much easier on everybody if an agreement is arrived at peaceably to buy the land for a fair value. Now when land is expropriated it's either one piece or it is many pieces, it is either one interest or many interests and occasionally it happens because everybody is likely to err that some one piece of land or some interest or a person who may have a right of way over a piece of land or a person who might only have a grazing right of farm land or some odd right which has to be compensated for and has to be acquired and if a particular notice was not served on a particular day the whole scheme could be frustrated and the unfortunate thing about it is it would not be discovered until maybe half the highway is built and then some smart lawyer looking through his file will check through the notice and say 'ah, my client wasn't served with a notice' and then he'd be able to hold the whole of the government up to ransom because then he must be reacquired and his land has gone up in the meantime and it could be a costly and frustrating business so I would be prepared to put safe guards on this failure of notice and to draft something the Honourable Member has been discussing with me and we surely can arrive at some kind of a safe guard to put on this particular part. So far as the actual appeal itself is concerned the main thing that people want is that

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they want value for their property there are very few things in this world that haven't got a price and if an owner is having his property confiscated the main thing he is getting a fair price not too much and not too little and the scheme of working out a compensation in this particular Bill is well it's not generous it is as fair as it is possible to be for a government in compensating the person of the property taken after all he is sacrificing his interest to the community and he needs to be compensated but he should not be allowed thereby to hold the community up to ransom.

Mr. Livesay: Mr. Chairman, what I was going to say I believe the Code of Ethics related to this type of legislation is always suspect for the simple reason it's where the people, the situation is that lays before us, is the people are allowing a certain branch of their society to create laws to do that which they otherwise could not do and I believe under circumstances of this nature that it is up to us as representatives to safeguard the position of the public as much as possible we can't do less we have to do this and I can certainly see where the Honourable Member has a point when discussing section 7 of the Bill. We do preach about our society and we talk about it, we brag about it and we talk most about freedom and when one compares freedom to legislation which takes away the very things which we hold dear in this country in an arbitrary manner one can always look back and think that sometimes we talk about justice and freedom in an off-hand manner and I would certainly suggest Mr. Chairman that we take a second look at this type of legislation and a third look and make sure we know what we are doing when we pass it.

Mr. Shaw: Mr. Chairman, I would agree that in expropriating someone's property we have to be extremely careful and I also feel quite concerned about the manner in which this is done. I also must look at it objectively and realize that at times these things are necessary for the common wheel. The points that have been brought up in relation to the matter of failing notices I think is an extremely valid point now of course when we get to making legislation sometimes it is very difficult to put words in the correct places as to where it should be but it would appear to me that in this particular instance it should not be too difficult to put into the Ordinance words to the effect that every reasonable effort must be made by the Commissioner to locate these particular persons, now that seems to be somewhat fair in the event that it is not possible to find the owner of the property, or with property I realize in many instances where it is impossible to know at the time who owns the property, transfers are made and are not registered and the person that is given the transfer dies a little later and there you have the property with no owner except the person that is up in heaven and at that time he is pretty hard to contact, although they are getting closer to it every day they are up to the moon now. Would it be possible Mr. Chairman, I wonder if the Legal Adviser could rephrase that to indicate that the ... it is the onus of the Commissioner to make every effort before taking action that is being put down here.

Mr. Legal Adviser: I think this is a problem that can be solved by an amendment. The words used here, shall serve the registered owner, which is an obligation it is a must but then I think having given the Commissioner that obligation he should be relieved of it in circumstances which the Court will be satisfied. So something may run like that an extension of time may be granted by the Court an application by the Commissioner, then he has to tell the Court why and they have got to extend the time, something like that.

Mr. Chamberlist: Mr. Chairman, I am sure there could be some amendment made to fulfil the requirements that is being objected to in 7 (1). Mr. Legal Adviser has not made any reference in speaking the last two occasions the points I made with reference to the right of appeal of every person as far as I am concerned should have. This should be a normal right, as a matter of fact it should be more than a normal right, it should be a mandatory right of appeal and then Mr. Chairman, Mr. Legal Adviser fails to recognize this particular point I am wondering whether the words natural justice continue to mean anything in this world. It is the right of everybody in our society to be able to appeal to a higher tribunal if he is dissatisfied with the treatment that has been meted out and if we take away what right we are taking away fundamental principle of justice that everyone of us here is bound to oppose. To me for a person to be able to be placed in a position of expropriating somebody's land without giving him the right to appeal that expropriation order would be as I said earlier a deprivation of natural justice. I can't support any legislation of any particular type if the right to appeal is not there. Now I would suggest that while Mr. Legal Adviser is looking for ways and means to bring 7 (1) into the requirements that have been outlined already I would suggest that he also look for ways and means to make provision for an appeal against an expropriation order.

Mr. Chairman: I wonder if I might direct a question to Mr. Legal Adviser, is this your intention at this time?

Mr. Legal Adviser: It is my intention to bring an amendment to meet the point raised originally by the Honourable Member from Whitehorse North. I have misgivings of the point raised by the Honourable Member from Whitehorse West . . . . East because I have been unable to trace any jurisdiction where the right suggested by the Honourable member of an appeal against the expropriation itself lies to the Courts. I don't know of any and attempts have been made from time to time to make this work but it's an unworkable suggestion, the nearest that happens is the type of legislation which exists in the United Kingdom when an expropriation is started the Minister for local government has a core of inspectors and they hold a public inquiry into the expropriation. Now there are part of these situations in the American law, in the Federal law and in some of the States laws where they also had this form of inquiry and the are extinct in Washington a core of inspectors with a recommendation that a core of inspectors legally trained analogous to junior judges should exist in the United States for the purpose of holding these inquiries and they do hold these inquiries but it's an inquiry that's held in public but it is not a form of appeal held against the expropriation it merely allows a person to vent their grievance in public to allow the newspapers to deal with it and make known to the public what is happening. Now this is not a foreign appeal and it might not be an appropriate form here because I don't think it would satisfy the wish of the Honourable Member looking for an appeal.

Mr. Chamberlist: Mr, Chairman, what satisfies my wish is when the public is given ample right to protection that he deserves. My position to me is clear but I am here to represent the public and if the public hasn't the right of appeal because Mr. Legal Adviser says he probably can't find it in other places then let's do something first for a change, let's give the people in the Yukon the right to appeal if their land is expropriated simply because it hasn't happened elsewhere does this mean to say that we must not start setting up a president, let us set a president to show the rest of Canada that we want to make sure that our people

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here who had their land expropriated have the right to appeal that expropriation order to a court of competent jurisdiction. Now there may be reasons why the expropriation officer wishes to expropriate but those reasons may be of a personal nature so therefore he should be able to justify the reason why he is expropriated. Now the person whose land is being expropriated he may say, 'why is my land being expropriated why can't this road they are talking about go around my land, why does he want to go through my land' then I say it's up to the expropriation authority on appeal to prove to the Court that this is the reason why this land is required. Now Mr. John Cue public had his day before Court he is being able to ask the right not to have his land appropriated the expropriation authority has also had his day before the Court and as much as he has proven to the Court that this land is required. Now this is the way things should be done but to give open right to expropriation authority whoever he or they may be without the right of the person who is most concerned to me is improper. I cannot support as I said before anything where the public haven't a right to appeal to our Court this is a fundamental that we should maintain all the way through and I hope on that principal of fundamental this Committee here goes along with me because if we let this thing go through once giving the power, in our particular instance here giving the power to the Commissioner the one person to expropriate somebody's land we would all be in error in doing it.

Mr. Chairman: Gentlemen at this point of debate, I will declare a brief recess.

RECESS

RECESS



11:00 o'clock a.m.  
November 19, 1968.

Mr. Chairman: At this time I will call Committee to order and I believe the next speaker is John Livesey.

Mr. Livesey: Mr. Chairman, I would like to ask the Legal Adviser, due to the fact that this legislation presently before us is not, I would think it fair to say, legislation that has been asked for by the people or the people's representatives but is legislation that is required by administrative government - I wonder if I could ask, Mr. Chairman, if there is any pressing need at the moment for the legislation presently before us in Committee. BILL NO. 20

Mr. Chairman: Mr. Legal Adviser.

Mr. Legal Adviser: I couldn't give an exact answer to that as to whether there is a need as of this moment for a particular piece of property. I would think not, but it is definitely the considered opinion of the Administration that there is a need for having this type of legislation on the statute book so that when the need arises to use it, the law will be there.

Mr. Chairman: Councillor Chamberlist, will you take the Chair a moment?

Mr. Chamberlist: Yes.

Mr. Taylor: Mr. Chairman, I've always felt that over the past number of years since becoming a Councillor that there have been times when we needed land very badly and either we could not get the land or, on the other hand, we had to pay an excessive amount of the taxpayer's dollars to acquire the land. I cite for one instance the acquisition of land in Carcross upon which to build a school at Carcross, where we had to deal with a private enterprise company, White Pass and Yukon, who, it would appear, control the bulk of the land in Carcross. The same thing applies here in the City of Whitehorse and no doubt in other areas of the Yukon from time to time. The government, for the public good, require property. This is why I feel this ordinance is a good ordinance. I'm troubled by the suggestion made by the Honourable Member from Whitehorse East that there should be a right of appeal because indeed the person we're very concerned with is the small John Q public, the small fellow. However, what the laws that he must live by are the same for those by which the big corporations must live by, and if the practice is adopted whereby these people will have a right of appeal from an expropriating authority in the courts, then indeed I think you defeat the whole bill because certainly a corporation like White Pass and Yukon or Northern - I shouldn't say Northern Canada, but International Utilities or someone of this strength and size - it could certainly tie up projects necessary to the public good for years, indeed five to ten years, through judicial process and so it seems to me that we can't permit this or it defeats the whole purpose of the bill, an expropriation. We will be returning, I'm sure, to section 3 and there's one area that I do find fault with and that is who shall be the expropriating authority, but I would ask that Committee consider this point, that the large corporation, by its very size and financial position, could conceivably make a mockery out of this ordinance.

BILL NO. 20 Mr. Chairman: Councillor McKinnon.

Mr. McKinnon: Mr. Chairman, I think there's very good reason that one finds in any expropriation legislation throughout at least the western democracies that there is no right of appeal written into these laws, and the reason is quite clear - it's because a person could use the courts to his advantage to hold up the necessary public work for a period of time anywhere up to a three or four year period. This would defeat the very need for expropriation; that is that the expropriating authority sees the need for a necessary public work to come about and so expropriate the land for this necessary work to follow. However, the difference where other expropriating authorities work and where our expropriating authority would work is that in the final analysis, the people have the control of the expropriating authority. In other words, if the authority acts in a dictatorial manner, they have the recourse of the ballot box at least every four years. In the Yukon Territory at this time such an analogy of course doesn't hold true. The expropriating authority which for all intents and purposes of this ordinance will be vested in the hands of the Commissioner or in the Government of the Yukon Territory at this time. If the expropriating authority uses this power in a dictatorial manner, the person who has had his land expropriated has no recourse through the courts for a very good reason, that he also has no recourse through the ballot box, so in no way are the rights of the individual protected. I don't think there is any crying need in the Territory at this moment for an expropriation authority. I would like to think that when the Government of the Yukon Territory is in the hands of the public domain and the actual executive branch of this government is elected by the people, then is the time for an ordinance such as this to come into effect because then and only then are the rights of the individual protected - if not through the courts then by the exercise of this franchise on election day and, Mr. Chairman, I couldn't in conscience agree with the terms and conditions of the Expropriation Ordinance as we see it before us at this time in the history of the evolution of government in the Yukon Territory. Thank you, Mr. Chairman.

Mr. Chamberlist: Councillor Taylor.

Mr. Taylor: Mr. Chairman, I'd like to direct a question to the Honourable Member from Whitehorse North and it has reference back to section 3. If it was the desire of Committee to amend section 3 of the ordinance to make the expropriation authority the Commissioner in Council, would this then satisfy the problem as suggested by the Honourable Member?

Mr. McKinnon: Not in this case, Mr. Chairman, because by their very nature, expropriation authority must be harsh and it must be immediate, and in the case of Council having to be called together because of the necessity at the moment for a piece of land to be expropriated for a particular public works, you'll find in just about every case, I would imagine, that the immediacy of the situation is the thing that counts. So, this is the reason why all expropriation authorities everywhere you find them in legislation for them is very harsh but it's necessary because of the immediacy of the moment, and the protection in all these expropriation ordinances is not through the court but through the ballot box and we'd just not be serving any purpose in this matter by writing a Commissioner in Council because we'd be destroying the need which is always in expropriation matters immediate, so the only solution I can see is in an ordinance of this nature is in a change in the form of government in the Yukon.

Mr. Chairman: Mr. Taylor.

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Mr. Taylor: Mr. Chairman, just one final question. If immediacy seems to be the problem, how would the Honourable Member feel about the Financial Advisory Committee being so-called treasury board of Council? They can meet monthly or almost at beck and call. What if the powers were vested in them in conjunction with the Commissioner? Would this satisfy the Member?

Mr. McKinnon: It would, Mr. Chairman.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Mr. Chairman, the suggestion put forth by the Member from Watson Lake, I think, is very sound. How it can be put into being, of course, is another matter. I think, myself, that would be the answer to many of these solutions - or problems, I should say the solution to many of these problems that we're having right now rather than writing in Commissioner in Council. In the first instance, I do not know if there is any authority invested in the Yukon Act that the Commissioner in Council should actively administrate - let's put it that way. I hear some comments on my left. I would ask the Honourable Member to look at the Yukon Act and see what authority is given the Commissioner in Council and then if it can be shown that.....

Mr. McKinnon: Twenty-six areas under section 16.

Mr. Chairman: Order, please. Order.

Mr. Shaw: .....that if there are administrative functions for the Commissioner in Council, I would be pleased to see them. However, that's another subject and we won't get into that. That would take the balance of the session. Expropriation is a very, very bad term. It's where somebody takes something from somebody by force and compensates them accordingly; however, for the common good, these things have to take place from time to time because some people are very hungry - they like to put a tremendous, fabulous price on things and hold up public works and various other things, so there has to be some authority to make it so it's fair to the person who owns the property and fair to the public in general to have this right of access or whatever it may be. There have been Members of Council say that on account of the fact that we have nothing pending at the present moment, there are no emergencies existing, that we do not require this particular type of legislation. It would appear to me, Mr. Chairman, that if we wait until there is some necessity for expropriating for some very good reason, then and at that time would be the worst time that one could ever institute or bring into force such an ordinance for the simple reason that it would appear to whoever may be concerned or unconcerned that this was made specifically for this particular piece of property in which expropriation was desired. I would feel that a bill such as this should be passed at a time, after it had been amended if necessary - this should be implemented at a time when there is no immediate urgency for any expropriation, not when the urgency is there. Apparently there is no urgency at the moment except it is sensible legislation. It's legislation that is probably in every Province in Canada, so that now is the time to resolve this particular bill, not at a time when feelings are running high and where the implication could be that it was created for a specific purpose. That's why I think that the matter of urgency is not a subject that really could be taken in a serious consideration at this time.

BILL NO. 20 Mr. Taylor: I'll resume the Chair. Councillor Chamberlist.

Mr. Chamberlist: Mr. Chairman, it is quite true to say that expropriation doesn't necessarily mean an abuse by the expropriation authority, but certainly it does take away from a person or a large company the property that is theirs. Now, it has been suggested that large companies can, by dragging the litigation through the courts - if there was an appeal to the courts - is a matter for many years to the detriment of the public use of that particular land which is to be expropriated, and I agree that this may well be the case, but I don't think that we should think in terms that people are out to circumvent judicial process. Now, I consider that there is necessity for us to support our judicial procedure in Canada and in our local courts because there is a necessity for recognizing the fact that the courts have been put up.....system and we should support them. However, I think that the suggestion that has been made by the Honourable Member from Watson Lake may well answer the query that I have had, and that is the right of appeal. Perhaps I am being too stringent in insisting that the courts - the procedure of the courts be used for the right of appeal. I'm concerned really with the right of appeal. Now, it doesn't really matter whether it goes to the courts but I feel that in any event at common law I think they would have a right to go to the courts if a person is aggrieved - then I am quite prepared to support the suggestion made by the Honourable Member from Watson Lake, which has also been affirmed by the Honourable Member from Whitehorse North that the Financial Advisory Committee be consulted in any expropriation procedures before these things take place. At least this way the onus is not upon - in our particular instance here in the Yukon - upon the Commissioner alone. Other people are concerned, and the elected Members of the people have a say in the Administration, and this is what is the aim of this Territorial Council - is to get wherever possible a joint legislative and administrative say-so in all matters of public interest, and if Mr. Legal Adviser can work something out to the effect in amendment that the Financial Advisory Committee with the Commissioner deal with expropriation matters, then I will support that.

Mr. Chairman: Councillor McKinnon.

Mr. McKinnon: Mr. Chairman, I'd like to ask the members of the Administration if they would find any difficulty in writing the Financial Advisory Committee into the terms of this ordinance as both the Honourable Member from Watson Lake and the Member from Whitehorse East have stated?

Mr. Chairman: Mr. Legal Adviser.

Mr. Legal Adviser: Mr. Chairman, could one buy a little time on this?

Mr. Chairman: Does Committee agree?

All: Agreed.

Mr. Chairman: You have your time, Mr. Legal Adviser.

Mr. Legal Adviser: In fact, Mr. Chairman, it appears to me that the discussion has gone back from section 8, I think it is, back to section 3. I'm not quite sure how this arrived at, but it would be helpful for the bill as a whole if we could, you know, get the balance of the bill, and as the Committee had decided earlier, return to section 3 at some time in the future.

Mr. Chairman: It would appear from discussion that they are co-related and what happens to the one section could very well be effected by what happens to another. May I proceed? (Reads section 9 of Bill No. 20.) Clear?

All: Clear.

Mr. Chairman: (Reads section 10 of Bill No. 20.)

Mr. Chamberlist: Question. Mr. Chairman, subsection 2 of this section - supposing for example that there is a home on four acres. The suggestion is that only one and one-half acres can be expropriated. I wonder if Mr. Legal Adviser will clarify that particular subsection.

Mr. Legal Adviser: Mr. Chairman, the intention is and as I see it - this is a section giving a special value to a home which is different from the value it would have merely as a building, and you have one and one-half acres - the figure is pulled out of the air. It could be one acre, it could be two acres, but it's what would reasonably surround a house, a home. When you go beyond that you're into gardens or fields or something else, and they would be expropriated at their market value as such, which might be more or less. It's taken as a unit and the person entitled to have their house taken away or purchased. The balance of the land is valued by the other sections.

Mr. Chairman: Are we clear?

All: Clear.

Mr. Chairman: (Reads section 11 of Bill No. 20.)

Mr. Dumas: Question. Mr. Chairman, I'm sorry, I'm a little slow on the draw. I'd like to go back to sub 3 of 10 where it says the person whose property has been expropriated must be able to purchase a home or construct a home reasonably equivalent to that which is being expropriated. This means in fact - it wouldn't necessarily have to be the equivalent, that it could be a home that is of lower value or something. I wonder if Mr. Legal Adviser would comment on that and I wonder why the words, say, 'at least equivalent' are not in there.

Mr. Legal Adviser: Mr. Chairman, this particular section is the fruit of distillation of the whole ordinance that was passed in Newfoundland and it went on for about four pages, and we have tried to compress it into a small space because the Newfoundland statute was a long rambling statute and we had no other model or no other law to follow and there is no other province in Canada or pretty anywhere else that I know of that has this particular type of legislation giving compensation to a home. So, we have no decided cases to go on. We have no other statutes that we can balance one against the other and this is an attempt in homely Yukon English to reproduce what we mean, and to allow the courts a chance when one or two cases come before them - they will decide the meaning that is to be attached to this language. Now, as I see it, the person will be allowed to show what it would cost him. He doesn't have to go and build it, but he pulls in one of the experts from here; the government might pull in another expert, and they go to arbitration. The arbitrator in this case is going to be the judge. If they cannot agree, it goes to the Territorial Court, and the judge will have to say what in his opinion is the reasonable equivalent of what has been

BILL NO. 20 taken away as to cost, amenity value, location and what have you. So, we're attempting to get a certain amount of judge-made law on this as we go along. We're groping our way in the twilight and I'd like to see it passed in the form in which it was drafted and if it goes wrong I'll accept the responsibility.

Mr. Chairman: Councillor Chamberlist.

Mr. Chamberlist: My question, Mr. Chairman, deals with section 11. There doesn't appear to be in this section any provision made for the guardian or the executor of an estate to make application for the claim. For instance in section 11(2) "Where the owner of land that is injuriously affected is an infant, an insane person or a person incapable of managing his affairs, his claim for compensation shall be made within one year after he ceased to be under the disability or, in the case of his death while under the disability, within one year after his death, and, if not so made, the right to compensation is forever barred." Now, see what I'm getting at, Mr. Legal Adviser. There is no provision in there for a claim to be made, and by whom it can be made.

Mr. Legal Adviser: Mr. Chairman, I know it's odd to say so, but a person who's dead is not under any particular disability. He's not there, and by operation of law the ownership of that land will be transferred to someone else. It may be in suspense until somebody takes out letters of administration, but it still has an owner and an identifiable owner, and the owner is the person who is dealing with the estate - the executor, the administrator, or whatever have you.

Mr. Chamberlist: But, Mr. Chairman, the identifiable owner might not be identified within that one year, so then there's a bar against the claim.

Mr. Legal Adviser: This is so. If the owner doesn't identify himself, well there's nothing we can do because we cannot hold claims alive in vacuo. This is applied where land is injuriously affected, where you are building a bridge and you've got to go through somebody's land for the purpose of bringing in the construction materials. It's not when you are acquiring the land; it's when you are injuring the land.

Mr. Chamberlist: Well, I'm not questioning that. What I'm concerned with right now is that there is no provision and this provision should be spelled out. I'm submitting that it should be spelled out that where the owner of the land which is injuriously affected is an infant, an insane person or a person incapable of managing his affairs, his claim may be made on behalf of him by his administrator. This should be spelled out in there because it is not in there now. I mean the language should be clear and it's not clear to me at least who can make the claim, and the fact that it is barred after a year - are you suggesting that because there may be some beneficiaries who may not be contacted for a year or more; they might be in South Africa or Australia or something - do you mean the estate loses this? They are forever barred? Well, what difference does it make? What difference does it make if there hasn't been a claim made for five years afterwards? Because the claim can be settled at any time, but no person should be deprived from the right of making a claim if a claim is properly due. There may be - in the case, for instance - I know this has happened - in the case of a person perhaps who is in a mental institution that has a child who has been adopted out to somebody else. The child has been adopted at the age of ten. This child may not know anything

about it for a number of years later. That child is being removed BILL NO. 20 from the right of a claim for this particular thing?

Mr. Legal Adviser: Mr. Chairman, I didn't see the point the Honourable Member was trying to make. With an insane person or an infant or a person who is incapable of managing his affairs, his claim continues forever. It's never barred until a year after the disability ceases, so the child who is not capable of managing his own affairs and was boarded out - if he was ten years of age at that time, his claim survives until he is twenty-two years old. An insane person never loses his person as long as he is alive.

Mr. Chamberlist: Well, if the insane person dies and he has children, he has lost his claim after a year. Now, that means then that his children who would benefit by the compensation that he can get for this land also lose the right. In other words, the rights of the children have been removed because the insane person has died in a mental institution.

Mr. Legal Adviser: Children have no rights at that point in time, Mr. Chairman. A person who is insane dies at the age of fifty and has children. His estate is looked after by somebody - there is somebody who owns it. That person will lose it after a year, but if it immediately devolved by operation of law on the children - they're under a disability - they can keep that claim alive for another twenty-one years if they were just born in the year of his death. It's mainly a question of trying to hold the evidence. These are, as a rule, very minor claims, but the engineers in constructing a road took a short cut. They made a detour into a man's land, and five years later somebody says, Oh, they knocked down a cabbage patch or a tree in my garden and so forth. They're all minor claims of a minor nature, all temporary. None of these are permanent injuries in that sense. They're not taking the land from the person. They're merely taking a short cut. They may take gravel off his land to throw on the highway; odd little things like this.

Mr. Chamberlist: Mr. Chairman, what.....

Mr. Chairman: Order, please. Just one moment. I wonder if I might ask a question of Mr. Legal Adviser. Is this not resolved in subsection (d) of section 2? Possibly it might clarify the matter. That is by the definition of "owner".

Mr. Legal Adviser: In that sense it does, Mr. Chairman. It says that a person is entitled to a limited estate or interest in land, the Public Administrator or the trustees of the estate of an insane person or of a person incapable of managing his affairs.

Mr. Chamberlist: Mr. Chairman, I've read this section - I've read this ordinance and I've got these things in my mind. In this particular instance there is a debarring of compensation after one year if a claim to error is not made. Now, because somebody has erred in not making a claim for property that they own, they are deprived of the right of compensation after one year. Now, if the administration asks that legislation not be made stringent by way of firm appeals to courts, then I must ask that you don't make it so stringent as to deprive the public of their right to compensation even if they are late in making their claim. Now, why would the administration put this in that to remove from an individual or his assigns or his children or any beneficiary that he would perhaps wish to leave his property to the right to be compensated for land that has been expropriated? This is what I would like to know.

BILL NO. 20 Mr. Legal Adviser: Mr. Chairman, it's not removing a claim for expropriated land. It's removing a claim for damages for temporary disturbance on land. It's injurious affection. It might be even making too much noise with your trucks keeping people awake at night, and the claim is kept alive in all cases for one year after the claim becomes known to the owner of the land - whoever that is. If he's under a disability, if he's a child or if he is insane, it's kept alive for the whole period of the disability, which might be twenty-one years, it might be forty years, plus one more year. So, this is really a generous limitation.

Mr. Chamberlist: Well, Mr. Chairman, do I understand from Mr. Legal Adviser then that notwithstanding this section in there, if a person becomes deceased that compensation for expropriation of land is not limited to one year, but that at any time afterwards that the expropriation authority must pay for the land that has been expropriated, whether it's one year, five years or ten years? Now, Mr. Legal Adviser appears not to have the picture. I feel sure that the picture is there quite clearly. What I want to know is this - and I want to be assured of - that if a person is deceased - let us say during the time that expropriation procedures are taking place - the person becomes deceased - is compensation forever barred for the payment for that land that is being expropriated after one year if the other party, whose land is being expropriated, hasn't made a claim for that amount of money which has already been set by the expropriation authority? I want to know if this is a continuous thing or not.

Mr. Legal Adviser: As far as actual expropriation is concerned, the right to get that money never dies. In fact, it never ever dies because the person can always come in and show that they are the owner and get it. It can go through three generations.

Mr. Chairman: Are we clear?

All: Clear.

Mr. Chairman: (Reads section 12 of Bill No. 20.)

Mr. McKinnon: Mr. Chairman, I have the same objection to section 12(1) as I had to section 7(1), the words "but failure to serve the offer does not invalidate the expropriation." Mr. Chairman, Mr. Legal Adviser gets up time and time again and says this isn't what it means. Well, I say, write into the law what it does mean.

Mr. Legal Adviser: It's an attempt to do this. This is imposing on the Commissioner a duty to make a calculation as to what the land is worth, and then make the offer. Now, this particular section is, so far as the expropriating authority is concerned, is the harshest section in any legislation in Canada. There's no other province, and the federal government does not, have a section which forces an offer of this nature to be made of the whole of the amount of the compensation which is due, and you take it by cheque and you offer it. Everywhere else they say offer half, and it's pay now and the balance come later in order to hold the person from whom you're taking the land in suspense, so that you've still got him at the end of a line and you can still argue the amount of the compensation. This is an extremely harsh section, but not on the person who is receiving the money. It's a harsh section on the Commissioner, and failure to actually make up the thing should not invalidate the whole of the expropriation because the cheque isn't ready through some mistake



at the treasurer's office.

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Mr. Chamberlist: Mr. Chairman,.....

Mr. Chairman: Well, at this time.....Order, please. I think at this time, it being 12:00 o'clock, we'll stand Committee in recess until 2:00 o'clock and continue at that time.

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Mr. Chairman: At this time I will call Committee back to order. Have you anything further on Section 12? Is it your wish that I proceed with Section 13? (Reads Section 13). Are you clear? BILL NO. 20.

Mr. Shaw: Mr. Chairman, if the parties are agreeable do they have to have it determined by arbitration?

Mr. Legal Adviser: No, no, when they agree to the arbitration, Mr. Chairman.

Mr. Chairman: (Reads Section 14).

Mr. Legal Adviser: This negotiation type of procedure is common in various provinces. It's an informal negotiation and the main object is to bring the parties together and I can remember appearing for a person whose land was being expropriated and the Minister, in Alberta, the Minister had the power to appoint a negotiating Board. So we got a letter saying the negotiating Board which would consist of a single officer of one of the Departments shall meet at such and such a place to pick the actual site where the dispute was and then they stood right on the section that is being taken for the road and he hammered out a deal then and there between the office of the Department who was responsible for the compensation and the farmer whose land was being taken. The whole thing was quite informal and works out in practice apparently extremely satisfactory.

Mr. Chairman: Councillor Chamberlist, will you take the Chair for a moment.

Mr. Chamberlist: Yes, Mr. Chairman.

Mr. Taylor: Mr. Chairman, I am a little troubled with one area here. Again we are getting back to this Boards business and the fact that the Commissioner appoints this particular Board and I am wondering what prevents a situation whereby the Territorial administration wish to procure by expropriation property for Territorial projects and the Commissioner appoints a Board consisting of members of the Territorial administration to sit on the Board doesn't really sound fair. I am wondering if it could be written in here to ensure that the people who are appointed to the Board are as impartial as possible.

Mr. Legal Adviser: Yes, to appoint a Board for each dispute. This isn't a permanent sitting Board with offices and secretaries and everything else. This is some person and he would normally be some official either of that Department, the Department that is taking it over or some other Department, or an engineer or somebody who can walk out and know what the facts and dispute are, have an idea what the Department wants, have an idea of the value of it or he may be a local valuer or two local valuers to go out to negotiate but they come to no decisions whatsoever. All they do is in practice in many cases they view the spot and then they all adjourn for coffee and sit around the table and they discuss whether the offer is reasonable or not. It is not intended to be a formal court hearing at all.

Mr. Chamberlist: Mr. Chairman, the point taken up by Mr.

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Mr. Chamberlist continues

Chairman with reference to Boards is something I must echo again. It seems to me that every time a piece of legislation comes forward and you will note that almost every piece of legislation that we have dealt with this Session so far deals with a Board. To me it shows a weakness; a weakness which would not be if the legislative bodies who are administering the affairs and acting as proper executives. In this instance it shows me at least that the administration is incapable of being able to make decisions so the buck is being passed to a Board and this is happening continuously. Now the time is coming around pretty soon when the elected representatives will make the decisions. It shows completely that there is no necessity for the type of administration we have now because they are not administering in any event. A Board of two people, where one of them is the Chairman, and they disagree with each other; what is the situation? What happens? What is the decision?

Mr. Legal Adviser: This isn't a Board which makes any decisions at all. This Board is to consist of one person or two people who go out and stand at a street corner where the dispute is and is merely a method of getting the person claiming, we will say \$45,000.00 and for a house which the Government says is worth \$20,000.00, to go and stand in front of the house and say, "Is that the house you are losing for \$45,000.00 and they stand there and it just brings people to their senses when they are actually faced with the piece of property and the claim. His lawyers have a tendency to claim \$100,000.00 for a house worth \$20,000.00. It is merely a matter of the intervening party when two people are selling a car to bring the parties together to try and get them to do something; but they make no recommendation of any description. They just do nothing except physically get the people there.

Mr. Chamberlist: Mr. Chairman, this may be so but that is only part of this Board. 14(4) is read. Before or during negotiation proceedings. So therefore there are negotiation proceedings. Part of those proceedings are there.....in front of the house.... But that is only part of it but the Board is set up for other purposes as well. This Section doesn't define the duties of the Board as outlined by Mr. Legal Adviser. It goes far beyond that. They are there to negotiate and to make a decision but it doesn't make a decision and supposing they are unable to make a decision and they have to go before a judge in accordance with the Arbitration Ordinance. Why can't that be done right away instead of having another Board constituted? Why can't it be arbitrated before a judge in a manner that the Arbitration Ordinance sets out.

Mr. Legal Adviser: There is no reason why it can't be arbitrated first but the bulk of provinces have inserted these sections, or a similar section in all their Ordinances because they found that it works. Out of every hundred cases where there is a dispute involved and a man is claiming \$30,000.00 and the government is offering \$20,000.00; after bringing in the sections where you bring the parts together and walk down the field and look at the tree that has been knocked by the truck, 90% of the cases are settled there and then over handshake over a cup of coffee and the parties go home satisfied and there is no cost or proceedings. Very often there is no lawyer. It is an attempt to bring common sense into what could be a difficult legal situation afterwards, to try and get the case settled in a friendly fashion with, and all the ..... public witness that they have come to an agreement and then they go away and the negotiators do nothing else but the parties then exchange letters saying this is the

Mr. Legal Adviser continues.. settlement. That is all they can do; it is a poor man's law.

Mr. Chairman: (Reads Section 15).

Mr. Chamberlist: Question.

Mr. Chairman: Councillor Chamberlist.

Mr. Chamberlist: Reference is made to the Court of Appeal. Well the interpretation section of this Ordinance, there is no reference to a Court of Appeal. Who are the Court of Appeal.

Mr. Legal Adviser: Normal Court of Appeal. The Court of Appeal for the Yukon Territory which is.....

Mr. Chairman: (Reads Section 16, 17).

Mr. Chamberlist: But isn't this a penalty being imposed because...

Mr. Legal Adviser: There is no question that it is a penalty and it is intended to be a slight penalty. Where the amount of a piece of land and can't be very much, is only a thousand dollars. It's to prevent, by a small penalty, the endless succession of court cases over trivial sums.

Mr. Chamberlist: We can't go for that; on admission that you are going to penalize a poor guy who has only a thousand dollars worth of property just because he wants to get a proper hearing. This is harsh. It is harsh against this poor man and it is just not right and we are here to protect this poor man.

Mr. Legal Adviser: It is not intended to be against the small man; it is intended to be against a small piece of property that is worth only a thousand dollars and if the man with a thousand dollars worth of property in Whitehorse wouldn't cover a pocket handkerchief. If he is going to get true values from here to bolster up his case about the dispute as to whether it should be \$600.00 or \$650.00 he gets and he gets a valuer from Vancouver and he gets another one from Yellowknife and he gets a big song and a dance about it; well it depends on how far you go. Do you spend several thousand dollars on a piece of property where the dispute is only \$50.00.

Mr. Chamberlist: We are dealing with justice by value of dollars and I can't go for that because as far as I am concerned the value of justice must apply to everybody irrelevant of the amount of dollars. I'm not concerned whether the man is entitled to get \$50.00 difference in his price or not but he should have the right to go before a tribunal without having to be penalized by having to pay 75% of the value of his land just because he happens to be a poor man, towards the cost. This is improper, totally improper.

Mr. Legal Adviser: It's not 35% of the value of his land; it's what he loses is 35% of the cost of hiring expert appraisers to value an item when the item is worth only \$1,000.00; it's not the land. He gets his full compensation. he gets all his own costs of attendance of witnesses and everything else. But if he feels like bringing in fancy

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appraiser to evaluate a piece of land then he is not going to get the full cost of that. In other words, supposing the valuer's fee is \$100.00. He would only get \$65.00 to pay for the value. And the valuer will know this in advance and hopefully will only charge \$65.00.

Mr. Chamberlist: Mr. Chairman, if the man has proved in front of a tribunal that he is correct in what he has done why should he be penalized; if it is proven that he is incorrect then I can see him footing part of the costs but to win and then pay, I don't see that at all.

Mr. Legal Adviser: In certain circumstances he may lose and still collect the costs, if he behaves reasonably in the Court - the Court is not necessarily going to give costs against him.

Mr. Chairman: (Reads 18 (1) and (2)).

Mr. Chairman: Mr. Chairman, with respect, it appears to me that this legislation does not help the individual. Legislation is supposed to be put in to help the public. This is simply a piece of legislation and I can see it more and more as it goes along where the Administration is being given all the powers over the people and deprives the people of their rights. I will not support this legislation as it is written, as far as I'm concerned. I don't care if I have to talk a mile a minute, I am going to prepare myself for it. This is a bad piece of legislation and I am not going to support bad legislation. Right from the very beginning of this it is shown continuously that this legislation is here simply to give power to the Administration here and not to give any consideration whatever to the people in this Territory. No go!

Mr. Legal Adviser: Mr. Chairman, this is a normal provision in every type of legislation. If there is a valuation to be made or other thing to be done the owner of the piece of property can block it by simply refusing the valuer access to the piece of property or making it difficult for him and doing a hundred and one different things to cause delay and if delay is caused by his fault then it is not unreasonable that he should lose interest during this period. He is getting his full compensation. He is getting instant bank rate and this section has actually been changed from the normal provincial section. The normal provincial section provides interest at 4% in some cases and 5% in other cases. But in view of the high cost of money and the use to which money could be put by the person who is losing his land we have inserted "bank rate" which makes it more expensive still. But it seems unreasonable that if he deliberately blocks the case going forward that he should be able to continue to collect interest at 7 or 8% from the government on the money when he himself is preventing the completion of the case or the valuation of the case or the Court going into look at it, or the witness is going in. There must be some way that the government can save money if it is put back for three years by this man's action. Should he be allowed to get 7% for three years when he will refuse to allow a valuer in the door.

Mr. Chairman: Clear? (Reads sub-section 3, Section 18, 19 (1)).

Mr. Legal Adviser: When land has been mortgaged, it is given in security and the bank may have an interest and therefore

Mr. Legal Adviser continues...

whatever rights the person who has leant the money has in relation to the land, he would now have in relation to the money. You can't just destroy the security and pay the cash into the man's hand. A man might borrow \$20,000.00 to build a house, the bank of course registers a mortgage against the title. When the government take it over he may have paid off \$3,000.00 of the mortgage. Then he gets the \$3,000.00 but the bank get \$17,000.00. It is really their money; they have leant it.

Mr. Chairman: (Reads Sec. 19(2)).

Mr. Legal Adviser: Mr. Chairman, there is a word omitted, the fourth word of that sub-section, should be "where the owner is entitled to convey the land".

Mr. Chairman: Are you clear? (Reads Section 20).

Mr. Chamberlist: See how this is contradictory of the Section that was raised before by the Honourable Member from Whitehorse North. In 7(1) (Reads 7(1)). Now, in this particular Section here if the expropriating authority fails to notify, if the person then cannot get due notice, what happens in this case here appears to me as if the expropriation authority can go before the judge and say the owner is unknown; without giving notice and can just proceed. Is that the idea? Ridiculous!

Mr. Legal Adviser: This is pretty much what is in here. You give due notice to the persons interested if you know them, of course. If you don't you just carry on. Now what happens in practice is that this is normal form with every type of legislation and every type of action that you are.... the judge. Now you are dealing with a case at this point. You are dealing with arbitration or possibly dealing with the appeal. You go into Court and you say that there is somebody interested, some missing owner from land or maybe society; maybe a company that has not been properly registered or going off the books. There is some outside interest and it is only fair because they are an adverse interest. They would be against you. It is only fair that they be represented. So the judge will, depending on the problem, appoint either the Public Administrator, the Public Trustee, the Public Referee or some such disinterested official who will instruct a solicitor to represent the interests of this missing person and other sections provide that where it is found that this person is entitled to money the money is paid into Court to await the person turning up or finding out who it is or administration being taken out and then he **just** proves who he is and is entitled to this money and he takes it out. This is a novel form that is done every day of the week, particularly in will cases where there are unknown parties or there are unborn classes who need to be represented. In a will you can start tidying up your affairs for two generations ahead as the Honourable Member is familiar from dealing with the rule in Shelley's Case. And you need to represent these unknown people. So this is a very, very necessary section. Otherwise the public is being defrauded in a sense because you are taking money off people and nobody knows what is happening.

Mr. McKinnon: Mr. Chairman, all of a sudden we are all fired up for the rights of the individual. In Section 7(1) and 12(1) we stepped right over them and abridged their normal rights

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Mr. McKinnon continues...

under due process of law. Then we decided after tramping all over them all through the Ordinance, well by gee, maybe we were a little hard on them and now we are going to give them all kinds of benefit of the protection of the law. It seems completely contradictory - one or the other - you are going to be tough through the whole Ordinance or you are going to protect the rights of the individual through the whole Ordinance. I'm for protecting the rights of the individual through the whole Ordinance by giving him due process and due notice all the way through and not making it in a harsh legal language which we have done previously in the Ordinance.

Mr. Legal Adviser: It isn't a question of harsh legal language. All that is provided by the Section to which the Honourable Member refers is that a .....not served in time does not invalidate all the procedures. Speaking from experience, what happened in these cases, you start off your case some time in January or February and everybody knows the land is being expropriated. The engineer has been down to see you and you are negotiating away and you don't accept what they offer. You refuse the negotiating procedures. You start going to arbitration and the arbitration ..... a court case. So things aren't looking brilliant as a court case and you suddenly dig through the Ordinance and you find- gee there was supposed to be a notice, it is right there back in 1961 - hasn't been served. So you then drop a hinted copy to engineers and lawyers on the other side and say you forgot to serve the originating notice; all your proceedings are bad. And then they get worried. Then they up the anti by about \$2,000.00 and you pull out and you are \$2,000.00 up for actually searching through the files for the notice and the client doesn't know anything about it and cares less but you increase his compensation by \$2,000.00 or maybe \$10,000.00 because you are frightened to .....put back for another three years maybe. It is only a means of negotiating a settlement and this section is intended that tiny technical things shall not invalidate the smooth flow of justice and compensation to normal people.

Mr. Chamberlist: This, Mr. Chairman, is the biggest joke of the lot when Mr. Legal Adviser refers to the flow of justice. The whole of the Ordinance is simply injustice after injustice against the individual. There is no justice for the individual at all. This is justice for the administration and the administration look at it - justice is what we get when it is going to be in our favour. And this is what they are doing. They've got everything in their favour. This Section 20 here is another peculiarity in its own. If the Commissioner as the expropriating authority neglects to give notice for some reason or other and makes a representation to a judge; a judge may, after due notice to the persons interested, and if they haven't done this you see, he doesn't have to do it; he doesn't have to give notice, according to the early one, appoint a person to represent such owner. Now the person, the owner, he hasn't been notified and he has to accept, because of the neglect of the Commissioner, he has to accept the appointment of whoever the judge appoints to look after his business. This is the way this is written. He has no say in his own affairs, because of the neglect of the Commissioner, he cannot conduct his own affairs and he has to be - well Mr. Legal Adviser is shaking his head but it reads quite clearly to me that a judge may, after due notice to the persons interested, appoint a person to represent such owner for any of the purposes of this Ordinance and any action of a person so appointed is binding on the person he represents. So that if a judge appoints a person for me and I don't know the person, I

Mr. Chamberlist continues...  
don't know anything about it because the Commissioner hasn't notified me of the expropriation and I have to be satisfied with a person that the judge appoints to look after my business. I'm the person who is being aggrieved and I have to go along because the expropriation authorities failed to notify me and you call this justice. This is a ...form of injustice that any individual could have come across.

Mr. Legal Adviser: It's not only justice, Mr. Chairman, it's equity. It only applies in the case where the owner of land is unknown or is under a disability; that means where he's a minor, the judge may - if a boy of fifteen is being negotiated with we cannot as a government get him to sign a receipt and treat him fairly. We've got to go to court and say-he won't go to a lawyer; get somebody to represent him.

Mr. Chamberlist: What about the man of twenty-one? Never mind the boy of fifteen.

Mr. Legal Adviser: A man of twenty-one - the man of twenty-one doesn't come under this section because he is not under a disability.

Mr. Chamberlist: But if he is unknown.

Mr. Legal Adviser: Well, if he is unknown he comes under this Section and if he is unknown he won't be as worried as you think, maybe because when he comes back from wherever he is, in the Carribean on a cruise.....

Mr. Chairman: Order, one at a time. Councillor Shaw.

Mr. Shaw: Mr. Chairman, we are going back to this Section 3. A couple of hours ago I did make a suggestion that in this Section there be something put in to the effect that after the Commissioner had made every reasonable effort to contact this person, I think that if that were resolved in this particular section that the balance would flow a lot smoother than it is at the present time. It seems that the points being raised on just about every section will all pretty well go back to this original section; in other words Section 3 has to be resolved before the balance can be attended to.

Mr. Livesey: Mr. Chairman.

Mr. Chairman: Councillor Livesey.

Mr. Livesey: Mr. Chairman, I always thought that this country was a place where a man's home was his castle and apparently, and I have been here long enough and have been a Council Member long enough and have listened to the legislation that has been presented to us where administrative type legislation, where those who create legislation are not responsible to the people; so cannot be hired by the people nor fired by the people, have brought legislation to this Chamber where they want to give the power to Peace Officers for instance to break locks without warrants and so forth and these sort of things to the average citizen, are very distasteful and this is precisely what has been argued here this afternoon is the distastefulness of this legislation where we are talking about justice. Actually what we are talking about is the forceful removal of a man's personal property. This is what we are talking about on this. I can't think of anything which is a



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Mr. Livesey continues...  
greater abomination than the expropriation without consent of the individual. This is bad. No matter which way you go around it; it's a tough piece of legislation to get across to people that are fair-minded and just in their thinking. The whole of it is a very sad looking piece of legislation no matter which way you look at it; no matter what page you look on. I would suggest, Mr. Chairman, that if those who are intently interested in getting this legislation passed this Council in Committee, that they look at it once again and see if they can round out a few of the corners and still be able to feel that they have a piece of legislation which is worthwhile and is operational. But it is a distasteful thing; no question about it. It is almost like taking a man to the electric chair and saying we are scared to push the button, now you push it and if you can't push it why we will create legislation to make you push it. That is just about the size of it and to try to say that it is justice or has any relation to justice where you do things behind a man's back by law is a very, very bad situation in Canada. I have neither heart nor mind for it.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Mr. Chairman, they have a tremendous expropriation law at the present time that comes around every March thirty-first and they expropriate a great deal of money from you at that time. It is relative, of course, how much they take, depending on how much you've got. The more you have the more they take. Expropriation laws are always extremely difficult for persons to agree to but sometimes these things are necessary in order that a country may progress in certain directions. It could be a railroad going through a certain piece of property; the only place it could go through and you can hardly build sky hooks to take trains over that particular section. It could be a multitude of things; I don't think that it will be something that will be utilized every month of the year. At the same time, though it be necessary, I also agree that a person should be protected that someone doesn't come along and take away their rightful property. We do agree that a man's home is his castle in this country, but at the same time the government is set up for the common good of all the people, not necessarily individuals and when one person is holding up the progress of maybe thousands of people, there should be some way of ameliorating the problem in a fair and just manner. These persons, the Administration, is charged certainly, and I feel it only rightly so that they should make every effort to contact, communicate with the person concerned or the heirs or assigns and that that should be written into this particular Ordinance. I also agree that if the person feels that they have been unjustly treated, there should be a tribunal set up as is here now for the adjudication of the problem. I really can't see what more can be done if ...litigation is pointed out. I myself, at the beginning of this discussion felt that it should be, something available to take to court. However, we do know the manner in which things can be prolonged; sometimes three, four or five years, perhaps longer, depends on how determined the person is, how knowledgeable they are in these particular matters and that could create tremendous delay. I think what we have to decide is actually whether we are prepared to accept an appropriation law ordinance and if we do, naturally it is going to be harsh in some respects but at the same time it can be fair. We cannot ever invoke statutes such as this and feel that everybody is going to be happy; that's impossible.

Mr. Shaw continues...

I think that the utmost protection should be given within a reasonable manner but it also appears to me that it is necessary to have something like that.

Mr. Chairman: (Reads Section 21, 22, 23).

Mr. Chamberlist: Question.

Mr. Chairman: Councillor Chamberlist.

Mr. Chamberlist: Mr. Chairman, perhaps Mr. Legal Adviser would say in this particular instance where the expropriating authority has not given notice to the owner, when can he take possession.

Mr. Legal Adviser: In the case of a registered owner, there is an address for service on the land registered documents. This particular case only applies where land that has been expropriated is vested in an expropriating authority. This is a particular case, it is not the general norm at all. It only applies when the expropriating authority now owns the land; in other words the legal procedures have been gone through, the authority owns it, then as owner they are entitled to deal with the property as they like but if the former owner is still there, out of courtesy you should give him notice that you are moving in. At this stage you.... it may be all heart but when a man has been paid his money and has been paid bank rate interest at 6 or 7% and the expropriating authority may have left him there for two years and they now want to build their road, surely it is not unreasonable for them to say we want our land. He on the other hand may be a farmer and may have crops in and he may say, oh, I don't want you to start in August, I prefer you went back to September because then I'll lose a year's work. He can then go to court and ask them to have the date postponed ....the expropriating authority won't agree. He could walk into court and say to the judge I've got 1500 acres of corn or something and put them back to September so that I can get my crops cut. Or remove my - or get in the mover, or whatever things he wants to do. This is not intended to be a harsh section in that way. It is not unreasonable for the authority to get the land it owned and paid for.

Mr. Chairman: (Reads Section 24 (1),(2),(3),(4)).

Mr. Chamberlist: Mr. Chairman, I wonder if Mr. Legal Adviser would just point out somewhere where the individual is protected by this Ordinance in land, anywhere in the Ordinance itself where the individual is protected.

Mr. Legal Adviser: Mr. Chairman, this is the most generous compensation procedure Ordinance in either Canada or the United States or Great Britain, Australia or New Zealand. And if that is not being fair to the individual, I don't know what is. This is a set of procedures here which adds into the normal procedures a procedure whereby a negotiating Board is set up. It is becoming common in the provinces but hasn't reached all the provinces yet. Any person who objects to the amount paid must be tendered in advance the full amount of the compensation money and this Bill is the only Bill to my knowledge in the whole of English speaking countries where this provision exists. All the others specify 50%, 75%. The McRuer Report I think recommended 90%. We have said, what's the difference between 90% and 100%, put in 100%.

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Mr. Legal Adviser continues...  
 Where the Expropriating authority serves a notice and wants the land, has got to pay for it in advance, in full and then procedures exist for the protection of people who are unknown or difficult to ascertain. In this particular Section which the Honourable Member is referring to where resistance is made normal law is that a landlord, an owner, can use reasonable force to put somebody off his land. That is the normal common law. Under this section they have got to go to a judge, give notice on the other party. Now the other party may not be the owner, it might be a squatter and that person, brought into court by a summons to explain why he wants to stay on the land. Now cases happen from time to time that the owner may sell but he may have some relation that doesn't want to go; his wife may not want to go. If she can satisfy the Court that she should be left there, she'd be left there. This is a matter for the judge and this is giving extra protection that would not normally exist on any normal sale between two private parties of land. And not only does he get that protection but the Sheriff or some person must prove that there is definite opposition to the taking over of the land. And only after that, which in fact may consist of two court cases, can the judge issue a warrant to the Sheriff to put the person out and put the expropriating authority on it. Now this is really leaning over backwards over the normal procedures of law which are available to a normal private person to enforce his rights and this is a very great protection for the individual.

Mr. Chamberlist: Mr. Chairman, I would like Mr. Legal Adviser to say where, in which piece of legislation can the individual oppose the expropriation of his land? He is not interested in money. He just doesn't want his house removed; he just doesn't want his land removed. Where in this Ordinance has he the right to object to his land being taken; this is what I want to know.

Mr. Legal Adviser: The Honourable Member didn't put that objection clearly. There is nowhere in this Ordinance - is there a method of him to object to the actual taking over. He can object to the price, he can object to the method of doing it but he cannot object to the actual taking over. That is a decision which is taken outside his hands; it is not any dissimilar from a discussion in the Municipal Ordinance if we give them power to expropriate for a drain or for a sewer or for a road. The individual can contest the fact of the compensation but once the Council has decided, they have decided. Now the Honourable Member well knows that expropriation is a last resort; an offer is made, if he will not sell then this procedure comes in. This is the community saying you must sell.

Mr. Chamberlist: Surely, Mr. Chairman, Mr. Legal Adviser must agree that every individual has a right to appear before his peers and say "this is the reason why you should not expropriate my land". I think it is a right which we should uphold, the right for him to say "you should not expropriate my land because, and here is the reason". But the way this legislation is written out this right of natural justice is deprived of, is taken away from him; he can't go before anybody. He is told "your land is going to be expropriated and that is it. All he wants to say is "look I know you may need the land but here is the reason why you should not, in this particular case, take my piece of land and I want to tell you about it". But he is not allowed to

Mr. Chamberlist continues...  
tell anybody about it. Now what type of legislation is that that takes away from the people that right?

Mr. Legal Adviser: This is a different question. This is a question of allowing a person to protest against taking his house and being able to say to expropriating authority, don't take my house, take Joe Blow's house or take somebody else's house; or if there is a power line traversing a valley and crossing a farm, he says, don't have an overhead power line; it is too beautiful a place for an overhead power line, put it underground. Now this particular type of procedure does not exist in this Bill. This Bill is concerned not with the rights and wrongs of the taking; it is concerned with the, with what happens to the individual when his land is taken, and his right to get compensated for that loss to him. It does not attempt to set up a forum where he can make his grievance known in public. It is not making that attempt.

Mr. Chamberlist: Mr. Chairman, I wish to continue on this particular line. I am not concerned with the need that may well be for an expropriating authority to take a certain piece of land; I am not arguing this point. I am saying that the person whose land is to be expropriated should have the right to go before this expropriating authority and say why must you take this; here is an alternative. I know why you want it. Why can't you go 150 feet over which would miss the piece of land with my house on. He can't go before this authority at all. He is deprived of that right of going before the authority and saying anything. Now this is where I think it is wrong. Mr. Joe Public must be protected. This is our function here and the Administration is not recognizing the function of this Territorial Council; that is to protect the public's interests; not only the overall public's interest but the individual person as well. Now the overall public interest is being protected by having an expropriating piece of legislation but it is one sided if we give it to everybody and not the individual Joe who may be hurt by it. Now, I want to see in this legislation a reasonable opportunity for a person who is having his land expropriated to go before the authority and say, why should you do this when you can do it another way. Will you consider my suggestion. Don't deprive the man of doing that. This is all I am asking for

Mr. Legal Adviser: I agree that the vigour of the Honourable Member's defending the rights of the individual has merit and deserves consideration but it is difficult to insert something like this into the Bill as it is. There is a Bill before the House; I'm not sure how well it is doing, entitled The Public Inquiries Ordinance. Now I would be prepared, without guaranteeing the Commissioner will accept my recommendation; I will be prepared to recommend that a section be inserted into this Bill that on a party having their land expropriated, making a claim in that matter, that the Commissioner shall set up a public inquiry to inquire into the matter and to make a report to him. Now this would then give the individual or group of individuals the right to make their case in public to get the benefit of the publicity of the newspapers and the television and what have you. This brings their case right out in the open. I'm not saying that the Commissioner would accept it but it would be a suitable method of dealing with it because very often outside interests are concerned as well as the individual whose own land is being taken. And if that were so then possibly the Honourable Member

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Mr. Legal Adviser continues...  
could get together with me and we could draft an amendment to refer back to it but I would not like to insert it until I know that the Public Inquiries Bill is sort of sailing in smoother water than I think it is sailing at the moment.

Mr. Chamberlist: Well, Mr. Chairman, I would like to put it this way, using Mr. Legal Adviser's own words. I will ask for time to consider that.

Mr. Chairman: Councillor Shaw .

Mr. Shaw: Well, Mr. Chairman, I don't know whether everyone is aware of this situation, but we have in a sense an expropriating authority by private individuals in the Yukon, namely in the Mining Act. If I have a mining claim a company can come along and can stake over my placer claim. They in turn have the right to stake a mineral claim. They have the right, by paying me compensation, to do whatever they want in respect to exploring, developing or whatnot, their particular mining claim. They have that right; that is given to a private person or a corporation. Now if I am placer mining on a particular claim and they decide that this is where they have to have their big development, they can say that we will compensate you for the damage we are doing. If I should put up a complaint then under the authority the mining regulations the Commissioner will cause a Board of Inquiry to be set up composed of a miner and a local land recorder and two or three people to give a judgment on the amount of damage or whether it was damaged or in fact what it was, and of course the person that stakes on top of one claim, it can be either one or the other, they will have to put up a minimum bond in the first instances for any damage they may do to that property. Now there is a difference that this land is leased and is not fee simple. Now the same type of conditions exist except a private person has the right to go over somebody else and do what they want to do within certain limitations and pay compensation for that. I've never heard of any complaints in respect to that form of adjudication but nonetheless I know that has been the law of Canada because we are under the Canadian Mining Laws, not the Yukon Territorial Mining Laws that have been in existence for 32 years possibly and quite likely for 70 years, and yet I think that we are quite proud to boast that our Placer Mining Laws, which were recommended by the pioneers, in fact the Yukon Order of Pioneers years and years ago when it first started are an example for the whole of the continent. In fact I don't think they've hardly changed in the seventy year period. They were recommended by these people who knew what they were talking about and that is the way it is. In other words a person could not stop progress but at the same time they would be reasonably compensated for this. That is the law as it stands, Mr. Chairman.

Mr. Chairman: I wonder if I could read the last paragraph of this Bill? (Reads Section 25).

Mr. Chamberlist: Mr. Chairman, there is one item not clear. If after the expropriating authority has paid compensation to the owner, I take it the land then belongs to the expropriating authority. Well, does this mean that if the expropriating authority ...afterward because once it has got it then surely it is not abandoned.

Mr. Legal Adviser: Now this is provided in the case where an expropriating authority decided it was going to take a certain block of land and then changes its mind. Now the mere fact of the service of notice means that the owner may have pursued a certain course of action which .....to himself. He may have tried to sell his cattle if he was a farmer; he might sell his business if he was a business man. He might have taken trips to try and sell it and such like things and if the abandonment notice is served then he is compensated for all of the expense, whatever it was, that was caused to him by the notices being served.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Mr. Chairman, I do have a question. In this expropriation proceeding, would this only be limited to the area for the particular purpose intended; in other words if a person has a thousand acres farm, just because they wanted a roadway through they couldn't expropriate the whole farm. It would be just for the requirement.

Mr. Legal Adviser: I'm not sure about this. I think an expropriation authority would have the power to take over the whole farm and possibly sell it back to the owner. But conversely, the owner can in certain circumstances, force them to take more than they want, or as to pay them a high rate of compensation for not doing this. It happens in main truck roads in the prairie provinces that the main trunk road goes through; sometimes an access road and sometimes a non-access road. And the value of the land changes drastically after the road has gone through. In such circumstances the farmer has been compensated for loss of use, for having his farm split and a whole series of things the farmer gets compensated for. And farmers are very good for inventing methods of getting compensated for roads going through their farms. The value of each of the two pieces of land left sometimes increases, sometimes falls. In the Welland Canal when that was being dug the Ontario people took over whole farms and then sold them back but the reason they took over whole farms was the farmers said the farms are useless now - the drainage is being interfered with, the roads are being interfered with, so in justice to that they took over the farms at the request of the farmers. Now, they held it for a few years and then started to release the land and in fact they paid, they got in profit on the resale of the land quite an amount of money. But this was a question of the Board trying to do what was best for the public good and at the same time to satisfy the farmers.

Mr. Shaw: Would it not be equitable and fair, Mr. Chairman, to state that the persons, if there were any objections from the person who owned the property, that if he should object to taking over all of the land, that they should be only allowed to take over that which was necessary.

Mr. Legal Adviser: This is a normal practice with an expropriating authority. The usual wish of the person who is being expropriated is a request to the authority to take it all and expropriate me. Of course, in the list of things I mentioned to the Honourable Member, you should remember that there is an allowance made above the agreed price of something that is usually about 5% and we have not followed the recommendation of the McRuer Report in knocking that amount off so that in fact people who are selling their land

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Mr. Legal Adviser continues...  
to this expropriating authority will be getting a tilly, as you might say an island, a little bonus or something. I'm not sure how you express it; something extra above the real value of their land plus its loss.....

Mr. Chairman: Well, this brings us back to-Committee has suggested two amendments; one to Section 3 and one to Section 7 (1). I wonder if Mr. Legal Adviser could advise Committee as to how long the consideration of these amendments will take?

Mr. Legal Adviser: Well, the one in Section 3, Mr. Chairman, will have to be discussed as a basic policy decision involved in Section 3 and I'm not sure if the timing is completely in the hands of the Administration. I think the timing may be in the hands of the Council in some parts of that.

Mr. Shaw: Well, Mr. Chairman, could the Legal Adviser then proceed with this and come back at a later date when he has the answer to the subject matter.

Mr. Chairman: Yes, I believe the matter of Section 3 is a matter which the Legal Adviser could use some guidance on. I believe that Section 7(1) has.

Mr. McKinnon: Mr. Chairman, before we leave ~~Sub.sec 3~~ there are two areas, one area I want to see in some way, shape or form the Council written in to taking some responsibility for the onus of passage of this Bill on their shoulders. The second part in sub (1) is the presumption of the Legislative Council of the Yukon to make this legislation mandatory on a municipality and I would like the Legal Adviser's comments on that?

Mr. Legal Adviser: We are not making it mandatory on a municipality in Section 3 when it says the Commissioner may expropriate land for the public purposes of a municipality. Now this merely means that the Commissioner will exercise his powers, his administration at the request of a municipality. We are not forcing a municipality to take land. We are merely enabling us to accede to a request.

Mr. McKinnon: Well, in essence then, Mr. Chairman, we are just allowing ourselves to be open to be a scape goat for a municipality who don't want to do their own dirty work.

Mr. Legal Adviser: This could be; it is open to this interpretation. I don't think it is. I think if a municipality wants land it should be enabled in some convenient and easy method to get it, provided it goes through the proper channels. And I say this question can be discussed because it is just put in there as an enabling section and I don't think it is the heart and soul of the Bill in any way.

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

Mr. Taylor: In relation to sub-section (1), when we first dealt with it it was suggested that the Commissioner in Council may, without the consent of the owner; in other words the Council, by and with the advice and consent of the Council, the Commissioner would enter and begin expropriation proceedings. But if we consider in Section 7 (1) that the

Mr. Taylor continues...

Financial Advisory Committee could well carry out the function of that particular section, would we then not be advised to include in subsection (1) of Section 3 that the Commissioner by and with the consent of the Financial Advisory Committee of Council, would not not follow that would be in both cases? And would this not, at least for the Committee's sake, resolve our side of the argument?

Mr. Legal Adviser: I was under the impression, Mr. Chairman, that the suggestion by the Financial Advisory Committee was made during a discussion of a later section but it was referring back to subsection (1) of Section 3. This is what I thought.

Mr. McKinnon: Yes, Mr. Chairman, I'm going to stick on this point of the municipality under 16(c) of the Legislative powers of the Commissioner in Council where we are given the right to set up municipal institutions in the Territory and Mr. Chairman, I am firmly convinced that if we are going to take the responsibility of expropriation under, on our shoulders and some way, in the executive function of this Ordinance that is yet to be decided upon by the Administration and the Council, that it is only fair that the municipality be given their own head and also take the onus and responsibility for expropriating those lands within municipalities which they have to have for public usage and I don't think that this Council, when they accept the responsibility, and an unpopular responsibility of expropriating land because of a much needed public use of this land, we should also take the onus on our shoulders for doing the municipalities dirty work. And I am completely opposed to this type, when the Council moves in the field of the executive, that we should not take over more than we have to and we shouldn't be encroaching on the rights of the municipality. I said this in one way where it was in their favour the other day and this way would be to their detriment. I am going to stand firm in the same way. It still is encroaching on their rights and prerogatives and we'll leave the municipalities to themselves, Mr. Chairman.

Mr. Taylor: At this time I will resume the Chair and declare Committee in recess for fifteen minutes.

RECESS

RECESS



Tuesday, November 19, 1968  
3:00 o'clock p.m.

Mr. Chairman: At this time I will call Committee back to order and we're discussing at this point in time, Section 3, subsection 1. Please continue.

Mr. Shaw: Mr. Chairman, was not the Legal Adviser going to endeavour to rephrase this and bring it back?

Mr. Chairman: Well I believe the Legal Adviser was seeking advice as to what Committee wished to do with this section in order that he could rephrase it.

Mr. Legal Adviser: The Legal Adviser was giving no undertaking. He was just saying he would produce an amendment or attempt to produce an amendment. I wouldn't guarantee to be able to produce an amendment suitable to everybody but if, as one of the Honourable Members suggested were given some time on it, this might always be possible.

Mr. F mas : Mr. Chairman, I wonder if Committee can report progress on this Bill?

Mr. Chairman: Then you do not wish to give the Legal Adviser any direction on the drafting of an amendment?

Mr. Dumas: I think he has the direction Mr. Chairman. He has an idea of what we're after.

Mr. Chairman: Well you agree that I report progress on Bill No. 20?

All: Agreed.

Mr. Chairman. We'll now proceed to Bill No. 21, An Ordinance Respecting Notaries. (Reads Sections 1, 2 & 3 of Bill No. 21) (Starts to read section 4 of Bill No. 21)

BILL # 21

Mr. McKinnon: Mr. Chairman, can I ask the Legal Adviser the legal definition of "good character"?

Mr. Legal Adviser: I think it's impossible to find, Mr. Chairman, I think the only way to do it is to say, that persons of good character is not a bad character.

Mr. Chamberlist: Oh, ph, well Mr. Chairman, I think there has to be something different. I'm going to give you an instance here, which some of you may recall. Now, what is a person of good character? If, in the opinion of the Commissioner, a person is a good character then he's of good character. Now you get into an inquiry, because the Commissioner says this person is not a good character, so you say well the Commissioner say, why this person, why in his opinion this person isn't of good character. The lawyer will intervene and will say, you cannot search the Commissioner's mind. Now this is what I'm been told This is the same thing that applies because the question is whether the person is of good character. Now if you ask what a person is a good character, this is the only answer you will receive. You cannot search the persons mind and in this court you cannot search the court's mind. He isn't allowed to give an explanation. Why shouldn't he give an explanation? I want to know if somebody's accusing me of not being of good character, I want to tell me why.

Mr. Legal Adviser: Mr. Chairman, I don't think the analogy given by the Honourable Member is apt. This does not say the Court is of opinion, it says if the Court is satisfied that the applicant is of good character and if there is need for a notary public.

to be satisfied there must be some positive evidence, which means that the person himself in effect. I am of good character. It's a question of being satisfied, it's a public hearing. It means that if the objector has anything against the applicant he has to trot it out in public and be prepared to stand by it and produce evidence.

Mr. Chairman: (Reads Section 4 of Bill No. 21)

Mr. McKinnon: Question, Mr. Chairman, does this give the power to the court to limit the number of barrister and solicitors or the number of notaries in any one jurisdiction power to the court?

Mr. Legal Adviser: It isn't the intention in that manner. One presumes that the number of notaries would be a number in relations to the Territory as a whole and a notary when enrolled would be entitled to practice in any particular place but he's got to show two things to the court. One that he's a good character, too that there's a need for a notary, in the place where he's going to practice, to he must say where he's going to practice. He doesn't have to continue there but that's where he desires at that point of time to practice so the Court can keep a level of the number, in rough numbers, in each area and see that there's a sufficient number in the area but not too many. It's a matter for the court to decide not for the government.

Mr. Chairman: (Reads Section 5 of Bill No. 21) Clear? (Reads Section 6 of Bill No. 21) Clear?

Mr. Shaw: The Legal Adviser has just stated that this would apply to the Territory and here it appears to be allocated to a particular area, which would be correct?

Mr. Legal Adviser: Well, both are correct. The judge may define the area, he doesn't have to, in a normal case, we would expect that he would not but he may and if it does happen that the judge makes it a condition and defines it then of course it would be necessary to have that condition enrolled after the applicant's name.

Mr. Shaw: In all cases that I have seen, notary public seals, they have been in for the Province or the Territory or whatever it may be. It would be somewhat difficult if we saw a notary public for the town of Porter Creek or somewhere like that or Whitehorse.

Mr. Legal Adviser: There may from time to time be competing applicants. One would visualize this function would be performed by the judge, it's possible, at a given time each year, say the start of the winter or some such time at which case the court clerk would put a notice in the paper saying anyone who wishes to enroll or become a notary should send in their applications at such and such a time. Now there might be from say, Dawson City or Watson Lake, five applicants. The judge might select two or three. He might say, we've only got room for two, or only room for three, in which case he would have to refuse two of the applicants, but it might well be that some person who was living within five miles of Watson Lake, and might say well there's a special need in this place. The judge might in that case, say, to him alright provided you pass your exams we accept you but I'm going to limit you because you said you only want to practice in this particular area and I'm going to limit you to that area. It's to give a certain amount of freedom to the judge for dealing with people who say I only want to practice in Mayo, I only want to practice in...and so on. And if they want to get Territory wide jurisdiction, they might not have been appointed a notary in the first place.

Mr. Chamberlist: Mr. Chairman, the point that the Honourable Member from Dawson has taken is the right one, I think, because a Notary Public should be a Notary Public in and for the Yukon Territory. Now as you may well be aware, that in other pieces of legislation, we have a person in Ottawa can be a Notary Public in and for the Yukon Territory. We've had some legislation, I think the last time around, to give somebody in Ottawa, the right to be a Notary Public for the whole of the Territory and we're going to limit somebody in the Territory to a particular area? Is that the suggestion that's being made?

Mr. Legal Adviser: This may happen, I wouldn't anticipate it would be a normal form of limitation but it wouldn't affect the validity of what he's doing. In Section 10, it provides that no act done by a Notary shall be deemed ineffectual merely because he acts outside his area.

Mr. Chamberlist: I'm going to suggest, Mr. Chairman, that this particular portion come out. That is should read, " that the application as a Notary Public shall record upon the roll, a memorandum is authorized to practice. It's obvious it's authorized to practice in the Yukon Territory. You're giving the power to a judge to say which person shall be in one isolated area, which person shall be in another isolated area and certainly this is a departure from the procedure in any part of Canada because in any of the Provinces a Notary Public is a Notary Public in that particular Province.

Mr. Legal Adviser: Yes, but our Notary would be in and for the Yukon Territory, but they would have to, as a normal routine, if they were told, which very few of them would be, to practice in their own area, but if they practice outside their acts are still valid because they are Notaries for the whole of the Territory.

Mr. Shaw: Mr. Chairman, I must agree on that. I cannot see the underlying reasons. If someone could say to me the reason for having it within an area I might be able to accept, we have to usually work these matters out by reason and surely if a person is a good character sufficiently good character to Notarize documents within Mayo or Whitehorse or in Watson Lake, he would be just as able to do it in Faro or some other place or in the first place it just doesn't seem reasonable to me at all.

Mr. Legal Adviser: Mr. Chairman, when the applicants come up and one would hope they would all come up within a few days of another given area, if a person applies from somewhere like say, Old Crow or some very isolated place the judge might stretch a point in dealing with that person, maybe he shouldn't but he may, stretch a point if the applicant says I'm only going to be in Old Crow where as if the person was known to be coming to Whitehorse where a very high standard of Notary might be expected, the person might not have gotten an appointment at all. It's to give a certain flexibility to the judge. I'm not saying the standard will be lower but it does give some flexibility in practice to the judge.

Mr. Livesey: I question the ability of anyone to discriminate against the people from rural or municipal areas and those in the rural areas because I raise strong objection to this. If a man is either a Notary Public he's good and he's a Notary Public he's a Notary Public and he's going to be just as good as anyone else. Thank you Mr. Chairman.

Mr. Chamberlist: Mr. Chairman, I will move that the words after Notary Public in Section 6 and before.....should read as follows  
 .....

BILL # 21

Mr. Legal Adviser: Mr. Chairman, if I may interrupt. If I will undertake to prepare the amendment because it may need more than one section and it may appear again in the back sections. We may have to tidy up a little bit to take it but I understand the reference is to take away the reference to any limitation on the area on which a Notary may practice.

Mr. Chairman: Committee agreed?

All: Agreed.

Mr. Chairman: Section 7

Mr. McKinnon: Mr. Chairman, before we leave Section 6, I'd like to ask a question 5. Is there a standard examination for Notaries to take at this time?

Mr. Legal Adviser: Not at this time, we'll have to set some kind of standard. We'll assume that the judge will consult, but British Columbia has this type of legislation.

Mr. Dumas: Mr. Chairman, I understand in British Columbia, it is the hope of the lawyers in that Province to restrict Notary Public to the Legal Profession? I wonder if we're going to be influenced in the Yukon by the same type of thinking in regards to examination could preclude anybody but Notaries from being Notaries?

Mr. Legal Adviser: This is not the intention, Mr. Chairman.

Mr. Chamberlist: Mr. Chairman, if this should happen there are ways and means of this body here restricting members of the Legal Profession to the Legal Profession.

Mr. Shaw: Mr. Chairman, this Notary Public business in outlying areas is not a very profitable type of a business. I happen to be one in my area and it is more of a nuisance than it is profitable by any manner of means. The only place it might be profitable maybe in this particular locality because they make a business of these things but certainly unless there are Notaries in other areas of the Territory that means that a person has to travel 350 or 400 miles in order to get a document signed. I would hope that there's always the assurance will always be able to have this office in all the particular areas.

Mr. Dumas: Mr. Chairman, I'd like to point out to the Honourable Member from Dawson that as a Notary in the City of Whitehorse, I've yet to receive a penny notarizing anything. It's not a lucrative business here either but this brings up an interesting point. I know of four of the, at least four members of Councillors or Commissioners whose going to left to vote on this.

Mr. McKinnon: Just those of us of good character, Mr. Chairman.

Mrs. Gordon: I think that probably you Notaries don't realize that a Commissioner of Oaths has no right to collect any money.

Mr. Chairman: Section 7. (Reads Section 7 of Bill No. 21) Clear? (Reads Section 8 of Bill No. 21) Clear? (Reads Section 9 of Bill No. 21) Clear?

Mr. Chamberlist: This I take, this is one of the areas that Mr. Legal Adviser will be adjusting?

Mr. Legal Adviser: That is so, Mr. Chairman.

Mr. Chairman: (Reads Section 10 of Bill No. 21) I believe this will be revised as well will it not?

Mr. Legal Adviser: That is so, Mr. Chairman.

Mr. Livesey: Mr. Chairman, this brings to mind the possibility that although, Mr. Legal Adviser, hasn't advanced this point yet, perhaps in his drafting when he was thinking about this area situation he was thinking about the remuneration which could accrue to a Notary Public and was trying to slice them up into different areas of the Territory so that each one may be able to get something out of his operation. I wonder if Mr. Legal Adviser could advise me if I'm correct?

Mr. Legal Adviser: No it wasn't done primarily for that purpose Sir, either for that purpose in mind, it was done to give flexibility to the appointment when disputes would arise and the judge would have to choose between two applicants and this would enable him to appoint them both and then limit them to certain areas.

Mr. Chairman: (Reads Sections 11 and 12 of Bill No. 21)

Mr. Chamberlist: Question. Section 12(c), "Administer oaths, affidavits, affirmations," etc. Does this include marriages?

Mr. Legal Adviser: Marriage means more than just a simple promise.

Mr. Chamberlist: Does it include marriages, that's an affirmation?

Mr. Legal Adviser: No.

Mr. Chairman: Section 13. (Reads Section 13, 14 & 15 of Bill No. 21)

Mr. Legal Adviser: Mr. Chairman, I think there's a misprint there. I think it should be, "All fees payable to the Territorial Secretary,"

Mr. Chairman: Will you so note, Mr. Clerk. Sixteen (Reads Section 16 of Bill No. 21) Clear? (Reads Section 17 of Bill No. 21)

Mr. Shaw: Question. I take it, Mr. Chairman, this is another Section which Mr. Legal Adviser will be amending?

Mr. Legal Adviser: No, I wouldn't ....I would suggest that you leave this Section alone, Mr. Chairman, because this is merely to appoint Public Servants where necessary who don't take a fee for their acts and only do these acts in connection with their employment. People like the Liquor Control and so on....Welfare Officer.

Mr. Chamberlist: But this is a limiting of the area? In that case you're talking about the area of work not the area geographically

Mr. Legal Adviser: We want to control our own officers and tell them what to do...that's what it amounts to.

Mr. Livesey: Two questions, Mr. Chairman. Under Subsection 3 of Section 12, it says, "A Notary Public is entitled to receive the emoluments pertaining to the office of Notary Public as may be prescribed by the Commissioner." Later on...further down the page it says, "A judge may make rules not inconsistent with this Ordinance and prescribe forms and fix fees for all proceedings under this Ordinance." Now aren't fees emoluments?

Mr. Legal Adviser: They're two separate distinct things. A fee is prescribed by a judge, are prescribed in effect of course by the court clerk for the actual application may be one dollar or two dollars and this that and the other thing. The fee prescribed by the Commissioner will be the fees which the Commissioner may charge for doing his work to the public but say two dollars for

protesting a Bill and five dollars for something else.

Mr. Livesey: My second question, Mr. Chairman, is I believe under the Evidence Ordinance of the Yukon Territory that every postmaster in the Yukon is a Commissioner of Oaths. Now, if this is so, does this Ordinance apply to them as Federal Government employees?

Mr. Legal Adviser: I didn't know that they were all Notaries or Commissioner for Oaths. I'd want to check it back.

Mr. Chamberlist: Mr. Chairman, they're Federal Commissioners for Oaths, there's a separate...the postmaster are Federal Commissioners.

Mr. Livesey: Well, Mr. Chairman, the statement is made in the Ordinances of the Yukon Territory. This is part of our Territorial Ordinance and I don't believe that the Territory has power over the Federal Commissioners but nevertheless, maybe this is just a recognition, it could be, but nevertheless I'm quite sure it's in there. It's on top of the page, on the right hand side.....

Mr. Chairman: Are we clear on seventeen? (Reads Section 18 of Bill No. 21) Will you take the Chair, Councillor Chamberlist?

Mr. Chamberlist takes the Chair.

Mr. Taylor: Mr. Chairman, I would like to register my dissent against this Section and into the policy that seems to be apparent here. It would appear under Section 18 that for a period, which is described later, that all existing appointments for Commissioners for Oaths would be in this interval would be...these people would be appointed Notary Public and, indeed, could go and get themselves seals and enjoy the good office as Notary Public. Now what you're really talking about here is just about half the people of the Yukon Territory at the present time because every bulk fuel distributor is a Commissioner of Oaths. Any of the mining fraternities are Commissioner for Oaths, indeed, people throughout the Territory in great numbers are Commissioner of Oaths, and, indeed I can actually, personally, think of some that should never be Commissioner of Oaths and if they were to have a Notary privilege could very well abuse this privilege to the detriment of all concerned and it would appear to me that as an alternate suggestion that if it is the intent of the Administration to abolish the practice, ...the practice of Commissioner for Oaths that they do so without appointing these people as Notaries. In other words, make it known to these Commissioners, who are on a roll or their addresses are available or their mailing address, that they be notified that by a certain date or upon a certain date their appointment will be invalid. However, pointing out that they may wish to apply to the Court for a Notary seal or a Notary position but I certainly can't see appointing by this Ordinance every person presently holding a Commissioner for Oaths appointment is deemed to be a Notary Public. There's no possible way that I could accept that.

Mr. Legal Adviser: Mr. Chairman, it is the intention to abolish the office in general terms, there may be a few left in some of the Ordinances, but in general terms it is the intention to abolish the office for Commissioner for Oaths. We've looked into the matter and we find that the powers of Commissioner for Oaths and of a Notary Public are interchangeable. The only difference is that a Notary Public acts because of his seal and because of laws made in all the Provinces or States of America are recognized whereas they don't recognize a Commissioner for Oaths. A Notaries is recognized because of his seal and because, on inquiry, being

made through the proper diplomatic channels back to the Commissioner, the Commissioner can verify the signature and seal of every Notary who has been appointed and the act of a Notary are internationally recognized, within the Territory their acts are interchangeable, they're both, except for protesting a Bill of exchange, they both can swear affidavits, affirmations, oaths and so on. So the policy that was decided on was to unify the two offices or professions, whatever you want to call them, but in doing that one leans over backwards to attempt to do justice to any person whose office is being abolished and this Section 18 is a transitory provision to carry over the Commissioners for Oaths until such time they get a fair crack at an application to the court and if necessary doing the exam. Now the particular suggestion put forward by the Honourable Member from Watson Lake is a good one, it's not quite as fair as the suggestion which was made in Section 18 itself as drafted that they be converted temporarily to Notaries Public during this interim period but if it is the wish of the House, that they merely hold onto their Commissioner for Oath until such time as they be given a chance to make conversion, we would certainly have no objection to drafting a suitable amendment to carry them over in the interim period as Commissioners until the given date which comes into effect in the bottom of Section 19. It depends on the wish of the House in the matter.

Mr. Taylor: Well, Mr. Chairman, this is what I do suggest as an alternative because really and truly these people who now enjoy the office of the Commissioner presumably would have a reasonable period of time in which to apply for a Notaries Public if they choose to do so. I'm not thinking just as much of those people who are now Commissioners of Oaths in considering this, as I am in the general public itself. Many of these people who are Commissioner of Oaths are, for instance in the mining industry and not only that so many are in the petroleum industry, but in the mining industry people can get pretty liberal with these seals I mean if he possesses the power now under this Ordinance as a Notary Public he can go out and get himself a seal and be sealing documents and having a great time and not having been before the court or affirmed anything to anybody and I personally would like to see it done this other way, rather than see all Commissioner for Oaths temporarily made Notaries Public and have these things taken away from them again. I think it's more reasonable to take it the other way, however, it's the decision of Committee but I bring it to your attention because this practice suggested here, I don't feel it's in the best interest to people of the Territory.

Mr. Shaw: Mr. Chairman, I'm inclined to agree with Councillor Taylor on this matter. Notary Publics are....their word and their actions are accepted in most of the civilized world I would say and a Commissioner is for a local purpose and as Councillor Taylor has intimated, I don't exactly what the situation is right now, but there just seems to be hundreds of Commissioners scattered around the Territory. When we start to incorporate this into one office, certainly these people should be, as the Ordinance states, of good character and past the examination and know exactly what they are doing and the fact that the Commissioners now have the authority they have, I do not feel there's something you could just transfer greater authority on without doing a little more investigation than that. I think we must realize that sometimes upon a Notary Public seal can hang a great deal of responsibility. Now in the early days, I believe, every Mounted Policeman was automatically a Commissioner for Oaths, now in the course of time, some of them have left the force, some of them have gone, we might say, haywire, as it applies to any group of persons they became drunkards and various and other

things. I'm not referring to...I'm not talking about any group but I use that as an illustration so that all of a sudden they make them Notary Publics, that was perhaps a harsh illustration, it wasn't made with any reference to...I just used that as a matter of convenience...they're no better or no worse than other people so that I think that examination should be made of all persons that have to apply for this and that they may thoroughly conversant with their responsibilities and their duties.

Mr. Taylor resumes the Chair.

Mr. Chairman: What is the wish of Committee in this regard?

Mr. Legal Adviser: If it is the wish of the Committee, it won't be much difficulty in preparing an amendment, and I take it as a suggestion from the House that Commissioners continue to hold a Commissioners commission until the transitory date comes to an end here and then if they haven't at that time applied for successfully for a Notary Public appointment then they disappear.

Mr. McKinnon: Mr. Chairman, I'd like to ask Mr. Legal Adviser if Council will be able to get in contact with all these Commissioners for Oaths notifying them of this arrangement?

Mr. Legal Adviser: Well we can insert advertisements throughout Canada in all the leading papers.

Mr. Shaw: Mr. Chairman, would the Legal Adviser know...happen to know how Commissioners for Oaths there are in the Yukon Territory at the present moment.

Mr. Legal Adviser: No, it's a very difficult thing because Commissioners have been appointed over the years, comparatively indiscriminately until we began to wake up to the fact that there were so many around the place both within and out of the Territory.

Mr. Shaw: Mr. Chairman, there may be more Commissioners than there are people to have the affidavits for.

Mr. Chairman: Section 19, subsection 1,2 & 3)

Mr. Dumas: Question. Mr. Chairman, I wonder if that will give the Administration time, in fact, to bring or give the Notary Public applicant time to apply and so forth since this Bill may not be assented to for some time.

Mr. Legal Adviser: When it was drafted it was assumed it would pass sometime before Christmas, and be assented sometime before Christmas and then that would give three months notification. If the Notaries outside the Territory who may happen to be Notaries for the Territory, are not notified, it's not something we would worry about. If they want to find out they find out. We really deal with people within the Territory and this Bill will get plenty of publicity and I think three months is quite adequate.

Mr. Shaw: Mr. Chairman, may I ask another question. Would the Legal Adviser know how many Notaries Public there are in the Territory in and for the Territory?

Mr. Legal Adviser: You can find this out quite easily, but one would expect to retain at least that number because it would be picking up the position of Commissioners for Oaths at a later time and they'll be notified.

Mr. Chairman: Subsection 4 (Reads Subsection 4 of Section 19 of Bill No. 21) (Reads Section 20 of Bill No. 21) Clear? (Reads Section 21 of Bill No. 21) Clear?



Mr. Shaw: Mr. Chairman, does this mean that a person, a Notary Public can sign it as a Commissioner for Oaths and it's not necessary to affix his seal?

Mr. Legal Adviser: This is affect of it and unfortunately it's necessary to leave this section in because people are human and they make mistakes and they forget to put the seal on or they do something and then one doesn't want to destroy the validity of the document because of a minor procedural defect. It might have very, very serious consequences in a state matters and large property matters that something must be notarized by a certain date and such things and if we destroy the validity by a technical defect it could cost some one or more people a tremendous amount of money.

Mr. Chamberlist: Also of course, Mr. Chairman, there's the fact that people don't carry their seals in their pockets and they may be in the place where they need to act as a commissioner and not have their seal with them.

Mr. Shaw: Mr. Chairman, another question, it would appear by that then that a Notary Public does not have to get a seal.

Mr. Legal Adviser: This isn't quite true. He doesn't have to get a seal but it adds something to the document that he gets a seal and outside the Yukon, when it's a foreign country, they probably will not recognize it without the full paraphernalia not only of a seal from the Notary, but very often a Commissioners seal and Commissioners signature and so on as well.

Mr. Dumas: Mr. Chairman, I want to point out that there are many documents that definately state on them that a seal must be affixed.

Mr. Shaw: Mr. Chairman, that's just what I'm just wondering. I'm referring to Joe Blow that goes to get something done and he goes to the person and goes through all this performance and a lot of is a great deal of performance, and then when he goes, possibly he's going outside or possibly going to another country and this Notary Public has signed this has not affixed his seal, it could put him to great embarrassment and where it might be a tremendous difficulty in....to overcome and it would appear to me, Mr. Chairman, that every Notary Public if he is going to overtake something such as this should be required to have a seal. I can understand where if it isn't put on, that it may be ....let that pass over...but at the some time I think that every person that wished to have a Notary Public office should certainly be required, as part of that office, to have a seal.

Mr. Legal Adviser: I think they all have a seal. I don't see how they can require them to have a seal they could lose a seal and not replace it. It's awkward to do this and so far as a document, going outside and not being recognized, say in the State of New York, because it hasn't got a seal on it, there's nothing we can do about this. We do what we can in ease of this situation of this section. This is an enabling section to recognize the validity of a document so far as this government can, even though it hasn't got the seal. Unfortunately we can't control the states and Provinces outside here.

Mr. Livesey: Mr. Chairman, I had occasion quite recently to be involved in a question of purchase of a seal for Notary Public for a Justice of the Peace and it seemed a very easy thing to get, no problems at all, no documents required, no regulations, all I did was go to a business that looks after these

things and the seal came back, it was a wrong seal and the wrong names on it and how they got mixed up, I don't know, but anyway you had to turn it in and get another one and finally got the one that was required. This seems far too easy, anyone can pick up a seal along those lines and stamp everthnng in the country. I think it's too lax, I really do, I think, myself, that a Notary Public should receive a seal authorized by the Territorial government, if we are willing to go to the extent of creating Territorial legislation then surely we should go a little further and set up a seal that is an authorized seal and anyone who wants to purchase one of those seals can purchase it from the Territorial Secretary. Then the Government knows whose got a seal and who hasn't got one. I would personally think, Mr. Chairman, that this is a far wiser course than leaving it wide open the way it is right now.

Mr. Dumas: Mr. Chairman, there's no way that we legislate against a person buying a seal from B.C. Stamp Works, if they wish.

Mr. Shaw: On this seal business, Mr. Chairman, it appeared to me a very good and very simple matter that when a person applies for a Notaries Public, appointment that in this appointment he also should have registered with the Territorial Secretary or whatever power there is, a stamp of the seal of which he uses. He can buy it wherever he wants to buy it but at least there will be a record, the Government will have a record of what his seal is I think they should all have a seal.

Mr. Legal Adviser: The Honourable Member has anticipated what I was going to say. It is the intention, in this roll, to have a permanent record in duplicate of each Notaries signature in the same manner in which is done at the bank. Also, on the same document a record of the particular seal he has chosen so that the main idea is that when we get questioned for verification of a document, signed and sealed by a Notary, we can issue the verification without anymore trouble. This is the main reason for it.

Mr. Chamberlist: Of course, there is a penalty clause, Section 9, In looking at this again, I find that somebody that acts as a Notary Public is only liable to a fine not exceeding five hundred dollars, somebody that is subject to a minor traffic violation can go to jail or fine. Now I think there should be a jail term in there for anybody who is misusing an office of this description To have it as a penalty to a fine not exceeding five hundred dollars, this is , I would say it should be to a fine, to a term of six months imprisonment and or a fine of five hundred dollars. If it is being improperly used. Now the seals we all know we have seal manufactures with a Notary Public on it and it should have the address of the Territorial empressed on it, Territorial Government stamp on it, so that only those who are properly registered as Notary Publics will be able to get that type of seal. In other words, it would be a seal that would be more or less a painted seal. Nobody could just go and manufacture it But certainly Section 9 could take care of it completely and especially if the penalty was increased to reach something realistic not just a fine.

Mr. Legal Adviser: Mr. Chairman, I think the Administration wouldn't be prepared to accept an amendment imposing a term of imprisonment quite willing especially when it's been suggested by the Honourable Member. As far as dealing with seal is concerned, I'm not sure administratively, if this would be possible. If it was possible, it can be done by regulations but certainly the suggestion has merit and I will convey the suggestion to the Administration and if it's possible to do it, it would be a good idea.

Mr. Livesey: Mr. Chairman, why couldn't the seal simply have upon it, authorized by the Government of the Yukon Territory. If anyone wants to remanufacture something like that without the authorization of the Government of the Yukon Territory, they know what to expect, that's the simple answer as far as I can see.

Mr. Chairman: Mr. Chamberlist will you take the Chair, please?

Mr. Taylor: Well I don't know how we got side-tracked on what a seal will have on it because that sounds to me like a little immature but I might say that it doesn't matter what you put on a seal, there isn't a seal company in Canada that can't make one to duplicate it so I think you're really talking in circles; I think there are Notary seals, they've been in existence for a long time and they're a very standard thing and I don't necessarily think they should have the Yukon Coat of Arms on them because this is something that forms a part of Territorial Government and could tend to be confusing so I think that's whatever is on a seal should remain the same type as seal, the same type of practice. I think that what we should concern ourselves with is the people who are going to use them. Thank you Mr. Chamberlist, I'll resume the Chair.

Mr. Taylor resumes the Chair.

Mr. Livesey: Well, Mr. Chairman, this is something different than a performing seal.

Mr. Chairman: Do you wish I report progress on Bill No. 21. We'll proceed to Bill No. 22, An Ordinance to Amend The Evidence Ordinance. (Reads Bill No. 22) BILL # 22

Mr. Chamberlist: Well, Mr. Chairman, with respect, we can't fulfil this until we pass the other one.

Mr. Legal Adviser: They're linked, Mr. Chairman.

Mr. Dumas: Mr. Chairman, I suggest we report progress on this Bill.

Mr. Chairman: Does Committee agree?

All: Agreed

Mr. Chairman: I shall report progress on Bill No. 22.

Mr. Shaw: I wish to ask one question, Mr. Shaw. These persons who have already paid their ten dollars for Nataries Public, and they have one, do they have to pay another ten dollars to get a new one?

Mr. Chairman: Bill No. 23, An Ordinance To Amend The Gaols Ordinance. (Reads Bill No. 23) Mr. Legal Adviser would you care to comment. Bill No. 23

Mr. Legal Adviser: This is a highly technical little Bill, Mr. Chairman. As you can see from the Section it's repealing it's taking one day away from a two year term of prisoners in our lock-up because we have no jurisdiction to confine them for more than that period. For two years and over they go to a penitentiary for less than two years they come to us. This mistake has been noticed by the officers in charge of this ...the Correctional Institute and this is why we bring in this Bill.

Mr. Chamberlist: In actual effect, Mr. Chairman, and Mr. Legal Adviser can correct me if I'm wrong, the difference is between not exceeding two years and not exceeding two years less one day which makes it less than the penitentiary sentence.

Mr. Legal Adviser: Yes.

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Mr. Chairman: What is your pleasure gentlemen?

Mr. Shaw: Mr. Chairman, I would move that Bill No. 23 be moved out of Committee.

Mr. Dumas: I second it.

Mr. Chairman: It has been moved by Councillor Shaw and seconded by Councillor Dumas that Bill No. 23 be reported out of Committee without amendment. Are you prepared for the question? .....

BILL # 25

Are you agreed?....Contrary? I will declare the motion carried. Next Bill is Bill No. 25, An Ordinance To Amend The Legal Profession: Ordinance(Reads Section 1, 2,&3 of Bill No. 25)

Mr. Livesey: I wonder why...I wonder if Mr. Legal Adviser, Mr. Chairman, advise me as to why the word "Treasurer" has been removed when it's usually the Treasurer is the individual to whom payments are made by any organization?

Mr. Legal Adviser: Well, the whole Bill is brought to correction, a gilburtain situation that has occurred during the year. a lawyer who wanted to get galled to the Yukon Bar, paid his fee in the normal way and couldn't come up to the Territory but got called by one of our judges while that judge happened to be in Edmonton. He then notified the Territorial Secretary that he had been called to the Bar and in fact he had, and he paid his fees and complied with the Ordinance, but mentioned in his letter that he was introduced to so and so who is a well known member of the Yukon Bar. So when the Territorial Secretary checked on the Roll he found that this person was not on our Roll of Advocates and as far as we could find out had never been called to the Bar We had no record of him at all so we communicated with the gentleman and we found that in fact he had complied with the Ordinance he had paid his fee and he had been called to the Bar but the reason of the different offices he had gone through to comply, no notice no official notice had been given to the Territorial Secretary so his name did not appear on the Roll. There was no particular reason why he should have. So all these Section are to tidy up this situation, so to channel all the applications.. and all the fees and everything else to the one office so there's an exact record of what happens when it happens.

Mr. Chairman: Section 4 ( Reads Section 4 of Bill No. 25)

Mr. Legal Adviser: Section 7 is on the left hand side of the page. It's an out of date Ordinance, which the usefulness dealing with articles clerk expired in 1955.

Mr. Chamberlist: Mr. Chairman, I wonder if any consideration has been given by Members of the Legal Profession to reinstituting this particular .....of Legal Professions Ordinance? There's every intimation that a number of members in Bar in the Yukon would be only too pleased to get these additional legal help because of the trouble in not being able to get hold of legal young students right out of University and apart from that, there are a number of instances where people in legal offices here who are almost as good, if not better, than members of the Legal Profession and I'm thinking of one woman, in one particular office who happens to be very, very well known and certainly professional in her capacity, shouldn't have the opportunity of articles. The last person that was articulated I think was in about 1956-57, a former C.P.A. pilot who was killed in a crash, he was the last one and this was in effect for quite some time. I wonder if any consideration has been given to that at all, Mr. Legal Adviser.

Mr. Legal Adviser: No consideration was given to that as the matter did not arise. Throughout Canada, there has been a move away from articulated clerks and into the system of going to University and doing one year in office and the stated reason stated by each

law society that changed it's rules in this regard, has been, that when an articled clerk, articled in law office presume he's gone through high school and he's of good educational standard, he's learning law from one man and one group of men who are commonly not expert as teachers of law, whatever they maybe as members of the profession. But by gathering all the law students into one place then they have the benefit of the cream of teachers of law, who may not be good as practitioners and this is generally thought to be an advancement for the standard of the profession as a whole. So any suggestion made by the Honourable Member along these lines, would engender a certain amount of sympathy but it's flowing against the stream of progress in the profession and would probably find resistance in the profession itself.

Mr. Chamberlist: It's true to say then, Mr. Chairman, I'm sure Mr. Legal Adviser will agree with me, that many of the judges who sit on Superior Court in Canada were articles who are actually lawyers who never went to University and it's no fine members of our judiciary. What I'm suggesting is that there are many people who are self educated in law and really are quite capable of fulfilling the function. I'm not suggesting that people who are ....who have not attended University should be able to appear before High Courts but I think there should be some grade of what courts they can tend to act in such as the lower courts. I know for awhile that members ....people can act as agents without being paid but if they work in a law office ...the qualified lawyer...the University graduate is attending court in the higher courts and other matters and he has people to ask....he has to put off the hearings of these matters because he can't be in two courts at the same time, whereas in the minor court he could have a junior who is entitled to attend ...to act in a magistrates court. There might be some merit to this and perhaps at a later date I might be able to bring this situation forward. I .....I want to .....because of the snickers that are going on around this table....I want to put it to you that I'm too old to start the legal as a practising lawyer but I'm just thinking of those other people who perhaps cannot afford to go to University and would like to work their way through a law office and take up the profession that way. I think an opportunity should be given so that if at a later date they want to further their legal education and go to University this should help them as well. We're a small community in the Yukon and I think we should do what we can to help our local people, we haven't a University here and there are a number of people who would like to take up the Legal Profession and do it in the same manner that many people who have become and have been very very prominent members of the Legal Profession have done so in the past.

Mr. Dumas: Mr. Chairman, I wonder if Mr. Legal Adviser can tell us if the Yukon Bar Association approve of articles in this manner?

Mr. Legal Adviser: It has never been discussed so far as I know by the local lawyers as a group. I don't think any serious attempt has been made even in the Provinces to go back to the former way. This form of articles still exists in the United Kingdom and you can qualify as a lawyer in England in this way but you cannot go on the Bench but Lord and Lord Chief Justice's in the late 19th century who had never attended a lecture in their lives and who had never attended a law office got qualified a term for four years. So there is different methods of learning law but it's a matter for another day and another Bill.

BILL # 25

Mr. Chairman: I'd like to direct your attention to the time gentlemen. Is it your wish to proceed? Section 5 ( Reads Section 5 of Bill No. 25) Clear?

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

Mr. McKinnon: I'll second that motion, Mr. Chairman.

Mr. Chairman: It's been moved by Councillor Chamberlist and seconded by Councillor McKinnon that Mr. Speaker do not resume the Chair. Are you prepared for the question? Are you agreed? On the contrary? I'll declare the Motion carried.

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

Mr. Chairman: Mr. Speaker, Committee convened at 10:30 a.m. to discuss Bill and Sessional papers. Committee recessed at 12:00 noon and reconvened at 2:00 p.m. I can report progress on Bills No. 20, 21, 22 & 25 . It was moved by Councillor Shaw and seconded by Councillor Dumas that Bill No. 23 be reported out of Committee without amendment, this Motion carried and it was moved by Councillor Chamberlist and seconded by Councillor McKinnon that Mr. Speaker do not resume the Chair and this Motion carried.

Mr. Speaker: You've heard the report of Chairman of Committee. Are we agreed? May I have your further pleasure?

Mr. Shaw: I move , Mr. Speaker, that we call at 5:00 p.m.

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

Mr. Speaker read the daily prayer. All Councillors and Mr. Legal Adviser 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. Gentlemen, I have first for your attention a correction to the journal on page 182 where the journals read, "Mr. Dumas: Mr. Chairman, in view of the fact that some of us have a meeting with the Administration at five o'clock I'd like to move that Mr. Speaker do not resume the Chair" and further on in the same page following the end of the report of Mr. Chairman after his report on the work of the Committee of the Whole it also says that Mr. Speaker do not resume the Chair, and I am correcting this from the Chair to read, "do resume the Chair". I hereby table Sessional papers No. 28, 29 and 30. Are there any reports of Committee? Introduction of Bills? Notices of Motion or Resolution?

Mr. Taylor: Mr. Speaker, I would like to give Notice of Motion this morning respecting Sessional Papers No. 5, 8, 9 and 12.

Mr. Speaker: Are there any further Notices of Motion or Resolutions? MOTION  
Notices of Motion for the Production of Papers? May we now pass NO. 5  
to Orders of the Day. I refer now to Motion No. 5. Moved by  
Councillor McKinnon and seconded by Councillor Dumas  
that the text of the motion read, It is the opinion of this  
Council that immediate consultations begin with the City of  
Whitehorse with a view to implementing the recommendations of the  
Pollution Survey - Whitehorse Area conducted by Dr. Lyall Black,  
Medical Health Officer for the Yukon Territory. Is the member  
prepared to proceed with Motion No. 5?

Mr. McKinnon: Mr. Speaker, if I could ask the indulgence of the House I am doing some research on this, I haven't finished at this moment because of lack of time to do such research. I wonder if I could ask the House that this Motion be called for on Friday morning.

Mr. Speaker: Agreed?

All: Agreed.

Mr. Speaker: Are there any questions?

Mr. Taylor: Mr. Speaker, I have a question I would like to direct to Mr. Commissioner this morning in light of a report to the effect that Governor Walter Hickel and Commissioner of the Northwest Territories and Commissioner of the Yukon will be having a meeting this week in Whitehorse. Could the Commissioner inform Council as to what the purpose of the meeting is?

QUESTION  
RE VISIT  
OF  
GOVERNOR

Mr. Commissioner: Mr. Speaker, Commissioner Hodgson informed me that he was going to be coming through here on his way to Cantung and also intimated that he would very much appreciate the opportunity of meeting Governor Hickel here at the same time so there is exactly the sum and substance of the situation I think the main thing that as far as Commissioner Hodgson is concerned with is simply to pay his respects, he also intimated that he would like to have some conversations concerning the financing of the Arctic Winter Games. We have no confirmation

at least I have not been advised if we have actually of Governor Hickel's actual arrival here Mr. Speaker.

Mr. Dumas: When is Commissioner Hodgson due to arrive?

Mr. Commissioner: Mr. Speaker, I would have to check on that to find out.

QUESTION RE Mr. McKinnon: Mr. Speaker, a supplementary question. Is it the  
ARCTIC intension of the Administration to inform the president of the  
WINTER Arctic Winter Games that such consultations are to take place?  
GAMES

Mr. Commissioner: Mr. Speaker, there are no secrets or hidden mysteries about this and the president of the Arctic Winter Games and all other people involved with the Arctic Winter Games will certainly be fully informed as far as I am concerned about any consultations that take place.

QUESTION RE Mr. Taylor: Mr. Speaker, I have another question to direct to  
YUKON LEGIS- Mr. Commissioner this morning. I am wondering if he could inform  
LATIVE me as to whether he has any information as yet on the proposed  
COUNCIL participation of the Yukon Legislative Council in the forthcoming  
Constitutional Conference at Ottawa?

Mr. Commissioner: Mr. Speaker, our inquiry made yesterday as a consequence of what was raised before the Council yesterday has not been answered as yet from Ottawa, as soon as it is we will be bringing the answer.

QUESTION RE Mr. Chamberlist: Mr. Speaker, a question of administrative matter  
SESSIONAL to Mr. Commissioner, I wonder Mr. Commissioner whether you can  
PAPERS arrange for Sessional Papers to be delivered to members of Council  
DELIVERED on separate sheets of paper, some of us wish to file our sessional  
papers under subject matter and we have two different subjects on  
the same sheet.

Mr. Speaker: I think the answer to that question gentlemen can be arranged through the Chair.

Mr. Chamberlist: Mr. Speaker, can that be arranged that this be done. It is most inconvenient to Members of this Council.

Mr. Speaker: Does the House agree?

All: Agreed.

QUESTION RE Mr. Chamberlist: Mr. Speaker, a question to the Commissioner  
POSITION OF will the Administration be taking any further steps to fill the  
ELECTRICAL position of electrical inspector?  
INSPECTOR

Mr. Commissioner: Mr. Speaker, I think I will have to bring forward information on this matter I'm not right up to the minute on this. I think Mr. Speaker with respect to the matter was .... this particular position could not be satisfactorily filled the last time around and I would ask the opportunity of bringing up to date information forward on this.

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

Mr. Taylor takes Chair.



Mr. Livesay: Mr. Speaker, I have a written question this morning addressed to Administration with reference to Cost of Lots at Beaver Creek and the text to this question reads, 'in view of the price of lots offered for sale in Porter Creek dated July 18, 1968 for \$278.00 - \$215.00 and \$315.00 and some of earlier issue for less, would the Administration please offer an explanation for the asking price of lots at Beaver Creek this year which ranged from \$400.00 to \$450.00 for unserviced lots in a remote area? Thank you Mr. Speaker.

QUESTION  
RE COST  
OF LOTS  
AT  
BEAVER  
CREEK

Mr. Speaker resumes Chair.

Mr. Speaker: Are there any further questions? May I have your pleasure with regard to Public Bills and Orders?

Mr. Taylor: Mr. Speaker, I would move that Third Reading do now be given to Bill No. 23, An Ordinance To Amend The Gaols Ordinance.

THIRD  
READING  
BILL  
NO. 23

Moved by Councillor Taylor, seconded by Councillor Dumas that Third Reading be given to Bill No. 23, An Ordinance To Amend The Gaols Ordinance.

MOTION CARRIED

MOTION  
CARRIED

Mr. Speaker: Is the House prepared to adopt a Title to Bill No. 23?

Moved by Councillor Taylor, seconded by Councillor Dumas that the Title to Bill No. 23, An Ordinance To Amend The Gaols Ordinance, be adopted as written.

TITLE  
ADOPTED  
BILL NO.  
23  
MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker: I will declare that Bill No. 23 has passed this House.

Mr. Speaker: May I have your further pleasure with regard to Public Bills and Orders?

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

Moved by Councillor Dumas, seconded by Councillor Gordon 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. Taylor takes the Chair in Committee.

Mr. Chairman: We will proceed to Bill No. 25, page 2 where we left off last evening. Section 6 .... will there be anything further on section 5?

BILL  
NO. 25

Mr. Dumas: Mr. Chairman, I question the fee in the sum of \$30.00. Are there plans to okay this fee for the cost of a legal licence?

QUESTION  
RE FEE  
OF  
LICENCE

Mr. Legal Adviser: Mr. Chairman, there has been no change in the fee. This is merely a housekeeping Ordinance and fees and such like might be better discussed dealing with professions as a whole rather than in one instance.

BILL Mr. Chairman: Clear?  
NO. 2

All: Clear.

Mr. Chairman: (Reads Sections 6 and 7 of Bill No. 25).

Mr. Dumas: Mr. Chairman, we seem to have two section 5 in this Bill.

Mr. Legal Adviser: Yes we have Mr. Chairman, the numbers should be changed.

Mr. Dumas: Mr. Chairman, with respect that was section 7 that you just read under the correct number.

Mr. Chairman: (Reads Section 8 of Bill No. 25). Clear?

All: Clear.

Mr. Chairman: (Reads Section 9 of Bill No. 25).

Mr. Chamberlist: Mr. Chairman, I can't quite see the reason why this particular section is being repealed. There may at some time or other come to the Bar of the Yukon somebody who was at one time an articled clerk, would this not interfere with that?

Mr. Legal Adviser: I suppose in theory it is possible that an articled clerk from somewhere else would come here, we don't have articled clerks in the Yukon anymore and there is no provision for an articled clerk to exist and qualify in the way he formally would have been able to do, but I suppose in theory one could come from somewhere.

Mr. Chamberlist: In the Province of Ontario, Mr. Chairman, they still have articled clerks. Should it be repealed in that case?

Mr. Legal Adviser: Possibly not, Mr. Chairman.

Mr. Chairman: Clear?

Mr. Chamberlist: The way I understand it then is that Section 8 is coming out, that Section 24 of the said Ordinance will not be repealed. Is that right?

Mr. Legal Adviser: I am in the Committee's hands Mr. Chairman, I don't mind whether it stays in our it comes out, the member has a point if there are articled clerks somewhere in Canada and one might come here possibly it might be better to leave the section in.

QUESTION REMr. Shaw: Mr. Chairman, I do have a question it's a matter of  
DIFFERENCE interpretation, I note that we continually refer to barristers  
BETWEEN and solicitors, now in England I know they do have solicitors and  
BARRISTER & barristers as separate legal types of persons. In this country do  
SOLICITOR they .... is there a difference between a solicitor and a  
barrister?

Mr. Legal Adviser: In British Columbia there is still a difference. One can become either a barrister or a solicitor I understand, but in the other provinces of Canada when you become a qualified lawyer you are both a barrister and solicitor. The distinction is originally an English distinction when you are a member of the Bar you are entitled to practice before a Court but not entitled to deal in ordinary business matters with laymen. You have to be instructed by a solicitor, he gives you your instructions, produces the statements from the witnesses, he would write the letters and

so forth and you would be the expert who would appear in Court. The distinction has been abolished in Canada but the effect of it is that every lawyer now practicing here is both a barrister and a solicitor but they like to retain these old titles.

BILL  
NO. 25

Mr. Shaw: It is something like Commissioner for Oaths and Notary Public, I suppose the same deal.

Mr. Legal Adviser: Not too dissimilar.

Mr. Chairman: May I proceed? (Reads Section 10 of Bill No. 25).

Mr. Chamberlist: Mr. Chairman, if Section 9 is coming out, Section 10 reading, 'The schedule of the said ordinance is repealed' will then be Section 9, is this correct?

Mr. Chairman: Right. Is it your wish that I report progress on this Bill. Agreed?

All: Agreed.

Mr. Chairman: We will then proceed to Bill No. 26. (Reads Sections 1, 2 and 3 (a) of Bill No. 26). Mr. Chamberlist, would you take the Chair.

BILL  
NO. 26

Mr. Chamberlist takes Chair.

Mr. Taylor: Mr. Chairman, This matter of dogs is kind of a sore spot with many of my constituents, as a matter of fact there is still a dog case going on today which started in Watson Lake way back in May in fact when the R.C.M.P. decided to take off and start picking up the dogs at large. Since that time it was decided by the community that there was sufficient coverage in the Dog Ordinance to account for dogs running at large that were of vicious nature such as in heat and this type of thing and there was no real need for a complete dog tie-up in our particular community and consequently the Commissioner's Order or Regulation was then amended, but unfortunately prior to having it amended the damage was done and many people were hauled unnecessarily into Court and as I say the effects of this last fiasco are still going on in Watson Lake. It is our opinion that any decision in respect of dog tie-ups should be made by the communities themselves in other words, in the case of Watson Lake we have a Local Improvement District and the decision as to whether or not these dogs should be tied up should be left, we feel, to the Improvement District, or the people who run that function and possibly this could be written into the Local Improvement District Ordinance. I don't know, but I do not feel that the Commissioner should have the power to arbitrarily move into any community and just say you are going to tie up your dogs whether you like it or not, I think this is something the communities must decide for themselves. Certainly I will agree that outside of organized settlements then certainly the Commissioner will have to have some control but within those areas which are organized I feel

not only municipalities should be excluded but so should villages and Improvement Districts from this Ordinance.

Mr. Commissioner: Mr. Chairman, the very points which have been brought up by the Councillor at this time are precisely what this Ordinance is designed to specifically deal with namely the wishes of individual communities.

Mr. Taylor: Mr. Chairman, what is not expressed is not implied. Mr. Chairman, might I direct a question to Mr. Commissioner, where in this Ordinance does it provide that the people involved in Improvement Districts will be considered before the Commissioner

BILL NO.  
26

takes any action to this particular Ordinance?

Mr. Legal Adviser: Mr. Chairman, it was thought that at the time this Ordinance was drafted we would have a Plebiscite Ordinance enforced and the Commissioner could ask the formal or informal view of the inhabitants of any area to intimate their wishes and section 4 specifically intended to allow the Commissioner to apply the regulations or to make different sets of regulations depending on the wishes of the inhabitants in any particular place. It's not the intention of the Administration to just make Yukon wide legislation. The whole purpose of making it by regulation is to get away from the stultifying effect of the Dog Ordinance itself which is very very formal and to transfer this type of power into regulation and the regulation is designed to be almost identical to the powers given to a municipality itself by the Municipality's Ordinance. If at any time any of these communities become in fact a municipality then they will get the benefit of the Municipal Ordinance and they will have the full power exactly as set out here themselves to make by-laws. Until that time it is necessary for some central authority or somebody to have the power to make the regulations.

Mr. Taylor: Mr. Chairman, I am not quite satisfied with this explanation. What we are really doing is taking our legislative responsibilities now contained in the existing Dog Ordinance which covers everything respecting dogs with out exception, and it also provides that the Commissioner may make regulations for implementing this Ordinance and what we're saying, well we're going to throw the Dog Ordinance out, take away the legislative control specified here which provides for dogs running at large where mean, who can anywhere in the Territory be seized or shot or whatever is done, as I said, such as in heat and so forth, it provides for the muzzling of dogs, it provides for just about everything. Hospitals are involved here as well, and what we're doing is saying, well O.K. we're going to let go our legislative responsibility and just let the Commissioner take over the whole Dog Ordinance because section 6 of this Ordinance provides that this is now repealed and I don't think this is a very good thing to do myself, I can see misuse could well come from the implementation of this Ordinance I'm not saying the existing Commissioner, I'm speaking of the office of the Commissioner which could be filled by anybody at any time and if he was not so benevolent a dictator and he should be in office and he so chose he could run amuck among these little communities in the Yukon and I still don't see .... and I would certainly like to see more safeguards for the organized communities.

Mr. Legal Adviser: Mr. Chairman, a lot would depend on whether the Commissioner would have the power to ascertain the wishes of the inhabitant. There would be no objection to saying that a regulation shall not be made until after the Commissioner has ascertained the wishes of the inhabitants. This couldn't be done until the Plebiscite Ordinance happens to exist, but this is municipal type of power given to the Commissioner. It's a duplicate of the power given to the municipality and it's intended whenever an Unorganized community becomes organized to give it this power, this is intended for an unorganized community and Watson Lake is not yet organized into a body that we can give the power to, if it was they could certainly have it because it's not part of the Administration's wishes to retain it whatsoever.

Mr. Taylor: Mr. Chairman, I in deference say Watson Lake is a organized community. It's organized as a Local Improvement District and has the right to make by-laws and in my opinion if it's not organized and has no right to make by-laws in respect of dogs for instance then it should be given those powers. I don't feel you have to repeal the whole Dog Ordinance to do this and I might say that regulations .... or legislation by regulation is not to my way of thinking the finest thing in the Yukon. These things come out faster than you can put them in the book we have got to hold them, every mail there is a great wad of changes by regulation and it's hopeless to even keep up with it, however, how are the people supposed to know what the existing law is day by day if it indeed changes day by day and under this Ordinance this is exactly what would happen.

BILL  
NO. 26

Mr. McKinnon: Mr. Chairman, I wonder if there is any .... if the Administration is willing to give the power to regulate the dogs within Local Improvement Districts and Villages to people in those areas?

Mr. Commissioner: How fast can we do it Mr. Chairman. Can we do it yesterday. We would be most happy to be completely and totally devoid of the total responsibilities so the faster the better Mr. Chairman.

Mr. Dumas: Mr. Chairman, couldn't we just add in Section 4 then, but not including a municipality, or a village or a local improvement district. Wouldn't this cover the problem?

Mr. Commissioner: Mr. Chairman, this is imminently satisfactory.

Mr. Legal Adviser: Well it may be satisfactory to the Commissioner, but some person or body must have the power, The Commissioner has two functions in this Territory, one is a function as Commissioner of the Territory as a whole, the other is a municipal type of power remaining vested in him for areas outside municipalities,

in unorganized districts, but we've got to transfer the power to some person and it's not enough just to say, shall not apply to Local Improvement Districts and Villages and so forth. We've got to then give the power to the villages and Local Improvement Districts. Somebody must have the power.

Mr. Taylor: Mr. Chairman, in answer to the Commissioner's question if he wanted it yesterday it needs only an amendment to the Local Improvement District Ordinance but it should also be spelled out in this Ordinance.

Mr. Shaw: Mr. Chairman, I think that when we change a Dog Ordinance, and I have had quite some experience in trying to control dogs, it becomes a very complex situation. I have found that perfectly good citizens, their places are neat and tidy, they are upstanding citizens of the community but somehow or other when they have a dog it just seems problems do occur, these good qualities of good citizenship just seem to disappear and this dog .... they may control their children but they seem to object to controlling their dogs. They feel the dog has every right to do anything it just about wants to do and I would feel that it would be wiser, much wiser to have an Ordinance in respect to dogs rather than have it which is certainly administratively simple to have regulations and so on. If an Ordinance is laid down and the power is given to the Local Improvement District to regulate their own dog by-laws it is a wonderful thing. I can quite understand the Commissioner not wishing to become involved in this providing of course they do it within the Ordinance. I would feel that it would be a much more simple than this, it lays out what they can do and cannot do for example, an Improvement District body may not

BILL  
NO. 26

understand quite a number of the implications what might come about controlling dogs and they may get themselves inadvertently and with very good intentions into quite some legal problems unless the law is pretty well set out for them to follow to give them some guidance, I say this Mr. Chairman because I have been all through this and it's quite a problem and I would feel that all that is required in this particular Ordinance is to change the section which abides the power .... which delegates the power to these organized districts to bring in their own by-laws providing they don't contravene the Ordinance itself and I would feel that would be the practical way to handle a situation like this.

Mr. Livesay: Mr. Chairman, looking at this Ordinance it seems to me that the municipality's have a certain amount of power and the new Improvement District have certain powers under the Ordinance but I am wondering precisely in the unorganized areas where the elected representatives of the people is concerned where apparently the legislation now is going to legislate away from the representatives in these unorganized areas even the decision over dogs, I mean we're getting a bit low on the ladder I think and I just don't see how the machinery of government can attempt to create legislation to absolutely eliminate the representatives altogether for even the smallest most picayune item that you could possibly think of. This is what I get from this type of legislation that the elected member of course is something for the paper book and something to show the world that we have a semblance of democracy in the Yukon. I have often wondered just where the position of the elected representative is and every day I attend this House Mr. Chairman, it seems to me it's getting into a smaller position all the time, I can't see anything in the Yukon Act that puts elected members in this position at all anywhere.

Mr. McKinnon: Mr. Chairman, it seems to me the Honourable Member from Carmacks-Kluane would like control over the regulation of dogs in his area, I am sure the Administration would be more than willing to give him this administrative control in the Carmacks-Kluane area, being in the Whitehorse North area I am happy to leave it in the Administration's hands.

Mr. Taylor: Mr. Chairman, I would just like to point out in perusing the Local Improvement District Ordinance it states under the duties and powers section, 'that the Board of Trustees are the executive of the district and shall operate and maintain any local improvements in that district which are owned by the district or which they have been authorized to operate and maintain on behalf of the Commissioner' and then if we follow we find that the Commissioner has the .... may authorize the trustees of the district to operate and maintain any local improvements in that district on his behalf and on such terms and conditions as he prescribes, and I am wondering Mr. Chairman, if Mr. Legal Adviser would agree that the Commissioner may have under these sections the right by regulation to give this particular authority to the improvement district without amending the Local Improvement District Ordinance.

Mr. Legal Adviser: Mr. Chairman, no, we have considered this matter because the one thing that was foremost in the mind of the Administration was how they could get rid of having to control dogs at all up here, it wasn't trying to achieve control, it was trying to let the control go. The trustees of an improvement district have the power to operate the improvements which is the sewer system or the water system. They have no other powers for controlling the discipline of the inhabitants and things like this and until they have it is not really suitable we would certainly

be prepared to draft an amendment to this Bill to attempt to give this power because we don't want it, it's a municipal power and it's a tedious one which brings varying requests from each area of the Territory. They want different regulations. Now when this first started I attempted an exercise to amend the Dog's Ordinance and draft after draft was being turned out in my office for what is a relatively unimportant subject to some but very important to others and the solution that we came up with was to give ourselves a municipal authority in the Administration and then be able to consult with the inhabitants of each place and the intention was to have a standard set of dog regulations circulated to every area that could possibly have spokesman and then ask them which of those regulations they wanted in force in their particular area and to try to get it down to the wishes of any group of inhabitants who could be considered vocal enough to make their wishes felt. This is the idea but the set of regulations would be the choice of the inhabitants and it would be a choice right along the line. Now this may have been attractively simply as a solution, we thought it was ideal, we thought it was democratic but apparently it's not democratic enough, and unexpectedly I find that every member has a different idea, a slightly different idea, as to exactly what should be dealt with, with regard to dogs. As the Councillor from Dawson City said, it is a sensitive subject. We are prepared to accept the reasonable wishes of the Council in any way possible to get rid of the control of dogs, and if the Council can come up with any reason or suggestion we would attempt, in whatever way we can to implement it.

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Mr. Taylor: Well two points Mr. Chairman, one is that it seems to me I can see the point of Mr. Legal Adviser that we are talking about local improvements but it seems to me that we should have the right in legislative powers to provide another section to the Local Improvement Ordinance to provide that the Local Improvement District trustees can take control of dogs and other matters as prescribed by the Commissioner or something to this extent, or indeed specify these powers, I think actually they should be specified. This being the case I fail to see why we should proceed with this Ordinance or give it favourable consideration when indeed the existing Dog Ordinance, which also provides the Commissioner to provide that he may make regulations, I can't see where this is unworkable at all at the present time and I don't feel this Ordinance should be brought into force before the Local Improvement District Ordinance is amended to provide this safeguard because we got hood-winked once and we don't want to get hood-winked again, this is simply it and therefore I can't go for the Bill unless there is some amendment made to it.

Mr. Legal Adviser: With respect, I don't think there's any question of hood-winking, a regulation was brought into force, at the request of the people at Watson Lake, and a regulation was repealed I think, it so happened the police picked up a charge in the intervening period in the regulation but everything done in relation to dogs was done at the request of either the trustees or the inhabitants, this is my information. Now I would suggest the Bill go unamended as it is and the Administration will undertake at the next session to bring forward another Bill giving the power to the trustees of Local Improvement District to make regulations concerning dogs and at the same time to bring in a short amendment to add the words, a municipality or Local Improvement District. But the Bill can go through as it is and when the correct time comes, rather than have a midnight movement of legislation let it come at the next session.

total power in the Commissioner. I can see nothing but trouble coming from it. For instance I might correct a statement that the people of Watson Lake requested that the Dog Ordinance be implemented at Watson Lake, or the dogs at large portion of it this was completely incorrect. This was a result of a tragedy in Whitehorse and a very tragic thing happened here and there was a fatality and the Commissioner merely went down the list of the areas at the time, and he looked and said, 'well here's Carcross, Teslin and Watson Lake they're not covered in the Dog Ordinance' and the three were covered all at the same time. That was in 1967 Commissioner's No. 8 and it was amended at the request of the people at Watson Lake who unfortunately, didn't know. possibly I was in error, these regulations come so fast sometimes I miss some and I didn't note that Watson Lake had been included. The matter had been discussed many times in Watson Lake and it was determined people didn't want a dog tie-up and nobody happened to know, but the police knew and at the request of some citizen the police suddenly one day erupted and started picking up all the dogs, the pet dogs the ones that they could whistle and here boy catch, the ones that were running at large that were the problem they couldn't catch so they didn't bother with them, so all the nice docile little dogs, I think some you would have to put on wheels to get them off the property but somehow they did it. And this is what happened, as I say, even in Court today .... or yesterday and today in Watson Lake dog cases effected way back in May are still being heard. It cost people a lot of money and a lot of time, so I'm not prepared to accept this Ordinance until provision is made that the Local Improvement District trustees can indeed control the situation in their own community, I feel there is sufficient protection in the existing Dog Ordinance to hold us over until the day that Mr. Legal Adviser and the Administration can come up with the necessary legislation because I still feel what is not expressed is not implied.

Mr. Shaw: Mr. Chairman, I have a question for the Legal Adviser I am not able to find out where the organized districts or villages are permitted, are given this power .... I notice in the Municipal Ordinance where it means a municipal area designated and incorporated as a municipal corporation or which may be incorporated as a city, town or village which we could say all the settled areas in the Yukon, of course, could be incorporated as a municipality it's just a matter of time so that's it's somewhat indefinite in respect to that, that is .... if that's all that covers it there are so many amendments and so on that it's very hard to catch up just where they are unless you make a practice of doing it.

Mr. Legal Adviser: I think it's section 101 that gives the power to make the by-law. Section 101 says, A Council may pass, this Council the Council of Municipality .... a municipality defined at the start of the Ordinance, 'any portion of the Territory established as a municipality under this Ordinance and the powers they are given is the restraining, the prohibiting and regulating of running at large of dogs and so on, almost identical with the section here. It runs on paragraph (a) to (f) and municipalities. In other words, the City of Dawson has the power to do all the things which are set out here.

Mr. Shaw: I appreciate that, thank you Mr. Chairman, I am talking about an organized municipality where that power is given.



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Mr. Shaw: Mr. Chairman, we seem to be having a great deal of difficulty over something that isn't of momentous importance. It would appear to me that all that would be necessary would be to have an Ordinance Respecting Dogs in which it was outlined that the Commissioner shall or can or may or however you wish to phrase it give powers to Local Improvement Districts or Villages for the control of dogs. Now to go further into this Mr. Chairman, it would appear to me that when a Local Improvement District comes into operation that they will require, and they should get a great deal of assistance from the Territorial Government in creating by-laws and creating legislation for their particular body. I can go back to 1951 .... I think 1950 when the City of Dawson was given back its charter to have its own elected mayor, rather than ex officio mayor and at that time the government when we took plebiscite and were quite willing to take control of our own affairs that was fine but it was pretty well, well boys you are on your own so we had to start digging up through by-laws, we had no Legal Adviser except what we could scrounge from the person that was the Legal Adviser to the government and they only stuck around for about six months before they came down here, so we had quite a time and these people, these improvement districts will need a great deal of help and I do not see why it cannot be put in this particular Bill be amended to just serve the purpose which it is intended to serve, that is give the power to these Local Improvement Districts or Villages or whatever you may call them, that is the object of this Bill and it would appear to me that all we have to do is just change this to acquire that objective, it seems to me extremely simple, I cannot see the difficulty at all. The Commissioner controls it until there is a Improvement District and then boys this is part of your responsibility.

Mr. Legal Adviser: I am in full sympathy with the Honourable Member's suggestion. It just so happens that this Ordinance, An Ordinance for the Controlling of Dogs, is only effective outside a municipality or an organized area so there's no power given to a municipality in this Bill to deal with dogs. They already have it so I would certainly be prepared, and the Commissioner certainly assures me he is prepared to bring forward an Ordinance as soon as possible because there may be other powers that the Local Improvement District might be having at this time, I don't know there may be other amendments to that Ordinance and it will need re-examination as every Ordinance needs a certain amount of care and thought. It would be an injustice to the House to bring forward an ill prepared snappy Ordinance, now if this Ordinance goes through as passed for the temporary period until next session then the power will still lie in the hands of the Commissioner but he has promised to get rid of it to vest himself of this power, at the same time if he does this it will go to a Local Improvement District. Now a Village already has this power, any organized district comes in the definition of municipality which includes a city, a village, a town or whatever you want in the Municipal Ordinance, they already have all these powers. We want to give away as much power as possible. This is the policy of the administration and I would only ask that we be allowed to do it at a more leisurely fashion than in a midnight movement.

Mr. Taylor: Mr. Chairman, I can't accept that I feel that if as the Legal Adviser says, if an amendment is being proposed to the Local Improvement District Ordinance certainly I think this Bill should be withdrawn and reconsidered and presented at the same time. I'm still not prepared to accept this transitional period, I feel we have a workable dog ordinance, one with which many of the people in the Territory are familiar, they know that certain things can be done throughout the Territory and certain things cannot be done in respect of dogs. By removing this Ordinance and putting this

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Mr. Legal Adviser: Well this is a Council of a municipality we are talking about and in the definition section they define what is within the municipality.

Mr. Commissioner: The section that brings us into line is the amendment item No. 1, Municipality means any part of the Territory established as a city or village under this Ordinance.

Mr. Taylor: At this time I will resume the Chair and declare a short recess.

RECESS

RECESS

Wednesday, November 20, 1968.  
11:00 o'clock a.m.

Councillor McKinnon and Mr. Commissioner not present.

Mr. Chairman: At this time, I will call Committee back to order.

Mr. Dumas: Mr. Chairman, we've had a few dog problems in the Whitehorse West constituency and a few horse problems, too, for that matter. I think that this bill as presented is a pretty sound one. I can't see this Committee allowing itself to get bogged down on this particular bill and this seems to be the situation. I also can't see the Commissioner wanting to wield wide powers - dictatorial powers - around the Territory in relation to dogs. I just can't picture him leading his dog pack around, so I'm going to suggest, and ask Committee, that we carry on and go through this bill and pass it out of Committee as is.

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Mr. Chairman: Councillor Chamberlist.

Mr. Chamberlist: Mr. Chairman, I've listened to quite a lot of the discussion on this ordinance. My opinion is that it is not required at this time. It is not required at this time, (1) because it does not supply those areas that are outside municipalities and may in the near future become villages within the meaning of the Municipal Ordinance with those powers that is the intention to give them under the Local Improvement Ordinance; yet the explanatory note shows that it is outside a municipality but yet it does not take into consideration that any area may become a municipality. Very recently there has been a movement to have the area known as Porter Creek receive village status. The moment that Porter Creek receives village status, it would be a municipality within the meaning of the Municipal Ordinance. Therefore, there is no care whatever taken in this particular regard. Now, I am always opposed to government by regulation. This is another strong point why I'm opposed. I think that what we need to do, as has already been referred to by the Member for Watson Lake, is to extend the powers of the Local Improvement Ordinance. Once this is done, it would be quite a simple matter then to amend our existing ordinance to take care of the requirement intended with this new bill. Now, of course when the Honourable Member from Watson Lake referred to the hoodwinking of Members, I really don't think he meant that because this is not a horse ordinance. Now, further, I would feel that this ordinance - the existing ordinance - does protect in all matters because it spells out those areas where there are offenses, etc. and it even goes as far that in section 10 the person may kill a dog that is running at large in the act of pursuing, worrying, injuring or destroying cattle, horses, sheep, pigs or poultry. This ordinance - the Dog Ordinance - is not an ordinance to go after dogs at large; it's an ordinance to go after large dogs. Now, this is what it's supposed to be and this is the intention. It's not intended to worry the small pet dog who perhaps has wandered off or waddled away on its own. Some years ago you may recall the former mayor of this municipality gave orders for dogs to be destroyed on sight and there was one or two policemen who were going around shooting dogs, or attempting to shoot them, indiscriminately and to such an extent that one policeman chased a dog into the old hospital area and took twenty-two

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shots to bring him down. Now, we don't want that. As far as I am concerned, what we have is sufficient legislation. When the principle of giving the powers to regulate in one's own area is carried out, then if you wish you may amend the existing ordinance, but a new ordinance to grant by regulation the powers to the Commissioner notwithstanding - perhaps it's a minor thing - as Councillor Dumas has said this Committee is being bogged down. The principle is that we do not give over-regulatory powers to the Commissioner to do what he will. We want things spelled out for us. We have an ordinance that is spelled out dealing with dogs. We should keep it that way. Otherwise, it becomes asinine. It really does.

Mr. Chairman: Councillor Chamberlist, take the Chair again a moment.

Mr. Chamberlist: Yes.

Mr. Taylor: Mr. Chairman, something else has just occurred to me in discussing this Ordinance, that this is a tax bill. This isn't just simply a dog ordinance. This is a tax bill, because within this bill this would give the Commissioner the right to impose a tax, as we will see as we proceed, on dogs and levy fees and prescribe charges anywhere in the Territory outside of a municipality. I think this should be borne in mind, too. There's more to this bill than really meets the eye. Now, I would like to ask Mr. Legal Adviser if he would - and the Administration would - consider, assuming that we accept the other parts of this bill, writing into the bill words to the effect that the Commissioner shall consult with, in the case of local improvement districts, with the trustees of that district before implementing regulations respecting that improvement district?

Councillor McKinnon and Mr. Commissioner enter Council Chambers.

Mr. Legal Adviser: Mr. Chairman, I regret - well, I don't regret - I've had the opportunity of consulting with members of the Administration to consider whether or not we could put that particular type of amendment into this particular bill, and unfortunately, it's not suitable for several reasons, amongst which is the fact that the trustees of a local improvement district are trustees over a piece of property, and has no power to make by-laws generally binding the inhabitants at all. They can make by-laws dealing with the particular improvement over which they have jurisdiction which in normal cases are sewer and water. Now, the bill only applies to that area of the Yukon which is outside a municipality, and as soon as Porter Creek becomes a village or Dawson Creek becomes a village, then automatically - sorry, Watson Lake becomes a village - automatically they acquire the power under the Municipal Ordinance to make their own by-laws and they have a duplicate set of by-laws exactly as listed out in section 3 and they choose what by-laws they want. Whitehorse has this power at the moment, Dawson City has the power at the moment, but they're the only two organized areas within the Territory at present, and the other areas are not organized, but as each area becomes organized it automatically by virtue of the Municipal Ordinance acquires the right to make by-laws. Now, this power will therefore go to Porter Creek if the inhabitants want it. It will go to Watson Lake if the inhabitants want it. If they want to become organized then they acquire the complete by-law-making power

of a municipality. Now, we are prepared to examine the BILL  
Local Improvement Districts Ordinance to try and give by-law- NO. 26  
making power in some fields - probably in this field - to  
the trustees or to a group selected. We would be prepared  
to amend this bill to give the right to the inhabitants to  
be consulted by the Commissioner in any area - and he can  
apply it to any area, big or small, with different by-laws  
for each area. We're prepared to say that the Commissioner  
shall not make regulations until after he has consulted the  
inhabitants of a district, and there is a bill before you to  
enable this to be done, if it goes through, but the trustees  
itself, it would be improper in this bill to give that power  
to the trustees to be consulted because there is an  
expression, 'hard cases make bad law'. No matter how much  
we would wish it, it would be a bad principle and would  
react adversely against us in the years to come.

Mr. Chairman: Councillor Taylor.

Mr. Taylor: Well, Mr. Chairman, thank you. I find it  
difficult to understand why, in light of Mr. Legal Adviser's  
remark, that the Administration are reluctant to provide  
that the Commissioner shall consult with improvement  
districts. It has been stated that they have no power and  
yet I must leave this Council Chamber on Monday in order to  
go to a meeting because the Commissioner has now told the  
improvement district in Watson Lake that they will decide  
where the new administration building - the Federal-Territorial  
Administration Building is going, and they alone will  
decide, and we can do things of this nature - this involves  
three or four hundred thousand dollars of the taxpayer of  
the Yukon Territory's money. We can provide for that; why  
can't we provide for dogs? I feel that in the second  
instance that the existing Dog Ordinance provides under  
section 6 that no owner shall permit a dog to run at large,  
(a) within an area that may be defined by the Commissioner -  
he now has this power - (b) contrary to a by-law made by a  
municipality, (c) that has a vicious temperament or dangerous  
to the public, and (d) while in heat. This is all spelled  
out quite clearly and quite concisely. Also in this  
ordinance there is provision for people who abuse dogs, fail  
to feed and water them. I think it's a very useful  
ordinance in its other sections. So, I am going to, if I  
should have the opportunity to vote on this bill, to oppose  
it for three reasons. One is that there is not sufficient  
protection for the local organized improvement districts, who  
should have some local control here. The second reason is  
because I feel that the existing ordinance is satisfactory  
and this bill isn't needed at this time; and for the third  
reason, it's a tax bill, and I feel that in view of the  
fact that it's a tax bill that we had better look at the  
revenue side of the picture before we approve of such a bill,  
and at this time I will resume the Chair. Councillor Dumas.

Mr. Dumas: Mr. Chairman, it says in the explanatory note  
that difficulties have been experienced in the enforcement  
of the provisions of the Dog Ordinance. Could the Legal  
Adviser enlarge on that, please?

Mr. Legal Adviser: Well, I'm not familiar with the details  
of all the difficulties, but many Honourable Members will  
realize that there's a large inhabited area contiguous to the  
City of Whitehorse, and we have difficulties over boundaries  
and who enforces and who doesn't enforce it and who employs

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the dog catchers; who does this and that and the other thing. These lead to difficulties. We have difficulties because the Dog Ordinance itself is not flexible enough. The Municipality of Whitehorse has got very flexible legislation which we are copying - or attempting to copy in this bill. We have the difficulty that at various times representations are made by a group of inhabitants in an area which may be the wish of the majority and may not be the wish of the majority. It's not.....as the Honourable Member for Dawson City said that people take individualistic views about dogs. The same person or group of persons changes their view. When their own little pet pomeranian is taken up by the dog catcher, then the dog laws are most unjust, but when that person's own child is attacked on his way to school or coming back from school on a dark evening in the middle of winter, then the Dog Ordinance is not strong enough.

Mr. Chamberlist: By a pomeranian?

Mr. Legal Adviser: Well, taken by a sleigh dog or a husky or something. Then he takes a different view, and he may change his view within a week. So, we would prefer to have flexible legislation and to be able to ascertain the wishes of the majority of the people in any area as to what they want, and we are attempting to make this as democratic as possible and if it's not democratic enough, well, the Administration apologizes for the bill.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Mr. Chairman, I do not quite understand this particular bill. I tell you why, and perhaps the Legal Adviser can advise me if I am wrong in my assumption - this is merely a bill in which the Dog Ordinance is thrown out and a new ordinance is introduced whereby everything is done by regulation. Now, what I don't understand is that in the Dog Ordinance if we refer to section 15 it states, and I quote, "The Commissioner may make regulations for carrying out the purposes and provisions of this Ordinance." This would appear to me, Mr. Chairman, to contain all the authority that is necessary for carrying out the - controlling dogs. It's pretty well laid out in the ordinance what you can do and what you can't do, and there is the authority. Why make another bill to give the same authority? That's apparently just what we are attempting to do. Could I have that explained to me, Mr. Chairman?

Mr. Chairman: Mr. Legal Adviser.

Mr. Legal Adviser: Well, Mr. Chairman, general words at the end of an ordinance giving power to make regulations are controlled by the general intent of the ordinance itself, and no regulation may abridge or extend the powers given to the regulation-making authority by the earlier sections. So, where a specific prohibition or permission is given in the earlier sections, the regulations are tied to that and cannot extend it. The general idea of this bill is to attempt to divorce the Commissioner's municipal powers from his general law-making powers so that he can make what are really municipal regulations for different places exactly as a municipal authority does, and this type of power would always be exercised where possible according to the wishes of the inhabitants. The Dog Ordinance appears to be flexible, but

is not flexible enough when you are dealing with practical cases in the wishes of different groups of people. Now, this is an attempt to do this. I, myself, in my office spent a considerable amount of time trying to draft a dog ordinance which would be sufficiently flexible and still spell out the powers, and it got so complicated that we just gave it up as taking up more time than it was worth. We'd been at it for three weeks and the typists had their fingers worn to the bone typing fresh drafts and we thought it was about time to give up, and in some of the provinces they have this phrase, 'the unorganized area' and the minister for local government has the authority to make regulations and by-laws governing those areas, and he takes municipal-type power and this was the idea behind this ordinance. BILL NO. 26

Mr. Chairman: Councillor Chamberlist.

Mr. Chamberlist: Mr. Chairman, as one looks and looks again at this piece of legislation that has been put before us, one cannot help think how ridiculous and what a waste of time, of Mr. Legal Adviser's time, and the Administration's time, and this Council's time, when you put forward anything like this on this table. You read in section 5 under offences and penalties, "Every person who violates any provision of this Ordinance is guilty of an offence and liable upon summary conviction to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding thirty days." Now, I wonder where is there any provision. There are no provisions in this ordinance. All you have in here is a provision for the Commissioner to make regulations. That's all. There's not one single provision in the whole of this ordinance. You can go through it and I can't find any provision, whereas the existing Dog Ordinance - you have a number of provisions that are made which can be offended against. To me, the only person that can commit an offence here is the Commissioner according to this particular thing. Now, earlier on the Honourable Member from Whitehorse West raised a very valid question, and not too cleverly Mr. Legal Adviser fluffed it. The question was, in the explanatory note read the following words:- "Difficulties have been experienced in the enforcement of the provisions of the Dog Ordinance." The Honourable Member's question was what difficulties. Mr. Legal Adviser came back with this particular thing:- Well, we don't know who's responsible for what board or for what dogs. - Surely, this is an administrative matter and that's all it is. It's nothing beyond that, but where are the provisions under which you had difficulty to enforce. What cases have come forward where you have been unable to prosecute? Has there been any attempt to prosecute? If there haven't been cases, these are the things you should be telling us about as to why you wish to put a new ordinance, or the Administration wishes to put a new ordinance forward, not come and tell us it's because you don't know which dogs belong to which area. You know, they cross the border. This becomes so ludicrous, you know, and I tell you I think we can go on and on and on showing that there is no necessity for this type of legislation because it is simply a full page and a piece of paper which just gives you an interpretation and the fact that the Commissioner can make regulations. There is nothing beyond that and I defy Mr. Legal Adviser or any member of the Administration to say that it goes beyond those two things that I say - that this ordinance goes beyond an interpretation and the manufacture of regulations by the Commissioner,

BILL NO. 26 Moved by Councillor Chamberlist, seconded by Councillor Shaw, that Bill No. 26, An Ordinance Respecting Dogs, be deferred.

MOTION CARRIED

MOTION CARRIED

BILL NO. 27 Mr. Chairman: We will now proceed to Bill No. 27, An Ordinance to Amend the Fire Prevention Ordinance. (Reads Bill No. 27.) Mr. Legal Adviser.

Mr. Legal Adviser: I may not be in order suggesting this, but would it be convenient to defer this bill until decisions are taken concerning the Public Inquiries Bill?

Mr. Chairman: Does Committee agree?

All: Agree.

Mr. Chairman: Do you wish to go to bill No. 29 at this time?

All: Agreed.

BILL NO. 29 Mr. Chairman: (Reads section 1 of Bill No. 29, An Ordinance to Amend the Municipal Ordinance.)

Mr. Chamberlist: Mr. Chairman, I wonder if Mr. Legal Adviser could expand on his explanatory note in this matter?

Mr. Legal Adviser: Mr. Chairman, this bill comes because of a request by the City of Whitehorse to be given certain powers dealing with trailers, trailer parks and kindred affairs, and in accordance with the Commissioner's stated policy to transfer to the municipality any necessary power to enable them to run their own house, this bill has been instituted. It follows accepted principles of powers given to cities and towns in other provinces.

Mr. Chamberlist: Mr. Chairman, I wonder what Mr. Legal Adviser feels about a construction camp, where they set up temporary trailers? Would this come under this particular sphere as well?

Mr. Legal Adviser: Temporary trailers will be covered. They will be regulated under this. A trailer means a vehicle which is used or designed as a sleeping or dwelling place, so that would cover construction camps, but I'm not sure whether we have any construction camps within the municipality. There may be. If there are, then they're covered.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Mr. Chairman, I was accused at one time - wrongly, I might infer - that the Council, and I as a Member of Council, had passed ordinances or an ordinance respecting municipality in which the municipality was unaware of what the ordinance was composed of and did not have the opportunity of perusing it beforehand. It does appear that the City of Whitehorse are acquainted with this. I wonder if the City of Dawson have also had the courtesy of their opinion in respect of this matter.

Mr. Legal Adviser: I don't want to bind the Administration by my answer but my recollection is that at the time that this was being discussed there may have been no council in the City of Dawson. It may have been run by an administrator,



and I'm not sure how consultation went back and forward with Dawson. I'm not even sure that the details of this were discussed with the City of Whitehorse. I think they asked in general terms for powers because of a specific position that arose when it was being contemplated that they might purchase land for use as a trailer park, and then our investigations showed that their powers as a municipality were deficient and there would be powers given to them here which might not necessarily have been sought by the city, but we examined this type of legislation throughout the provinces so far as we could to see what was the normal package of legislation or legislation-making power which was given to a municipality, and anything which was of a kindred subject was put into one package and this draft is the result.

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Mr. Shaw: Well, Mr. Chairman, I quite realize and appreciate, and I think it's an admirable procedure to give them more powers. However, I also feel that regardless of what we may be doing and it does directly concern a municipality, and I might add that the City of Dawson has had a sitting body for at least two months - they should be at least given the courtesy of perusing this and possibly they may come up with some suggestions which would fit the differences which may exist perhaps between one municipality and another with further suggestions, and I would ask that if the Legal Adviser could ascertain if the council of the City of Dawson are aware that we are about to - that we are studying an ordinance in respect of a municipality.

Mr. Legal Adviser: I'll endeavour to have the enquiry arranged. There may have been no consultation on this particular bill, but there would be earlier correspondence, but in any event, the whole of this bill is an enabling bill to enable them to make by-laws. It doesn't limit their freedom in any manner and I doubt if the searches in Dawson or the municipal offices here would disclose much of a difference - we're able to make, in this type of a research - we're able to go through the provincial laws - it may take time, but we can check back on by-law-making authority which is given to the municipalities, and in fact the basis of this draft is to a certain extent taken from the powers of the City of Toronto with a view taken as to powers given in British Columbia, Alberta, Manitoba and so on. So, they're as wide as it is possible for us to frame them and still allow reasonable control.

Mr. Shaw: Mr. Chairman, I would like to direct a question to the Legal Adviser. Would he not consider it common courtesy that the persons concerned - in this case a municipality, all municipalities - all municipalities should be informed of whatever it is, though it may be giving something?

Mr. Legal Adviser: Well, as a principle, I don't think that principle should be conceded. In a larger province when a particular city asks for rule-making authority, it may be conceded, and then as a matter of policy, extended to other cities and other towns. This, basically, is a request of the City of Whitehorse, and the power given to make these by-laws is being extended to Dawson without their request. So the basic consultations would, in the first place, be with the particular municipality that is asking for the power, but it would be a wrong principle, I think, for a provincial government, certainly, to have to consult with

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each organized municipality and village, which might run into hundreds and hundreds, and it would be stultifying on the central government to have to accept it as a principle that before making any change in municipal law, each municipality must be consulted. Sometimes the Administration knows the feeling without having specific consultations.

Mr. Shaw: Mr. Chairman, I can't quite see that. We have two municipalities. I mean, I can understand that it might be difficult in some countries where a man has about fifteen or a hundred wives that he can't tell them all about what goes on, but when they only have one, or in some places two, it's quite a simple matter, and I think this is a simple matter.

Mr. Chairman: Councillor Chamberlist.

Mr. Chamberlist: Mr. Chairman, section 1 defines a trailer park in a manner that puts anybody's lot into that same category of a trailer park because of the way it is written. It says:- "trailer park means land in or upon which any trailer used for the living, sleeping or eating accommodation of persons therein is placed, located, kept or maintained, or used or maintained as a camp ground for the public...", but even if it's just located there. So, the position is that a man has a trailer. He puts a trailer on his own lot, and this can be termed a trailer park? I wonder if Mr. Legal Adviser would take a look at that.

Mr. Legal Adviser: The definition is definitely intended to be as wide as possible, but if the Member will do the bill justice by reading through it, he will find that the powers given to the council are different depending on whether the trailer or trailer park is kept for the public or whether it's kept for private use, and this is a carefully designed group of sections tied together, and this wide definition is necessary to set it up at all, because power is given to the municipality to control the existence of private trailers on a private lot.

Mr. Chairman: Are you clear?

Mr. Chamberlist: Mr. Chairman, I wonder if Mr. Legal Adviser would say when this was requested by the City of Whitehorse, as he has put it? What explanation did the City of Whitehorse give to the Administration for this amendment being required?

Mr. Commissioner: Yes, Mr. Chairman, it came up as a consequence of discussions that the City of Whitehorse were contemplating going into the trailer park business, which came up at a meeting which was brought about by complaints that were laid in my office by a group of people - I don't know whether they are an organization or not, but they were a group of trailer home-owners who were unable to find parking space for their trailers, and it was at this point that the question came up concerning the City's ability under the Municipal Ordinance to actually involve themselves in the trailer park business or in fact for that matter the regulating by by-law of trailer parks that were within the confines of the city. I believe this was the two general aspects, and it was as the result of complaints that were laid in my office by this particular group of people.

Mr. Chamberlist: Well, Mr. Chairman, I wonder if the Administration could say whether it is the intention of the municipality of the City of Whitehorse to go into the trailer park business?

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Mr. Commissioner: Mr. Chairman, we have no means of affirming or denying what the city's intentions are in this particular matter.

Mr. Chamberlist: Well, surely, Mr. Chairman, it falls within the confines of the duties of Inspector of Municipalities to know what is going to take place within a municipality, and if this - I didn't get that remark - and if this ordinance to amend the municipal ordinance is there simply to place the municipality in business, in competition to the free enterprise, then I would raise objection. What I'm concerned with is if the municipality are restricting areas for the use of a trailer park and then intend to make provisions for them to go into the trailer park business themselves, then I want to know about it, because I think it's in the interests of the Members of this Council to know whether this is going to take place before legislation of this nature is put into effect.

Mr. Chairman: Councillor Dumas.

Mr. Dumas: Aren't we again getting into the area of infringement on the municipality? Surely, it's their decision whether they want to go into business or not - any type of business, for that matter.

Mr. Chairman: Order, please. Are we clear on section 1?

All: Clear.

Mr. Chairman: (Reads first two paragraphs of section 2 of Bill No. 29, An Ordinance to Amend the Municipal Ordinance.)

Mr. Chamberlist: Question. This interferes with a construction camp. This is the very thing that I'm bringing forward. Supposing there is a large construction going to take place in Riverdale, a huge shopping centre, and the general contractor brings in his own trailer units and his own ceiling facilities to house the construction employees to carry out that work there. According to this it couldn't be for more than sixty days.

Mr. Legal Adviser: Mr. Chairman, the operative word is may.

Mr. Chamberlist: Well, why have it in there? Why have this type of thing in there if it doesn't spell out exactly what it's supposed to do. Now, you told me the operating word in it. Well, do you need it in there? What's the necessity of it in there?

Mr. Legal Adviser: The necessity is to deal with the situation created by people who own houses or lots, allowing them to develop accidentally into trailer parks and to try and deal with the situation where a family have a lot or a house and they put one or two or three trailers at the back of it and they have in-laws or friends and they create a situation where you've got two or three families who pay no rates or taxes and who are living there. This is to try and get this

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area under control but the by-laws are limited. It's a cut-down by-law. It only allows a by-law to be made dealing with people who are more than sixty days in the one place. Now, in other words, the holiday caravan in the sense that somebody's friends come to visit him and they're staying there for a period in the summer - they'll be outside the by-laws and the council are prohibited from dealing with those, but they're allowed to deal with the balance.

Mr. Chamberlist: Mr. Chairman, people that say agreed are not reading this properly. I'm reading it properly. I mean, I can see where there is abuse against construction companies that want to carry out construction. This reads that the council may pass by-laws. Now, if the council may pass the by-laws prohibiting the use where trailers are set up, but I'm thinking of the legislation from this end here. Supposing the council pass a by-law to that effect. Supposing they do. Supposing they say we don't want this construction camp here; they can move outside the city limits. They can pass a by-law to prevent the construction company from being there.

Mr. Legal Adviser: Well, why not?

Mr. Chamberlist: Why not? For the simple reason that they're there for a specific purpose. They're not there as a permanent operation, but we're not going to legislate to put people out of business or to make it more expensive for people to operate. We're not supposed to be doing that. The idea of legislation on trailer parks is to regulate. This is where I object to it, because we're legislating against the wrong people. Why did you spell out exactly what it means. If it means house-trailers, then you should say so, but it should exclude areas of where construction is involved.

Mr. Shaw: Mr. Chairman, I would like to direct a question to the Honourable Member from Whitehorse East and the question would be wouldn't that be within the confidence of the representatives of the people of the city of Whitehorse what they did or where they put them and how they put them?

Mr. Chamberlist: Well, Mr. Chairman, it's very, very easy to answer that question because as I have said before that Territorial elected representatives that also represent the people in the municipalities are competent to deal in this matter. When reading this I took this particular subject up with a couple of construction companies, and this is the objection that they have to this particular thing because they can be legislated against. Now, I am speaking as a representative of those people, and Councillor Shaw knows full well that he also speaks as a representative of the people in the Dawson City area, too. Now, this may well occur at some time within Dawson City if ever anything takes place up there and they may need a construction site.

Mr. Shaw: Mr. Chairman, lots of things would have taken place up there if the laws hadn't been changed the way they are, but we won't get into that. The point is that if the people represented by their civic government do not want construction camps in the middle of the city, I think that the people of Whitehorse have the right to kick out those construction camps. I don't represent construction camps. I represent the people and the matters that pertain to a city and I'm very happy to see the Council who represent that particular area do within the confines of the ordinance what the people wish, by their elected representatives. They may object to several

things they do but none the less those are the people that  
are objected; those are the people that do it, and they  
should have that right of determining.

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Mr. Chairman: Gentlemen, in view of the time I will declare  
Committee in noon recess.

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Mr. Chairman: Committee will now come to order. We are dealing with Section 2, 117A. and we have sub-section (a). (Reads (a), (b), (c)).

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Mr. Chamberlist: Mr. Chairman, I register my opposition as explained earlier on in the debate, that it restricts the use of construction operators in the normal procedure of conducting their own businesses.

Mr. Legal Adviser: This is true. It does restrict people but I'm sorry but it is the intention of the Ordinance to enable the Municipal Council to impose this particular restriction.

Mr. Chairman: 117B. (Reads 117B (a), (b)).

Mr. Chamberlist: Surely you're not suggesting Mr. Chairman, that we are going to condone a penalty of \$20.00 a month for a licence and allow a municipality to charge that? We are condoning that a municipality can literally rob the public. Twenty dollars a month for putting a trailer on - a licence. That is ridiculous.

Mr. Legal Adviser: Mr. Chairman, the question of amount is debatable but when families move into trailer parks they may have one, two three or more children, and I'm not sure what the cost of educating a child is in the Yukon Territory but the Commissioner can correct me if I'm wrong; but in some cases it can run up as high as \$2,500.00 a year. In an average case I think it can run up as high as \$1100.00 a year and a trailer by its very nature does not in fact pay taxes and this is - will permit the Council to charge a fee which, if charged on a house, would be in the nature of a tax, for services rendered. to a limit of twenty dollars.

Mr. Chamberlist: Well Mr. Chairman, surely this would apply then to the rest of the Territory; where somebody is living in the Territory and they have children that have to be educated. Are you suggesting then that in an area outside of a municipality that there would be a charge of \$20.00 for a licence as well for educating the children or just the children who live in a municipality. Now, how do you justify this argument.

Mr. Legal Adviser: This is not the imposition of the charge. It is to allow a municipality to make a charge. In the unorganized areas of the Territory one would hope that the Commissioner would have an Ordinance which would enable him to make rules and regulations for dealing with trailers and trailer parks, other than the normal ..... regulations.

Mr. Chamberlist: This is the point that I am making, that right now what is being done is an attempt is being made to penalize people for living in trailers to an extent of \$240.00 a year. Now if they rent an apartment and they are paying an inclusive rental they don't have to pay additional for this educational idea that Mr. Legal Adviser has put forward; because they live in a trailer, and let me tell you this much, some of the trailers that are built today are far more suitable to live in than some of the dungeons that people are living in at the moment. To me, it appears to me that there is a penalty being imposed upon people who wish and prefer to live in trailers. Now, I have already been told that I am representing people. Well this is true; it is the people that I represent whether or not they live in trailers.

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Mr. Chamberlist continues..

Now I see no reason whatever why we should place an imposition of \$20.00 a month licence fee on a trailer or allow a municipality to do that. I can't see this type of legislation at all. It is a type of legislation that is just making it difficult to have people come into this Territory. We want people here. You are frightening people away this way. People could only live in trailers for a short while until they get themselves homes to live in so you penalize them as soon as they enter into the area? This is so wrong.

Mr. Legal Adviser: Mr. Chairman, this is not the intent to penalize them; this is in conformity with the Commissioner's known policy to broaden the tax base of the City of Whitehorse or any other municipality. The situation exists that a person can buy a lot-an unserviced lot and pay minimal taxes on it; if any taxation at all as it is unserviced. He can put a ten thousand, twelve thousand, fifteen thousand dollar trailer on that lot and rear a family on that lot without making any contribution by way of taxation whatsoever. This is to deal with that specific instance and is so drafted to make that possible. It is also possible for the municipality to have its own trailer park and to charge fees for it. Now it is put on that basis; it is not a restrictive section. It is merely to enable the municipality to get some return for their money.

Mr. Chamberlist: Well, Mr. Chairman, I heard the most peculiar argument just put up. The Legal Adviser has suggested that some people will buy their own lot and put a trailer on it and don't pay anything towards the taxes. This is what Mr. Legal Adviser said. The moment that somebody owns a lot he is paying taxes immediately. Oh, everybody that owns a lot pays taxes, perhaps not on the improvements but he is paying taxes and he is paying-the educational tax automatically. Now sure, certainly, if there is a necessity to make sure that trailers are taxed, why not term the trailers an improvement and tax on that basis but don't set it down in a way that there is a licence of \$20.00 to be paid because this isn't a tax; this is a licence. This is what you are referring to there. If you want to make it tax you should say so that there will be tax but this is a licence. This is what is referred to as a licence and that is a difference as far as I am concerned.

Mr. Chairman: Mr. Commissioner.

Mr. Commissioner: Mr. Chairman, with respect, the cost of providing municipal services are high. It is not practical to consider a trailer to be an improvement for taxable purposes on a piece of property.

Trailers can be moved during the course of the taxation year and never at any particular time be assessed.

Mr. Chairman: Mr. Chamberlist, will you take the Chair please?.

Mr. Chamberlist takes the Chair.

Mr. Taylor: Mr. Chairman, I would like to get something straight in my mind at this time. If a person takes a \$14,000.00 trailer, for instance, and pulls the wheels out from under it and sets it on a small foundation and throws a porch on the side of it, is it classed as a house or a trailer?

Mr. Legal Adviser: I would think it becomes a house but it is a question of trying to tie this down by definition. People have failed to come up with a satisfactory definition of some of these terms like what is a 'verandah' and what is

a 'house' for the last nine hundred years. It is a question of trying to tie down your definition as tight as possible. "Trailer" here is a vehicle, the essence of a vehicle is that at some point of time it must have been equipped with wheels for movement, or sleighs or something. A vehicle whether equipped with wheels or not, so if it has been a vehicle and you take the wheels away, that will still remain a trailer, I think. It might also be a house; there is no reason why the definition can't overlap.

Mr. Taylor: Mr. Chairman, this is something that is going to have to be defined in law. For this reason, that someone can go and spend \$14,000.00 on a modern, say twelve foot house trailer, 12 x 50 say, can put it up, and take the wheels out. I think normally now the wheels do - the dollies just slipped away when you get these trailers to be parked somewhere so you can be ready to move it again. It can be set up on a foundation, a well and septic tank or services supplied to it and indeed it should be considered a house at that point. Now it is well to remember that every one of our schools, portable schools would be trailers because they come in sectional units. Many of the homes at Clinton Creek and different places throughout the Territory are indeed mobile homes, homes that came in on wheels on this trailer and were put together, the wheels taken away and put on a foundation and became a house. So I think that somewhere along the line you have to resolve this problem before you - you know, where does the trailer cease to be a trailer and becomes a house.

Mr. Legal Adviser: I think the only practical way of doing it is if it starts life as a vehicle it continues as a vehicle probably until it becomes a house. Presumably when it becomes a house it will be deemed to be an improvement attached to the soil if it ever has an attachment of any sort and it would be certainly attached if it has its own bathroom facilities, a foundation made of concrete and porch and so forth. Presumably it would then be a house. The courts may have arguments over this but the purpose of this is to deal with trailers when they are trailers and not when they become houses. So the definition is a suitable definition for this Bill. We may in time, if the problem starts to arise, have to define what a house is but for the purpose of guiding the assessment officer when he is doing his rounds as to when the thing has become a house, or an improvement.

Mr. Taylor: Mr. Chairman, I respectfully submit, is this not the time when one should make that distinction in law? You could have a trailer converted into a house by putting it on a foundation, adding a porch and have a very nice presentable semi-permanent facility. You move houses, remember, just like trailers. There are lots of them moving back and forth around town here and you can move houses just like you can move these new modern trailers we are dealing with and I think this should be spelled out in this Ordinance where a trailer becomes a house.

Mr. Legal Adviser: As this Ordinance is drafted it is trying to catch everything within its confines which is a trailer. Now if we started viewing this from the point of view of the basic taxation Ordinance we take a different point of view. We are then trying to find out what is a house but we don't want to define houses here, we just want to define trailers and it is a difficult enough thing to define what you are talking about without having to also try to define what you are not trying



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Mr. Legal Adviser continues...  
to catch.

Mr. Chamberlist: Mr. Chairman, I wonder if Mr. Legal Adviser would agree with this particular theory that a trailer, a house trailer should be a house trailer for the purpose of this Ordinance when it is self-contained with its own water supply and its own sewer system, rather its own septic toilet facilities within the trailer, when it is moved from point A to point B as a vehicle was being moved, and that a house is a house even when a trailer is connected to a sewer and water system. Would that not make it a house? Because then it becomes affixed to the land. Now if Mr. Legal Adviser can see the difference between those two subject matters, surely the trailer that is connected to sewer and water can then be assessed as a house and be taxed as an improvement. Now I am not arguing against the suggestion that a trailer which is there for the simple purpose of utilizing the facilities in the vicinity and not doing anything than that be taxed or rather licenced for the period that it remains there but when it is there as a house for living accommodation, should it not be an improvement to the land; especially in view that the owner has purchased that land and has placed his trailer as a house on that land, temporarily or otherwise. There are instances right here just recently where a man was building his own home and he asked that, he got permission to put his trailer on there and connected to the sewer and water while he was building his home and he was refused, notwithstanding the fact that he wanted to pay whatever was the requirement of it. Now, it is because he was refused, why was he refused when he offered to do these things?

Mr. Commissioner: Mr. Chairman, the very point that the Honourable Member has raised is the authority that the City is looking for to be able to do as per this Ordinance.

Mr. Chamberlist: Then all the more reason why it is in error the way it is written because what the City wants, I submit, Mr. Chairman, wants permission to be able - they could have given this permission in any event because it is within the ordinance, they didn't need an alteration to the Municipal Ordinance. All they need to do is alter their own by-law which at the moment restricts the use of trailers within the municipality. I was responsible for the original setting up of that by-law in 1960 restricting the use of trailers because of the way it was coming in in a haphazard manner into the area but the purpose of that was so that the City would be able to regulate where trailers were to go, not penalize people who wanted to use trailers while they were carrying out other functions. And that is, in this particular case I refer to a function where they offered to pay for the use of their trailer and for the water and sewer supplied. And it was refused. Now this is where I say there is a penalty against these people. Now these people didn't say we are just coming in here just to avoid taxes. They didn't say that. They had their lots. The lots were being taxed. They wanted to pay the improvement of whatever value for the time while they were building their home. Their home was being, improvements were going on there. I think that what we are doing/giving the power to the municipality to penalize an individual who wished to live in a decent house trailer, on his own land.

Mr. McKinnon: Mr. Chairman, this has been a problem that has reared itself in the Yukon before and it seems to be a recurring one in every municipality in the Dominion and I've never been able to get it through to me why and where the problem is of the municipality charging the trailer that is using the City's land

Mr. McKinnon continues...

and using the services the City provides. Why in heaven's name everywhere across the country they don't seem to be able to get the taxes from this person on that property and using the services. Where is the insurmountability of this problem?

Mr. Legal Adviser: It is just a practical thing. It is not only across Canada. In every state of the United States, Great Britain, everywhere that I know of this same problem occurs and that is the fact that once you have a trailer it is moveable and taxation is usually assessed on a property as of the improvements that are there on a given date. Trailers are moveable so to evade taxes you just can, in theory, move out your trailer for twenty-four hours and put it back and you evade taxes for that year, even if you deem it to be an improvement. It is difficult to control - this is Ontario type legislation, not identical but the principle is the same. They attempt to do it by charging fees for people who are in residence. The casual camper passing through is charged nothing; the holiday maker is charged nothing but the person who sets up a trailer, ten thousand dollars worth of trailer, instead of a ten thousand dollar house, they attempt by means of fees to extract some contribution from them for the services he uses in the area.

Mr. McKinnon: Which amounts, Mr. Chairman, to only about half of what a person with a normal home dwelling and improvement would pay in taxation to the City so the guy is still, though he is living in a much more modern home, and they are homes, than another person, he still is only paying half the share of the cost towards the City that the poor sucker who builds a home and pays his normal improvement taxes is getting stuck with; so it is unfair this way even though it is better than nothing. Is there no way that they can come up with that the municipality can assess and tax these trailers on an equitable basis the same as the other poor citizen who is building his house and paying his way in the community.

Mr. Legal Adviser: The Commissioner has done a bit of research himself into this and I've done it and I've searched legislation back and forward and I've been reading about it and this very problem occurred during the time of the Empire of Constantine in Constantinople in the year 900 and he could not solve it, 854. He couldn't solve it and it has not been solved since. This is a solution which is reasonably acceptable. If the Honourable Member would care to turn up with a solution which defeated Constantine and defeated every civilization since the Greek and Roman Empire well, then more luck to him.

Mr. Chamberlist: Mr. Chairman, the trailers used in Constantine's days were usually made up of tents so we will not worry about that. Mr. Legal Adviser, Mr. Chairman, argues against himself when he says trailers can be moved and the other member from Watson Lake has made it quite clear that houses get moved. I have seen terrific sized buildings get moved and lifted up with trucks put under them and moved all over. Does this mean to say that they come under the trailer situation? Because in other areas in the rest of the world there have been problems, why cannot we solve our problem and let others follow us? Mr. Legal Adviser didn't catch that because he was busy taking advice. I cannot see how he can reconcile his statement with

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Mr. Chamberlist continues... regards to a trailer and the reason for it because it can be moved and any other building which could also be moved. Certainly there is a need for broadening the tax base but there is no need for us to put anywhere in our legislation penalties against people who want to come to live in the Yukon. They must pay their fair share but not only must they be dealt with equitably but we must also make sure that they are dealt with equitably and this is what we are not doing in this and I can see how we can penalize by imposing a licence fee of twenty dollars per month on a trailer. I will oppose that particular section anyway. I'm going to oppose it. I'm going to oppose this Bill in any event.....

Mr. Chairman: Councillor Gordon.

Mrs. Gordon: This business of being able to tie a trailer to the ground and call it an improvement; is it not tied in in some way to the same sort of thing as a renter who makes improvements on any area in which he lives and when he leaves he can remove everything that is not nailed down? Is there not a reasonable association here between this situation and a trailer which is tied to the ground as sewer and water facilities and then becomes an improvement. Can anyone give me any enlightenment on this?

Mr. Commissioner: Mr. Chairman, with respect, you arrive here at a point and time here when you have to go to the Taxation Ordinance. This is really what you were talking about here when it comes down to who is going to be taxed on improvements and who is not, and the definition under which we operate in the Taxation Ordinance indicates buildings erected upon or affixed thereto. Now there is certainly a very easy definition in my mind as to when a trailer is still moveable and when it is affixed to the ground and I am sure there is in all Councillors' minds here too. And the fact remains that what we are talking about here is that point in time when the trailer or anything else that you wish to call it, building, is still in a moveable condition and when it is affixed thereto. When it becomes affixed thereto it becomes subject to the Taxation Ordinance. When it is not affixed thereto we are talking about this here and this is the point, I think that Councillor Taylor brought up when he is concerned about as to when a trailer is a trailer and when it is not and subject to anything further that Mr. Legal Adviser might have to say on this matter, I think that this is really what you are attempting to do here is to give the municipality the opportunity by means of a licence fee collected by monthly basis which is not to exceed \$20.00 a month, an opportunity to collect that money from the trailer prior to the time, or a building for that matter, prior to the time that it becomes subject to the Taxation Ordinance. Now Mr. Legal Adviser, you might like to say something to qualify this but this is basically in a nutshell what you are attempting to do.

Mr. Legal Adviser: This is correct except it is not intended to catch a temporary house, only a thing which was a vehicle.

Mr. Chamberlist: It is going to be quite peculiar. If somebody sets up a trailer camp in town here. They have fifty bays and based on that fifty bays it is going to cost something like \$1400.00 a year - a thousand dollars a month to license. Why have this type of Ordinance at all.....you are making an Ordinance you are going to make it prohibitive for a trailer

Mr. Chamberlist continues  
court to operate. Isn't that so?

Mr. Commissioner: With respect, Mr. Chairman, what you are doing is you are making it possible for the rest of the taxpayers in the municipality to still live in the municipality because why should the municipality not have the opportunity to collect a reasonable and equitable share of the cost of municipal services. In this trailer court you have potentially fifty trailers, one hundred and fifty children going to school. The assessment on this particular piece of property is going to be on the basis of acreage, not whether it is full of trailers, you can't assess the trailers. The fire engine goes out there to make a call. How much does it cost the City of Whitehorse alone to maintain fire services? To say nothing of all the rest of the services that are provided and the rest of the taxpayers are paying for it. What you are attempting to do is to give the municipality an opportunity to spread the burden of the cost of municipal services on some kind of an equitable basis Mr. Chairman.

Mr. McKinnon: Mr. Chairman, do I understand that there is no way now under the Taxation Ordinance or Municipal Ordinance that any of the trailers in any of the courts in a municipality are being fixed with taxation at this time?

Mr. Commissioner: Mr. Chairman, this is absolutely correct and I speak from twenty years of experience.

Mr. McKinnon: Mr. Chairman, then the terms of the Taxation Ordinance as you interpret them are not being adhered to by the municipality because by your definition if they are affixed which they definitely are in a trailer court, then they are assessable.

Mr. Commissioner: Mr. Chairman, 95% of them that are sitting in the trailer courts within the city of Whitehorse still have the wheels attached to them; they are simply jacked up on them.

Mr. Chairman: Councillor Dumas.

Mr. Dumas: Mr. Chairman, in the real estate business and in the insurance business there is a very apparent distinction between a trailer or a mobile home and house and most of the trailers as such in town are considered trailers or mobile homes and are insured in that manner and sold in that manner. The houses that there are in town that have been brought up the highway on low boys in sections, actually in some cases in two sections, are considered prefab houses and they are now in what is considered permanent positions although they can be picked up and hauled away as can any house, but the dividing line between a trailer or a mobile home and something that is considered a house or stationary home is very plain.

Mr. Chamberlist: Mr. Chairman, following the Commissioner's reply to a question asked by the Honourable Member from Whitehorse North, where in the Territory, outside the municipality is there provision for taxation of trailers.

Mr. Legal Adviser: None that we know of.

Mr. Chamberlist: Well isn't it somewhat discriminatory then to tax those that are in the municipality and not tax those that are outside the municipality?

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29. Mr. Commissioner: Mr. Chairman, I am sure that there is going to be ample consideration the next time around that we need more taxes in the Territory to such situations by this particular body.

Mr. Chamberlist: Well can't we deal with this as a tax and not as a licence? I haven't looked up the law, I'm going to but there is a definite difference between a licence and a tax and whether you can licence this type of thing is another question. I'm afraid that we might find ourselves in a position of passing legislation, with all due respect to Mr. Legal Adviser; he says that he has done some research on it. It is just in the back of my head somewhere, I came across something similar to this - this type of licence cannot be made by a municipality because a licence by a municipality must be an annual licence, not a monthly licence. A licence cannot be treated as a tax and this is what an attempt is being made to do. Now what is it, is it a business licence; what type of licence would this be, under what section of the licencing would it come?

Mr. Legal Adviser: This is merely a method of charging money. It doesn't really make any difference in a dictionary whether you call it a licence or a tax or anything else or a fee. It is a licence fee. You pay money for the privilege of being in a municipality and being able to avail of the services which are in the area.

Mr. Chairman: May I proceed with the reading of the Bill? (Reads 117B).

Mr. Chamberlist: Question, a notion has just dawned upon me that I did not raise before. In the preamble to (a) and (b) it says the Council may pass by-laws for licencing trailers located in the municipality, except in a trailer park. So that the way this is written, no licence is required for a trailer in a trailer park. In what, 117B, is this what it means so that when I asked the question before Mr. Commissioner answered me. Mr. Commissioner said that it would cost a thousand dollars a month. Now where are we going? There seems to be a contradiction somewhere. Now what is right, Mr. Legal Adviser? The answer given by the Commissioner or the suggestion that I just made where it doesn't apply to trailer parks.

Mr. Legal Adviser: Now, 117D actually - the whole thing is designed to be complementary, one to the other. In a trailer park you licence and regulate and govern trailer parks in designated areas and you prohibit and you regulate them under 117D. 117B would actually govern a place which is not a trailer park, that is a person who has a piece of land or even on a piece of public land who may be wandering from place to place with his trailer but they are designed to be complementary.

Mr. Chamberlist: The purpose would appear then to stop gypsies from coming into the country.

Mr. Chairman: (Reads 117C).

Mr. Chamberlist: May I call your attention to the time Mr. Chairman?

Mr. Chairman: (Reads 117D, 117E)

Mr. Chamberlist: Now, I wonder before we can go any further

Mr. Chamberlist continues...  
on this if these regulations are not presented to Committee  
for study, I would like to be able to go through on this  
but I would like to have copies of this.

Mr. Legal Adviser: Are these the regulations under the Public  
Health Ordinance? These regulations merely deal with the  
number of people able to sleep in square footage, the  
sanitation, space, number of trailers that can be put per  
acre and they are all basic sanitary regulations.

Mr. Chamberlist: Has Mr. Legal Adviser any objection to  
me getting ahold of a copy of these regulations.

Mr. Legal Adviser: I think they are here on the table in  
front of us.

Mr. Chairman: What is your pleasure in respect of this Bill.

Mr. Chamberlist: It is not completed yet-as far as I am  
concerned I wish to go through the regulations and make  
a study, Mr. Chairman.

Mr. Chairman: What is the.... all right, I'll declare a  
fifteen minute recess.

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Mr. Chairman: At this time I will call Committee back to order. BILL # 29  
We are discussing Bill No. 29.

Mr. Chamberlist: Mr. Chairman, earlier on I made objection to this applying to construction camps. Section 117E, clearly states that no by-laws will conflict with the trailer coach park regulations and if there is conflict the trailer-coach park regulations shall prevail. I draw, Mr. Chairman, Mr. Legal Adviser's attention to the Trailer-Coach Park regulations and where reference is made that park means any area of land etc., and finishes up but does not include a construction camp. So therefore, I take it that from this the municipality cannot make a by-law which will interfere with the construction camp. Is this correct?

Mr. Legal Adviser: True, a construction camp, everybody knows what a construction camp is. We've got one up at Faro.

Mr. Dumas: Mr. Chairman, I move that Bill No. 29 be reported out of Committee, without amendment.

Mr. Chairman: Secunder?

Mr. Chamberlist: Before.....

Mr. Chairman: Order, is there a seconder to this motion?

Mr. McKinnon: I'll second that motion, Mr. Chairman.

Mr. Chamberlist: I'm opposed to this Bill. It interferes with what I think are the rights of the individual. I think it improperly attempts to tax without clearly stating that it is a tax and unless it would be amended to read exactly what it should read, I cannot support the passing of this Bill.

Mr. Chairman: I have before me a motion moved by Councillor Dumas, seconded by Councillor McKinnon that Bill No. 29 be reported out of Committee without amendment. Are you prepared for the question? Are you agreed?

Some: Agreed.

Mr. Chairman: Any contrary?

Mr. Chamberlist: Contrary. I would ask that my contrary vote be recorded.

Mr. Chairman: I declare the motion carried.

Mr. Chamberlist: Mr. Chairman, I had intimated at the ....when the second reading of the Bill was given in the House that I would also raise the question relevant to the Municipal Ordinance at this time, in relation to other amendments that should be forthcoming. I feel, Mr. Chairman, that the Municipal Ordinance has now reached the state with almost a hundred and fifty amendments and that it should be consolidated in a manner that would make it readable to the average layman and understood by the average layman and would recommend that it be clearly designated as to whether a municipality must have city management or not and I would also suggest that the time has now come when a split Council should be dispensed with in municipalities so that the people of a municipality have the right to reject completely those members who are...who form a Municipal Council. At the moment where we have a forthcoming election, we have, as you are well aware an election every year in the municipalities in the Yukon. We're placed in the position of being able to elect two new members to a Municipal Council leaving the three that make up the majority still in office and consequently the public have

not the opportunity of rejecting and removing from office those people with whom the policies of their office do not coincide with the wishes of the people. So Mr. Chairman the Administration have a responsibility not to wait for a municipality to ask of this type of legislation because they may not wish to get rid of their own powers in the municipality but the necessity does arise now, where we should look forward ourselves to making this legislation available. I wonder if Mr. Legal Adviser could suggest when a consolidation of the Municipal Ordinance not the consolidation to all the Ordinances, we've already had reference made to all the Ordinances, but a consolidation of the Municipal Ordinance be brought forward?

Mr. Legal Adviser: I couldn't say when it will be brought forward but such an exercise is underway. There was a vacancy in one of the posts which is now filled and this office is now charged with the task of bringing forward a draft of a complete new Municipal Ordinance. It would not be a consolidation of the old one. It will be a complete new one.

Mr. Chairman: Well this now concludes Bill No. 29. Bill No. 30 is a tax Bill and I believe we wish to wait for the supplementary estimates in order to proceed with that. Then it brings us back to Bill No. 28, An Ordinance To Provide For Government Control For Sale Of Alcoholic Liquors. I wonder if I might have your direction on how you wish to proceed with this Bill?

Mr. McKinnon: I have no objection at all to going through this Bill at this time and having discussion on the various parts of the Bill, however, before the question is resolved, I feel that the Bill should go before a select Committee of this House to hear public representation that may be forthcoming on this Bill.

Mr. Chamberlist: Yes, Mr. Chairman, I concur with the remarks of the Honourable Member from Whitehorse North but I do feel at the same time, we should give consideration to the Bill itself without proceeding to any vote in this matter.

Mr. Chairman: Will Committee agree to these proposals as expressed by the Honourable Members? Are there any contrary. Well then the Chair has it that we will proceed with discussion on the Bill but no vote be taken until such time as the Select Committee has been formed to hear public representations. Correct?

Mr. McKinnon: Mr. Chairman, before reading of this Bill commences I wonder if I could ask who drafted this Bill?

Mr. Legal Adviser: It was a joint effort really, Mr. Chairman. The original draft commenced about three or four years ago. It hung fire and it was basically a difficulty of getting the Bill into instructions to draftsmen form rather than actual drafting. Under an arrangement which was then in existence, the Department of Justice were to do the actual drafting but only as a draftsmen and not having anything to do with the policy. The policy was set by the Commissioner and his advisers, the Department of Justice would do the physical technical drafting. Now for a variety of reasons, none of them concerned with the policy of the Bill, the matter hung fire for some considerable time and then finally instructions went to the Department of Justice this year and the draft was sent back and forward and so the Bill was drafted, some of it was drafted by the Department of Justice, but the policy control, which is the main thing, with which one is concerned was from here. I could not say myself which sections were drafted here, but many of the sections were, in fact, drafted here and I think that preliminary draft may be originally here but there were lots of people involved in the physical drafting.



Mr. McKinnon: Mr. Chairman, if I understand the Legal Adviser correctly, he is stating that no advice or policy of the Federal Government forms part of this Bill. Is this correct?

Mr. Legal Adviser: No, I'm not quite saying that. I was only asked about the drafting so when it's a question of the draftsman the policy was not dictated by the draftsman, it was dictated by the Commissioner on such advice that he received that was responsible for the policy which went into the Bill. He was able to get advice as he thought best but so far as the drafting was concerned, this ....I'm only answering as far as the drafting was concerned, not on what consultation he sought or received from any department or the drafting department of the Department of Justice.

Mr. McKinnon: Then, Mr. Chairman, policy directives of the Federal Government may be contained in this Bill. Is this correct?

Mr. Legal Adviser: I wouldn't like to answer that question. It's my impression that there's no policy directive whatsoever. There's no direct derivation. The Commissioner is able to seek advice or to seek the views of various bodies and various people but I cannot recollect any particular policy directive went into this Bill at all. That is from the Federal Government.

Mr. Chamberlist: Mr. Chairman, I wonder if Mr. Commissioner could be asked to be here so that he can answer these very pregnant questions that have just been asked?

Mr. Chairman: Mr. Clerk, will you see if Mr. Commissioner's available?

Mr. Shaw: Mr. Chairman, would this be mostly compiled on the recommendations of the Committee which was formed and went around the Yukon about two years ago?

Mr. Legal Adviser: I would say that the evidence which was given to the Committee which went around the Yukon was available. The report of that particular Committee was available, and it's hard to say how much of their philosophy went into the Bill and how much didn't. This Committee went round in, I think, it was 1964. We're now dealing in 1968 so some of the recommendations are in and some aren't but I think it would take a big exercise to find out which particular one went in and which particular ones didn't. This started really as an exercise in it's own right and was produced as a Bill in it's own right with recommendations and advice from very many sources going into the Bill.

Mr. Chairman: Is it your wish that I proceed at this time?

All: Agreed

Mr. Chairman: One (Starts to read Bill No. 28) Is it your wish that we call a brief recess?

Mr. McKinnon: Can we hold a caucus?

Mr. Chairman: What is your pleasure?

RECESS

Mr. Shaw: Mr. Chairman, I would suggest that we proceed to Sessional Papers.

Mr. Chairman: The first Sessional Paper for consideration is Sessional Paper No. 4. This is Salaries for Branch Library Supervisors. Will you proceed?

Mr. Chamberlist: Mr. Chairman, who introduced this Sessional Paper No. 4?

perhaps Mr. Chairman, would like me to take the Chair so he can commence?

Mr. Chairman: No I have to look up and see....this was introduced by Councillor Dumas, seconded by Councillor Gordon. Councillor Dumas.

Mr. Dumas: Mr. Chairman, with respect, I believe I moved this into Committee as I felt the Administration wanted it disussed and advice handed down on it. Now I may have been in error, however the Branch Libraries are primarily a concern of the areas outside of Whitehorse so if there are not any comments I suggest that we go on to the next Sessional Paper.

Mr. Chairman: I believe this is a....is this a reference for advice Mr. Commissioner?

Mr. Commissioner: I'm sorry Mr. Clerk could you uh.....

Mr. Clerk: Yes, Mr. Chairman this is definately a reference for advice. It's outlining policy and the Commissioner asks for consideration of Council on this matter.

Mr. Chairman: Just what exactly would you like Mr. Commissioner?

Mr. Commissioner: As to whether or not what we are outlining here would appear in principal to be a policy which Council would feel was right and justifiable in the circumstances as we have presented.

Mr. Chairman: Well possibly I might be able to assist by reading the paragraph involved, it states, " The present proposal is that a salary be paid by the Territorial Government to one person who will be designated as Branch Library Supervisor, in each Branch Library outside of Whitehorse. This would be a permanent part time position and would be filled through competition. The present budget provided funds for beginning this in two branches and the supplementary estimates contain an item for all remaining branches. Also included in Supplementary Estimates is a grant to the U.K.H. Community Club equal to the amount equal to the amount which would have to be paid by the Territory for the provision of library....."

Mr. Chamberlist: I have to interrupt here, Mr. Chairman, as Chairman of the Financial Advisory Committee, this is information that has been released that should not have been released. We have not dealt with the Supplementary Estimates.

Mr. Chairman: What is your pleasure?

Mr. McKinnon: Continue.

Mr. Chamberlist: Mr. Chairman, I wonder if Mr. Commissioner will make sure that in the future that no information of this type is brought forward. The Financial Advisory Committee has got a function to perform and it cannot properly perform it's functions if the Administration brings forward information that should not be available until such time as the Supplementary Estimates have been dealt with.

Mr. Chairman: What is your pleasure at this time, gentlemen. The Chair could use some direction at this point in time?

Mr. Dumas: I suggest that we proceed, Mr. Chairman, seeings the cat's out of the bag, so to speak.

Mr. Shaw: I don't know about what is classified information, Mr. Chairman, but I do know that last spring we talked about implementing a program like that.

I don't know if it was passed or not, it seems to me that it was agreed to

Mr. Chairman: "Also included in Supplementary Estimates is a grant to the U.K.H. Community Club equal to the amount which would have to be paid by the Territory for the provision of library services in the community of Elsa if these were not handled by the local Community Club. The grant is to be conditional on the Club paying their Branch Library Supervisor at least the amount provided in the grant."

Mr. Shaw: Mr. Chairman, I have one section here that I am quite interested in. That is on the Recommendations. The recommendations are that this would be a permanent part-time position and would be filled through competition. Now, that's where I get at the nub of the question, Mr. Chairman. I think about twenty years ago, the Imperial Order of Daughters of the Empire conducted the Library in Dawson City and they looked after it voluntarily through ..up to I don't know...a few years ago when they ..when it became somewhat disassociated from that organization but still became a group of workers who have carried on this work now we'll say for a period of twenty years. We now come to a part where somebody is going to get paid for something so what can easily happen in this particular case, and I'm just talking about this particular case is that these persons that have voluntarily have given of their time and labour over these many years can be completely by-passed, kicked out and you hire somebody by a competition. Now I appreciate the fact that when we come to Government tenders and all this you do have competitions but in this particular instance where the one that you have the competition ...completely forgetting about the services that these people have given to the community in the Yukon over the period of years is to me is an unthinkable manner in which to conduct this. This may work in some areas such as Whitehorse if you want to do that because you have had paid librarians since gosh knows when but while these people were paid large salaries or good salaries, perhaps I should say, the people up there were getting nothing for their labour, except, possibly a lot of abuse. Something which politicians expect to get but not people who do a community a service over these years. Now if you want competition that parts alright but how about restricting in this instance the competition amongst the people who have been doing this for nothing over the years. Give them the opportunity that if there is a dollar to be made that they will have first claim on that and I wondered if the Commissioner would be able to assure me that these people whom I've referred to, it's just this one instance that I know of, in my locality they would get that consideration. I should perhaps say, prior consideration?

Mr. Chairman: Did you ask that of anyone in particular?

Mr. Shaw: Mr. Chairman, my question was would these people get the consideration, the first consideration in taking over the duties as paid or part paid Librarian?

Mr. Commissioner: Mr. Chairman, with respect, it is a very difficult thing for me to give an out and out guarantee that these people will, indeed, be the successful applicants for these jobs but it is very obvious, Mr. Chairman, that they are certainly in the prior or in the premium position to have the necessary qualifications to assure them of being successful in the necessary competition that will have to be held. Now we have certain rules and regulations in legislation concerning the filling of Territorial positions and it certainly would not behove me to by-passing these particular legislative requirements and conversally I would feel that in most situations and I think that the Members from the rural areas who are particularly involved in this, would be in the best position to be critical of me of what I say is incorrect but I think it would be a fair assessment that in most instances the only people who would be

even interested in applying for these positions are the very people who are present encumbent on a voluntary basis.

Mr. Dumas: Mr. Chairman, there may be a problem of professionalism involved here but I'd like to point out to both the Commissioner and Committee that a precedent was set here in the Yukon Territory a little over ten years ago when the C.B.C. came in and took over the volunteer stations they hired or they gave first bid shall we say, to those who were working as volunteers and so we could possibly, using that precedent, do something the same but we might sacrifice, possibly some professionalism as we did in that case.

Mr. Shaw: Mr. Chairman, the reference made by the Honourable Member from Whitehorse West is purely a matter of personal opinion. There are many ways of looking at things and I think on many of these things we have too darn many professionals and some of them in my estimation are terrible. Put that in your pipe and smoke it. The Commissioner has answered my question when he stated that serious or prior consideration would be given to experience in the particular localities in the particular job and I would be quite satisfied to let it go at that stage.

Mr. Chairman: What is your pleasure?

Mr. Chamberlist: Mr. Chairman, there cannot be very much pleasure given at this time to this Sessional Paper. The question that is asked at the end of the foregoing is respectfully submitted for the consideration of the Council. Council cannot give full consideration because there is a matter involved in the Supplementary Estimates that have not come before this Council yet. Therefore I suggest that this be left as is for now and no answer be given to the Sessional Paper.

Mr. Chairman: Does Committee agree to this? The next Sessional Paper is Sessional Paper No. 6. Klondike Days. Proceed.

Mr. Dumas: Mr. Chairman, I moved this Bill into Committee. I think myself, that some of the arguements given and some of the jibberish that is included in the paper, it seems to be designed to dissuade us from doing anything about the fact that the term "Klondike" was swiped from the Yukon and I think we would be more than remiss in our duty as Yukoners were we to sit in the back row ...back seats in this country and say well go ahead and rape us if you like boys we're not going to say anything and we're not going to scream. Now I don't know whether we can effectively do anything ...effectively do anything but we can sure as hell let our opinions and voices be heard and I'm absolutely certain .....incidentally....according to Beauchesne there's nothing wrong with that word Mr. Chairman ...at any rate I think that as Yukoners.....I'm sorry if I've offended your sensitivity, Sir.....as Yukoners we again must take a stand on this and it's my opinion that we can bring action against any individual or organization that has used the term "Klondike" in it's promotion since we have copyrighted it. I don't think that we have to say we will bring action against everybody who has used the term but we can choose the one we want to bring action against and in so doing we will effectively show those who have stolen the Klondike from us that we are unalterably opposed, that is was a dishonest move, that they are in fact, not imaginative enough to come up some of their own ides or they don't have enough of their own history to have to come up here and hit us and one of our biggest industries ...tourism...and I'm sure the Honourable Member from Dawson will have something to add.

SESSIONAL  
PAPER # 6

Mr. Dumas: Mr. Chairman, I have one other statistic to add. I've been advised in the 1967 Tourist Season in the Yukon tourism had dropped 15% from the previous year while in the City of Edmonton it had increased 65%, so in fact there's a very real affect it's having on our economy.

Mr. Chamberlist: Mr. Chairman, there's no doubt about it, if we as elected representatives of the Yukon are not prepared to show these people in Edmonton that we're not accepting what they're doing, we are going to, in the years to come, place our children and our children's children, in the position of having a heritage removed from them, that they should have had maintained for them. Now there are many ways to fight and one of the ways to fight, and this is a recommendation that I would make to every business in the Yukon Territory, don't buy from people in Edmonton. If any of the store houses, the warehouses, the wholesale houses, send representatives to the Yukon, don't buy from them, tell them we're not going to buy from you until you make it known to your people in Edmonton, who are doing this terrible thing to the history of the Yukon to withdraw your Klondike theme then we'll not purchase from you. Now you know very well the way to make people recognize that you mean business is to hit them in the pocket. Now the purchasing power of the Yukon is becoming greater and greater all the time, and I'm also making this reference to the Administration of the Government of the Yukon Territory, don't buy. Help us to fight, don't buy, instruct your purchasing agent not to purchase anything that comes out of Edmonton. Let them know for sure that we mean business, let's start it immediately. By this token they will know quite clearly and distinctly that now the Klondike Defence Force will have behind them the elected legislature of this Territory and if the Administration will simply support the elected representatives in this particular theme and I would ask that we use the expression of "togetherness" that has often been instituted in discussions in this House by the learned Legal Adviser, that we will find very, very shortly that the people in Edmonton will want to know what they can do to alleviate the loss of revenues that come out of this Territory. Let us also ask the mining companies that operate in the Yukon, ask them to support us. Ask them to stop their purchasing from Edmonton and each and every one of us individuals in the Yukon Territory, and I make this appeal to every citizen in the Yukon Territory, in every way possible, not to purchase from Edmonton. If they have to travel...by-pass Edmonton...do whatever little they can. As the Honourable Member from Whitehorse North has properly put it we are truly a David against a Goliath but the story is well known, Goliath got it in the head, and we hope that Edmonton will get it somewhere else but we want to give it to them and give it to them for sure. Now let us make this a clarion of fighting to persist in saying that the Klondike is one of the Yukon's tourist attractions. It is not a tourist attraction of Edmonton. Thank you, Mr. Chairman.

Mr. Chairman: Mr. Chamberlist will you take the Chair

Mr. Chamberlist takes the Chair.

Mr. Taylor: Well, Mr. Chairman, I can only say that I'm in full agreement with those Members which have spoken, both the Honourable Member from Dawson and myself have been attached to the representatives of Council on the fighting wing of Council, the Klondike Defence Force, and of course have fought and battled over the years in this endeavour and I can say no more than I certainly agree that we should continue to fight and I think to give the matter, to give this matter more impetus that possibly Committee might agree that we raise this matter as a motion in the House under Orders of the Day to be included and decided upon by the Council, itself, in Council. I would suggest that the Honourable Member from Dawson and myself could get together and draft such a motion.

Mr. Shaw: Well Mr. Chairman, I have not the legal knowledge as some of the Members of this Council in respect to matters such as this, however, if we sit back and just let these people continue to plagiarize the history of this country, it's a pretty sad situation. This is getting to be a tremendous organization that they have down in Edmonton and now they have Mr. Chairman, the Federal Government, aiding and abetting in their advertising of Klondike Days by sponsoring or endorsing a competition created by these people. In other words they are going the full limit which they feel they can go to. We have one of two alternatives, to accept what they are doing and lay back and say well we can't do anything or to do everything we can to stop them. Now we can hardly go down there with pick-axes and shovels and expect that we can stop them by force the only alternative we have is to stop them by legal means. We say that then, okay, I feel that we should make every effort by legal means to stop them if we are not able to stop them by legal means we are not going to be in any worse a position than we are at the present time. They are going and doing just what they like and how they like in respect of the history of this Territory so that we have nothing to lose and everything to gain. So in my estimation and in my opinion Mr. Chairman, start legal action. I can't tell Committee how you would start this legal action but I'm sure if I started to manufacture Coca-Cola as my product, without permission of the Coca-Cola people and distributed it around the country that my neck would be in a sling and in very short order and the only alternative we have, as far as I can see now, Mr. Chairman, is to start whatever legal action that can be started. Now how you go about it, I don't know but certainly there must be some way in which the Legal Adviser could advise on how this can be done and that is my opinion, without qualifications in the best legal manner possible.

Mr. McKinnon: The last sentence of this Sessional Paper No. 6 reads, "I will appreciate the direction of Council on a policy to be adopted in this matter." Well, Mr. Chairman, I don't know what the policy of this Committee will be but I'll sure tell you what my policy is, in no uncertain terms and that's fight. Mr. Chairman, in the Travel & Publicity report covering the period May 1st to September 30, 1968, the number of persons visiting the Yukon was 118,142. The estimated dollar value of this number of people visiting and leaving in the Territory, was \$7,681,128 which is 18% over 1967. Mr. Chairman we have one basic attraction in the Yukon Territory that attracts these people here. It attracts them where it doesn't attract people to the northern part of B.C., or to the Northwest Territories or to Alaska, that is the Klondike and the Klondike Gold Rush of 1898. Mr. Chairman, the City of Edmonton has done a superlative snow job in stealing this basic resource and the history of the Yukon for the Edmonton Klondike Days. It will not be too many years in the future that anyone visiting Edmonton will think that they have seen the real Yukon, have visited the real Yukon and there is no other Klondike than that which exists in Edmonton itself. It is coming more and more to this extent when you see the advertising that Edmonton and the Klondike Days are using in this battle. There is no way that we can combat this Goliath of an Edmonton and all it's vast resources than by getting public support and public opinion behind this David of the Yukon and showing them we're not scared of them and we're going to fight them, that they're not going to steal our history, they're not going to steal one of our basic resources and the cost to the future, to the Territory will be minimal in comparison to what we're going to lose in the tourist dollar in the future if we allow this rape to continue.

Mr. Livesey: Well I have heard the ringing battle cries of the gentlemen from the Committee of the whole here about the long lost place south of us in Alberta and the suggestions that we once again take a negative <sup>attitude</sup> towards the problem that we are faced with. In other words, we will fight Edmonton on the basis of a David against a Goliath. Now it seems to me in this world of economics and struggle that we have going on here in the North, we know perfectly well that Edmonton is in the wrong. There's no question about that and I think I have been as much opposed to Edmonton's position as any other Member of the Council, but I'm wondering, gentlemen, after you give this serious thought whether this is exactly the procedure we should take. Why wouldn't it be better to suggest to the Administration and go further than that, take it right to Ottawa and suggest to Ottawa that instead of spending money trying to beat Edmonton out of the word "Klondike" that we suggest that they spend quite a little money perhaps in building up the Klondike and building up everything we've got here, so that we can beat Edmonton to the draw. I personally, Mr. Chairman, think that this is the better plan. I think it far better to follow a positive thinking procedure than it is to toy with a negative prospect of, perhaps we'll beat them through the courts or something like that, and in the meantime, run the risk of very high cost for litigation which in my view, will show at the end of the trail practically nothing for all the effort that has been put into it. I personally think that it is far better to give the tourist industry a positive boost with a lot more capital than we're putting into it today. I've always said this, I've always felt that if we're going to <sup>do</sup> something for the tourist industry here in the Yukon the very thing we can do to push tourism over is to put something here in the Yukon that will attract American citizens, Hawaiian citizens, Alaska citizens, it doesn't matter where they come from, all over Canada. Let's put some effort into building the Klondike, building the Yukon, putting ourselves in front of the world as a great place to visit. I personally think this would be money better spent. Thank you Mr. Chairman.

Mr. Taylor now resumes the Chair.

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

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

Mr. Chairman: It's been moved by Councillor Chamberlist, seconded by Councillor Shaw that Mr. Speaker do now resume the Chair. Are you prepared for the question? Are you agreed? I'll declare the motion carried.

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

Mr. Chairman: Mr. Speaker, Committee convened at 10:20 a.m. to discuss Bills & Sessional Papers. It was moved by Councillor Chamberlist and seconded by Councillor Shaw that Bill No. 26 be deferred, Motion was carried. Committee recessed at 12:00 noon and reconvened at 2:30 p.m. Moved by Councillor Dumas and seconded by Councillor McKinnon that Bill No. 29 be reported out of Committee without amendment and this Motion carried. Councillor Chamberlist was opposed. I can report progress on Bill No. 25. It was moved by Councillor Chamberlist and seconded by Councillor Shaw that Mr. Speaker do now resume the Chair. This Motion carried.

Mr. Speaker: You've heard the report of the Chairman of Committee. Are we agreed? May I have your further pleasure?

Mr. Shaw: Mr. Speaker I would move that we call it 5:00 o'clock.

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

Mr. Speaker read the daily prayer and Council was back to order. All Councillors and Mr. Legal Adviser were present.

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

Mr. Clerk: There is, Mr. Speaker.

Mr. Speaker: I will now call Council to order. I have for your attention tabling of Sessional Papers No. 31 to 38. Are there any reports of Committee? Introduction of Bills? Notices of Motion or Resolution?

Mr. Chamberlist: Mr. Speaker, I'd like to give Notice of Motion that Sessional Papers No. 31 and 34 be moved into the Committee of the Whole.

SESSIONAL  
PAPERS NO.  
31 & 34

Mr. Speaker: Are there further Notices of Motions or Resolutions?

Mr. Shaw: Mr. Speaker, I have two Notices of Motion one moved by myself and seconded by Councillor Gordon that Sessional Papers No. 30 and 35 be discussed into the Committee of the Whole, the second Motion Mr. Speaker, was moved by myself, seconded by Councillor Taylor that in the opinion of Council it was requested that immediate action be undertaken against the City of Edmonton, that immediate legal action be undertaken against the City of Edmonton and the Edmonton Exhibition Association for their misuse of the term Klondike.

SESSIONAL  
PAPERS NO.  
30 & 35

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

Mr. McKinnon: I would like to move Notice of Motion seconded by Councillor Chamberlist that a Special Select Committee consisting of Messrs. Chamberlist, Dumas, McKinnon, Livesay, Shaw, Taylor and Mrs. Gordon be appointed to consider Bill No. 28, An Ordinance To Provide For Government Control and Sale of Alcoholic Liquors, and all matters pertaining thereto with power to call for persons, papers and records to examine witnesses and generally to do all things necessary to fulfill functions and purposes of the Committee. The Committee notwithstanding any adjournment of the House may sit during such adjournments within the precincts of the House or beyond the precincts of the House, as may be deemed both expedient and desirable, and may report to the House as circumstances may permit.

MOTION  
NO. 10

Mr. Speaker: Are there further Notices of Motion or Resolution? Notices of Motion for the Production of Papers? May we pass to Orders of the Day? I wonder if I may inquire at this time if the Honourable Member from Whitehorse North would be prepared to proceed with Motion No. 5?

Mr. McKinnon: Mr. Speaker, yesterday I asked the indulgence of the House to postpone the debate on this Motion until tomorrow morning.

Mr. Speaker: The next Motion No. 6. Moved by Councillor Taylor seconded by Councillor Dumas and the text reads, Sessional Papers No. 5, 8, 9 and 12 be discussed in Committee. Would the Honourable Member be prepared to proceed with this Motion?

MOTION  
NO. 6

MOTION CARRIED

MOTION  
CARRIED

Mr. Speaker: Are there any questions?



QUESTION RE Mr. Taylor: Yes Mr. Speaker, I would like to direct a question to  
CONSTITUT- Mr. Commissioner this morning and ask if he has yet anything to  
IONAL report in relation to the participation of Yukon Legislative  
CONFERENCE Council in the forthcoming Constitutional Conference in Ottawa  
in December?

Mr. Commissioner: Mr. Speaker, I have nothing more than the  
press reports have at the present time Mr. Speaker.

Mr. Speaker: Are there any further questions?

QUESTION RE Mr. Chamberlist: Mr. Speaker, a question addressed to the  
R.C.M.P. Commissioner, in view of the concern of some of the responsible  
DETACHMENT citizens of Carcross and the correspondence I have already had  
IN CARCROSS with the Administration, can the Commissioner now say when a  
permanent R.C.M.P. detachment will be on duty in the Carcross area?

Mr. Commissioner: Mr. Speaker, as a consequence of the correspond-  
ence referred to by the Honourable Member my administration has  
entered into correspondence with the local R.C.M.P. authorities  
and as soon as we have an answer from them I will be pleased to  
bring it forward to the House as well as communicating it directly  
to the Honourable Member whose concern in this particular matter  
happens to be.

QUESTION RE Mr. Dumas: A written series of questions Mr. Speaker, Is it the  
PURCHASE practice of the Yukon Territorial Government to purchase goods  
GOODS FROM from Edmonton suppliers? If so, what approximate dollar value  
EDMONTON might be placed on these purchases, and what approximate  
SUPPLIERS percentage of total purchases from outside the Territory, does  
this figure represent?

Mr. Speaker: Any further questions?

QUESTION RE Mr. Taylor: Yes Mr. Speaker, I have another question I would  
CONDITION direct to Mr. Commissioner this morning, in view of the many  
OF HORSES reports received lately in both the public press and to myself  
personally in respect of horses running at large, and in many  
cases their extremely bad conditions, has the Administration  
considered providing legislation to the Council which indeed would  
make the owners of these horses responsible for their general care  
and upkeep?

Mr. Commissioner: Mr. Speaker, I wonder if in view of a prior  
discussion that has taken place at this session which I believe  
has bearing on the question the Councillor has just asked, if  
I might have the privilege of bringing forward a written answer  
to this question.

All: Agreed.

Mr. Speaker: Any further questions?

QUESTION RE Mr. Taylor: Just one final question Mr. Speaker, I am wondering if  
SUPPLE- Mr. Commissioner could indicate to Council this morning as to when  
MENTARY we might expect supplementary estimates?  
ESTIMATES

Mr. Commissioner: Mr. Speaker, I asked the same question before I  
came into Council this morning in the hopes I would have a  
defentive answer to give to Council at this time and I am afraid  
I am still having to tell you as quickly as possible. The  
Administration is most anxious to get them here and have Council  
discussion on them and they will be here as promptly as I can make  
them available.

Mr. Chamberlist: Mr. Speaker, supplementary to that question, will the Commissioner consider telling his Administration when the supplementary estimates should become available.

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

Mr. Taylor: Mr. Speaker, I would move that Third Reading do now be given to Bill No. 29 namely, An Ordinance To Amend The Municipal Ordinance.

THIRD  
READING  
BILL  
NO. 29

Moved by Councillor Taylor, seconded by Councillor Shaw that Third Reading be given to Bill No. 29, An Ordinance To Amend The Municipal Ordinance.

MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker: Does the House agree to the Title to Bill No. 29?

Moved by Councillor Taylor, seconded by Councillor Shaw that the Title to Bill No. 29, An Ordinance To Amend The Municipal Ordinance, be adopted as written.

TITLE  
ADOPTED  
BILL  
NO. 29  
MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker: I will declare that Bill No. 29 has passed this House. May I have your further pleasure?

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

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

MOTION  
CARRIED

MOTION CARRIED

Mr. Taylor takes the Chair in Committee.

Mr. Chairman: We will proceed to Sessional Papers at this time. In view of a motion before .... or notice given this morning before Council respecting Sessional Paper No. 6, is it your wish that we go to the next Sessional Paper?

Mr. McKinnon: Mr. Chairman, I would think not. The Motion when it's before the House can be debated fully and this would be the proper time to further debate<sup>on</sup> the subject matter of the Klondike days and the Yukon activities.

Mr. Chairman: Is it your wish then at this time that we stay with Sessional Paper No. 6, or do you wish to proceed to another Paper?

All: Proceed.

Mr. Chairman: The next Sessional Paper is Sessional Paper No. 10.

SESSIONAL  
PAPER  
NO. 10

Mr. Chamberlist: I only wish to suggest Mr. Chairman, that we proceed with Sessional Paper No. 6 as agreed.

Mr. Chairman: I am at your direction gentlemen. We will then proceed to Sessional Paper No. 6.

Mr. Shaw: Mr. Chairman, I felt that we could further discuss that possibly when the Motion arose if necessary, but if there's something that reaches further than the actual Sessional Paper and further than the Motion perhaps because it does leave various choices so perhaps certainly if Committee wishes to proceed with the Paper I say we go ahead with it.

Mr. Livesay: Mr. Chairman, it would appear that the Motion which will be discussed in the House could hardly be considered in Committee and, this I would feel, if any finalization does take place on the question then quite surely the question will be resolved in the House and any further discussion can be taken on any Motion which arises in the House at a later date. We shouldn't prevent any discussion in Committee of the Whole.

Mr. Chairman: Well the paper is always open for discussion but I asked for your direction in this regard.

SESSIONAL PAPER NO. 10 Mr. McKinnon: Mr. Chairman, I would think the House would concur in going on to Sessional Paper No. 10 at this time.

Mr. Chairman: Committee agree?

All: Agreed.

Mr. Chairman: Sessional Paper No. 10 respecting Fresh Water Fisheries. Councillor Chamberlist, would you take the Chair please.

Councillor Chamberlist takes the Chair.

Mr. Taylor: Mr. Chairman, at long last we have before us a Sessional Paper which would indicate .... or which would ask for our advice as to the acceptance of the matter of fisheries. I have read through the Paper, it seems to me to fill most of our needs, I think most members of Committee would no doubt concur that it is very desirable that we accept this responsibility. As you will note in your Sessional Paper that two new conservation officers, I assume that these two additional permanent staff will be conservation officers, I would like some clarification on that, and that licences be increased. I do have some questions I'd like to ask in respect of these Mr. Chairman and I am wondering if Mr. Summers from Fisheries will be with us in order that these questions could be answered.

All: Agreed.

Mr. Summers from Fisheries enters Chambers.

QUESTION RE INCREASE RATE OF LICENCES Mr. Taylor: Mr. Chairman, I have a question I would like to direct to Mr. Summers at this time, it refers to Section 5 on page 3 of the Sessional Paper, that representation be made to the Department of Fisheries to increase the rate of licences, and I am wondering if this becomes Territorial responsibility why we must return to the Federal Government for permission to increase our licences for Fresh Water Fisheries?

Mr. Chamberlist: Excuse me for interrupting from the Chair, Section 5 on page 3, Section 8 is also on page 3 but sub-section (5) of section 8, is this what we are referring to?

Mr. Taylor: Yes.

Mr. Summers: I would like to answer that by referring back to previous meetings or the difference between legislation and administration. This isn't a request actually in the sense of asking for something, it is a recommendation made by the Territorial Council or the Territorial authorities to request to Ottawa to increase the revenue, or the fee on the licence. The Provinces have exactly the same system whereby they make recommendations for changes in regulations, licence structures and all other aspects of fisheries work and these go by Order in Council to Ottawa and come back and are incorporated in the regulations. It's merely a recommendation I wouldn't consider it a request.

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NO. 10

Mr. Taylor: Is it then understood Mr. Chairman, that revenues accrued from these licences would accrue to the Territorial Government, rather than the Federal Government?

Mr. Summers: This is correct.

Mr. Taylor: My second question Mr. Chairman, in subsection (2) of section 8 it points out, that two additional permanent staff members be taken on strength, and I don't know if Mr. Summers would be able to answer me on this but what I am interested in is knowing whether these would indeed be two conservation officers for the field?

QUESTION  
RE PERM-  
ANENT  
STAFF  
MEMBERS

Mr. Summers: I can only answer this by saying I have discussed this very thoroughly with your Director of Game, Mr. Fitzgerald. He and I are both of the opinion that one man, one of your extra staff should be a man familiar with the fisheries regulations and fisheries management as a whole. This would possibly get you into a man from the professional class or technical class who has had experience in fisheries. The other man would be entirely up to the director I believe, but in all cases, whoever you have in the field would be gradually educated in fisheries management and game management and would become a thorough, understanding game and fish management personnel.

Mr. Taylor: Just one final question Mr. Chairman, I would direct to Mr. Commissioner. If it is the desire of Committee to recommend the acceptance of the fisheries responsibility Mr. Chairman, I wonder if Mr. Commissioner could inform me as to how long it would take to have this fully implemented?

QUESTION  
RE FISH-  
ERIES  
TAKE-OVER

Mr. Commissioner: Mr. Chairman, all I could say is we would set the wheels in motion but we are entirely at the mercy of the Federal authorities insofar as giving effect to the required orders in Council in the first instance, and secondly we will have to have the necessary budgetary approval from the Territorial Council.

Mr. Shaw: Mr. Chairman, I note they have two more employees proposed, now looking at this and then of course, seasonal workers. I certainly feel seasonal workers are necessary in order to get around . . . The Territory is pretty large and to cover such an area does require certain people in certain areas on a seasonal basis to see that the regulations are being adhered to, and licences are being paid. However, without knowing too much about the ramifications of Administration and also taking into consideration that the Federal Fisheries will still be located in the Territory during the winter months it would appear to me that two administration types in the Territorial employ would be just about one too many. If we had one person taken on employed in the game department whose function would be primarily to do with fishery administration in the

QUESTION  
RE EMPLOY  
OF TWO  
PEOPLE

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NO. 10

Territory I cannot see the reason for having two people. I am just wondering....I am looking at this on the basis of a year-round operation and I just wondered how two people can keep themselves usefully occupied during the winter months when fishing is not possible, that is, not sport fishing, as the lakes are all frozen over and the rivers are all frozen over. Would not one be sufficient for this particular function?

Mr. Summers: Was that question directed to me?

Mr. Shaw: That question is to Mr. Summers.

Mr. Summers: Possibly the best way to answer that would be to explain the experiences that I have been through the last four years. Most of the time I have done this work by myself - the patrols, the administration, running the office, and practically every phase of Fisheries management. It is a large area; it's a tremendous territory, however, you will be cutting it down by a considerable square mileage. You will be concerned entirely with the Yukon. I have a large section of British Columbia also. I believe that with the present staff in the Game Board and one more man, you could possibly manage the fisheries in a good, possibly efficient, manner. The question of field staff and seasonal employees always comes up and you must also remember that in your game Board all of your Forestry employees are ex officio Game Wardens. These I imagine would automatically become ex officio Conservation Officers which would take in Fisheries and Game. The R.C.M.P. are also heavily involved. They do a lot of our work for us in the isolated areas and the areas where we have the most trouble and we are very grateful for their co-operation and assistance, and this would continue - this is my understanding. Therefore, you have possibly more advantages than the Fisheries Department ever had. You are going to have a tremendously more efficient staff spread all over the Yukon and this is the only way that you can manage the fisheries in an efficient manner.

Mr. Taylor: Well, Mr. Chairman, just before I resume the Chair I would like to propose a motion at this time and no doubt discussions will continue, but I would like to move that Committee concurs with recommendations contained in Sessional Paper No. 10.

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

Mr. Shaw: I have a question, Mr. Chairman. The question would be that certainly I want to see the Territory take over the local management of Fisheries, but I do not want to at the same time infer that we put on two steady employees and four part-time employees. I think that is something that can be....the amount of employees can be worked out to measure with the amount of work that's involved, so in agreeing with the motion, Mr. Chairman, I do not necessarily agree with the amount of employees that had to be....we have to cut the garment according to the cloth and utilize all the available manpower that is scattered around the Territory for as little cost as possible. That's the only objection I have.

Mr. Taylor: I would just like to point out one thing, Mr. Chairman, that it is supposed....from what I can gather, that if these two additional staff members would be Conservation Officers, either senior or junior, this is pointed out on page three, that the duties of the branch would then be - this is a combined branch as I see it - would be enforcing the Game Ordinance, Fur Export Ordinance, Brands Ordinance, Migratory Birds Convention Act and Fishery Regulations. So really and truly as I see it, unless I am mistaken, that the additional staff would be doing all these other functions as well and would do much if trained as Conservation Officers, would do much

to develop a very efficient and sound working Game Department, and if this be the case I am certainly all for it. I, for instance, have always foreseen the need for three conservation officers, one in the Dawson Mayo area, one in the Watson Lake Ross River and the third in the Whitehorse North highway area, fully trained, fully competent to manage and administrate in these game areas. This is what I'm kind of reading into this thing or seeing in it, now I could be mistaken but if this be the case then I'm certainly in whole-hearted support of this. I will resume the Chair.

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NO. 10

Mr. Taylor resumes Chair.

Mr. Chamberlist: Mr. Chairman, before any vote is taken on the Motion I feel that I can't accept the Sessional Paper in view of Section 10 being part of the Sessional Paper which refers to the proposed amended Regulations. Now I have been going through these Regulations and I have found in these Regulations certain sections of a very discriminatory nature and I am surprised indeed that the Administration and Mr. Legal Adviser in particular have not picked these up. Firstly, it discriminates against the Indian for instance, take Regulations No. 6 subsection (4), No person shall sell fish or otherwise dispose of any fish caught pursuant to a certificate referred to in subsection (1), and then it goes on to say this in subsection (5), Proof of the sale or other disposition by an Indian of any fish shall be admissable in evidence and in the absence of any evidence to the contrary is proof that such fish (a) was caught by the said Indian; and (b) was caught for a purpose other than food for himself, his family or his band. Why should the Indian be picked out for this type of thing. Subsection (6) goes on to say, No person shall buy or accept any fish or portion of any fish from an Indian, except fish caught legally under a commercial licence. Surely no person shall buy or accept any fish or portion of any fish from anybody except fish caught legally under a commercial licence, why specify that it can't be done because of an Indian, then dealing with Commerical Fishery, Section 7 (1) No person shall be issued a commercial licence unless he is a Canadian Citizen and a resident of the Yukon Territory, well this in itself is a double discrimination because it is not known whether the Federal Government wish to change it in the future,

and quite frankly, I don't see why it should only apply to a British subject or a Canadian citizen, I think it should apply to anybody that wishes to enter into business in the Yukon Territory. We discriminate against people here, we may have many people who have been in Canada for twenty years but who are not necessarily Canadian citizens or British subjects, according to this piece of legislation you deprive them of the right to obtain a commercial fishing licence and they might be one of the largest taxpayers in the area but you remove from them the right to enter into a business in the Regulations, this is why I am so concerned about Regulations, this Committee and the House should really study the Regulations in as part of legislation, we get them tabled and certainly so, but we very rarely comment on them, because we very rarely start looking into them. These Regulations have been attached to the Sessional Paper, they form part of the Sessional Paper, it would appear to me that the Administration should carefully go through these Regulations before putting them into effect. I have just touched a couple of the points, this is a large Sessional Paper there are many other aspects of it, I think we should not rush in accepting it under these conditions.

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Mr. Chairman: Were you asking a question of Mr. Summers as to why?

Mr. Chamberlist: No I am not asking a question of Mr. Summers, I am asking a question of Mr. Commissioner as to why these discriminatory sections are in there?

Mr. Commissioner: Mr. Chairman, while the Honourable Member may feel that these particular items he has referred to are in fact discriminatory I personally have not taken upon myself the analysis of why these are written in this manner, but I do believe and I think that Mr. Summers could verify the situation that in fact these are the Regulations that at present apply in the Yukon Territory? Is this correct Mr. Summers?

Mr. Summers: Yes it is.

Mr. Commissioner: They are Regulations which are approved by the Federal Government whose responsibility Fisheries is now and will continue to be in the future. We are entering into a agreement with Council's prior approval if it is given to act as the agent of the Federal Government for the Administration of the Fisheries Act or the Federal Fresh Water Fisheries Act as it applies to our political area known as the Yukon Territory, and as a consequence, I would imagine that the draftsman who has put together these Regulations has done so in the full knowledge of the requirement of all other companion or effective type legislation and before it would be the prerogative of my Administration to undertake any changes of any kind in these Regulations it would have to be on the basis of prior consultation with the Federal authorities to see in fact, what changes they are prepared to accept so with respect Mr. Chairman, I am in no position to assure this Committee that in fact any changes that they would seek could in fact be assured of change without prior consultations with the Federal people. Now Mr. Chairman, it may be that Mr. Summers feels there may be something here which he might like to rebute of what I have said. I would be pleased if he would comment whether or not he feels what I have said is indeed a proper appraisal of this particular situation.

Mr. Summers: I take great exception to Mr. Chamberlist's word discrimination as applied to this particular section regarding the Indian fishery. The Indian aboriginal rights go right back to the time of Queen Victoria. Fishing and hunting was set aside as a special privilege with no restrictions except that they had to use the fish and game taken as a basic food for themselves and their dogs, nobody else has this privilege. This is a privilege extended only to native Indians in any part of Canada therefore, we are protecting them in the fact that I don't go around and check them, I merely go around and find out if they're getting enough fish, if they're not we try to augment their supply with something else, we try to get them nets through the Indian Affairs and one thing and another, so that they can get this basic food supply all the year round. The reason that we do prohibit the sale of Indian caught fish is for the simple matter that it's used basically as a food supply and not as a commercial outlet, We give them practically everything they want to catch their fish and I can't call this discriminatory, as a matter of fact, I have letters on file thanking me very much for the assistance they have received in various parts of the Yukon and the fact they are the only ones that can fish because this is the way they feel they are treated. They don't feel they are discriminated in the Fisheries Act at all therefore, as far as changing the Regulations, as I stated before, this is the prerogative of the Yukon Territorial Council, gentlemen you make your suggestions, your recommendations they go down by Order in Council and I have seen very very few of

them that were every disputed, they may have changed the wording in some way to make it more applicable but I don't think you'll have any difficulty when you make a recommendation that has been soundly thought out and put forward to cope with the particular needs of the Yukon. I think this is exactly what the program will be.

Mr. Livesay: Well Mr. Chairman, we have discussed this question before and I fully agree that the more departments of government we take over the better, but so far I don't see anything in this take-over of Fisheries other than added cost to the operation of the Territorial Government, with a little added work and, I think, most of which is confined to the collection of licences and licence fees and the ordinary routine work of office procedure as far as this department is concerned. Now other Members may question my thinking on this, but this is precisely what I see about this so-called take-over is that the Federal Government in their Department of Fisheries is merely handing over to the Yukon Territory those parts of their operation that they don't want to carry on. This is the way I see it, and I know that a lot of times, a tremendous amount of time of the present officers presently working in this field are taken up by what they look upon as ordinary routine work, it's sort of an office job, it's collecting fees running up and down the highway picking up licences and picking up fees of licences. The second item is cost - I would like to see if we take this over, I would like to see a profit, I don't see one, I think there's going to be a cost item charged against here, against us on the cost of it, I don't see it, I think they are handing something which isn't a plum on a plate. It should be the other way about, there's nothing on the plate. and they're hoping we will by local dexterity and otherwise make it into something better than it is now, so far I don't think that the Federal Fisheries has proved to us in the Yukon that operating this department in the Yukon Territory has been a profitable thing. If anyone can show me that it has, I am quite prepared to take my words back. Now that's two points against us, the third one is that I agree with the Honourable Member from Whitehorse East when he says there is discrimination in the Regulations, I think there is, to give someone more than we have is a good gesture but to take from them something that we have is not and this is what's been going on as far as the Indian people of the Yukon are concerned, in fact Indians right across Canada, ever since the Indian Act came into force in 1867, it is one of the bad, very bad, pieces of legislation that has been created by Canadians for which I think we should be ashamed, and I say that with all sincerity. There is no need to perpetuate poor legislation, neither is there any need for us to acquiesce no matter where the attention may come from to something which points to an Indian as not being a Canadian, not only that but the word Indian is only a mistake in the first place. There are no Indians in North America as far as I am concerned, Columbus made a tremendous mistake when he landed down there in the West Indies, he thought he was in India and he wasn't, well you remember the fellow that went to bed, he thought he was in bed but he wasn't, and this is about the size of it so we keep perpetuating the same mistake over and over again and pat ourselves on the back that we know what we are doing, we are wonderful fellows and we keep telling ourselves that we are getting more intelligent all the time, I don't think we are gentlemen not more intelligent - less intelligent for carrying on this absolute farce to refer to Indians in Acts or Regulations and provide something different for them than for us, to me this is showing not only discrimination, it's providing inequality for people in my view that are more entitled to the products of the land and everything that can be created in Canada far more than we are, it is us that are the intruders not these people. I fail to see why we should



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keep making these self same mistakes and on this basis Mr. Chairman, I most certainly could not agree with the Sessional Paper.

Mr. Dumas: Mr. Chairman, I am flabbergasted and amazed at the Honourable Member from Carmacks-Kluane. He's been arguing for many many years for responsible Government in the Territory, he's been arguing about the Territory taking over control of its own resources and here the opportunity, the first step towards the opportunity has been presented to us and he says, no we don't want it, it's a red herring, it's going to cost us money. I don't know of any department in the Territory that operates at a profit Mr. Chairman, and I certainly think we should be looking to take over any of these departments that we can bring them under the Territorial fold, not only will we be administering but we will also be looking after Fisheries for the whole Yukon, it will be doing exactly what the Federal Department of Fisheries is now doing and this is the type of thing we are looking towards. As to discrimination, the way I read these Regulations, No. 6 section 6 deals with Indians primarily because Indians rather than Indians being discriminated against, it's a matter of inverse discrimination if you like, they can get a certificate to fish for their own domestic use. Now if the Honourable Members will read the Regulations, go over it, there's nothing in section 7 which covers commercial fishery, which says an Indian can't fish commercially under a licence but he can't under a certificate which is understandable, he doesn't pay anything for the certificate. Aboriginal rights were referred to it is supplied so that he can eat, not make a profit on a certificate that he doesn't pay anything for. If he wants to go into commercial fishing he can do that too, all he has to do is buy a licence like any of us would have to do, so there is no discrimination at all. I think the Regulations in this respect are very fair, they treat the Indian and white man on an equal basis as far as commercial fisheries are concerned and they give the Indian the right of prior use insofar as domestic use is concerned of fishing grounds.

Mr. Chamberlist: Mr. Chairman, firstly, on Mr. Summer's remarks that he takes exception to what I have said and then he went on to say that it is the prerogative of Council to change the Regulations, I think it should be recorded that this is a prerogative of Members of this Council to comment on any part of the Sessional Paper that is before this Committee and this is, I am just using my prerogative to do so. Now I agree with the principle of the Paper, the taking over of the Fisheries Department. The very fact that in the Regulations that there's a difference made by referring to an Indian is in itself discriminatory and it would be, I would submit in exactly the same way the same type of discrimination that has been bugging the people of Canada when people refer to French-Canadians or Quebecers, it's the same type of thing that's happening. The time has come along when we can start here by taking over a new department to say immediately that in any Regulations, or in any Legislations there shall be no difference between any white or Indian, or between any persons who have a different language, this is the main thing I have to say against it. Now where I read, a whole section, section 6 (1) starts, An Indian may, under a certificate issued by the Commissioner, catch fish for food for himself, his family or his bond, but for no other purpose, now is anybody suggesting that I, or any member here, can not go and catch fish for himself a fine thing, the man is hungry, it is the law of the land he can catch fish, he can shoot an animal as well if he needs to, to keep himself alive and eat his dog if he has to. I have seen people in Malta where they caught rats and ate them during the war

to keep themselves alive, now this is where I say it is discriminatory because it is specifying that a person can do these things, it's a natural thing to keep his family alive, he should be able to get things for his family. Now when you start reading (4) No person shall sell, or attempt to sell or otherwise dispose of any fish caught pursuant to a certificate referred to in subsection (1)', we know that means no person shall do that obviously if a person is going to fish and eat that fish for his family to keep the family alive. Quite likely if he sells that fish then he should be penalized for it, but it doesn't matter whether he is Indian or white, he still should be penalized for it, but then when you have to prove that the sale or disposition of the fish is by an Indian, now when you have that in Regulations, that is discriminatory. Now again you have to .... there's Regulations which form part of the Legislation that the Court will accept an evidence that in the absence of any contrary proof the fish was caught by the said Indian, this in itself again I submit is discriminatory. Now subsection (6) of section 6 of the Regulations, 'No person shall buy or accept any fish or portion of any fish from an Indian, except fish caught legally under a commercial licence', an Indian is a fisherman, he hasn't got a commercial licence, he's got an ordinary licence, a fishing licence so he catches some fish, so he goes to his neighbor and says, here I caught so many fish for myself here's a couple of fish for you, according to this section it's an offence - read it - read it my colleagues - just read exactly what it says quite clearly, 'No person shall buy or accept any fish or portion of any fish from an Indian, except fish caught legally under a commercial licence', so that the only time you can get any fish if an Indian gives his fish away if he catches it under a commercial licence now Mr. Legal Adviser you can see that, that's simple this is what it says, now you mean to tell me that's not discriminatory! Now we go on to 7 (1) and I have already referred to that 'No person shall be issued a commercial licence unless he is a Canadian Citizen and a resident of the Yukon Territory', now isn't that .... don't you think that is discriminatory, that's clear itself, you're limiting the people who make the issue to commercial licence, and I repeat, you may get a man who had an investment of millions of dollars in this Territory, now he may not be a Canadian citizen, but he wants to go into another business venture, now he can't get a commercial fishing licence notwithstanding that he might be one of the largest taxpayers in the area and apart from that he has to be a resident of the Yukon Territory. Why can't a person from British Columbia set up a business here and obtain a licence, commercial licence to fish. I will support the Paper except that portion dealing with the Regulations because I cannot accept the Regulation, to me they do discriminate and if Mr. Summers has suggested .... I beg your pardon Mr. Summers, I think it was Mr. Commissioner had suggested it, I beg your pardon Mr. Chairman too, that these Regulations are Regulations that come from the Federal Act, I haven't looked at them immediately but if these Regulations are from the Federal Act, if the use of the word Canadian citizen are from the Federal Act, if this type of Regulation applies to Indians I would say that there is another case where the Canadian Bill of Rights has been interfered with and I would say, and I would say strongly to the Federal Government that here is another loose way where they step in against discrimination of the Indian because in any place as far as I am concerned where there is on the statutes of the Canadian Parliament areas of discrimination and we find it here, it is up to us to point it out. Let me say this final word on this, that bad legislation does not cure bad legislation, we do not have to follow what is already bad and if we do put Regulations in, let us show we are going to regulate without discrimination. Thank you, Mr. Chairman.

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

RECESS

RECESS

Mr. J. Summers, Department of Fisheries, is the witness present.

Mr. Chairman: At this time I will call Committee back to order. Councillor McKinnon.

Mr. McKinnon: Councillor Chamberlist is correct when he says that this legislation is discriminatory. It's discriminatory to the point that it sets up and tries in writing to put down the aboriginal rights of the Indian people in the Yukon. I support discriminatory legislation of this type. I support wholeheartedly the aboriginal rights of the Indians to fish and hunt for food for his family, himself and his band whenever and wherever he may or can. All that there is an attempt to do in these regulations is to put this aboriginal right into regulation so that the Indians will not be prosecuted and will not be picked up and will not be stopped doing his aboriginal, or when he is exercising his aboriginal hunting and fishing privileges. The exclusion is that Mr. Chamberlist can't do and I can't do it and you can't do it, and this is right. You cannot go out and collect any amount of fish that we want at any time, in any season, for our family or our friends and we can't do this. Now, the Indian may do this as it says for himself, his family, or his band, but he cannot and he may not go out and fish with whichever method he wants and give that fish away to his friends, which is also right. If he wants to do this, he is bound by the same regulation and the same licencing fees as any commercial fisherman. I don't know how this could be policed if this were not - if this attempt was not made to write this discriminatory and a real right of the aborigine into these regulations. If the Honourable Member from Whitehorse East can show me how these rights could be protected without them being spelled out or without making him privy to the same rights as the original inhabitants of this country, then I'm prepared to go along with him. I don't think it can be done. I think it's been tried and it failed. This is the only way that it can - these rights can be protected. I also would have to agree with the Honourable Member from Carmacks-Kluane that there is nothing in this, cost-wise, to benefit the Yukon Territory, and if I were an administrator or the Commissioner looking after nothing but the tax dollar and the benefit of the tax dollar of the people of the Territory, I would say that we were actually silly in taking over this right from the Federal Government because it is going to cost us money, but in return, Mr. Chairman, it is one of the areas in which the Federal Government, and up to this time the only area in which the Federal Government has been willing to say, 'well, here you are, boys, we'll at least give you control over the regulation of the Fisheries in the Yukon, and if you want it, go ahead'. Now, reading aside the administrative cost of it and the actual administration of it, if the Territorial Government at this time and the elected representatives were scared off just because of the cost factor of it that it wasn't going to be a plausible department, then, Mr. Chairman, I think that the Federal Government could in justice say, 'right, here we were, we were willing to at least give them regulatory control over part of the resources of the Territory, and they turned us down flat. What is all this talk about responsible government? They don't mean what

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they say anyway'. So, even though it may be not administratively sound to move into this area at this time; politically, Mr. Chairman, I don't see how we can fail not to do it.

Mr. Livesey: Mr. Chairman, if I might, I'd like to answer the reference made to the Member for Carmacks-Kluane Lake by the Honourable Member for Whitehorse North. The part that I am surprised at is the fact that he appears not to be as astute and as shrewd as he should be when dealing with the Almighty Power of the Federal Government, and where negotiations may in the future take place, I would feel that if it ever comes to a form of bargaining around a table at which I have had the honour to sit in other areas of discussions at previous times - I have always felt that all those things which were on our side which we could use as bargaining points with those from which we expect to obtain larger measures of freedom - all those bargaining points that we have in our hand at that time are measures that we can use to our own advantage. This is the point that I am getting at, and I think with something like this which is a cost item, the argument could be raised, 'well, you don't want to give us this power or that power'. Well, we of course don't want that one because it certainly is a cost item. Now, if we take so many cost items then we should certainly take other items from which we can see revenue, and when you come to look at all the resources of the Yukon Territory for which we have no access whatsoever - game, I think, is about the only one that's on the books that amounts to anything, which doesn't amount to too much when you take a look at the over-all budget, and now we've added fisheries, which is a cost item. Despite the fact that we may have thought that we have made a political gain, I do feel, Mr. Chairman, that this isn't a question of a temporary satisfaction. This is not what I'm looking for, and I would also like to point this out to the Honourable gentleman from Whitehorse West, who made a statement regarding my thinking upon moving towards responsible government. I might remind him also that I made my first speech in this House on this very same question one decade ago, and I don't feel that I have been looking at the minor points of moving towards responsible government, but I have been looking at the over-all picture, and this is the position that I take on this bill. I feel that we should be using all the points - all the advantageous things in our favour as bargaining points with those from whom we expect to get larger favours. I can see the argument created by other Members that have been discussing this question this morning, Mr. Chairman, and I still think that we have to think a little deeper than merely looking at a temporary surface value.

Mr. Chairman: Councillor Chamberlist, will you take the Chair a moment?

Mr. Chamberlist: Yes.

Mr. Taylor: Mr. Chairman, I feel at this time that those who look at the economic aspect, or the cost aspect of this program possibly have overlooked something here, and that is that in taking over fisheries - fisheries is not necessarily a cost item as I see it. I feel that this can be a great revenue-producing item to the Territory, but unfortunately the revenue does not necessarily come back in the sale of fishing licences and permits alone, but it reflects in other areas of

the economy. Now, we have a very exciting future, I think, for fisheries - fresh-water fisheries in the Yukon. It is a grossly undeveloped resource. We speak of the Indian, and I would point out that the Indian has specifically over the years gone to Ottawa's door and every provincial legislative door and demanded these rights that we speak of in these regulations. Under this system we could, if we so choose, set up an ABC-type guide system. This is something I certainly would like to see, and I think the native people themselves would like to see, and here we can assist our native citizens in the Territory - setting up standards, encouraging the industry in that area. We could certainly encourage the development of fishing lodges throughout the Territory. In other words, we would be providing expanded employment in these areas. The revenues accrue back in fuel tax, liquor tax and other areas of taxation throughout the Territory and indeed in my opinion, we indeed are getting revenue back from the fishing venture. When last we spoke on this at the last session, we looked at the 1967-68 figures. We found that there were 2,679 resident licences issued in that year - 1967-68 fiscal year, and we found that there were 6,966 alien non-resident licences issued, and we found that by increasing the fees from one dollar to two dollars on the resident licence, and from two dollars to, at that time, five dollars on the non-resident licence, we had increased our revenue to, based on those figures, \$40,188. Well certainly - I don't know what the figures are this year in the issue of these licences, but certainly this is an ever-increasing item, and I would not just say that this is definitely a dead-cost item, and so I just bring this to your attention. I feel that this is a very good endeavour and I wholeheartedly support it as the motion I have presented indicates. Thank you, Mr. Chairman, and I will resume the Chair.

Mr. Chamberlist: Mr. Chairman, I reiterate again that I support the principle of taking over Fisheries for the Yukon Territory. I'm sure that the Honourable Member from Carmacks-Kluane sincerely believes that his view with reference to take-over is something that must be taken over before the take-over. I respect his view on that, but I don't agree that this should hold up the taking over of whatever possible departments we can from the Federal Government. What does concern me, and I repeat again, is the part of the Sessional Paper - I'm reading one particular section - it only refers to these regulations as proposed amended regulations. Earlier on it was suggested that these are in fact the federal regulations, but if they're proposed amended regulations, they are not the federal regulations because they have been amended. The very words themselves show that they have been amended. Well, Mr. Chairman, I would like to have time because I think it's necessary to go a bit further into this. I would want to check the Federal Act and the Federal Regulations before support is given to this. I think it is essential that a unanimous support is given to this, the first department to be taken over by the Yukon Territory, and it should be a unanimous support of this Council. It shouldn't be a split Council which would accept a policy paper of this description, and I would ask that the indulgence of this Committee be given that this Sessional Paper be left in abeyance until tomorrow morning to give me sufficient time to look into the regulations.

Mr. Chairman: Councillor Shaw, would you take the Chair a moment, please.

SESSIONAL Mr. Shaw: Yes.  
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NO. 10

Mr. Taylor: Well, Mr. Chairman, I can't agree with this. I think that - I wonder if I was to come here and say, 'Well, I'm not prepared now to discuss this' - these Sessional Papers have been in our hands for some time - this particular paper was issued on the twenty-sixth day of September, 1968 - I would immediately be accused of not doing my homework, and it is our duty to come to this table and to study these. This is why the Administration send them to Council, and if I did that I'd be accused of not doing my homework. I say deal with this matter and deal with it now.

Mr. Chairman: Councillor Chamberlist.

Mr. Chamberlist: Well, Mr. Chairman, one thing that nobody can accuse me of is not doing my homework. I probably put more hours in but there is something that cropped up and I want to be sure that when I vote on the motion I want to be sure that I'm doing the right thing. I don't want to be hasty and go into something that is of such paramount importance to the Indian population of this Territory. I want to discuss with them a couple of points as well, and I want to say to you that there is no doubt in my mind that at the moment there is discrimination in these regulations, and I will not support under any conditions discrimination against anybody, whether they are Indian or anybody else. To me, it's absolutely foreign to my upbringing and if Councillor Taylor cannot grant me the indulgence of an extra day so that I can make it quite sure that I am right in my thought or wrong in my thought, and I have come before this Committee, and when I am wrong I will say I am wrong, and when I am right I will make darn sure that everybody knows that I consider I'm right, and I want that extra day and I ask that Committee give me that day.

All: Agreed.

Mr. Dumas: I was just going to say, Mr. Chairman, that I think out of respect for the Honourable Member for Whitehorse East his request is reasonable and I request that Committee grant his request.

Mr. Chairman: Councillor Taylor.

Mr. Taylor: I'll resume the Chair.

Mr. Chairman: Well, is it your intention then to defer this item? May Mr. Summers be excused at this time? Thank you, Mr. Summers.

Mr. J. Summers leaves Council Chambers.

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PAPER  
NO. 13

Mr. Chairman: The next sessional paper is Sessional Paper No. 13. Councillor Chamberlist, will you take the Chair again?

Mr. Chamberlist: Yes.

Mr. Chairman: Councillor Taylor.

Mr. Taylor: This Sessional Paper was introduced into Committee by myself. I might say that it is not my intention to ask for time while I study this and consider it because I don't want to take up the time of Committee and I would like to get

home for Christmas. I merely would suggest that the Historical Sites and Monuments Board have suggested that the highway, as specified here, from Watson Lake to Carmacks be named in the honour of a very early day pioneer, Robert Campbell and would ask the support and concurrence of Committee in this respect.

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Mr. Chairman: Councillor Shaw.

Mr. Shaw: Would the Honourable Member from Watson Lake be prepared to propose a motion in this respect?

Mr. Taylor: Yes, Mr. Chairman, I would move that Committee concur with Sessional Paper No. 13.

Mr. Shaw: I would be pleased to second the motion,  
Mr. Chairman.

Mr. Chairman: Is there any discussion? Councillor Dumas.

Mr. Dumas: Mr. Chairman, I don't - we have a Robert Campbell Bridge down here in Whitehorse and I appreciate the fact that Robert Campbell was an early explorer of the Yukon and so forth, but I just can't go along with this naming of - continuous naming of roads, bridges and what have you of figures out of the past, and I wonder if it wouldn't be time to start thinking of our more recent history of the Yukon and start naming things after people who have also done a great service to the Yukon such as Robert Service - no pun intended - George Black and people like these. I think in this case we might give consideration to one of our more modern pioneers.

Mr. Chairman: Councillor Livesey.

Mr. Livesey: Well, also as a suggestion, Mr. Chairman, I wonder why we would need to name roads after people at all. I think the modern trend is to name them with numbers, and it puts a more streamlined idea, I think, into being by using numbers, like Highway 97 or Highway 88 or all these other things in order to connect up with highways in British Columbia and in the United States of America. I don't see any reason why we can't confine the naming situation to boats, rivers, lakes, streams and mountains. Why do we have to name highways after people? I feel that we can streamline our highway system much better if we stick to the number system. This is what is used in the United States, and also used in Canada, and I personally feel that this would - the network program of highways by the number system is a far better system than using names. However, there can be a side name to it, if it is necessary. While I'm on my feet, I do agree with the Honourable Member for Whitehorse West that the Campbell Highway seems to be a duplication of the fact that we already have a bridge named after this gentleman, and if the prevailing opinion is that of course we must stick to names, then I would suggest that we should have another name rather than Robert Campbell.

Mr. Chairman: Councillor Taylor.

Mr. Taylor: Mr. Chairman, I certainly can't speak as to the reason why that bridge across the Yukon River at Whitehorse was called Robert Campbell Bridge. I know of no great historical significance behind that move. However, someone in their wisdom did name the bridge Robert Campbell Bridge, but I would say that Robert Campbell was one of the first explorers

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to come into the Yukon via the Stikine River, Dease River and on up the Liard and over and down into Frances Lake and down the Pelly, and this was the route he took - the same route now covered by this road, and it seems only significant that if this road is to be named after anybody that it should be named after Robert Campbell, and because he was indeed the pioneer who pioneered that route - all the way down the Yukon River and down the Selkirk and Forty-Mile and so forth, but in respect of numbering highways - highways are numbered. I remind you that we have a Dempster Highway, and all that is asked by the Historical Sites and Monuments Board, and I understand this was a unanimous decision of this Board, that the Watson Lake to Carmacks highway or road be called the Robert Campbell Highway.

Mr. Chairman: Any further discussion? Councillor Shaw.

Mr. Shaw: Mr. Chairman, I naturally agreed with such a procedure. We have the Queen Elizabeth Highway in Ontario, and I hear no complaints about it. We have the King George V Highway in British Columbia, and I hear no complaints about it. These highways also have a number and the fact that they are named for persons for some reason or another to honour these particular people, I think, is good. We have the Dempster Highway which is to honour Sargeant Dempster - I guess he later became an inspector, but he was the one that went after and found the lost patrol way back and of which they have made movies and books on. It's a historical name, and I think the same applies to the recommendation made by the Honourable Member for Watson Lake. He has explained how this person pioneered the route through down to as far as the Forty-Mile. I don't know where he went from there, but he certainly came down this particular area and he may have come back - the same as the Fraser River. A road or a river can well have a name and it's a matter of who shall you pick. I think that is what it points to. Who shall we honour? This certainly seems to be most appropriate. Now, I never knew Mr. Campbell so I don't know a great deal about him, but he was one of the pioneers of the country, and if we do not cherish our history, that is something that is necessary - that is something that is inherent in every nation. There's a tendency in parts of Canada that they do not appreciate or value their history, but I assure you, Mr. Chairman, that in a hundred years' time this history will have great significance in value and appreciation. I have only been in the Yukon for a very short time and things are accepted as they're all around us. Now, these things that were common place just a few short years ago have almost disappeared overnight. So, now what happens? It just costs tens of thousands of dollars to bring back something that should have been retained many years ago at practically no cost. I know that I am getting into artefacts more than I am getting into persons. You can save persons for only so long, but we can certainly honour their names for time immemorial.

Mr. Chairman: Councillor McKinnon.

Mr. McKinnon: Mr. Chairman, I wholeheartedly support this motion. If anybody has been reading the Career of Robert Campbell in a three-part series in this little magazine called The Midnight Sun, they'll realize what a fantastic and a fascinating career that this explorer had in developing the Yukon, and the series concludes - the concluding paragraph states:- 'that probably the highest compliment which could be



paid such a man as Campbell was a footnote inserted in his journeys by another Hudson's Bay man writing about Campbell's tremendous endurance and strength, the man said "Robert Campbell started here at Fort Simpson and ran on snowshoes to St. Paul, Minnesota. My God, what a man!" Mr. Chairman, I think that this is the type of man and the type of history that would serve us in good stead in attempting to preserve, and, as I say, because of the history of Robert Campbell and the career that he played in the exploration of the Yukon Territory and the fantastic physical endurance, and the history that will be written about this man, and as it is with the Yukon's exploration, I think that we could do nothing better than to name this road in the area which he explored, the Robert Campbell Highway.

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Mr. Taylor: Yes, I'll resume the Chair.

Mr. Chamberlist: Mr. Chairman, notwithstanding that the Honourable Member for Watson Lake will not have to do any further study on this particular Sessional Paper, I have to support the request that he has made in his motion. I think it is only proper that we do recognize those people who helped, by their pioneering attitude in the early, early days, did do their share to open up the Yukon. I think it's a proper request of the Historic Sites and Monuments Board to request this particular thing, that the highway be named the Campbell Highway, and I would support the motion.

MOTION CARRIED

MOTION  
CARRIED

Mr. Chairman: At this time I overlooked the fact that we do have another motion before Committee in respect of Sessional Paper No. 10, and with the concurrence of Committee, I will note in the Committee Report that the motion stands for dealing with tomorrow. Agreed?

All: Agreed.

Mr. Chairman: The next Sessional Paper is Sessional Paper No. 16. Councillor McKinnon, I believe.

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NO. 16

Mr. McKinnon: No, Mr. Chairman, I didn't. I just asked that this be tabled for Council's information. It's a compilation, in this report, of many of the motions that Council has presented before this Council that the Administration has accepted and made a point of letting Ottawa know through the Minister of Transport, when he was here as Chairman of the Task Force of Housing, what the Yukon Territorial Government's feelings were, but I didn't ask that this be discussed in Committee.

Mr. Dumas: Mr. Chairman, I'd like to take this opportunity to ask a question of the Commissioner. In view of the fact that there are some lots within the municipal boundaries that do not qualify under CMHC because they are too small - they're not the five thousand square feet required - would it be possible to have these lots qualify under the Low Cost Housing Ordinance for buildings? As you probably know, several blocks in Whitehorse have small lots on them and there's nothing we can do about this. There's no way that these people can enlarge their property without buying adjacent lots, and they can't build under CMHC, and I know we can't change the CMHC rules on this, so I was wonder if the Low Cost Housing Ordinance is flexible enough to allow this. I understand

SESSIONAL PAPER NO. 16 from Mr. MacDonnel that if he were instructed to this effect that he would go along with it.

Mr. Commissioner: Well, Mr. Chairman, with respect to the question that I have been asked; I would want to have some time in order to bring forth a proper answer. Something I am going to say to you is that CMHC, in our eyes, has residence of the Territory here, is generally looked upon as an agency that provides money for the construction of housing, be it multiple or be it single family dwelling units, but there are many, many other things that have come under the purview and are within the power of the Central Mortgage and Housing Corporation, and one of them is land assembly, and I think as part of the answer to the question that has been asked - I think the first place to start would be to find as to whether or not it is desirable to perpetuate the continued use of the small lots. Do I understand, Mr. Chairman, that these are thirty by one hundred foot lots, or is this not a proper generalization?

Mr. Dumas: Mr. Chairman, there are 33' x 100' lots and there are also 50' x 70' lots, which I am specifically concerned with at this point.

Mr. Commissioner: I would think, Mr. Chairman, that part of our investigations should be here as to whether from a town-planning point of view to whether or not land assembly might not be the proper situation; that is to see if possibly CMHC could be asked to group these lots together. In other words, buy them up with the thought in mind that they are going to be re-surveyed into acceptable size lots, and if I could have a little time on this, Mr. Chairman, I will try to bring forth a proper answer to the question that has been asked here.

Mr. Chairman: Does Committee agree?

All: Agreed.

Mr. Chairman: Have you anything further on Sessional Paper No. 16? Councillor Shaw.

Mr. Shaw: Mr. Chairman, this is a very good brief that we have here, but I notice everything is taken for Whitehorse. You know, that doesn't show a true comparison at all. For example, we have the cost of a sack of cement, in Whitehorse, at \$3.70. The same sack of cement would cost you \$7.00 in Dawson. A thousand feet of lumber is \$155. The same thousand feet of lumber will cost you over \$200 in Dawson, and so on and so on. That is - we do hear quite frequently about the building standards not being quite up to par in that particular area. The prices are just - they may be fantastic here, but they're super fantastic when you get three hundred and fifty miles north of here. That's what it cost you, so your materials, you can almost say, will cost you another thirty or forty per cent more.

Mr. Chairman: Mr. Commissioner.

Mr. Commissioner: Mr. Chairman, I would like to make it very plain that in the preparation of this brief it was not our intention to present only a picture to the Task Force on Housing about Whitehorse and it's housing needs, but we certainly had to use some basis within the Territory as the

supply point from which building materials normally flow, and it has been brought to Mr. Hellyer's attention that in fact everything beyond Whitehorse, be it south, north, east, west or whatever direction one wishes to take in the Territory, is just the Whitehorse-based price plus. So, the Task Force is well aware of the fact that the pricing structure as laid down here is not a generalized one for the Territory, but is in fact those prices which prevail, to the best of our knowledge, in the supply centre for the Territory.

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Mr. Chairman: Have you anything further on Sessional Paper No. 16 at this time? The next Sessional Paper is Sessional Paper No. 26. Councillor Dumas.

Mr. Dumas: Yes, Mr. Chairman, I introduced this on behalf of the Member from Carmacks-Kluane, who was in the Speaker's Chair at the time.

Mr. Livesey: Yes, Mr. Chairman, I have always thought this question that I raised to be an interesting item as far as the difference between government operation of machinery and the operation of private enterprise working in the same field and the same area, and after looking over the figures that have been provided by the Administration towards the cost of operating trucks by the department concerned, it would appear to me that they are quoting a low figure. Now, I'm not in the position at the moment to demonstrate any practical difference between the thinking of certain operators in the Territory in comparison to the figures presently before us, but it would seem to me that the general opinion that has been advanced as far as I am concerned is that the government cannot operate cheaper than private enterprise, and in some instances there was a form of unfair competition, and this was the origin of the question that I raised because of the discussions I have had with several people in private enterprise in the Yukon Territory who felt that it was possible for them to offer a price to the Territorial Government which would provide a better over-all cost price than the government could ascertain from its own operations because in a good many instances private enterprise, working in this field, have to operate their equipment on an all-day, all-week, all-year, all-year around basis in order to make a profit and make it pay so that they may stay in business, but from the figures that I see in this paper, so far from what I can ascertain from what is given here, that this is not the case. However, Mr. Chairman, I'm not entirely satisfied with these figures that have been provided and although I leave the Committee with these remarks, I do intend to look further into it - into this situation, due to the fact that from what my information that I have been given outside these Chambers is somewhat different to what is on this paper. I make no criticism whatsoever of the figures provided, but I wish to make my position clear on this point.

Mr. Chairman: Thank you. Gentlemen, in view of the time I will declare Committee in recess until 2:00 o'clock this afternoon.

RECESS

RECESS

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2:00 P.M.

Mr. Chairman: At this time I will call Committee back to order. Have you anything further on Sessional Paper 26? I will then proceed to the next Sessional Paper, Sessional Paper No. 5. This is the Yukon Hospital Insurance Services. This was introduced as a courtesy to the Administration. I believe it is a reference for advice. What is requested here, Mr. Clerk? SESSIONAL PAPER #5

Mr. McKinnon: Mr. Chairman, the Territorial Government in Section 1 wants a per diem rate raised from \$25.00 a day to \$30.00 a day and also No. 2, the extension of benefits to include diagnostic services for out-patients even if they aren't an emergency twenty-four hour basis and No. 3, the collection of 90 day old accounts receivable. And there is major policy decisions in this paper to be recommended to the Administration and I think the financial aspects of them to be known we'll have to have the Territorial Treasurer in attendance at Committee, Mr. Chairman.

Mr. Chairman: Does Committee agree?

All: Agreed.

Mr. Chairman: I will declare a brief recess.

RECESS

RECESS

Mr. Chairman: At this time I will call Committee back to order. We have with us the Territorial Treasurer, Mr. Ken MacKenzie, to answer any questions you have in relation to Sessional Paper No. 5. SESSIONAL PAPER #5.

Mr. McKinnon: Mr. Chairman, we've been able to keep this charge from Northern Health Services at \$25.00 on a per diem rate for quite some years now. I am not fully aware of the history of it and I wonder if we could have some of the highlights of the history of this and what is the reason for the change to \$30.00 at this time?

Mr. MacKenzie: Well, Mr. Chairman, the reason is of course that hospital costs are rising everywhere including Whitehorse General Hospital, and they suggested this increase to \$30.00 a couple of years ago and it has been included in the current fiscal agreement, and we are now obliged to pay as from the first of April, 1967. This will cost \$150,000.00 for the two years, approximately speaking.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Mr. Chairman, this goes back quite some time. As the Honourable Member from Carmacks-Kluane would say a decade, 1958, in which the old Whitehorse Hospital was somewhat condemned, being too decrepit, or too something and the various departments of the Government, mainly the Indian Affairs Department, the Department of National Defence and the Territorial Government, decided that they would get together and construct a brand new hospital for the Yukon. It is called the Whitehorse General Hospital. At the time of this transitional period, as you may say, between tearing down the old building and moving into the new building, the costs of the hospital here were approximately \$25.00 a day

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PAPER #5

Mr. Shaw continues,.....  
per patient. However, with the large building and the normal cost of government operation, which is about twice what it would be in a normal business operation in most cases, the intimations were that it would cost us \$35.00 a day for the Territorial use of the amount of beds they were to have. Council felt that that was just absolutely out of line and they would not agree at that time to paying an amount greater than \$25.00 per day because that was the cost at which they could operate their own hospital and they felt that the Federal Government - there was no reason why the Federal Government could not be just as efficient; and that has worked for quite some considerable time. However, as we all understand and realize that in ten years costs have risen considerably, 60 and sometimes 100%, so that they are asking the Territory to pay a larger amount per bed use and here it is, \$30.00. To myself, Mr. Chairman, it does appear that this is a reasonable request. I think that we have done quite well in this matter for the last number of years and that we have to realize that conditions now - that dollars do not purchase as much as what they did in 1958 and I would feel that the additional amount asked, mainly a total of \$30.00, is quite reasonable.

Mr. Dumas: Mr. Chairman, it seems that this is a fait accompli anyway; that we have no choice do we, on this matter?

Mr. MacKenzie: No, Mr. Chairman, that is the case.

Mr. McKinnon: Mr. Chairman, could the Territorial Treasurer point out to me anywhere in the Health Services plans of the Yukon Territory, 1967-72, where it advocates raises in the per diem rate from \$25.00 to \$30.00 for the Yukon Territorial Government?

Mr. MacKenzie: I think it is mentioned in the Yellow Book rather than the Green Book - I will see if I can find it for you.

Mr. Dumas: Mr. Chairman, this seems to be academic. We've got a raise and all they are doing is informing us that we are going up to \$30.00 per in-patient day.

Mr. Chairman: Councillor Livesey.

Mr. Livesey: Once again I would like to rise on the same proposition that I raised this morning and that is that this is a starting point with the Federal Government. If I remember correctly, in the previous five year agreement that was a five year agreement, not a two year agreement or a one year agreement or a doubtful agreement, we sat down with the Federal Government and certainly argued the point and I think we won our case for the Territory to hold our per diem rate to \$25.00 although we knew at that time that the per diem costs were much higher. But then again this was the question of bargaining with the Federal Government on various points and issues that the Council of the day felt were reasonable and justifiable. Now, surely at this particular time I don't quite understand how anyone could think that it would be possible that the Federal Government could increase our per diem rate towards the hospital without expecting serious objection to arise in relationship to the present fiscal agreement, or the fiscal agreement that is in force. So, therefore, any question in relation to any change in the per diem rate that we are about to discuss with the Federal Govern-

Mr. Livesey continues....  
ment surely is a question related to the next five year SESSIONAL  
financial agreement. I would propose that this is the case. PAPER #5  
I am quite sure that it is a part of the agreement with  
the Federal Government. Perhaps Mr. MacKenzie can correct  
me if I am wrong on this point.

Mr. MacKenzie: Recommendation B on page 19 of the Inter-  
departmental Committee report reads as follows: "Y.H.I.S.  
continues to be financed under the same Federal cost-sharing  
grants structure as at present with the exception that the  
Territorial Government pay actual operating costs from the  
first of April, 1967 to the 31st of March, 1970, not to exceed  
\$30.00 per patient per day at Whitehorse General Hospital."  
Now this is the agreement that is in effect.

Mr. Livesey: In other words, Mr. Chairman, the previous  
gentleman who sat on the discussions with the Federal Govern-  
ment allowed the Federal Government to increase our per diem  
contribution \$5.00 more than the previous agreement with the  
Federal Government. Is this correct?

Mr. MacKenzie: I suppose so. But this agreement, of course,  
that I am speaking of, the Government agreement, was not  
signed without being placed before Council and examined by  
them.

Mr. Livesey: Well, Mr. Chairman, these are the gentlemen  
upon whom I am laying the responsibility.

Mr. MacKenzie: I should also state that provision for this  
was made in the fiscal agreement, you know, the extra cost  
was provided for.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: I wonder, Mr. Chairman, was this agreement actually  
signed and agreed to?

Mr. MacKenzie: The answer of course is "yes, it was".

Mr. McKinnon: Mr. Chairman, I wonder if I could ask the  
Territorial Treasurer why this part of the agreement was  
accepted and put into practice and whereas this recommendation  
of the health plan, therefore, recommends that a Territorial  
Medicare Plan be introduced in the Yukon Territory on July  
1st, 1968, was not implemented.

Mr. Shaw: It appears to me Mr. Chairman that there was no  
agreement prior to this Council being - this new Council being  
elected and I do not recollect that any agreement was signed  
in the meantime. There were discussions but it appears to me  
that there was a little disagreement, rather than agreement,  
in that transitional period and I did not know that there was  
any actual signed agreement.

Mr. McKenzie: Eventually the agreement was signed and can,  
if necessary, be presented to Council, of course. It would  
be on file.

Mr. McKinnon: Evidently, Mr. Chairman, it seems to me that  
certain portions of the agreement are being pulled out and  
being acted upon and other portions of the agreement are just  
being laid to lie, dead.

Mr. McKenzie: Not quite, Medicare was mentioned, and that  
of course, is a special field. There was no provision for that

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PAPER #5

Mr. McKenzie continues....

in the current fiscal agreement; it is far too expensive a proposition to be handled in the same way as a five dollar increase for the Whitehorse General Hospital.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Mr. Chairman, is the agreement that the Territorial Treasurer is referring to Mr. Chairman, a recommendation of the Interdepartmental Committee rather than an agreement. I do not recollect accepting all the recommendations of this and that is why I wondered when the agreement was signed.

Mr. Chairman: Mr. Treasurer.

Mr. MacKenzie: The fact of the matter is that there is an agreement. It was signed and it can be produced. It would be signed when the various disputes which went on for several months were all over.

Mr. McKinnon: Would it be fair to say then, Mr. Chairman, that part of the recommendation which form part of the agreement are being lived up to and others are not?

Mr. MacKenzie: Medicare did not form part of the new agreement.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Would this agreement have been signed during the term of this present Council, Mr. Chairman?

Mr. MacKenzie: That I wouldn't like to say without tracing the agreement and getting the date for you.

Mr. Shaw: I seem to recollect that when this Council came into office there was certainly no agreement because everything was chopped off. And I just wondered when we had come to an agreement.

Mr. Chamberlist: Mr. Chairman, it is obvious that the Health Services plan was supposed to have been effective January 1967. So the agreement then was subsequent to the acceptance of that plan at that time. Would I take it then, Mr. Chairman, from the Treasurer, that the agreement is subsequent to what was passed in Council by the previous Council?

Mr. MacKenzie: I don't know, I don't quite get your point.

Mr. Chamberlist: Well, Mr. Chairman, you confused me so now I'm trying to do the same to you. What I am trying to say, Mr. Chairman, is the agreement that we are referring to - when was it signed, and subsequent to what Council passing on the agreement?

Mr. MacKenzie: Well, of course, for that information to be supplied we would have to find the agreement and see the date of it and back-track it in the Votes and Proceedings.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Mr. Chairman, I suppose this is academic, all this stuff, because we are discussing a specific subject, but I do recollect that there was a kind of a tacit agreement in Ottawa amongst the Members of Council and later on, subject to the raising of certain moneys within the Territory, at a formal Council meeting the majority of Council refused to

Mr. Shaw continues...  
accept this increase in taxation and that, in other words, nullified any agreement because Council did not - they had these meetings, and as you have meetings you'll agree to this and you'll agree to that and then later on when it becomes a matter of formal ratification, well, then opinions can change and in this case they changed and as a result there was no agreement for the Federal Government whatsoever, as far as I can ascertain. It was run on Governor-General's warrants or somebody else's warrants, I don't know, but I do not think that it was done by the normal ratification agreement between the Commissioner-in-Council and the Federal Government and if that has happened in the meantime and it could have happened; I'm not quite sure about that.

Mr. Chamberlist: Nevertheless, Mr. Chairman, irrespective of the Territorial Treasurer saying that this increase was agreed to - well what I am trying to ascertain whether it was - which Council it was, Mr. Chairman which agreed to it. I understand from Mr. Treasurer that he is unable to give us this information unless he referred back for it.

Mr. MacKenzie: I would not like to say without tracing the agreement and getting the date of it.

Mr. Chamberlist: Mr. Chairman, I don't recall, myself, since November of last year of Council approving that addition so I can only assume that it was done before that time, unless I have proof to the contrary.

Mr. Livesey: Mr. Chairman.

Mr. Chairman: Councillor Livesey.

Mr. Livesey: After the problem of the reduction of finances for the Yukon Territory to the tune of five million dollars was considered by this newly elected Council in the Fall of 1967, there followed a period of discussion and questioning in relation to the amount of taxation which was to be provided by the people of the Yukon Territory towards the overall cost of government in the Yukon and Mr. Chairman, I would like to ask if this amount of \$141,745.00 was considered in the estimated cost of government when we provided an alternate system of taxation to meet the requirement of the demands of the Federal Government. Now the reason I ask this is because it seems to me if this \$141,745.00 which is a result of the \$5.00 per diem in-patient day cost if applied, and it wasn't included in the last discussions, then this is quite obviously going to be, can be looked upon as a cost upon the people for the following year's taxation. In other words this is going to be an indication of increase in cost, in taxation for the people of the Territory. Would I be correct, Mr. Chairman?

Mr. MacKenzie: Well, I would say this; that this \$5.00 per diem increase was included from the very start in the negotiations for the current fiscal agreement. It was never considered being taken out as far as I am aware.

Mr. Livesey: In other words, Mr. Chairman, then funds were provided in the two-year agreement to cover this cost without additional taxation.

Mr. MacKenzie: That is what I have said.

Mr. Chairman: Councillor Shaw.



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Mr. Shaw: Mr. Chairman, I rise on a matter of clarification. When I used the word tacit I heard quite a few snickers around the Chamber and I used that term in the same manner as I would use the term for agreement made by the Financial Advisory Committee. The Council at that time during the negotiations were as a body but they were not a formal body of Council in the Council Chambers. That is where the business is run so anything that is done outside the Chambers, outside of a Committee or the Members being in Council is a tacit agreement. That is all I can put it as because there is no authority than just to discuss these matters and agree or disagree and the final completion of everything has to be here and that is why I say tacit for referring to an agreement that is outside of these Chambers.

Mr. Chamberlist: Mr. Chairman, I find myself in a position of wanting to say something in particular to this but I cannot say it as the Chairman of the Financial Advisory Committee because this Section 1, second paragraph, says "this recommendation has not been implemented, but the necessary funds with which to do so are provided in supplementary estimates No. 2 for the current fiscal year to be presented to you for your consideration etc. etc.". Now, I am placed in the position of wishing to comment but not being able to comment because really this should not have been brought forward in my submission, and I won't say it is a humble one because I mean it. I say again that this type of thing should not be discussed until the Supplementary Estimates No. 2 are available for discussion in this Committee.

Mr. Shaw: Mr. Chairman, I wonder when we can expect the Supplementary Estimates. We have the Territorial Treasurer with us, perhaps he could give us that information.

Mr. Chairman: Mr. Treasurer.

Mr. MacKenzie: We are awaiting word from Ottawa that they are satisfactory to them. I expected word today. It may come tomorrow.

Mr. Chamberlist: Well Mr. Chairman, can we really comment on this without that.

Mr. Chairman: Well, the Chair is at your pleasure, gentlemen. Councillor Dumas.

Mr. Dumas: I suggest, Mr. Chairman, that we go on to other business because I agree entirely with the Honourable Member from Whitehorse East.

Mr. Chairman: Does Committee agree?

All: Agreed.

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Mr. Chairman: May Mr. MacKenzie be excused at this time? Thank you very much Mr. MacKenzie. Your next Sessional Paper is Sessional Paper No. 8. This has to do with the Osaka World's Fair. Am I to understand that Supplementary Estimates are involved here? I don't believe so. There is nothing which would indicate that it is.

Mr. Chamberlist: Well, Mr. Chairman, surely when we make reference to Supplementary Estimates we are talking about money matters that have been discussed in the Financial Advisory Committee jointly with the Administration. It has already been discussed. This item has not been discussed

Mr. Chamberlist continues...

and this is just a recommendation to be made so that a supplementary estimate may be asked for subject to this Committee's approval of this Sessional Paper. Even after this Committee did approve the Sessional Paper, it does not follow that there is going to be any money forthcoming for it. It is just an opportunity to get some guidelines from the Committee.

Mr. Shaw: Mr. Chairman, that is why I raised the question. If the Honourable Humble Member feels that this does not infringe on the rights of either the House or Committee I am quite in accord to proceed with it.

Mr. Chairman: Well, would you proceed, gentlemen?

Mr. Livesey: Yes, Mr. Chairman, I don't think the impression that should be generated is entirely generated by the first paragraph. It says there is little doubt that the Yukon Territory derived great benefits from the Yukon Pavilion at Expo 67 in Montreal during the Centennial Year. Now this is a rather broad statement which can be reputed in some respects although perhaps in the overall long plan we may have benefit, but the actual facts are that during the time when the Yukon Pavilion and Expo were in operation the business in a good many tourist outlets in the Yukon Territory was not up, it was down. And this is a point that has to be taken into consideration because I don't think that is properly explained and anyone reading that could, I think, quite easily misunderstand the meaning. I am quite sure that this is so because a good many people who would have come north both to Alaska and the Yukon Territory did not come here at all; they went East, so at that particular time the benefit didn't show, it showed in reverse. However, the benefit in the future may show the results of having this Expo advertising. I'm not disputing this at all but I want to make that point clear because I am mighty sure that a good many businesses in the Yukon Territory showed a decline in 1967 rather than an increase.

Mr. Dumas: Mr. Chairman, we could hardly attribute that decline to the fact that we had an exhibit down in Expo. I think it was a result of the trend in many parts of the country that tourists were going to Expo and weren't coming our way and they weren't going many other ways. But nonetheless, half way through the paragraph it states that approximately 14% of the tourists who registered at the information centres reported that they had visited the Yukon Pavilion at Expo 67 last year. I think that is a fair percentage and I think it is reasonable to assume that their visit influenced them to some degree; at least probably a good many of them to some degree in coming to the Yukon so I think myself that the first statement can be accepted at face value. Generally speaking, on this paper, although there is quite an amount of money involved, having been in the type of business over the last ten years on and off that requires a lot of advertising and publicity; in other words selling business, I am generally in agreement with this paper. I think that if the Yukon is going to stay, or is going to become one of the major tourist attractions in North America, or if it is now a major tourist attraction, stay that way, I think we have got to take advantage of this type of publicity and advertising even though I realize that this is a large amount of money to be spending. In fact probably dollar for dollar this type of publicity

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Mr. Dumas continues..

would be more beneficial than our advertising dollars spent in some other area such as drawing up and distributing pamphlets and so forth and I think that since tourism is the second largest industry in the Yukon we must do all we can to maintain it and I think it would be a wise investment and something that would have lasting benefits for the Territory.

Mr. Chairman: Councillor Chamberlist, will you take the Chair?

Mr. Chamberlist takes the Chair.

Mr. Taylor: Mr. Chairman, there is no doubt in my mind that the Yukon could do well to participate in the Osaka World's Fair. I think, on reflecting back on the Yukon's participation in Expo 67, we will find that the whole exercise was beneficial to the Territory; there is no doubt in my mind and little doubt in anybody's mind that this was not a successful venture. It is my opinion that where possible, and where we can afford to do so that we should continue to do this type of advertising. However, I note on page two that it has been estimated that \$300,000.00 would be required to cover the cost and I would like for a moment to bring Committee back to the days when we started on the Yukon Expo exhibition. We had, indeed the Honourable Member from Dawson and I did go down and looked at a boutique and the site for this display and got some of the preliminary footwork done down there; came back with some recommendations and then the government went and hired a firm somewhere in the East to give us an idea of what it would cost to set up this display. Now I believe, if my memory serves me correct, that we were looking at about \$250,000.00 when the gate was still open when we finally settled this end of it and back to Council we came and of course we didn't have that kind of money. So following that, and as a last ditch stand we had to make some sort of commitment or other to the people in Montreal, the Expo people, returned again, myself on behalf of Council, and a representative on behalf of the Commissioner and looked this thing over again and we said well, why don't we go down to one of the local department stores, Morgan's Department Store I believe is what it was called. We went and called up the Department Store and got this young chap and asked if he would kindly come down and take a look. We have something we would like your advice on. He came down and looked the whole thing over and said well, what do you want. We want this gold displayed and we would like this and that and something on the floor; something on the wall, shelving and some furniture, plus installing telephones, wiring and lighting and this sort of thing. The following day he came down with a figure less than \$5,000.00. He said would this be too much? And I am wondering now what is involved in the \$300,000.00 projected for Osaka World's Fair. In other words what I am saying, Mr. Chairman, is can we somehow get a breakdown of these estimates as to what is involved in this estimated \$300,000.00 and can we effect economies somewhat along the line that we effected economies at Expo 67. Because with \$300,000.00 of the Territorial taxpayers money we might be pretty hardpressed to find that kind of money even though we would like to participate. So these are the questions that come to my mind in looking at it. In other words I am saying that I sure would like to see us over there; I think it would be beneficial for the Territory but can we do it at a lesser cost or is this \$300,000.00 a justified estimate, a reasonable estimate. I notice that Mr. Commissioner is now with us. Maybe Mr. Commissioner might be able to comment on this.

Mr. Commssioner: Before I answer that question could I have your permission to advise Council of a matter that I think is of particular interest to them.

All: Agreed.

Mr. Commissioner: I just had a telephone call from the Governor's office in Juneau and Governor Hickel had Mr. Keith Miller who is known to Council, telephone me to advise that there was a plane crash about two hours ago close to Point Barrow and six members of the Governor's Committee on employment were killed and as a consequence of this particularly tragic happening at this point and time it will not be possible for Governor Hickel to make his intended visit with us tomorrow morning. I have extended the regrets and condolences of myself and also spoke on behalf of the Members of Council to Mr. Miller and asked that this be passed on to the Governor. May I proceed at this point, Mr. Chairman, to answer the particular question?

Mr. Chairman: I feel as Chairman of Committee at this time and I am sure on behalf of all Members of this Committee, that we convey our condolences to Governor Hickel and the families of those people who lost their lives in this crash. Commissioner, would you proceed, please?

Mr. Commissioner: Now Mr. Chairman, this particular question that is asked for your advice on this paper before you. I think it has got particular significance for the Yukon Territory at the present time. I am not in a position to tell you just exactly how much of the present economy of the Yukon Territory is directly attributable to investment by Japanese individuals and Japanese corporations in the extract of industries here in the Territory, but I feel quite confident when I say that a very substantial portion of our present economic affluence is directly attributable to the faith that the nationals of Japan have seen fit to invest in this particular part of North America. Now, with this thought in mind, I am posing the question to Council really not whether or not we should spend \$300,000.00 as this paper anticipates the potential of this here, but whether or not in the face of my opening statement here we should pursue further the possibilities of having an exhibit at the Osaka Fair. Now, I am quite in agreement with what the Councillor from Watson Lake, Mr. Chairman, had to say concerning the economies we were able to effect as a consequence of a certain amount of personal perseverance on the part of certain members of the Council and the members of Administration in participation at Expo at Montreal but when I tell you that participation in the Osaka Fair is going to be an entirely different kettle of fish I don't indicate this as a consequence of this geographic difference. I tell it to you due to the fact that it is not going to be constructed along the lines that the Expo of Montreal was constructed. In other words it was quite a simple matter for us to rent or lease from the Exhibition Corporation the necessary space in which to conduct our exhibits. This is not a possibility at Osaka and as a consequence I think it is only right that I should tell the Council that if they decide to permit the Administration to pursue this matter further, that the realism of this \$300,000.00 may become very very much of a fact of life. But, on the other hand I think that we could be holding ourselves up to particular neglect of our duties as the representatives of the people of the Yukon unless we were thoroughly able to convince ourselves that we were unable to participate in Osaka. Now this is my own personal opinion I am expressing Mr. Chairman

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Mr. Commissioner continues.. but it is for this reason that I would very much hope that Council would see fit to permit us to get right down to the nub of what the problems and the cost may be to participate in Osaka.

Mr. Chairman: Councillor Dumas, the floor is given to Councillor Taylor.

Mr. Taylor: Thank you, Mr. Chairman. In light of the remarks by Mr. Commissioner I have a supplementary question. I am wondering if the Administration have looked into the possibility of participating in Osaka with some of the other provinces or indeed the Dominion in some type of building where we could participate on a rental space basis rather than say putting up our own complete physical unit. Has this been considered?

Mr. Commissioner: Mr. Chairman, we have only done preliminary investigation because I did not feel that it was right that anything more than just preliminary investigation should be done without some direction or concurrence from Council.

Mr. Chairman: Councillor Dumas.

Mr. Dumas: Mr. Chairman, regarding the last comment of the Honourable Member from Watson Lake, I think myself that if we are going to go we should go first-class or not at all sort of thing. We've got to spend money to make money, there is no doubt about it. Now the Commissioner brought up a very good point in the fact that the Japanese had been investing in the Yukon, or at least had quite an influence on the economy of the Yukon. I think that is excellent; it is another good, sound reason for our giving approval to this Sessional Paper. Now I would like to point out also that the \$300,000.00 mentioned here is over a two-year period so that we are looking at \$150,000.00 per year. Also, the second to last sentence said that it is possible to recover much of the allotment through the sale of certain items of general appeal such as postcards, slides and phonograph records, etc. So, in fact we might be able to recover some of the costs but I still suggest that even if we were not able to directly recover these costs I think that in view of what has happened previously in the Yukon as a result of Japanese investment and what may happen in terms of tourism up here, that it would be a good investment for us.

Mr. McKinnon: Mr. Chairman, I wonder if I could ask Mr. Commissioner several questions. Number one, where is the main investment from Japanese sources in what industry in the Yukon Territory is it felt?

Mr. Commissioner: Mr. Chairman, in the mining industry.

Mr. McKinnon: Second question, Mr. Chairman. Where does the benefit from the mining industry accrue to at this time primarily; the primary benefits of the mining industry accrue to what Treasury at this time?

Mr. Commissioner: Mr. Chairman, you have asked me a question that can be answered in multitudinous different ways. There was a paper, or part of a paper that was tabled in connection with the benefits that would accrue to the Territorial Revenues as a consequence of Anvil coming into production, was available at the last Session of Council and I would say this; that the benefits of the actual mineral production itself, not what it takes to get the mineral production but the actual mineral production itself benefits the whole nation. The extractive process and the mineral process and the transportation process

Mr. Commissioner continues...  
that go in the input is directly beneficial to our economy  
here

Mr. McKinnon: Is this \$300,000.00 to be raised exclusively  
by the Territorial taxpayer or will there be a shared cost  
program with Federal participation to the Territory in this  
Osaka World's Fair if we go along with it?

Mr. Commissioner: Mr. Chairman, this is something that has  
to be negotiated as anything other than the use of those  
funds which are available to us. It is something that would  
have to be negotiated with the Federal Government if there was  
to be any participation. And this may be a particularly  
opportune time if Council would see fit for us to get into the  
detail of this so that in discussions as they apply to our  
next Fiscal Agreement could indeed test the temperature of  
the Federal authorities along these lines; if it was Council's  
wish that such should or could be done.

Mr. McKinnon: Mr. Chairman, I'm all in favour of negotiations  
beginning with the Federal Government to see if they would  
participate in a Yukon Pavilion at the Osaka World's Fair.  
You get \$300,000.00 of the Territorial taxpayer's money for  
the contribution to the Osaka World's Fair over my dead  
body as long as the primary benefits of the mining resources  
go to the Federal Government and not to the Territorial coffers.

Mr. Taylor: It would appear from the discussions, Mr. Chairman,  
that possibly the best approach to this matter at this time;  
it is obvious we are not going to be able to resolve anything  
firmly here, is that we neither accept the recommendation of  
that \$300,000.00 be spent necessarily, but neither should we  
reject the philosophy. I think that we should ask the  
Administration to pursue the matter further and attempt to get  
more information for us and more alternatives and look into  
this cost-sharing business as we have suggested, and that we  
leave it at that point for the time. That is my suggestion  
and it is only a suggestion, Mr. Chairman. I will resume  
the Chair at this time.

Mr. Taylor resumes the Chair.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Thank you Mr. Chairman. I was wondering; I'm not  
so sure about this amount of money at all. No one  
realizes better than myself that to get people to come into  
the country you have to spend money in order to compete with  
other areas that are also trying to get people to come in and  
spend money in the tourist industry and it is our secondary  
industry and is extremely important. What makes me look very  
carefully at this, Mr. Chairman, is the amount, such a large  
expenditure of \$300,000.00 to promote tourism, or for  
anything of that matter; when we spend these dollar bills,  
Mr. Chairman, it is all relative to what we spend and what we  
get back. That is the part that concerns me. It is a large  
amount, \$300,000.00 and John Public on the street wants to  
know what you are spending \$300,000.00 for when they need  
the street graded and they can't get it graded or something  
similar to that so that I myself Mr. Chairman would feel that  
I would be quite agreeable to investigate this matter further  
without making any specific commitments and try if possible  
to get as many concrete facts as possible as to what we could  
have and what we could not have. Now, when we talk about

Mr. Shaw continues...  
the selling of products, well we have another matter there. I happen to be in this business too, gold nugget spoons and so on and so forth, but that does not benefit the Yukon so much as it benefits an individual. So we have to think that if you are going to sell anything, that that is so, that brings the profits back into the Territorial Treasury rather than into the individual treasury.

Mr. Chairman: If we are going to pursue this at any length I would like some direction just before we call our recess. Sessional Paper No. 9 will be dealt with next and it involves nursing care for the aged and infirm and I am wondering if we have to request Mr. Murphy for this so that during recess we may have him alerted. Is this agreed upon by the Committee? I will declare Committee in recess.

RECESS

RECESS

Mr. Chairman: I will call Committee back to order. Are you clear on Sessional Paper No. 8?

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Mr. Chamberlist: Mr. Chairman, I haven't had my say in it yet. I'd be failing my duty if I didn't comment on such an important matter as an opportunity to reserect for the Yukon, the damage that has been caused it by Edmonton. Now I do think that it very important that we're able to get to Japan to see some of the very excellent communication equipment that they make there. At least surely we can get a piece of communication equipment that doesn't bring in the operation of private communications systems while this is on. The purpose of course, of requesting I should imagine, support of this particular Sessional Paper is to bring forward again the opportunity to participate in publicizing the Yukon Territory. I'm in support of doing that but I should also support the Honourable Member's remarks from Whitehorse North; I saw what his questions were leading up to when he was questioning the Commissioner and it's quite true that where the majority of funds that come from the investments of the Japanese people come from the natural resources and those funds go to the Federal treasury. It is only proper that the Federal treasury be asked to participate and I'm in agreement that we should, at least, commence an investigation into the possibility of going to the Osaka World's Fair and also the possibility, of course, of having the Federal Government participate at least to a 50% area of the money that will become available. One thing I think we must be careful of, I recall the Montreal Exposition started off with a number of thousands of dollars that was required and then there was Supplementary Estimates asked for in cost of which all was doubled afterwards, or one and half times as much. I know there was some increase. It appears that I'm wrong by the expression on a number of faces of the people around this Chamber but however the general idea is that we will keep within whatever budget we set and we certainly must get support from the Federal Government on this matter, but I am in support of the Paper itself.

Mr. Chairman: Are we clear on Sessional Paper No. 8?

Mr. Shaw: Mr. Chairman, this Osaka World's Fair, is it's theme to be industry? Could someone enlighten me Mr. Chairman as to what the theme of this Fair is going to be. It seems that the stress is more or less, by the discussions around the table. Is it an industrial Fair of some sort? I wonder if I could have that explained to me by someone?

Mr. Commissioner: Mr. Chairman I cannot answer the question divinatively. To the best of my knowledge it is to be a general interest exposition similar or covering an interest span similar to Expo in Montreal.

Mr. Livesey: The way I look at it Mr. Chairman, inspective of the possibilities of reciprocal interest between the Japanese and Northern Canadians in the Yukon Territory, as far as their investment in the Yukon is concerned, it seems to me that the principal behind going to Japan is to promote the already overbalance of payments between the Japanese and Canada. This overbalance is in our favour, very much in our favour and is naturally a Federal Situation far more than Territorial. In most of the exhibitions from countries at Expo, or anyother exhibition, it seems to me, that they spend their money there, more often than not, to exhibit the products they make themselves. Their manufactured products, they are proud of their achievements in the industrial field and in the manufacturing field and unfortunately this is where we fall down in the Yukon Territory. If we do advertise, and this is precisely what we're doing, we're advertising in Japan, that we have products to sell it's unfortunate that we seem to be really only advertising one product



and that is the tourism product. It's unfortunate that the extractive industry in the Yukon has not progressed to that extent whereby, instead of us obtaining, locally a small benefit from the extraction of our metals which I believe, are the top of the sheet rather than the bottom, there's enough marginal properties, these are the best properties we have. This is why there is such interest as far North as the Yukon. Where this becomes unfortunate is that we haven't progressed to the state whereby, instead of going to Osaka to advertise tourism, we should be going over there to advertise the manufactured products that come from the extracted industries in the Yukon. Not on one level but perhaps on two or three levels of profit and this is quite obviously where we are falling down. What I hope to see in the Yukon Territory, Mr. Chairman, in the future, is that these extracted industries will not ship pure export of raw materials from the Yukon Territory to anywhere in the world. What we will be doing is taking it from the ground and putting it into the concentrator and from the concentrator into the smelter and from the smelter into the manufacturing plant and from the manufacturing plant to the wholesaler and distributor and retailer throughout the world. This, in my view, is where we fall down. I hope, Mr. Chairman, that we are going to look at this situation much more closely than we have ever looked before because I don't feel that one profit, small as it may be, most of which will occur to the Federal Government rather than the Territorial Government is sufficient for us in this extractive industry at all. It is only a chunk of it, a small portion of it, however as far as the advertising in Japan is concerned, as I said before, this is precisely what we're doing over there when we're talking about this Osaka Exhibit, advertising pay. There's no question about but I do agree that we should look into all the aspects and possibilities covered by this venture of the Yukon into the Far East, into the Asian centre of interest before we make a final decision. Thank you, Mr. Chairman.

Mr. Shaw: I would like to bring to the attention of the Honourable Members that we do have an extractive industry in the Yukon Territory that exports the finished material, namely at Clinton Creek Mine.

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Mr. Chairman: Have you anything further on Sessional Paper No. 8? We'll then proceed to Sessional Paper No. 9. I don't believe that Mr. Murphy is with us as yet. I wonder if Mr. Clerk if you would see if Mr. Murphy could be obtained? I'll declare a brief recess.

RECESS

Mr. Chairman: At this time I will call Committee back to order. We have before us Sessional Paper No. 9 respecting Nursing Care For The Aged And Infirm and we have with us our Director of Welfare to assist us in these discussions. Would you proceed.

Mr. Dumas: Mr. Chairman, I have a question. If an aged person say somebody over seventy required assistance in finding a place to stay or wanted to get into the home for Senior Citizens down here. Is there space available or would your Department assist them or is there space available for them at this time for them to move in?

Mr. Murphy: Mr. Chairman, at the present time there are no vacancies in the Whitehorse Senior Citizens Home, but all applications by aged persons may be made to our Department and considered for admission as soon as a vacancy becomes available

Mr. Chamberlist: Yes, Mr. Chairman, I wonder if anybody can explain why at Whitehorse, the department is billed by the General Hospital a flat rate of \$10 a day and at Dawson the St. Mary's Nursing Home is operated by the Territorial Government and it costs \$22.01 a day. I wonder if somebody can give an explanation?

Why the difference between that small place in the northern part of the Territory and Whitehorse?

Mr. Murphy: Mr. Chairman, in Whitehorse there are twelve beds allocated by the Department of National Health & Welfare, the Federal Department, for special care cases or nursing home care. This per diem rate was established in 1962, I believe it was, when this particular arrangement was made by the Territorial Government with the hospital authorities or the National Health & Welfare. It's not a true cost by any means it's mostly a flat rate and does not reflect in any way the actual daily cost of maintaining these special care patients in the General Hospital and in Dawson City, of course, the building ...the home is operated by the Territorial Government and the per diem rate that is charged is the actual ...is based on the actual operating cost of the physical facilities.

Mr. Chamberlist: Mr. Chairman, it seems to me strange that just a little while ago, Mr. Chairman, we discovered that the charges for the use of the hospital per bed to somebody who is hospitalized is going to be \$30 a day and for somebody who is receiving nursing care the Whitehorse General Hospital only charges \$10 a day. Now why can the Whitehorse General Hospital do it for one type of patient, at \$10 a day, and for another type of patient at \$30 a day? There seems to be something wrong in that, I wonder if I can get an explanation to that. Ask Mr. Commissioner, he would come up with a good one for that I'm sure.

Mr. Commissioner: Mr. Chairman, it's a very straight forward situation. Beds in excess of normal requirements were available in the Whitehorse General Hospital. A nursing home care need was established by the Territorial Administration at the time and negotiations were conducted which resulted in this \$10 and few cents per day charge and I would strongly suggest, Mr. Chairman that we don't rock the boat, all of a sudden it might become \$30 a day.

Mr. Shaw: Mr. Chairman, I note the cost of this nursing home care in Dawson at \$20 a day.....\$22.01. When you consider the cost of things nowadays the cost of just boarding somebody in a camp or place like that it appears to me that that is kept within pretty reasonable amount when you consider the people you have to have on staff at all times to look after these old folks so that that is .....I think the Director of Welfare has certainly kept these within reasonable amounts although of course it doesn't amount to a great deal of cost at the end of the month. When you take nursing care, these nursing homes that are outside to take patients in, now where they have the least cost in every respect, I don't think you can get into them for a very minimum of \$25 a day and it goes up to \$40 and \$50 a day in many of them.

Mr. Dumas: Mr. Chairman, it seems that the paper is primarily concerned with the assets and .....deductable assets of nursing care patients. There are two statements that might be noted. One is at the bottom of page 1, "in the cases where the patient had no assets but was in receipt of a monthly income additional to his pension, this person would be required to contribute the total amount of monthly income, less the comforts allowance," Now this seems to me to be penalizing the person who, in fact, as the paper says in the next paragraph, has been industrious and worked hard all his life." So that if a fellow has a \$50 a month pension in addition to the Old Age Pension, he has to give that up as well as \$55 of his Old Age Pension, the fellow next door doesn't have to do this, he only has to pay the \$55 because he hasn't got or he hasn't looked ahead. This seems to be penalizing a person and I'm opposed to it on these grounds. I think that there should be a workable solution whereby we're

not supporting rich people, by any means, or those people who are well able to look after themselves but in the last few days I've run across a case that this Paper applies to and he is asked to pauperize himself in order to receive the care that he needs and it just is not fair, it is not right. The last sentence in first paragraph on page 2, the comment that's made there, I think, sums up the whole problem in a nutshell and therefore I suggest that this Committee accept one of the proposals as lined out and proposal No. 2 is the one that appeals to me the most.

Mr. McKinnon: Mr. Chairman, I wonder if I could query Mr. Murphy on this subject. I've been involved with the same gentlemen as the Honourable Member from Whitehorse West has mentioned and prior to this I had dealings with other people, elderly who had means of some sort or another. They had in assets a house, they had a certain amount of cash in the bank, because they were in poor health and were not considered indigent or paupers their whole life savings that they had taken a lifetime to accrue were wiped out of them completely before their eyes and the psychological wipeout that they saw happening to them had, I think, just as bad an effect on them as their physical condition. Am I correct in assuming this, has Mr. Murphy ran across this type of problem?

Mr. Murphy: Mr. Chairman, this is a situation that we're trying to correct. We are quite aware of this but we are bound by regulations and by the cost of nursing home care that are shareable with the Federal Government under the cost shared program and assistance can only be granted to those persons in need. On the basis of present regulations there is an asset exemption of only \$300. In other words a person to be eligible for free nursing home care cannot have more than \$300 in assets.....fixed assets or personal assets and this is a type of situation we're trying to correct. It is mentioned in the Sessional Paper about the psychological effects of seeing their life savings disappear because they have to pay the total cost of care until they are reduced to an indigent state more or less.

Mr. McKinnon: Is it difficult if this person is allowed to receive nursing care from the Territorial Government and their savings are not taken at the time from the Territorial Government is it a great difficulty to receive this money from the estate once the person is deceased?

Mr. Murphy: I believe we've mentioned this in here as one of the proposals to be considered by Council. We have never had occasion to file a claim against an estate because most of the cases we have looked after have been those indigent cases, persons in need, pensioners who have no...little or no assets. I don't think that there would be that much difficulty provided the estate were administered by the Public Administrator, after deceased.

Mr. Dumas: Mr. Chairman, the Honourable Member from Whitehorse North in this previous question touched on an additional problem, which I think, the witness can verify. In my studies on mental health at University and in particular the studies on senility, it was found, over the period of .....over which the period of which these studies have been taken in the last twenty years that where you wipe out a man's estate you in effect give him...help give him the feeling that he is not worth anything and of no use to the community and the incidents of senility in these cases are markedly higher than otherwise would be the case.

Mr. Shaw: Thank you Mr. Chairman, we are talking about the senior citizens and it's something that I'm extremely sympathetic to because I have had a lot of experience having known a lot of these old timers since I have been in the Yukon and I feel that we should do everything possible to help these people in their retirement. In their old age and of course it has been mentioned sometimes in their senility. However I think we also have to consider that when a person has an estate and goes into one of these homes, the responsibility of the taxpayers of the Yukon to keep this person when he has the funds available to look after his own self in the matter. I know that we can say that a person that has been frugal and has saved his money he shouldn't have to pay for these services that he is entitled to the same service as another citizen who has either not been frugal or he's lost his worldly goods through some other means and I can see this part, Mr. Chairman, that you do have situations whereby a person may have quite some assets and he will claim that he hasn't any or maybe he will state what he has in truth and then we get the problem of the payment by virtue of his being able to pay. Now a person that has, say a twenty thousand dollar estate that wished to go into one of these homes at the cost of the taxpayer, I think we have to consider not the benefit to that person that wealth of that person in this instance because this money, if the Government makes no charge upon this money ..this money will go to some heir and in very many cases it goes to heirs outside of the Territory so that the amount of money that could have been derived is not, is goes elsewhere and the people themselves have to pay all of these charges for the benefit of the heirs wherever they may be. So I think we have to also consider that this has to have a certain amount of justice both ways. I can see the point of where the psychological effect on some of these people would be bad to take all their property away from them, but I would feel, Mr. Chairman, that when there is an estate, that the people themselves, the government or Crown or whatever you wish to call it, should have some claim upon this rescue. I would like to ask Mr. Chairman, the Director of Welfare what, in his considered opinion, would be the most workable proposal of the four that are stated in this particular case. In his opinion ....I'd like to get a little of his experience in this particular matter?

Mr. Murphy: Mr. Chairman, I think Councillor Shaw has brought forth a very valid point. It's, as you know, in the Social Welfare field, it's very difficult to justify your expenditures in behalf of people in need and if we are going to expend money on behalf of a person, whether that person be a young person or an aged person, who has considerable assets, I'm not sure this is going to be looked upon very favourably by the taxpayer. On the other hand, I don't feel either that we should have .... we should obligate an aged person to pauperize himself simply because he has reached the age of seventy or over and because he can no longer look after himself. I think that there should be a little bit of give and take on both sides. We have a responsibility to care for the aged person and I think the aged person has, in turn, a responsibility to contribute if he is able to, to the cost of his care. My personal opinion is that we should set an asset level and asset exemption whereby this person would be able to retain a certain amount of money or the value, same value in fixed assets and still be eligible for nursing home care without cost to him. The ....as I've mentioned in the Paper it's very difficult to provide assistance under our assistance program when we are governed to a large extent by Federal legislation and Federal regulations because of the cost sharing aspect of the program. The Federal authorities will accept reasonable asset exemptions and still consider the person to be a person in need. So I feel that the proposal that has been outlined in the Paper, Proposal No. 4, probably with some modification, if you wish, would be the most desirable one.

Mr. Commissioner: Mr. Chairman, I think the important element here for Council to understand is that we depend, to a very marked degree, upon the Federal legislation under the Canada Assistance Plan and similar type legislation so that we participate in these programs and I think, really, the question before Council here is now, is...do you wish to carry the whole package yourself...you know...make out the best you can or do you wish to participate under the Canada Assistance Plan and what is the minimum required from the potential patient to still insure our participation in the Canada Assistance Plan.

Mr. Shaw: Just an illustration, Mr. Chairman, I think if possible we should endeavour to stay, in my opinion, within the Unemployment Assistance Plan or the Federal Plan anyway and we do get a situation such as this and as been mentioned by the Honourable Member from Whitehorse North, which is very valid. A person has a house that may be their assets the house and the contents so of course when this person enters into the plan, say the building is worth \$8000, obviously that would eliminate that person from this type of assistance and of course the next thing he would have to make this asset liquid in some form or another in order to survive to be able to get assistance. Could some type of situation be created whereby this person would...the house would be turned over to the Territorial Government in the form of a loan on the assistance they may receive less the \$1500 or \$2500, in the case of married couple. In other words that would make it somewhat equitable in all cases and they would still have this amount of money to give them this little feeling of security and the balance of the money over an above that amount would be chargeable against the estate. I'm not saying he would take that money, I say that would be chargeable to the estate. The reason I made this suggestion, Mr. Chairman, is that it has happened whereby prior to a person wanting to receive assistance from the government they have sold what they had and put it in a safety deposit box or shipped it to some relatives elsewhere, the government from there on has been...naturally the person didn't have the money, they couldn't prove he had the money and he became an indigent but the benefits did not accrue to the pensioner, they did not accrue to the Territorial Government, they accrued to someone, wherever they may be, in many cases it was outside. It's really a complicated situation, I think, to follow this down to it's final conclusion.

Mr. Dumas: Yes, I'd like to ask the witness, Mr. Chairman, under Proposal No. 4, it says each patient would be required to make his monthly contribution from his old age security. If the patient had more...had an independent pension coming in..let's say \$50 a month, would he also have to contribute that?

Mr. Murphy: Yes, Mr. Chairman, in most cases the person would have to contribute up to the amount of the cost of the nursing home care, if it were in the Whitehorse General Hospital, \$350 a month, if his income were \$75 from the old age security and \$50 from D.V.A, for instance, he would be required to pay the full amount of the pensions less his comfort allowance of \$20 a month. Otherwise the income is just accumulating and building up his assets figure and taking him further away from being a person in need, if we apply our regulations.

Mr. Dumas: Mr. Chairman, they might spend more than \$20 a month?

Mr. Commissioner: Mr. Chairman, while this is possible, we're not talking, here, about the people who would inhabit the Senior Citizens Home, we're talking about people who are basically bedridden in the hospital. These are the people we're referring to here.

Mr. Livesey: Thank you, Mr. Chairman, you've heard me speak about Welfare before. I know Mr. Murphy has appreciated several things that I have said about Welfare of different categories. However, this is one category of Welfare that I fully agree with. I see the smile on Mr. Murphy's face shows his appreciation and it's absolutely necessary where people get into this position. There's no question, doubt in my mind that something has to be done and I also notice other forms of psychology here, Proposal No. 4 being the last it is also you know, the one you think about last is, of course, the one that prevails on your mind. However apart from this, the Proposal No. 4, Mr. Chairman, does appeal to me to be the best proposal of the ones we have before us. I fully agree that it's a very bad position for a person to arrive at an old age and needing care but cannot afford it but is no longer able to take care of his financial or her financial circumstances so it's quite obvious that we would be doing nothing more than that what is just if we accept this Proposal No. 4 and allowed the assets at least, the assets that are required. I see nothing wrong with this at all. All one has to do to convince themselves that assistance from the Territory for people of this age is necessary is to go to the General Hospital and talk to the people there, watch them everyday, which I have had the opportunity of doing during the last two months and the question of need is more than obvious. They get excellent care, the type of care that they obviously could not get otherwise and certainly not get at home. I fail to see anything wrong in going forward with Proposal No. 4, Mr. Chairman.

Mr. Chamberlist: Thank you Mr. Chairman, the pain and suffering that can be put to Senior Citizens if they were of the opinion that the money and savings that they have earned over the years is going to be removed from them simply because they are old would probably do more to hasten their demise than any other single thing and I don't think it would be right for us to support anything of that nature. I find that Proposition No. 2 is the most appealing to me because I don't believe too much in Social Welfare but certainly I believe that people that have spent their life being of service to the Territory and to Canada have a right to be looked after in the last few years of their lifetime. I think there's nothing more we can give them and I don't mind participating in the Social Welfare of that description. It would appear to me that if we followed Proposition No. 2, that no persons would be required to worry about the cost of being taken care of. I think we have to relieve the old folks of all the possible worries we can. If they have assets and if they become deceased, certainly a claim can be made against the estate if they have an estate, or the claim can be settled and satisfied with a part of the estate that they have, could satisfy part of the claim. I don't think there should be any administrative difficulty in that type of effort in making that type of claim. Perhaps Mr. Legal Adviser might care to comment on this, but it appears to me that it might be the proposal that the average taxpayer would be able to recognize and would not object to paying towards because the person with an estate would after his death have some of that money that he has held paid back to him. It would seem a pity, I feel, that a person an older person should tend to be lying in a bed and saying "well they're just taking my money because I can't take care of myself", I don't think this would be right. I wonder if Mr. Legal Adviser could comment on whether there would be any difficulty in forcing a claim procedure under Proposal No. 2?

Mr. Legal Adviser: Mr. Chairman, there's no real difficulty real legal difficulty about it but there's a certain amount of administrative difficulty in following up each case. A debt accumulates, it may be a very large debt if the patient is in care for any length of time, the assets may be modest, the person may only have a house and then the Administration gets faced with a hard luck story that because of the past years care a debt has accumulated of five, seven and a half, ten thousand, twelve thousand dollars and another family has got to put a mortgage on their house or sell it and maybe get no assets. The problem tends to be repeated in the next generation that is where people are residents in the Yukon. There isn't the same feeling of difficulty where the person resides outside but it's postponing the problem to a certain extent to another generation and it does seem harsh then when you attempt to enforce a little bit of the law and charge up that debt and make the estate virtually bankrupt. As I say, legally if the assets exist then the matter can be followed up but you have this problem arising with attempting to collect the cost of treatment from an insane person. Where it's a continuous story of hardship cases where there's a reluctance on part of the Administration to chase up and follow it through to the bitter end.

Mr. Chamberlist: Mr. Chairman, to Mr. Legal Adviser, isn't it so that government can register a prior lien in certain cases Isn't this done on, I think, on death duties and things like that?

Mr. Legal Adviser: Well you can't just register a lien unless you have authority to register a lien but one way of working it, which I think has worked in some of these matters is that a person makes an agreement of some sort and assigns the house to trustees, say, and the house at the time isn't sold and if the amount of care that a person gets does not exceed the cost of the assets then the assets can be, in case they ever leave the hospital, then they can resume possession of the asset and the state can withhold it's hard hand until the person, in fact, has died. This sort of thing...and you can register as an interest against the title in the Land Registry. There's no real difficulty in the law in doing it, the thing is that there is a reluctance in part of people to be apparently harsh in the enforcement of these things.

Mr. McKinnon: To the next generation.

Mr. Legal Adviser: In either generation because an old person of seventy-five will commonly have one or two children who are living here who in turn have got a family of children. Usually there's grand-children involved. This is a common circumstance. There's sometimes is and I'm not saying in every case but sometimes there is and sometimes there isn't but it always ends up with a hard luck story.

Mr. Shaw: I have a question of Mr. Legal Adviser and I'm referring to Proposal No. 2. The first question is complicated, perhaps I could use an illustration to assist. A persons estate is a building worth \$8000, so we'll know what we're talking about and this person makes application and is going to be received under this proposal, into a nursing home. Now, he has an estate, of this particular house, there is \$8000, and we have stated that a claim would be filed against the estate. Now, the difficulties it seems to me is filing a claim against that estate when there's no claim yet so I wondered how that would be, would it be, after the person dies and then if prior to his demise, or her demise, they had turned that over or sold it to somebody or given it to somebody else under the pretense of selling it. What would happen in that case? And the other question is, in an event such as this would the Federal Government participate in a normal 50% unemployment assistance, whatever they call it?

Mr. Legal Adviser: What will invariably happen, I'm not saying this happened in the Yukon, but it happened elsewhere, is that a person knowing that they have to fit their income into a given framework for the purpose of complying with the requirements of a particular regulation has transferred that asset to someone else and then they fit it into the framework. This is a common circumstance, now this is done, shall we say, everyday of the week, by businessmen who are transferring things back and forward and they don't feel any particular moral opprobrium attaches to them for this particular thing. This is avoiding the payment of something to the government. Older people do this as well, they do it on the occasion of the marriage of their daughter or their son setting up in business or various things like this and one of the things which brings it forcefully home to their minds is that they are thinking in terms of going to a senior citizens home or similar type of situation that you have before you then they fill in a form and they're asked what are their assets and they've got a bank account of two and a half thousand dollars and they just fill in the truth, two and a half thousand dollars and the average next door neighbor and so on doesn't think at all harshly of doing this. They're looking after their own family but it's impossible to expect that we would start chasing up these particular type of circumstances to any great degree. If the person has assets and declares truthfully that they have them and do not alienate them in advance, then it's easy enough to deal with them because they say yes they have a house, and you say are you agreeable to execute an agreement or contract with us whereby we can, if necessary, execute against the house and you can register that in the Land Registry, this is fine, if they agree, if you know that we don't have the machinery to chase up in advance exactly what assets people have. One would rely on the truthful nature of the person filling in the forms as to what assets they have and checking that's done because of any peculiarity about the form.

Mr. Shaw: Well, my question, Mr. Chairman, wasn't quite fully answered and the analogy between death duties are entirely different. You get value for being looked after in a home when you die you don't get anything they just dip into your purse so...if you have one. They may give you a plot of ground six feet by two but in relation to this, Federal Government participating, and if there were assets. Now if there were more than say, fifteen hundred dollars of assets, would they still participate?

Mr. Legal Adviser: I couldn't give an answer to this, Mr. Chairman, the Federal Government regulations exist and I haven't got them before me. It's possible Mr. Murphy may be able to answer that question.

Mr. Murphy; Mr. Chairman, the Federal...the Government will not share in the cost of the caring for this person with assets at the present time unless they share in expenditures which are made or incurred in respect of persons in need. This is determined by your local regulations, and this is why we are sounding out Council or trying to get Council's feelings as to what exemption level we should set. Should we consider nursing care as a form of hospitalization which would be completely free to all people who require it or do we consider it a form of social aid and if we do then we must set an exemption level which will be incorporated into the regulations, Social Assistance regulations which have to be acceptable to the Federal authorities before they will share. I know I have contacted the Federal authorities and asked them if they would consider cost sharing in cases like this, where the patient had assets in the amount of \$10,000, and the answer was, of course we could not consider a person with this amount of money as being a person in need. Federal legislation is based on that terminology, a person in need, but they will accept a reasonable asset exemption at the local level. And this is why we set, what we thought was reasonable, in Proposal No. 4.



Mr. McKinnon: What would be the maximum level the Government would accept, Mr. Murphy?

Mr. Murphy: I really don't have any idea what the maximum would be but I don't think it would be much more than what we have set out here in Proposal No. 4, but of course I could contact the Federal authorities in this respect.

Mr. McKinnon: May I continue, Mr. Chairman. Proposal No. 2, the Federal Government won't share in this program period? Is this correct?

Mr. Murphy: No.

Mr. McKinnon: Well, Mr. Chairman, I really think that's a shame. I've had personal experience with a grandparent and two great aunts in this field, where Mr. Legal Adviser says the prime reason why No. 2 won't work is because they have the people waiting for the old codgers to "bump" off so that they can get the money from his estate. Well my two great aunts and my grandparents all went into the Old Folks nursing home in St. Boniface and saw their estate, they were all frugal, they had built up through their life just dwindle away before their very eyes and I think this killed them faster than anything else. There wasn't anybody in the family who wanted a penny from them. They would have been happy to see this money be able to stay in their estate and the Manitoba government came along and wiped the estate out completely. Because it would have kept those old people happy, something to worry about, something to discuss, how they were going to spend their money, what a stake they had, their homes and their money and I'm telling you I really think it's a shame that you can't accept Proposal No. 2 and to heck with the people who are waiting to cash in on the old person dying off. For crying out loud, the government has a right and a duty to step in and take that money at that point. If these people can't look after.....if a second generation can't look after their own affairs and have to wait for some old guy to "bump" off before they can get some of his money. I have no trouble at all in a government moving right in and taking the money from that fellow's estate and pay his nursing care. I have no trouble at all in condoning something like that. And I think that because we're being forced, which we are, to accepting Proposal No. 4, what else can you do. It's the only one the Federal government cost share in and we can't afford to carry the cost of the nursing home ourselves so what do we do, there's no other solution except to go to the maximum limit that the Federal government will allow under Proposal No. 4 and accept it. What else can you do? Your hands are tied, let's face it. Let's negotiate a maximum with the Federal Government what they will accept in a cost sharing program under the nursing care scheme and see what they can come up with but \$1500 and \$2500 just aren't enough. When a person, and let's face it, it's a tough proposition to get an estate of some \$10,000 by the time you're ready to enter or you're put into a nursing care home and by golly, to watch it just being wiped out in front of your eyes because of care. That you've spent a lifetime savings and the bum in the bed next to you is getting the same treatment and he didn't even have to think of saving or being a responsible citizen of the country, no sir, I don't accept it.

Mr. Chairman: I'd like to ask this question from the Chair of Mr. Legal Adviser. In respect of Proposal No. 4, if a person dies and a will is left bequeathing this \$8000 house to a daughter and the furniture to a son, what is the situation at this time.

Mr. Legal Adviser: It would be a debt existing against the estate and the person, of course who has filed the application form will have completed a declaration section in which they will say, my assets do not exceed \$1500 or whatever it happens to be in the case of a married couple. Or my assets, jointly with my wife's assets do not exceed \$2500. He will have been given treatment on the basis of that declaration so a debt will carry over to the estate. The Government if they became aware of this would, of course, have a claim against the state as an ordinary debt. It's a question of contract.

Mr. Chamberlist: Mr. Chairman, first thing you know...it appears to me that when these Proposals are given by the Administration they know ahead of time, in dollar and cents wise, which part of the proposal we must accept because it's obvious we can't accept what we can't afford. In Proposal No. 1, there is a method of cost sharing and you know that Proposal No. 2 nursing care would be provided free of charge to all residents as in Proposal No. 1. If you look at the third paragraph of Proposal No. 1, up to a certain amount and providing care for these person would amount to approximately \$21,900 this total cost would have to be assumed by the Territory, \$21,900. This would leave an amount of \$65,700, 50% of which would be shared with Canada less the Territory's net expenditure for nursing care which would be \$54,750. So according to the Proposal No. 1, part of it is shared by Canada and the answer before was that it was all to be borne by the Territory. This is what I heard, that this would be borne by the Territory. The question was asked whether the...and I think the Honourable Member from Whitehorse North must have felt that...that it was all to be borne by the Territory. Now there's a saying and it's been used often and it's there must be one law for the rich or one law for the poor and I'm suggesting that there musn't be one law for the poor and one for the rich. Now this is why Proposal No. 2 is the only proposal that would be fair and equitable and I agree with Councillor McKinnon that if we are going to give nursing care to older people and show our appreciation, I think it should be free of charge and if peoppe have an estate, if they can afford to pay out of that estate, mind you if somebody has got \$150,000 you know in the estate, drawing interest, he should pay something towards his care but it should be an amount that was to be set over a certain amount of money. His estate should not be dissipated in such a manner, that because he is infirmed and unable to fend for himself that the Government act as a vulture just to deprive the estate that he has probably worked from a very, very early age to build up. I'm prepared to accept Proposal No. 2 and go along with the .....a claim against the estate if it's a substantial estate. I think this could be made by way of regulation but certainly you cannot penalize a man that has an estate or built up an estate to the detriment to the man who hasn't built up an estate. As I say it's in reverse you can't have all for one and not for the other. It has to be very equitable to all. It's a sad thing that many people who go into a nursing care home are, as Mr. Murphy put it, an indigents, quite often people who are taken care of by their own relatives. It's those people who haven't relatives to take care of them or have relatives who don't want to take care of them that go into a hospital for nursing care.

Mr. Shaw: Mr. Chairman, I heard the discussions go back and forth on this and one thing that hasn't been determined in my mind is what constitutes the rich man and what constitutes a poor man. What is an estate that a man should pay for his own way and what amount that he not pay his own way. I think that's a very complex question for you to answer. A man has \$10,000, he should be ...he should be able to turn that money over to his relatives when he dies and the rest of the people should keep

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that person. I can't quite see that, Mr. Chairman, because the aged man is not receiving the benefit. The person that's getting that is the heir of that person, whether it be \$10,000 or \$110,00 and I would, Mr. Chairman, in asking my opinion, I would say if you look after anyone, all people, you look after them period. But that should be a charge against their estate and they cannot dispose of that estate to heirs when that charge is against this amount of money. In other words, they can pay their share as a charge against the estate but if you don't have something like that this person that could be worth, conceivably we'll take any extreme, he could be worth \$50,000 and he could say I'm entitled to free care, now when I die you can pay for

what I get but by the time he goes into this home and by the time he dies he's disposed of all this property, even perhaps given it away to the beneficiary or heirs, not the pensioner or not the government. That doesn't seem to work out very well. Could the Legal Adviser explain to me if that could not conceivably happen if it were just free to everybody and charged against their estate when they die?

Mr. Legal Adviser: This can happen and it can happen at the aid of a beneficiary. There's no sweat when we're dealing with people with \$100,00 or \$130,000 or \$200,00, these cases don't come to us. What does come to us is when there's a big debt owed to the Territorial Government and there's three thousand, two thousand, five thousand, four thousand, there's a house with equity in it that this person owned and they paid off the mortgage company so many thousand dollars, three or four thousand dollars, there's still a debt on it, do we take the house and sell it, do we take it to Administration, do we get the Public Administrator to start chasing it up and so on. These come upstairs to this floor with great regularity and invariably, I know it's wrong maybe, to argue that the heir should not get the benefit of this but when you get people with families saying do I have to sell this house that I've lived in all my life just to pay a debt to the government and then go out on the streets. It's a harsh decision to throw out another family. These are harsh decisions and they're made no easier by the fact they are occurring in this area from anything from \$3000 to \$7500 to \$10,000. We don't know up here, who is a rich man and who is not, but we do know the people who are complaining and that are pestering the Commissioner's door with letters and sending representations and so on, don't take this money, we can't afford it, this kind of thing. They've become used to this money, living in this house, do we take it. This is one of the problems of the Administration and I suppose we should be big enough to face it and be harsh and be cool but it's a harsh way to have to earn your living.

Mr. Livesey: Mr. Chairman, I'd like to address a question to the Legal Adviser. In the event of the execution of a deeded gift, prior to the demise of an individual, are there any legal limitations which would annul such an execution of a deeded gift because of circumstances which could be created by the execution of Proposal No. 2, where the individual concerned that had made the deeded gift owed the Territorial government funds in connection with his nursing care?

Mr. Legal Adviser: Mr. Chairman, the crafty way to do it is to do it before you fill in the forms. If you fill in the forms and say you have no money and realize you have and start doing it you commit a fraud and I'm not sure it would be in these various forms. They're fairly standard forms, there may be a question, have you disposed of disposable assets within the last period, I mean if I was drafting a form I'd stick this in, and tie him down to a statutory declaration at the end of it, so you force him to tell something that is not true. In that way you can chase it up if.....yes, if he has transferred an asset on day one and comes into the office and fills out a form

on day two and said I only have \$2500, I have not disposed of any disposable assets within the last twelve months other than full value he's told you a lie, if he want to do this.

Mr. Shaw: You haven't forced him to.

Mr. Legal Adviser: Well, it's a most point when he's standing there you know. Administratively these are parts of our difficulty it's the end results which we are usually faced. It's easy enough to make the decision if there is room available to put the person into care, if there's room available you put them in. It's the administration that has caused these difficulties to us.

Mr. Dumas: Mr. Chairman, I think it's unfortunate but as Mr. McKinnon has said, we're probably stuck with Proposal No. 4, so I would suggest that the witness try and find out exactly how high the Federal Government will allow us to go on this and we go for the maximum.

Mr. Chairman: What is your pleasure in relation to this Bill?

Mr. Shaw: Mr. Chairman, I'll make a motion that we ask the Administration to negotiate with the Federal Government .....

Mr. Chairman: Well just in order to assist the Honourable Member is it the wish that the matter be left open for further discussion while the Administration endeavours to find out this information.

Mr. Chamberlist: Yes, I would agree to that Mr, Chairman.

Mr. Commissioner: Well, Mr. Chairman, I would want you to understand that this is weeks of work, Mr. Murphy could verify this . We can't get answers to this in the next few days.

Mr. Shaw: Well, Mr. Chairman, I think the idea is that of all the propositions that we have had, No. 4 seems to be one that can be accepted. We do have to find out what the maximum amount of money, the Federal Government will go for to participate in this Canada Assitance Plan and go on from there. This Proposal No. 4, I think we should come up with some type of an answer so the Administration can go ahead and try to work out a program.

Mr. Chamberlist: Well, Mr. Chairman, it appears to me that from the statistics given in Proposal No. 1, based on that there is from between \$54,750 cost to the Territorial government or \$43,800 cost to the Territorial government an amount of \$11,000 based on twenty patients. I wonder if Mr. Murphy can say how many patients are involved at this very moment?

Mr. Murphy: I didn't quite get the question Mr. Chairman.

Mr. Chamberlist: How many nursing care patients are involved have we at this time?

Mr. Murphy: There are twelve patients in the Dawson nursing home and ten are responsibilities, indigent responsibilities of the Department of Welfare and two are Indian status persons who are responsibilities of the Indian Affairs Branch. In the Whitehorse General Hospital, there are three white status nursing care patients who are the responsibilities of the Department because they have no assets. There are none..there are no nursing patients in either nursing home with assets.

Mr. Chamberlist: In other words, you have, at the moment, only fifteen patients. Here we have statistic based on twenty patients. Now we only have fifteen so we must ....so taking 25% of the difference off \$11000 we're talking about \$7000 or \$8000 . Now if we're talking about \$7000 or \$8000, just from following these statistics the Territorial government should be able to go for

that difference in Proposal No. 2, because if we were talking about the matter of \$100,000 or \$150,000 I can see this Proposal No. 4. put in view of the smaller amount I think we should go for Proposal No. 2, it gives free nursing care to the fifteen people that we have who need it in the Territory right now.

Mr. Commissioner: Mr. Chairman, the statistics that are available are as of right now, unfortunately, nursing home care is an on going problem and there is going to be a question put to you in connection with either the Supplementary or Main Estimates next in connection with the provision of further home facilities because the anticipated rise in the number of these people is something that, possibly Mr. Murphy may or may not have with him at the present time, but we are nowhere near the the anticipated maximum number of people that conceivably will be wishing or having to participate in this program. Perhaps Mr. Murphy has this information with him this moment?

Mr. Murphy: Mr. Chairman, I might say that this is strictly an example outlined in the paper, twenty patients to give you some idea of what cost the Territory would have to assume and we are assuming that five of these twenty here would be persons with assets and fifteen would be indigent. Now, in our survey of need, we have carried out a survey which included both Indian and white status aged persons, because we feel that it's our responsibility to look after all the aged in the Territory and the projection we have here is that we will need facilities in the next five years, for seventy-eight persons. Of course a large number of these are Indian status, are Indian pensioners, who will not wish to move from their home environment.

Mr. McKinnon: And a large number of indigents?

Mr. Murphy: Yes, the survey we carried out, a good percentage of them were indigent people.

Mr. McKinnon: On the basis now, you have fifteen in Dawson and three here, is this correct...twelve in Dawson and three here. Of these fifteen, how many have means at this moment?

Mr. Murphy: As I said, none of them have means. There all indigent.

Mr. McKinnon: Not one, well certainly this percentage is going to keep at this level, it's not going to be zero percentage, it's not going to go over a third or a quarter at the most, of people with means, in comparison with people who are indigent and of Indian status. I'm sure that if you project your figures that this projection will be in there also. The cost is minimal.

Mr. Shaw: Mr. Chairman, I'm not as sure about these figures as the Honourable Member from Whitehorse North, he says it's so many indigents and zero that have funds. I would submit, Mr. Chairman that if everyone could go in free, that you'll get a lot more people in for free, because I know of many people that are not going into nursing homes in the Yukon that are outside in nursing homes. If this is just absolutely free and you can keep all your assets and so forth I think we can see a considerable increase in nursing home care.

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

Mr. Livesey: I second the motion.

Mr. Chairman: Will you require the services of Mr. Murphy in the morning?

Mr. McKinnon: Mr. Chairman, could Mr. Murphy be available tomorrow morning if he were needed?

Mr. Murphy: Yes.

Mr. Chairman: Well gentlemen, you've heard the motion. Are you prepared for the question? Are you agreed? Contrary? I'll declare the Motion carried.

Mr. Speaker resumes the Chair.

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

Mr. Chairman: Mr. Speaker, Committee convened at 10:25 a.m. to discuss Bills and Sessional Papers. It was moved by Councillor Taylor and seconded by Councillor Dumas that Committee concur with recommendations contained in Sessional Paper #10, this Motion still stands in Committee awaiting decision. It was moved by Councillor Taylor and seconded by Councillor Shaw that Committee concur with Sessional Paper # 13 and this Motion carried. Committee recessed at 12:00 noon and reconvened at 2:00 p.m.

Mr. Ken McKenzie, Territorial Treasurer attended Committee to discuss Sessional Paper No. 5. Committee requested further information on Sessional Paper No. 8, the Osaka World's Fair. Mr. H. Murphy, Director of Welfare attended Committee to discuss Sessional Paper No. 9. It was moved by Councillor Chamberlist and seconded by Councillor Livesey that Mr. Speaker do now resume the Chair, and this Motion carried.

Mr. Speaker: We have heard the report of Chairman of Committee. Is the House prepared to adopt the report? May I have your further pleasure?

Mr. Shaw: Mr. Speaker, I will move that we call it 5:00 at this time.

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

Friday, November 22, 1968  
10:00 o'clock a.m.

Mr. Speaker read the daily prayer. All Councillors and Mr. Legal Adviser 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 your attention this morning tabling of Sessional Papers No. 39 to 43. Are there any reports of Committee? Introduction of Bills? Notices of Motion and Resolution?

Mr. Chamberlist: Mr. Speaker, I give Notice of Motion that Sessional Paper No. 40 be passed into Committee for discussion.

SESSIONAL  
PAPER  
NO. 40

Mr. Speaker: Thank you, Mr. Chamberlist. Are there any further Notices of Motion or Resolution? Notices of Motion for the Production of Papers? May we now pass to Orders of the Day? Motion No. 5, moved by Councillor McKinnon, seconded by Councillor Dumas "It is the opinion of this Council that immediate consultations begin with the City of Whitehorse with a view to implementing the recommendations of the Pollution Survey - Whitehorse Area conducted by Dr. Lyall Black, Medical Health Officer for the Yukon Territory", may I inquire if the member is now prepared to proceed with Motion No. 5?

MOTION  
NO. 5

Mr. McKinnon: Yes Mr. Speaker, if I may. Mr. Speaker, this is a subject that is particularly close to my heart and I believe it is particularly dear to every person who either has been born or has adopted the Yukon as his home. I believe it's what politicians in the vernacular of the day call the quality of life that politicians and legislatures should try and gender into their thinking and into their legislation. Mr. Speaker, I would submit that if this Council did nothing else, if in our battle to gain some measure of responsibility and democratic institutions to the Yukon Territory, if we were completely unsuccessful in this battle, if we looked after the pollution problem and set up a policy so that our water and our air in the Yukon were not contaminated, if we didn't receive one modicum of responsible government from the Federal Government then this Council still would have been successful in its efforts. I think that there is one thing that makes a bond between every Yukoner, in fact, every resident of the North, and that is everyone of us has a special place where he can go, a special place outside the metropolitan area which is only five or ten minutes away where he can recharge his batteries. I think this is something that sets us apart from other people in the southern parts of the country and I'd like to quote, Mr. Speaker, if I may, from a Time Essay article called, The Age of Effluence and it opens, "What ever happened to America the Beautiful? While quite a bit of it is still visible, the recurring question reflects rising and spreading frustration over the nation's increasingly dirty air, filthy streets and malodorous rivers - the relentless degradations of a once virgin continent. This man-made pollution is bad enough in itself, but it reflects something even worse: a dangerous illusion that technological man can build bigger and bigger industrial societies with little regard for the iron laws of nature. The problem is much bigger than the U.S. The whole industrialized world is getting polluted, and emerging nations are unlikely to slow their own development in the interest of clearer air and cleaner water. The fantastic effluence of affluence is overwhelming natural decay - the vital process that balances life in the natural world. In the polluting

MOTION  
NO. 5

sense, man is the dirtiest animal, and he must learn that he can no longer afford to vent smoke casually into the sky and sewage into rivers as he did in an earlier day, when vast reserves of pure air and water easily diluted the pollutants. The earth is basically a closed system with a waste-disposal process that clearly has limits. The winds that ventilate earth are only six miles high; toxic garbage can kill the tiny organisms that normally clean rivers. Today, industrial America is straining the limits". Mr. Speaker, we hear these arguments so often here in the Yukon that we don't have to worry about pollution as this time, that with the mass of clean air and clear waters that we have that we don't even have to think about a policy of pollution for the Yukon at this time. Mr. Speaker, if only legislators in the United States and Canada could have the chance that we have at this moment to set a policy whereby we can be assured that future generations will enjoy the same clean air and the same unpolluted waters that we do, they would jump over backwards at the chance to be able to recover the mistakes that they have made. It is going to cost the Canadian and American Government billions, billions of dollars to try and recover Lake Erie which is now a dead body of water and Mr. Speaker, if the day ever came I think where the Yukon River that flows through Whitehorse was polluted, or that the air over the Yukon was polluted, then I think this whole body would have failed as legislators. Now there was a pollution survey conducted by Dr. Lyall Black, Medical Health Officer for the Yukon Territory, and he comes up with recommendations on it, and the recommendations deal particularly with the City of Whitehorse, Mr. Speaker, where the pollution problem has reached the point where it is evident to the eye, and evident as it is not as scenically pleasing any longer in areas around Whitehorse. And there's one thing that it's going to cost to recover and to start a program of pollution policy, and that's money, and Mr. Speaker, the recommendations that Dr. Black makes are mostly the City of Whitehorse's responsibility. It is going to be impossible for a municipal organization to raise the money to put into effect the recommendation that Dr. Black made. The first recommendation is that a water quality management program should be initiated by the City. The second recommendation is to develop a sewage treatment plant site and make plans to treat sewage before discharge to the Yukon River. Mr. Speaker, it is now against the law under the Yukon Public Health Regulations of 1958 for anyone to discharge raw sewage into waterway. Under paragraph 25, subsection (b) the Medical Health Officer for the Yukon however, has discretionary powers to allow disposal system to feed into waterways. Mr. Speaker, I can't think of a greater area of hypocrisy in government where by regulation by law they completely forbid anybody to discard waste into the water and turn around and do exactly the same thing themselves. Mr. Speaker, how can we expect to enforce Regulations on private industry and make them follow anti-pollutive measures when the Government of the Yukon Territory and the City of Whitehorse, with no qualms at all, and with the permission of the Medical Health Officer for the Yukon Territory dump raw sewage into the Yukon River. Mr. Speaker, as I said, I think it's hypocrisy of the highest nature and a sewage treatment plant so that raw sewage no longer is pumped into the river is a necessity and financial considerations are going to have to be made to make this a fact. The third recommendation is the adoption of an alternative source of potable water from McIntyre Creek. Mr. Speaker, as far back as 1963 reports on McIntyre Creek as a source of water declared that this water was not fit for human consumption, and the problem, Mr. Speaker, has been amplified with usage at McIntyre Creek over the years, not lessened and the latest report on the water supply at McIntyre Creek further bolsters the 1963 conclusion that this water is not fit and should not be used



for human consumption. This, Mr. Speaker, is a recommendation that the water supply in the upper Takhini, Valley View areas eventually comes from the City of Whitehorse supply and this also, Mr. Speaker, is going to cost money. The water at certain times of the year, in both the Takhini, Valley View, Hillcrest, C.N.T. areas, I think the word is - I don't know it's a black inconsistency, it's almost undrinkable, really it's not much good for anything. It's chlorinated to the extent where it's hardly fit at all for use Mr. Speaker. The next recommendation is to post the city watershed at Schwatka Lake and curb activities there. The Schwatka Lake area, Mr. Speaker, is being used as a water supply for the City of Whitehorse. The recommendations by Dr. Black say that it can't be used as a water supply when there is activity of boats, motors and is used as a sea plane base. The two are just not compatible one with the other, either another source of water supply, or we are going to have to limit the activities of man in the Schwatka Lake area. No. 5, build a facultative sewage lagoon system to settle the sewage from Takhini before discharge to the River, as it is, Mr. Speaker, the raw sewage from Camp Takhini area floods and pollutes the marsh below the Whitehorse Indian Village and then finds its way through seepage into the River as raw sewage. Mr. Speaker, I challenge anyone on this Council to go down to the Indian Village when the wind is right and the weather is hot and spend a day down in that area. And, Mr. Speaker, the children in that area play in the marsh that has been polluted by the raw sewage coming from the Camp Takhini area finding its way into the Yukon River eventually. Recommendation No. 6, take steps to find an alternative site for the City garbage dump. Mr. Speaker, I really wonder at man at times, the most beautiful site for building lots in the whole of the Whitehorse area, easily accessible to services, a panoramic view of the mountains and the Yukon River for miles, and what is it - our garbage dump. Mr. Speaker, I just can't follow the rational and the sensibility of people who call themselves rational to allow this type of usage of land to take place. It's abomination, Mr. Speaker, that this land, the most beautiful for development in the whole of the Whitehorse area should be used for a dump, and in the Whitehorse area if we can't find another site for a city dump and recover this land to the beneficial use of the citizens of Whitehorse, then, Mr. Speaker, we failed miserably in any steps that we take on the recommendations of Dr. Black. The 7<sup>th</sup> recommendation, examine existing Legislation and the proposed Water Regulations in detail, Mr. Speaker. Both B.C. and the Northwest Territories have legislation on their statutes books, which sets out a policy of water usage and water regulations and this is something that we lag far behind in the Yukon Territory. We are going to have to look into it in the immediate future. Mr. Speaker, I just quote by reiterating the problem and saying that if this Council does nothing else in its term of office, but provide an effective policy so that we can have for future generations the same unpolluted air and water that we enjoy today, then we'll have served a very real useful purpose as legislative Council Members. Thank you, Mr. Speaker.

MOTION  
NO. 5

Mr. Speaker: Thank you, Mr. McKinnon. Are there any further discussions?

Mr. Chamberlist: Mr. Speaker, I agree with the principle of the Motion, but I am somewhat reluctant to give approval to making provision for funds to place into the hands of the City of Whitehorse for their open use. They have already shown in the past few days they are using improperly municipal funds. I will go along with the Motion as to consultations, but no further than that, not including the remarks that have already been made by the Honourable Member from Whitehorse North.

MOTION  
NO. 5

Mr. Taylor: Mr. Speaker, I have listened with great interest to the Honourable Member from Whitehorse North this morning. It is indeed gratifying to see that someone has taken the time to make a study of the situation in Whitehorse. I think, as Members will recall at the last session, I believe it was myself submitted a couple of questions on this item and I don't think I ever did get an answer back from the Administration, but it would be most interesting if copies of this study could be made available. I certainly for myself, for my own part, would be very pleased in obtaining a copy of this study, it sounds very interesting. I would certainly support the Motion, I think anything we can do as the Honourable Member stated to avert a catastrophe by pollution should be done, and I whole-heartedly support the Motion.

Mr. Dumas: Mr. Speaker, as seconder of the Motion, I believe that the Honourable Member from Whitehorse North stated the case very clearly, very emphatically and very well. I believe this Council is united and it's desire to prevent pollution of all types in the Yukon. I believe that the Administration desires this and I believe the Federal Government does too. All the words in the world aren't going to help the situation, we need preventative action, I suggest we need it now.

Mr. Shaw: Mr. Speaker, I listened with quite some interest to the Member from Whitehorse North in his discussion relating to pollution and I whole-heartedly agree with him. When we - I think one of our major resources, in fact perhaps we could say, our major resource for the future could possibly be the drainage systems of the Yukon River. The way that these other rivers in other part of this Continent have been polluted, made unuseable, in fact, this water, I think, is one of our most valued resources, more valued indeed than the minerals, because that water can continue to flow forever after and it's a certainty that all these mines will gradually become depleted. The Motion is very timely because the pollution problem can be rectified, you might say Mr. Speaker, in its infancy if this pollution continues. At the present moment it does not appear to me in a practical point of view that this is doing any particular great damage at the present moment. There are situations, of course, that are possibly terrible and should be cleaned up of a local nature, but for an overall picture the population is so small at the present time that these things are not creating any dire effects at the moment, however, that was the same situation that existed on the North American continent possibly a hundred years ago and look at it now, there are waterways, there are huge lakes that cannot be used because they are so polluted so it would appear to me, Mr. Chairman, in support of this Motion that every effort be made to combat this thing. It will take a considerable amount of money from my observations and to be quite frank about it, the money will have to come from the Federal Government. We haven't got that kind of money to alleviate the situation, but I would say this Mr. Speaker, that what we do now will cost cents in relation to hundreds and thousands of dollars for the future.

Mr. Speaker: Is there any further discussion on Motion No. 5?

MOTION  
CARRIED

MOTION CARRIED

MOTION  
NO. 7

Motion No. 7, moved by Councillor Chamberlist, seconded by Councillor Dumas that Sessional Papers No. 31 and 34 be moved into Committee of the Whole for debate.

MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker:

Motion No. 8, moved by Councillor Shaw, seconded by Councillor Gordon that Sessional Papers No. 30 and 35 be discussed in Committee of the Whole.

MOTION  
NO. 8

MOTION CARRIED

MOTION  
CARRIED

Mr. Speaker:

Motion No. 9, moved by Councillor Shaw, seconded by Councillor Taylor, In the opinion of Council it is requested that immediate legal action be undertaken against the City of Edmonton and the Edmonton Exhibition Association for their misuse of the term "Klondike". Would the Honourable Member for Dawson be now prepared to proceed with Motion No. 9?

MOTION  
NO. 9

Mr. Shaw: Mr. Speaker, in relation to this particular Motion, would it be permissible to ask that this be referred to Committee of the Whole for discussion?

Mr. Speaker: Yes the Motion may be proposed to that effect. Proceed with your motion.

Mr. Shaw: Mr. Speaker, I would be pleased to move that Motion No. 9 be referred to Committee of the Whole for discussion.

Mr. Speaker:

Moved by Councillor Shaw, seconded by Councillor Chamberlist that Motion No. 9 may be transferred to Committee of the Whole for discussion.

MOTION CARRIED

MOTION  
CARRIED

Mr. Speaker:

Motion No. 10, moved by Councillor McKinnon, seconded by Councillor Chamberlist with reference to Appointment of a Special Select Committee and the text reads, That a Special Select Committee consisting of Messrs. Chamberlist, Dumas, McKinnon, Shaw, Taylor and Mrs. Gordon be appointed to consider Bill No. 28, An Ordinance to Provide for Government Control and Sale of Alcoholic Liquors, and all matters pertaining thereto, with power to call for persons, papers and records, to examine witnesses, and generally to do all things necessary to fulfill the functions and purposes of the Committee. The Committee, notwithstanding any adjournment of the House, may sit during such adjournments within the precincts of the House or beyond the precincts of the House, as may be deemed both expedient and desirable, and may report to the House as circumstances may permit. Is it the intention of the Honourable Member to proceed with the Motion at this time?

MOTION  
NO. 10

Mr. Taylor: Mr. Speaker, I would like to propose an amendment to the Motion. I would like to amend the Motion so that Councillor Livesey could also be included on this Special Select Committee.

Mr. Speaker: The Motion is - there need be no new Motion because my understanding is that the original Motion included the member for Carmacks-Kluane, so this is merely a typing error.

Mr. Taylor: Mr. Speaker, the Motion as read, regardless of typing error, is the Motion that is stated from the Chair, and possibly if the Motion was re-read in order that the typing error be corrected and then the Motion would include Councillor Livesey and we could vote on the Motion as stated.

Mr. Speaker: I am prepared to correct the Motion from the Chair.

All: Agreed.

MOTION NO. 10 MOTION CARRIED

Mr. Speaker: Is the House prepared for the question on the Motion?

MOTION CARRIED

Mr. Speaker: May we now proceed to Questions. Are there any Questions?

QUESTION RE C.B.C. ANTENNA MAST IN WATSON LAKE

Mr. Taylor: Yes, Mr. Speaker, I have a written question this morning requesting a written answer. The Administration is respectfully requested to advise Council as to whether the C.B.C. is giving consideration to making available a temporary antenna mast in order that the frontier package television facility in Watson Lake could be on the air by Christmas?

QUESTION RE MUNICIPAL FUNDS

Mr. Chamberlist: Mr. Speaker, a question addressed to the Commissioner. Mr. Commissioner, in view of the announcement that the City of Whitehorse propose to use municipal funds for purposes other than that provided in the Municipal Ordinance, and in contravention of the provisions of a Municipal Ordinance, will the Commissioner be issuing instructions to the Inspector of Municipalities to investigate the subject matter?

Mr. Taylor: A point of order, Mr. Speaker, is this a direction to the Commissioner from one Member, or is this a decision of Council?

Mr. Speaker: May I have your question again, Mr. Chamberlist?

Mr. Chamberlist: Yes, I would suggest, Mr. Speaker, that the Honourable Member listen to the matter. In view of the announcement that the City of Whitehorse propose to use municipal funds for purposes other than provided in the Municipal Ordinance and in contravention of the provisions of a Municipal Ordinance, will the Commissioner be issuing instructions to the Inspector of Municipalities to investigate the subject matter?

Mr. Speaker: I am sorry but I will have to rule the question out of order, as the question proposed by the Member attempts to state facts, and as such, cannot be allowed. May I suggest to the Honourable Member that perhaps tomorrow he may look upon this question and rephrase it.

QUESTION RE CONFEDERATION CONFERENCE

Mr. Taylor: Mr. Speaker, I have a further question of Mr. Commissioner this morning. I would like to ask, Mr. Speaker, if Mr. Commissioner has yet received any word as to the participation of the Yukon Legislative Council in the forthcoming Confederation Conference?

Mr. Commissioner: Mr. Speaker, as yet we have not received any further information on it.

Mr. Speaker: Are there any further questions?

Mr. Chamberlist: Mr. Speaker, with respect I would not ask for another date, I would prefer to re-word my question now, if I may?

Mr. Speaker: Proceed.

QUESTION RE MUNICIPAL FUNDS

Mr. Chamberlist: Question to the Commissioner. Mr. Commissioner, would the Administration be prepared to investigate the use of municipal funds for purposes that have been announced recently - that have been announced in the press last night?

Mr. Commissioner: Mr. Speaker, this question is one that proposes something and I'm afraid that I can't undertake to promise to do something for something which is at the present time is simply a matter of a press statement.

QUESTION Mr. Chamberlist: A supplementary question. Has Mr. Commissioner  
RE MUNIC- seen the release that has been published by the City of Whitehorse  
PAL relating to the purchasing of artifacts with funds from a - with  
FUNDS municipal funds?

Mr. Commissioner: Mr. Speaker, I have seen what the press has reported that the City of Whitehorse, or a statement in the press that has purported to come from the City of Whitehorse. The City of Whitehorse have not conveyed directly to me this intent that has been reported in the press.

Mr. Speaker: Are there any further questions?

QUESTION Mr. Taylor: I have one further question this morning relating  
RE OIL to oil development in the Territory. I am wondering, Mr. Speaker,  
DRILLING if Mr. Commissioner could inform me as to who or what company is  
now drilling in the Yukon Territory in the Bonnet Plume River?

Mr. Commissioner: Mr. Speaker, we would be pleased to make inquiries and endeavor to bring forth the answer if indeed the information is available.

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

Mr. Taylor takes Chair.

QUESTION Mr. Livesey: Mr. Speaker, I have a written question for the  
RE Legal Department as follows: Under existing Motor Vehicles  
LICENCE Legislation in and for the Yukon Territory, is the owner of a  
FOR Ski-doo, snowmobile, snow toboggan or similar tracked vehicle  
TRACKED required to purchase a licence for such vehicle where operation  
VEHICLES and use is confined to areas other than the travelled portion of  
a recognized public highway in the Yukon Territory?

Mr. Speaker resumes Chair.

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

Mr. McKinnon: Mr. Speaker, I would like to ask permission of the House to be absent from time to time during the day to meet with the Executive of the Arctic Winter Games Corporation.

Mr. Speaker: I will remind you of that Mr. McKinnon after we have proceeded to Public Bills and Orders. May I have your direction gentlemen?

Mr. Shaw: Mr. Speaker, I don't think there are any Public Bills and Orders to process at this particular time, and the only work we would have, I believe, would be to convene in Committee of the Whole.

Mr. Speaker: Mr. McKinnon.

Mr. McKinnon: Mr. Speaker, I would ask permission of the House to be absent from time to time throughout the day to meet with the Executive of the Arctic Winter Games Corporation which are in Whitehorse today.

Mr. Speaker: House agree?

All: Agreed.

BILL  
NO. 28

Mr. McKinnon: Mr. Speaker, I would like to move, seconded by Councillor Chamberlist that Bill No. 28 titled, An Ordinance To Provide For Government Control And Sale of Alcoholic Liquors, be referred to a Special Select Committee consisting of Messrs. Chamberlist, Dumas, Livesey, McKinnon, Shaw, Taylor and Mrs. Gordon with power to report from time to time and generally to include all such powers assigned to such a Committee to fulfill all its purposes and functions.

MOTION  
CARRIED

MOTION CARRIED

Mr. Speaker: May I have your further pleasure?

Mr. Taylor: Mr. Speaker, I would like to ask permission of the House to be absent on Monday next as I must go to Watson Lake for a public meeting.

Mr. Speaker: House Agree?

All: Agreed.

Mr. Shaw: Mr. Speaker, while we have the whole Council, I would like to move that Mr. Speaker do now leave the Chair and Council resolve itself into Committee of the Whole to discuss Bills, Sessional Papers and Motions.

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

MOTION  
CARRIED

MOTION CARRIED

Mr. Taylor takes the Chair in Committee.

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NO. 9

Mr. Chairman: We are dealing with Sessional Paper No. 9. We will proceed.

Mr. McKinnon: Mr. Chairman, I would like a break-down of the cost factor of proposal No. 2 on a 20 nursing care bed basis.

Mr. Commissioner: Mr. Chairman, I think the question will require time to prepare an answer unless I misinterpret the question the Councillor has asked.

Mr. Chamberlist: Well, Mr. Chairman, I think this information can be easily worked out if the Honourable Member from Whitehorse North will look at proposal No. 1, I think it is broken down there because it leaves it out on the basis of 20 cases. The point that I would like to make was made yesterday, that proposal No. 2, is in my opinion, the fairest proposal of all, and also that the amount of money involved is so infinitesimal that we should adopt a proposal that would be more beneficial to more people, and I think this one we should go along with as was discussed yesterday. Really, Mr. Chairman, one of the difficulties of stopping in the middle of sessional papers of this description is one loses one's thoughts and one has to start coming back into it again.

Mr. Dumas: Mr. Chairman, I agree with the Honourable Member from Whitehorse East that proposal No. 2 is the ideal one, but I would like to know, if in fact, we go ahead with such a proposal whether the Federal Government will withdraw entirely from the cost of operating this nursing home, and if they are going to withdraw entirely because we put this proposal into effect, how much would it cost the Territory?

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Mr. Commissioner: Well, Mr. Chairman, costs of this nature are, at the very best, anticipatory and I am sure all Members of the House will agree with me when I say that we would dearly hope that there would be no need whatsoever for a nursing home here in the Territory. We would hope this would be the situation, unfortunately it is something that is going to have to be provided, we are going to have people who by virtue of their physical status are going to require nursing homes and care. The situation may well be that the statistics as put forth by Mr. Murphy yesterday may not come to pass, they may not be this severe, on the other hand they may be more severe, and the cushion that is available to us by participation in the Canada Assistance Plan would be removed if we were to adopt something less than what is put forth here in No. 4. And I think, as I pointed out to Council yesterday, it is really a question, does Council wish to go it alone, or do they wish to have available the cost sharing scheme that is available under the Canada Assistance Plan, and I would strongly recommend for Council's consideration the possible effects on our bargaining position with the Federal Government in future financial agreements. If we were not to place ourselves in the position of participating in the Federal scheme under the Canada Assistance Plan, I think this is a very grave risk that we would be running here. I realize at the moment the figures as shown here, and as quoted by the Council, no doubt look to be very minimal. This is not so. I think one should be looking at the ultimate consequences of not the dollars involved, but removing ourselves from participation in the Federal program.

Mr. Dumas: Supplementary, could I put it this way, if we had, in fact, carried out proposal No. 2, say a year ago, could I find out how much it would have cost us for this year to operate this nursing home?

Mr. Commissioner: Yes, Mr. Chairman, this information could be brought forth. I would have to ask the Treasury Department. It's basically the same question that's already been asked here, we could get this information and I'm sure it wouldn't take us very long, Mr. Chairman, but it would necessitate Mr. Clerk getting in touch with the Treasury on this matter.

Mr. Chairman: Does the Committee agree that this information should be obtained?

All: Agreed.

Mr. Shaw: Mr. Chairman, I think we are dealing in many cases on matters such as this, we might call it with intangibles, we don't know the answers to them. I note that some Honourable Members felt that proposal No. 2 is one that should be accepted. I would disagree with that, Mr. Chairman. I think proposal No. 4 has many advantages. It permits the people concerned to have \$1,500.00 or a couple to have \$2,500.00, that is their money which they are allowed to keep. With negotiations with the Federal Government it may be possible to up that ante, but apparently, what we know is a fact, they are willing apparently to accept this now. It's a case of, if it was this way you lose, if it was that way you gain, we don't know which way it's going to turn. And this No. 4 arrangement, I think myself, is fair both to the persons

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concerned, it's a sensible arrangement as far as the Government of the Yukon Territory is concerned because by so doing, one can get this 50% of assistance under the Canada Assistance Plan, so I'm opposed to this proposal No. 2 and I would submit, Mr. Chairman, that proposal No. 4 is much more flexible and accommodating to this particular procedure.

Mr. McKinnon: Mr. Chairman, this has to be discussed further because I am getting different answers to the same question from different members of the Administration and I don't know where the hell I stand right now.

Mr. Chairman: Order. What is your pleasure in respect of this paper?

Mr. Dumas: I suggest, Mr. Chairman, that we leave this Sessional Paper for later discussion.

Mr. Chairman: Agree?

All: Agreed.

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NO. 10

Mr. Chairman: The next Sessional Paper we have is Sessional Paper No. 10, on which a Motion has been stated and the question not called. Is it your wish that we proceed to this at this time?

Mr. Chamberlist: Mr. Chairman, I have a representative from Indian Affairs here. I wonder if I could have Mr. Dan Kelly in here.

Mr. Chairman: Would you get Mr. Summers as well, Mr. Clerk. I will declare a brief recess.

RECESS

RECESS



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Friday, November 22, 1968.  
11:00 o'clock a.m.

Two witnesses present: Mr. J. Summers, Federal Fisheries Supervisor; and Mr. Dan Kelly, Resource Development Officer, Department of Indian Affairs and Northern Development.

Mr. Commissioner and Mr. Legal Adviser not present.

Mr. Chairman: At this time I will call Committee back to order and we are at Sessional Paper No. 10, and Committee has a motion before it that was moved when last we sat - yesterday. It was moved by Councillor Taylor, seconded by Councillor Dumas, that Committee concur with recommendations contained in Sessional Paper No. 10. Would you proceed.

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Mr. Chamberlist: Mr. Chairman, since last night, in the little time I had available, I studied the Fisheries Act and the Regulations as they apply to the Yukon Territory and the proposed amendments that have been submitted with Sessional Paper No. 10 to the regulations. You will recall yesterday I raised objection on the basis that there was discrimination against the Indian in some of the sections of the regulations. The stand I take is the same, that there are areas of discrimination. Now, it is quite true to say that the proposed amended regulations are in many ways similar to those regulations that now exist under the name of the Yukon Territory Fishery Regulations, but because they exist and they are discriminatory, it doesn't necessarily follow that we must accept the same discrimination in the new proposed regulations. I have asked a representative of the Department of Indian Affairs, who is much more familiar than I with the regulations as they effect the Indian people, to attend Committee today, and Mr. Dan Kelly is here. Now, to reiterate, I say that when we say in regulations that an Indian may do this or an Indian may not do that, we are separating the Indian as a separate class of Canadian citizen. I say that the Indian, as has already been referred to by the Honourable Member for Whitehorse North, the Indian has certain rights that have been passed down to him over the years and through the British North America Act, and those rights must be protected, but do we go beyond those rights and continue to put in regulations which effect him directly in a discriminatory matter. Now, you remember I brought forward particularly subsection 6 of section 6 of the new proposed regulations, which reads as follows: "No person shall buy or accept any fish or portion of any fish from an Indian, except fish caught legally under a commercial licence." So, any fish that he catches other than under a commercial licence he cannot offer to any other person who is not an Indian, nor can any person who takes this from him, even to eat - nor can any person take fish from him to eat. Now, obviously it would appear to me that if an Indian invites a person other than an Indian to have a fish supper with him, technically, and it's in the legislation - it might be a very, very minor thing - but technically, he has committed an offence by offering this fish at his table, and the person that eats at his table has committed an offence by accepting that fish at his table. This is a small item. It doesn't mean much, but it should be removed and, as I say, because the argument that it's in the fishery regulations and this is why it's in there now - this isn't a pretty sound argument at all. Now, I would ask if Mr. Kelly would comment generally

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on these regulations and if Mr. Kelly would give the opinion whether these regulations are fair to the Indian or otherwise. I wonder if this is satisfactory, Mr. Chairman?

Mr. Chairman: Mr. Kelly.

Mr. Kelly: I understand, Mr. Chamberlist, that you're asking me to comment generally on section 5 in the regulations. Is that correct?

Mr. Chamberlist: Yes. 5 and 6.

Mr. Chairman: I wonder if you gentlemen would kindly address the Chair.

Mr. Chamberlist: Mr. Chairman, I'm referring to generally all the regulations as they effect Indians.

Mr. Kelly: I'll begin with, Mr. Chairman, section 6, Domestic Use Fishery. This is broken into two concepts here. First, the protection of the aboriginal rights of the Indian people. This right is given them here in section 6(1) and the fear amongst conservation officers that if you give rights to the people and they use them indiscriminately, you have no way of controlling the domestic fishing. In other words, any Indian can fish as much as he wants and sell or give away this fish, and it would create quite a problem in our inland fisheries. They have attempted to set controls without abrogating the aboriginal rights by putting in subsection 6: "No person shall buy or accept any fish or portion of any fish from an Indian, except fish caught legally under a commercial licence." We've had this problem. As a member of the Indian Affairs Branch staff, we work very closely with conservation officers as well as with the Indians. We try and work as a liaison between the two. We try to create conservation-mindedness amongst the Indian people. We're not always successful. We find that some unscrupulous Indian people - there are some unscrupulous Indian people just like there are unscrupulous white people - will take advantage of this section 6 and sell fish that they caught under a domestic certificate. So, subsection 6 is there as a control. In the first place, we try and protect the Indian's aboriginal rights, and in the second place, we try and set controls so that the right is not used indiscriminately. If there is discrimination here in this one section where they can't dispose of fish in any other way, it's there as a control. I don't know how else you could word the legislation. If you said he cannot sell or barter fish and leave it at that, you give him the right to give away fish. I have had occasion where there were Indian people selling fish. The person that purchased the fish was apprehended. He said the Indian gave me the fish. The Indian was contacted and he said I gave him the fish. How do you get around this when both parties say this was a gift, and this would be used. Immediately they would sell fish to unscrupulous white people and the story would be cooked beside the river. "Remember, I gave you the fish." "Yes, you gave me the fish." How do you control it? This is all I'm saying. I don't disagree at all with Mr. Chamberlist's position. There looks like there is an area of discrimination here. I wonder how you would word it so a chap like Mr. Summers would have control of the domestic fisheries. You can't take the whole clause out. Domestic fisheries in dollar value in 1964 meant \$83,000 to the Indian people of the Yukon Territory. You

can see the hardship it would press on people like, say at Old Crow where they feed their dogs from the domestic fishery. Who is going to replace the dog food? If you take away aboriginal rights in fisheries, who is going to close the door when somebody wants to take the aboriginal rights away in game? As a member of the Indian Affairs Branch, if it were my choice I could never support removing the clause entirely, but then again you need control of the domestic fishery.

Mr. Commissioner enters Council Chambers.

Mr. Chairman: Councillor Dumas.

Mr. Dumas: Mr. Chairman, the witness answered some of the questions I was going to ask about the possibilities of opening up Pandora's box if we were to change this section. I'd like the witness to sum up his feelings on this section - if he would like to see it left as it is in the Fisheries Act presently in force.

Mr. Chairman: Mr. Kelly.

Mr. Kelly: Mr. Chairman, in the first place I must attempt to protect aboriginal rights. In the second place, I have to work with Fisheries officers. I understand their position and I agree with controls. We must have controls. If this could be worded differently so that people like Mr. Summers have controls, then I'd go along with it, but I must say now that I would have to agree with the clause as written until something better is shown to me.

Mr. Chairman: Councillor Chamberlist.

Mr. Chamberlist: Mr. Chairman, I am not disputing the fact that controls are required. Another point in Mr. Kelly's remarks was that in Old Crow, as an example, fish is caught and fed to animals. Now, if we strictly interpret section 6(6) that the Indian can be penalized for committing an offence. He can't even give, under this section, his fish to the dogs. Is this correct, Mr. Kelly, according to the way it's written now?

Mr. Kelly: Well, I think, Mr. Chairman, that Mr. Summers could probably interpret the legislation better than I, but as it reads probably a dog is not a member of his family or his band, so technically speaking he can't use fish as dog food.

Mr. Chamberlist: May I continue, Mr. Chairman? Now, this is what I'm coming to. I'm not arguing against the fact that we must have regulations, but one day we will have some over-zealous R.C.M.P. just looking at this and saying, "Oh, we'll get this fellow. He hasn't complied with the law.", and he can lay a charge for giving somebody who has visited his home, food. Now, by the same token, an R.C.M.P. can lay a charge against me, for instance, for eating fish in an Indian's house. Now, this is possible that this can happen. This is why I say that this type of thing should be - there should be some protection. Mr. Legal Adviser - could we have Mr. Legal Adviser here? What I'm concerned about is that there should be something in there that will exclude an offence by an Indian who is supplying food, or a person who is accepting food, for the purposes of eating, not for the purposes of selling or bartering. This protection

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should be in there, but if it is not there it does discriminate against the Indian because it doesn't apply to anybody else. It only applies to the Indian. Now, surely the Indian has got a right to invite somebody into his home and share his fish that he's caught, but according to this, if you just interpret it strictly, you find that there is an offence committed the moment that he offers food to somebody. This is the simple argument that I've got in that; no other argument; not about controls, regulations. I follow the aboriginal rights of the Indian. I'm not arguing against anything, but in this particular section which makes it an offence for an Indian to have a white guest in his house and eat fish with him. This is the thing. It should be - and because it's bad before, and we're making different regulations, why not let us correct it here. It's as simple as that. Now, this is what I would like to see in reference to this particular section that some amendment be put in there by Mr. Legal Adviser, and after all this has got to go, I take it, to the Governor in Council for approval, and before it gets to the Governor in Council that it should go there so that the Indian is protected and he's not left open. It may never, ever be used. Now, I wonder perhaps, Mr. Chairman, if Mr. Summers could comment on this particular item that I have based an argument on.

Mr. Chairman: Mr. Summers.

Mr. Summers: I have been with the Fisheries Department for approximately twenty-four years, and I have never heard of a prosecution in a particular instance of partaking of Indian food in any way, shape or form. I have eaten lots of meals with the Indians in various parts of British Columbia and the main ingredient of that meal was fish. I've eaten lots of game with the Indians, and at no time was there any thought in my mind of arresting the Indian for giving me a piece of meat or a piece of fish that he had taken under permit. I don't think anybody that is in his right mind would take a man in, arrest him, for giving you a supper of fish caught under an Indian permit or a supper of game caught under an Indian permit. If there was a possibility, there would be only one thing to do and add a rider in that particular section that any portion of fish from an Indian except for immediate consumption. Now, I think we're kind of splitting hairs here because sharing a meal with an Indian is not the same as accepting fish from him, and if an Indian gives you a half a dozen salmon during the year, and you say you're taking home and can them up, and on the way home you sell them, well then, we've defeated our own purpose, but if you would prefer that section, I would suggest that you accept these as read and put this in as an amendment to go through Order in Council when you amend your regulations to suit the special purpose.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: That's quite all right, Mr. Chairman, if the Honourable Member from....

Mr. Chairman: Councillor McKinnon.

Mr. McKinnon: If he wants to continue, Mr. Chairman.....

Mr. Chairman: Councillor Chamberlist.

Mr. Chamberlist: Thank you, Mr. Chairman.

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Mr. McKinnon: Thank me.

Mr. Chamberlist: Thank you all. Well, you know, Mr. Chairman, Mr. Summers has expressed an opinion that in all his years of experience nothing like this has occurred. I'm not disputing it. It may not ever occur for fifty years, but I'm surprised that as an officer who has to enforce the regulations, Mr. Summers has said now I've eaten fish with them. Fine, I'm not suggesting you can't do this or you mustn't do that, but I'm only suggesting that we must protect from any person abusing his authority and perhaps laying a charge against an Indian. This is all I'm interested in, is protective legislation, and I think the suggestion that Mr. Summers has made would satisfy my objection, that it would be amended in that particular clause that there be words put in to the effect that for immediate consumption and excluding the - let me see how it was put - I don't recall exactly the words that were put, but the way Mr. Summers had put it, I think, would be a satisfactory manner of satisfying the needs in that to protect the Indian who is giving part of his fish away as a meal. This is the only thing I have on that particular point.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Mr. Chairman, we have regulations that are taken from the Federal Act. Now, there is only one way that this act can be changed. It can be changed by the Governor in Council. We can talk here and we can keep on talking for fifty years, and it will not have the desired effect. The only way this can be done is to make representation through the Council to have the desired changes made and then it's a question of whether they will make them or not. When a law is made, in my opinion, Mr. Chairman, and it has gone for so many years and has proven that it has worked out very satisfactory, it would appear to me that to change it may create complications of which we are not aware of at the time. However, there is not too much point in us holding up this particular Sessional Paper for a change in regulations when they are exactly the same as what is contained in the Federal Regulations. I think that the most expeditious manner of handling this would be to accept this particular Fresh Water Fisheries Paper with the Regulations and then at a later date a motion, request, or whatever you may call it, the resolution is carried, could go to the Department of Fisheries for the proposed changes, but to carry on any more on this particular line, I don't believe you are getting any place.

Mr. Chairman: Councillor McKinnon.

Mr. McKinnon: Well, Mr. Chairman, I have to agree with the Fisheries officer that we are entering in the field of splitting hairs. I feel that if anybody were foolish enough to lay a charge under these Regulations in the respect that Councillor Chamberlist is pointing out, they would be laughed out of court as hilariously as the case of the New Port Quickie was, which Councillor Chamberlist so nobly defended in court a few years back. The New Port Quickie. Remember That? It's the same thing. It's just ridiculous to think of someone being stupid enough to lay

SESSIONAL PAPER NO. 10 a charge under this in the area which you - and I'm sure that on your defence, everyone would see how stupid it was. It just can't happen that an officer would even think of laying a charge under this section in the area that you point out, Councillor Chamberlist.

Mr. Chamberlist: Well, Mr. Chairman, this is very, very peculiar that the Honourable Member has raised that particular thing here. We have a case of where it was an offence to purchase liquor in any other place but a Government Liquor Store. One of the boys goes to play ball at Juneau and when he comes back he buys a can of mix, and he has in this mix about two per cent alcohol or something and the man was using it to keep his accelerator down in his car.

Mr. Chairman: Gentlemen, I wonder if we could, instead of digressing, get back to Fisheries, the bill under discussion.

Mr. Chamberlist: I am not digressing, with respect, Mr. Chairman. This is an absolute case of how a legislation like this can be abused. A policeman prosecuted this man for buying liquor other than in a government place, and this was in a small can. He came back from Juneau. Now, what I am suggesting as a parallel to this thing is that very, very easily you get the same type of policeman. He does the same type of thing. This is what I am suggesting. This is the very point I'm making. Sure, it would be laughed out of court, but the man was convicted, and of course the court only fined him - what was it - one cent to show his disagreement with it, but there's a conviction registered against him and this is the point I make on that.

Mr. Chairman: Well, what is your pleasure in relation to the motion now before Committee?

Mr. Chamberlist: Well, I have now, on another matter - I'm finished, Mr. Chairman, with this Indian Affairs part. If there is not to be any amendment to that section - if Committee will not amend, of course, I will not support the Sessional Paper, but I am finished with the matter of Indian Affairs, Mr. Kelly can be excused, I think, at this time.

Mr. Chairman: Gentlemen, just before, are there any further questions of Mr. Kelly and Mr. Summers?

Mr. McKinnon: Yes, of Mr. Summers.

Mr. Chairman: Thank you, Mr. Kelly.

Mr. Kelly leaves Council Chambers.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Mr. Chairman, I wonder if I may be able to ask a question of the Director of Fisheries in respect to transplanting of fish in a certain area, Mr. Chairman?

Mr. Chairman: Pardon me.

Mr. Shaw: I wonder if I may be permitted to ask the Director of Fisheries a question in relation to transplanting of fish?

Mr. Chairman: Yes, this is the normal procedure.

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Mr. Shaw: The matter, Mr. Chairman, that I have been thinking about for quite some time is the transplanting of char in the Klondike River, in the north arm or the north fork of the Klondike. Prior to this date, or to recent years, we'll say, the last two or three years, it was not possible for fish to go up this river because of the dams used for hydro development in the area, which was started about 70 years ago, so to fish above this dam, of course, had negligible results. However, these dams have been broken and the grayling, I understand, are gradually working their way up into the north Klondike River. This river, Mr. Chairman, proceeds up to the highest point of land, the summit, as you might say, and that is the headwaters. Then you proceed a little further and very soon you get into the headwaters of the Blackstone River. This is a river that flows into the Mackenzie River system. In this river there are these Arctic char which we hear is a tremendous game fish and edible fish, also, and I was wondering, Mr. Chairman, if the Director has considered the feasibility of putting in spawn, or whatever you call it, into the Klondike River to see if we cannot encourage the propagation of this type of game fish, and I would certainly like to have his comments on the matter.

Mr. Chairman: Mr. Summers.

Mr. Summers: Mr. Chairman, this is a very involved process, and it came through to me originally from a Member of Parliament for the Yukon about seven or eight months ago. This involved the transplanting of Arctic char from the Blackstone into the Klondike. It also requested that I do a survey of that particular area with a view to changing the course of one of the creeks or both of the creeks that run in the vicinity of Chapman Lake, and try to divert one of these creeks into Chapman Lake so that they would have an outlet and an inlet, and do a planting of whatever was suggested in this whole area. I undertook last year, or I intended to undertake, an aerial survey with an engineer, of the entire area with a view to possible investigation of the whole matter. Unfortunately, things didn't work out that way. I was left alone all summer. They took my staff out and I just didn't have time to make this particular survey. The transplanting of fish in an area is recommended actually when it would be beneficial to another stream, and this doesn't require any permission from the Minister, and I honestly would endeavour if it was possible to do this particular survey to see what could be done. All it requires is possibly a netting process, some aeriated tanks, possibly on the back of a half-ton truck, run it over to the other stream and dump them out, and this would be mature fish. I don't think it would be necessary to take the eggs or take the young fry. You could take the mature fish and they would spawn in the normal manner in the particular stream that you put them in. Now, I can't commit my department to anything but a survey, time permitting, when we bring up our technical staff each year during the summer time, but I have it down on my proposed list of investigations for our technical staff for this year and, time permitting, we will certainly carry out a survey on this particular place.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Thank you, Mr. Chairman. I do have another question in relation to this. I wonder if the Director of Fisheries

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would know, Mr. Chairman, if in fact there are char in the Yukon River system. I don't recollect having seen anyone catch one and I wondered if he would know whether there are this type of fish.

Mr. Summers: We get a little confused at times between char and dolly vardens. Now, actually they are one and the same fish and Arctic char is generally a fish found up in the purely Arctic waters. They attain tremendous size and they go out to sea and come back into fresh water to spawn, something similar to a salmon, but they also have migratory habits between the salt water and the fresh water that aren't spawning migrations. They just drift back and forth between the two waters. The Arctic char that you're talking about in the Blackstone River is actually a dolly varden char, and these don't grow to any tremendous size. I believe the biggest one I've seen in the Yukon so far is about fourteen or fifteen inches. You find them in many of the streams native, and there are a few in the Yukon River system, not too many, but there are a few. Now, just how they got in there, I don't know, but we find them in several of the lakes down in the south-western corner of the Yukon and in most of the streams in that area. We find them in the Liard River system and a few in the Yukon River system in some places, but very, very few.

Mr. Chairman: Gentlemen, have you anything further on Sessional Paper No. 10? Councillor Chamberlist.

Mr. Chamberlist: Yes, Mr. Chairman, I have prepared a motion. I would move that section 7(1) of the proposed amended Regulations on Fisheries be amended to read "Canadian citizen or other British subject", and that section 6(6) be amended by adding "or fish for immediate consumption".

Mr. Chairman: Well, I would have to rule that motion out of order, Councillor Chamberlist, as already there is a motion before the Committee.

Mr. Chamberlist: Oh, I beg your pardon. Then, Mr. Chairman, with respect, when I said I had a motion to make I think you should have stopped me then.

Mr. Chairman: Well, if the Honourable Member would recall that in this Committee we do have procedural motions from time to time and it is necessary to hear the motion in order to decide upon its validity. Now, is there anything further on Sessional Paper No. 10?

Mr. McKinnon: Well, Mr. Chairman, I wanted to go into the whole field of commercial fishing and commercial fishing policy as it applies to the Yukon. However, I don't think I'm going to take up Committee's time at this moment with it. I hope to be able to do quite a little bit of research on this subject over the winter, and with the help of Mr. Summers possibly to come up with a policy in the near future in fishing as it applies in its commercial uses in the Yukon Territory.

Mr. Chairman: Well, gentlemen, we have a motion. Moved by Councillor Taylor, seconded by Councillor Dumas, that Committee concur with recommendations contained in Sessional Paper No. 10.



Mr. Chamberlist: I will speak further on the motion in that case. I will speak for a long time if Mr. Chairman doesn't give me the right to put a motion forward when I could. I would ask that the mover of the motion would accept the amendment to this motion. I move that the motion before this Committee be amended as follows: that section 7(1) of the proposed amended Regulations be amended to read "Canadian citizen or other British subject", and that section 6(6) be amended by adding "or fish for immediate consumption".

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Mr. Chairman: Is there a seconder to the amendment?

Mr. Livesey: I'll second it.

Mr. Chairman: May I have a copy of the amendment, please. Councillor Chamberlist?

Mr. Dumas: Mr. Chairman, I'd like to ask Mr. Summers if he thinks - or the Commissioner, or both - there would be any adverse ramifications if this motion is passed.

Mr. Summers: I assure you there will. I certainly haven't got the power to change the Regulations. All I have is the authority to recommend change. The first portion of the amendment obviously has to do with commercial fishing, and no person shall be issued a commercial licence unless he is a Canadian citizen and a resident of the Yukon Territory. I've turned down seven applications for commercial licences this year because the people weren't Canadian citizens. They have been here for quite a long time and they refuse to take out Canadian citizenship. They are here as landed immigrants. They are all running businesses and they won't take out Canadian citizenship, therefore I must refuse them a commercial licence because they are not Canadian citizens, and a resident of the Yukon - this is done even in your game laws and practically everything else. Before you can get a licence of any kind you have to be a resident of the Yukon Territory. This takes six months, which is no hardship, I don't think. I get many applications by letter from people who are interested in coming up here, starting a business in conjunction with commercial fishing, and I have to refuse them unless they come up here and stay the necessary length of time to become a Canadian citizen and a resident.

Mr. McKinnon: Mr. Chairman, with due respect to the Honourable Member from Whitehorse East, it is my understanding that the only thing that we can do is recommend that changes be made to the Regulation. The amendments to the motion ask for us to make an amendment. It's completely beyond our jurisdiction and completely beyond this House to be able to make amendments to these Regulations because only the Governor in Council can do that, and as the motions read, Mr. Chairman, as I see it, it is completely out of order because it's completely beyond the pale of our jurisdiction.

Mr. Chamberlist: Well, Mr. Chairman, with due respect to the Honourable Member for Whitehorse North, this Sessional Paper has asked us a specific question. It asks: "The foregoing is submitted for your consideration and advice", and number 10 says, "The proposed amended Regulations are attached." There is a motion on the floor that this Paper be accepted. I have amended the motion on the floor. That's all. Nothing beyond, but quite frankly, I'm not concerned when the Fisheries Officer comes and tells me that people have got businesses and

SESSIONAL PAPER NO. 10 they don't want to become Canadian citizens. I'm not a Canadian citizen but I'm as good a Canadian as anybody in Canada. Now, you keep that in your mind. That's why I'm here, because I'm a good Canadian.

Mr. Chairman: Order. Would you kindly address the Chair, Councillor Chamberlist. Are you prepared for question on the amendment? Would those agreed with the amendment kindly signify.

Mr. Chamberlist and Mr. Livesey agree.

Mr. Chairman: Would those contrary to the amendment kindly signify.

Mr. Dumas, Mrs. Gordon, Mr. Shaw and Mr. McKinnon contrary.

MOTION DEFEATED

MOTION DEFEATED

Mr. Chairman: Now, on the question on the main motion that Committee concur with recommendations contained in Sessional Paper No. 10. Are you prepared for the question?

Mr. Chamberlist: Before the question is put, I intend to speak on the Paper.

Mr. Chairman: The question has been called. Would those in favour of the motion kindly signify.

Mr. Chamberlist: I am speaking on the question.

Mr. Chairman: Order, Councillor Chamberlist.

Mr. Chamberlist: This is the most abuse that I have ever seen taken by Mr. Chairman.

Mr. Chairman: Order, Councillor Chamberlist. Would those in favour of the motion kindly signify.

Mr. Dumas, Mrs. Gordon, Mr. Shaw and Mr. McKinnon agree.

Mr. Chairman: Would those contrary to the motion kindly signify.

Mr. Chamberlist and Mr. Livesey contrary.

MOTION CARRIED

MOTION CARRIED

Mr. Chairman: May Mr. Summers be excused at this time?

All: Agreed.

Mr. Chairman: Thank you very much for your assistance, Mr. Summers.

Mr. Chamberlist: I don't thank him one bit, Mr. Chairman. I think he should come over in his responsibility - far beyond.

Mr. Chairman: Order, Councillor. Gentlemen, is it your wish to proceed to Bill 28 at this time?

Mr. Chamberlist: May I be relieved, Mr. Chairman, for about ten minutes?

Mr. Chairman: I will declare Committee in recess until 2:00 o'clock this afternoon.

RECESS

RECESS

Mr. Chairman: At this time I will call Committee back to order. The next matter of business is Bill No. 28. The Liquor Ordinance. BILL NO. (Reads Bill No. 28, 1, 2.). Councillor Shaw. 28.

Mr. Shaw: This will be directed to the Legal Adviser, Mr. Chairman. If it were less than 2% by volume, that would not be considered liquor or wine or?

Mr. Legal Adviser: That is true, Mr. Chairman. This is a scientific measurement. I am not sure exactly how it is arrived at but it is a common one throughout Canada and I think it may be to take the level under drinks which may contain minute quantities of alcohol like root beer.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Then of course you would call it wine or beer or something else.

Mr. Legal Adviser: No, it would be called by whatever its name is. It just deems not to be intoxicating. It would have the name of the particular liquid, whatever it happened to be, mere beer or.

Mr. Shaw: Well, Mr. Chairman, would that be allowable then to sell in grocery stores and candy stores.

Mr. Legal Adviser: This is the intention, Mr. Chairman.

Mr. Chairman: Councillor Chamberlist.

Mr. Chamberlist: One question, Mr. Chairman. On the interpretation of the word sale, I would like an explanation. My question is addressed to Mr. Legal Adviser. Where it says sale, that is (m) in the interpretation section, in relation to liquor includes exchange, barter or traffic, would this mean that if my nextdoor neighbour had two bottles of scotch and I had two bottles of rye and he wanted a bottle of rye and the liquor stores were closed, and I exchanged one bottle of rye for one of his bottles of scotch, this is, under the terms of this does that mean there has been an offence committed?

Mr. Legal Adviser: This doesn't say this but this in fact would be the position because it is a sale. The purpose of the - long definition dealing with sale, is to deal with a series of English cases dealing with what is a sale and what is not a sale. It was held in a case in 1898 that when a member of a club purchases a drink at the bar of his own Club he has not been a party to a sale within the definition of what we know is a sale by contract. What he has done is; he has paid for the outstanding shares in the drink of the other members. He owned this jointly with the others so this gave rise to a rash of clubs and special legislation had to be introduced to deal with them and to this day the result is that clubs do not get a normal licence in England. They are registered and the registration is dealt with as if it were a licence.

Mr. Chamberlist: Mr. Chairman, what I am trying to obtain from the Legal Adviser is whether the ordinary good citizen who wants to be neighbourly and offers to exchange with his neighbour just a bottle of liquor can be prosecuted for committing an offence.

Mr. Legal Adviser: I would think so but that will be dealt with under another Section. This is a definition section

BILL NO.  
28.

Mr. Chairman: Number 3 has not been printed on the form, (reads 3 (1)).

Mr. Dumas: Mr. Chairman, I object to that paragraph on the same grounds that we have been objecting to all of these Boards which are appointed by the Commissioner.

Mr. Chamberlist: I concur with the Honourable Member's remarks.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: I think we had a Commission that went around the Territory a number of years ago. This was one of the recommendations. I think rather than just scratching this particular Section out, I think that it will require a little more consideration than that. Every Province has a Board of some sort or other in respect to this and it would appear to me that that would be an effective way of operating the situation. They have no doubt found out from experience that operating it as a government entity or unit, hasn't been too satisfactory. We see that all the Provinces across Canada have Liquor Boards. There must be a very sound reason for so having.

Mr. Chairman: Councillor Dumas.

Mr. Dumas: I have made no suggestion that we scratch this Section off. I suggest that when the proper time comes that we will amend it, keeping along the lines of the thinking of Council.

Mr. Chairman: Councillor Chamberlist, will you take the Chair please?

Mr. Chamberlist takes the Chair.

Mr. Taylor: Mr. Chairman, with respect to this Board, I concur with the Honourable Members who have before spoken. As I foresee this Board, and I think as the study foresaw the Board; a study made on liquor some years ago, that this Board was to be as independent as possible from the Territorial Administration and indeed the Council. In other words the terms of reference would be set down for this Board by the Commissioner-in-Council.... and then these people would be free within the confines of this Ordinance to function. The, sub-section 1 of Section 3 provides that the Members will be appointed by the Commissioner and of course I think that the other members possibly feel the same way that this should be an appointment by the Commissioner-in-Council; that is the legislative and administrative bodies together appointing these people in the hope that by doing so we could appoint three impartial people to constitute this Board. I certainly add my voice to the others who have this feeling. I won't behave this any further at this time. However, I did wish to express my feelings. Thank you Mr. Chairman, and I will resume the Chair.

Mr. Chairman: (Reads sub-section 2)). Councillor Chamberlist.

Mr. Chamberlist: By the same token the remarks made earlier by the other members must apply. It would appear here that the Member who is holding office when the other three members are not available immediately becomes the dictator. Now the Commissioner appoints the Board. The Commissioner can appoint a person whom he wishes and we transfer the complete power from the hands of the Commissioner to the hands of one man. This is all the more reason why the Board must be appointed by the Commissioner-in-Council. Thank you, Mr. Chairman.

Mr. Chairman: (Reads (3)).

Mr. Legal Adviser: Mr. Chairman, has the Committee any suggestions for filling vacancies and any such things; who is to decide what happens during a vacancy. It is a little bit awkward to have executive power implemented by the Council as it means a discussion by the Council and a vote of the Council. There must be some way of resolving the difficulties.

Mr. Chairman: I believe that in section 6, when we do get to it, it deals with vacancies on the - possibly we could let that argument go until we get that far; would that be agreeable? (Reads subsection (3)). Are we clear with (3) as noted? (Reads 4, 5.)

Mr. Chamberlist: The same thing applies, Mr. Chairman, on all these rules where it reads the Commissioner; where the Commissioner has certain executive functions we might have to rearrange the wording on it.

Mr. Chairman: (Reads section 6).

Mr. Chamberlist: I think, Mr. Chairman, that where it reads that such time as the Commissioner deems fit - that is too long a time because he can deem it fit forever more. And that is where it must revert back to Commissioner-in-Council for reappointment again. As a temporary measure certainly the Commissioner, the executive officers should have the right to appoint a replacement but not as long as he deems fit because we have already had much definitions on what 'deem' means in legislation and this can mean forever.

Mr. Chairman: I would like to direct a question from the Chair to Mr. Commissioner, asking what is foreseen in selecting these people; what qualifications and from what walk of life would these Board Members come?

Mr. Commissioner: Well, a lot is going to depend, Mr. Chairman, in the first instance as to whether or not Council sees fit to go along with the basic policy principle of having a Liquor Board. Now, on an assumption that they would go along with this, it would certainly be a very important post, the Chairman of this Board, and I certainly think that you were looking for the very best qualified candidate that can be obtained. I don't think I would care to say very much more on the situation, Mr. Chairman, unless there were any specific points that were raised on it, but first of all the adoption or the rejection of Council of the principle of having a Liquor Control Board is to be resolved.

Mr. Chamberlist: Mr. Chairman, the question you asked, I believe, was, what were the qualifications required, and I wonder if Mr. Commissioner could answer that?

Mr. Commissioner: Mr. Chairman, certainly, we would have to have a pretty fair position description written up as a consequence of what the end result of this Ordinance was in the first instance. Then you have simply got to get the very best qualified people that you can to fill these positions.

Mr. Chairman: Would it be possible that one of these people would be from the Administration?

Mr. Commissioner: That one of them may presently be in the employ of the Administration?

Mr. Chairman: Is it possible that a Board Member could be, as

Mr. Chairman continues...

appointed by the Commissioner, in effect a Member of the Territorial Administration?

Mr. Commissioner: Mr. Chairman, this would not be my thinking on this; in other words what you are asking is 'could this man perform a dual function', in other words, I think what your question is, could this man, just to take a position, could this man be the Territorial Treasurer and also the Chairman of the Liquor Control Board. This would certainly not be my way of thinking on this at all, Mr. Chairman.

Mr. McKinnon: When were the recommendations of the Liquor Control Commission that went around the Yukon be, when were they brought down, what year?

Mr. Commissioner: 1964, Mr. Chairman.

Mr. McKinnon: Mr. Chairman, at that time one of the recommendations of the Board was that a Liquor Commission be formed. Well I have trouble finding out the origination of this Bill? It ... in 1964, the recommendation of the Board. Where was the Council initiative in asking the Administration that the Liquor Ordinance be changed at this time. Where was the public pressure and the hue and cry for the Board to be initiated at this time. I mean, where was the demand for this legislation immediately to be laid before us at this time. I don't remember any Motions of Council; I don't remember any debate in Council, the Ordinance seemed to be working quite well. Is this an Ottawa Bill? Is it an Administration Bill; it is certainly not the Council's Bill. That's for darn sure.

Mr. Commissioner: Mr. Chairman, this question that has been asked here I think is a very pertinent one; in fact it was a question that I asked myself and when I first became Commissioner one of the early questions that was asked of me in this Council Chamber was when was the Administration going to bring forth a revised Liquor Ordinance? Now, I don't think it will take very much of a search of Votes and Proceedings to verify this particular thing and I could also say, with reasonable clarity and accuracy that for the last two sessions of this particular Council we have been asked when the new and long-promised revised Liquor Ordinance was to be brought forth. The whole situation would appear, from what I can determine, is that it was one where dissatisfaction, expressed over the years by Council and the general public with the present Liquor Ordinance resulted in an investigating committee being set up in 1964 to hold public hearings and make recommendations to the Commissioner and the Council on this subject. This report indicated very clearly the need for a complete overhaul of the Liquor Ordinance. Now I am sure that this particular Committee's work was tabled for the Council at that time and at the continued insistence of the Legislative body my administration undertook to prepare the Bill which is now before you. Now that is just exactly the situation.

Mr. McKinnon: Is this Administrative thinking, Ottawa thinking or the people's thinking, which is entailed in this Bill?

Mr. Commissioner: Well, in the preparation of this Bill, or in any other Bill, Mr. Chairman, there has been a long series of discussions with Liquor Control Boards in other jurisdictions. This is what we were basically directed to do in the Liquor Committee's report. This was brought about more or less in the Liquor Committee's report because they suggested that the Province of Manitoba had at that time model legislation that conceivably could be followed. Now we looked into this and were told by the

Mr. Commissioner continues..

Federal Department of Justice that Alberta had more up-to-date liquor legislation since that time and this led to more discussions and certain elements of the proposals used in the province of Alberta, they helped on some basis for the present suggested legislation. Now, I don't think there is any kind of legislation that is more important in the public domain than what the liquor legislation is and you have got to consult affected and interested parties. It's a common situation and as a consequence there has been discussion between my own administration, the Department of Indian Affairs and Northern Development, the Federal Department of Justice, the R.C.M.P., the Attorney General, neighboring jurisdictions and the Liquor Control Board in neighboring jurisdictions and now it is up for public discussion. I think that this was the manner in which, when this bill was originally sent to Council that we suggested that it might best be handled and I am very, very pleased with the action that Council has deemed fit to take to form I believe what is termed a select committee of Council to give the public their opportunity to express themselves on it. Now there is no doubt that the final policies laid before you for your consideration are at the present time the responsibility of the Government of the Yukon Territory. It hasn't been dictated to us by anybody else. And it is the end result of over two years of continuous research and consultation and I am quite confident that this document is going to undergo much further research in the public domain before a Bill is produced that will, in the opinion of this Council, meet the needs and requirements in the liquor field of the area which we are charged with governing. I'm quite confident in the course of the Select Committee's hearings that many, many things that possibly even during the time of the Liquor Committee's hearings appeared to be acceptable in the public's eye; maybe they no longer are so. I may also say that the present Liquor Ordinance from an Administrative point of view, has undergone so many midnight moves as to be, literally speaking, competely and totally unworkable now. Now I am not speaking that - I'm not saying that would be in any way, shape or form critical of what has brought about that chaotic situation but that is indeed the situation that exists with the present Liquor Ordinance.

Mr. McKinnon: Mr. Chairman, I think I finally got my answer. Evidently the Commissioner and I don't travel in the same areas. He asked the Attorney General, the Liquor Control Board, the Indian Affairs and Northern Development, the R.C.M.P., etc. etc., and said he was entering in consultations with affected interested people. Mr. Chairman, that is exactly what I've been doing and I haven't been consulted and I am affected and I think I am interested. I have been asking the churches and they haven't been consulted and they say they are affected and they are interested. I have asked all the people in the local bar business if they have been consulted. They are interested and they are affected and they have said 'no' too so evidently you just have not been talking to the same interested and affected people that I have been talking to, Mr. Commissioner.

Mr. Commissioner: Mr. Chairman, with respect, this is what the Liquor Committee did! They spoke for ... well, be this as it may, Mr. Chairman, this is indeed what transpired and the very people that the Honourable Member has indicated were very prominent in their submissions to the Liquor Committee at that time and certainly the Bill which is before you now is here for further consultation with the general public and the Council, and anyone else who may be interested that the Council sees fit to bring into those discussions and consultations, Mr. Chairman.



BILL NO. 28

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

Mr. Chamberlist takes the Chair.

Mr. Taylor: I think that we are losing sight that - certainly Councillor McKinnon pointed up that there are other interested people in this sphere and that is the people themselves - the consumers or the people that deal in the business. I was present in Council when we went through these hearings throughout the Territory. It was quite evident that people wanted a Board during these discussions for one reason and that is that presently the Territorial Government are in the liquor business and the liquor business is removed even from this Council Chambers. This is something that the Territorial Treasurer operates by virtue of the Financial Administration Ordinance and any efforts made to produce private Member's legislation immediately goes right down the drain if you wish to amend the Financial Administration Ordinance because there is no way we can get assent from the Commissioner or the Minister to take this out of his hands and put it here in the Council Chambers. And the people recognize this. All right, now they have suggested and recommended by a majority to the former Liquor Commission that this be changed; that an independent Board be set up, a Liquor Control Board and then this Liquor Control Board take over the operation of liquor in the Territory. But this proposed Bill doesn't do anything to assist this as I see it; not with the Commissioner. All it does is retain control in the hands of the Commissioner. The Commissioner appoints the Board, he does this, he replaces people; he could do anything he virtually wants. So this of course defeats the recommendations of the former Liquor Committee because it doesn't go far enough; it doesn't write the people into the Ordinance.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Thank you; Mr. Chairman, the Liquor Committee was formed a couple of years ago to make recommendations to certain things so the Administration has come along and put some of those things in; probably added some and probably taken away some. I don't know. But I cannot see where the importance is and exactly where it emanates. I think that we are here to agree with what is in there or to add to what is already here or to take away, and where it starts from. You've got to start some place. I can't really see the importance on wasting a lot of time trying to find out where something starts from. It's here! It's a fact! Let's go through it and agree or disagree with it.

Mr. McKinnon: Well, Mr. Chairman, I'm going to have to rise to that because I disagree wholeheartedly with the Honourable Member from Dawson in that the important thing is that policy and philosophy of government emanates from the people and the representatives of the people, not from any other source at all.

Mr. Chamberlist: Councillor Shaw.

Mr. Shaw: In answer to that I would say this; that we are here right at this present moment to fulfill this particular function of adding, subtracting and so on. I mean this is stupid as far as I'm concerned Mr. Chairman to say where does this emanates from? This emanates from a multitude of sources and we have the opportunity of going through it and deleting and adding and from there giving it to the people to delete and to add or to make their suggestions. You've got to start from some place.

Mr. Taylor: Mr. Chairman, I think the Honourable Member misses the

Mr. Taylor continues...

point; that this legislative body has very little effective control over the Liquor Department at all. We could control the taxation that is levied upon the product of this Liquor Department, this private enterprise operation, operating across the way over here. We can say how much tax can be levied on a bottle but if the Territorial Treasurer and the Director of Liquor Control and the Commissioner get together and decide that they are going to increase the price of a bottle of beer or a bottle of whiskey or anything like that, there is not one blessed thing that this Legislative Council can do about it because this is not within our sphere of responsibility. They have taken this away if we ever did have it indeed. It is a side-line business, a private enterprise operation run by the government and it is simply this. I think that at the outset of discussing this Bill and the Board and the reasons why we want changes in the terms of reference of this Board; I think that these things should be made known and understood.

Mr. Shaw: Mr. Chairman, this is exactly what we are doing. We are going through this to see how we can make this work. What we had in the past is something that is going to be a matter of the past. We must look to the future. Here we got a start, let us see what we can make of it. It is no use digging up old skeletons. Let's go on from here ahead. Here is the start of it.

Mr. Taylor: Mr. Chairman, I respectfully submit the skeleton is still in the closet and just by wishing it wasn't there isn't going to make it go away. Thank you Councillor Chamberlist, I will resume the Chair.

Mr. Taylor resumes the Chair.

Mr. Chairman: Councillor Chamberlist.

Mr. Chamberlist: Mr. Chairman, quite frankly, in this particular instance I find nothing wrong with the explanation that has been given in answer to the question put by the Honourable Member from Whitehorse North, the answer to that question by the Commissioner. Evidently the Commissioner has said that what has happened is that with the help of some of his Administrative officers and with the help of Liquor Commissions in other provinces this piece of legislation has been presented to this Council. Now, he has indicated that he has gone to various government agencies to get their opinions and in actual effect now that this legislation is before us he has come to the people to say to the people 'now correct it if you want to'. Now this is the only way that I feel that we can get to the root of this Liquor Ordinance because we have indicated that we want the people to be connected with this particular piece of legislation and the House has seen fit to appoint a select committee to go into these matters with the people that are involved. So I quite frankly, can't see anything too wrong. I do feel that it should not have been commenced in that way, but now that it has been commenced we go along with the idea that we make sure that the people get to know about what's going on. I feel also that when this Bill was presented, I think the Administration was in error in not presenting a copy of the Liquor Committee's report so that it could have been read with the Bill to find out what their report was. I haven't a copy of that report; I don't know if any other Members have. It occurred in 1964 and it would be a considerable help to the Members of this Committee on going through the various phases of this Ordinance itself. Certainly the Commissioner's control of this Board is something I am also opposed to and I will be opposed to but neverthe-

Mr. Chamberlist continues...

less even that portion is subject to being questioned by the people and they are going to have an opportunity to say this if they feel they want to by bringing forward a brief either orally or in writing, or under what terms of reference the Select Committee will set out the conditions for hearing. So, in all I find no problem really in going ahead with reading and debating the Ordinance itself.

Mr. Chairman: Is there anything further on Section 6? (Reads Section 7 (1),(2). Clear? Councillor Livesey.

Mr. Livesey: Before we pass from the section dealing with this Liquor Control Board, Mr. Chairman, I would like to say that this is one Board amongst all the other myriad Boards that have come up in other Ordinances that I agree with. The Liquor Control Board is an absolute necessity for the Yukon because in my view the Territorial Government, for many many years, has been operating illegally in the purchase and sale of liquor to the public in the Yukon. They have been operating on a profit and loss system whereby the government's don't operate on profits and loss. What the government can do is tax. The only revenue that I feel personally that the government is entitled to receive is derived from taxation, not from profit. To gain a profit they must be in business and this is precisely what has been going on in the question of liquor in the Yukon is that a profit motif has been there as if the government was involved in private enterprise. So this has to be taken away and obviously to do this, the way they have done in the provinces is to set up a Board so that they are no longer in business. You can look at it from several different ways and of course get several different answers, but in the final analysis this is precisely what it means. So, as far as this Board is concerned it is a must. However, I personally feel that as we go through this Ordinance it is going to become clearer all the time as we proceed through it that there is a distinct difference between setting up a board to control the business operation of liquor, the purchase and sale and distribution and between that and what we have looked upon as legislation because the legislation is something which affects the people and it is the people that we represent. Now, if you transfer the power that we have over legislation to another body that can create a form of legislation by regulation over which this House has no control then virtually what you are actually doing is that you are, if you will, putting the form of government that we provide here as an elected body, in jeopardy with the public; once again delegating the power to defeat yourself through regulations that have been created by a body over which you have no control, and this is precisely what we are doing here so that the public during any election could levy all the problems that may come up and to which they are against; these could be levied at the individuals concerned as if it was their concern. Of course indirectly it is, if we agree with this. I say create a division between the two; the business operation of the Board and the business operations of the liquor distribution, purchase and sale and that of the power to make regulations as against the power to legislate. Thank you Mr. Chairman.

Mr. Chairman: Mr. Shaw.

Mr. Shaw: Mr. Chairman, I would like to ask you a question. In the provinces they apparently have created a Board that has quite sweeping powers. Could I have it explained to me how that operates; if it will be any different to say the operation of this particular function.

Mr. Chairman: Mr. Legal Adviser.

Mr. Legal Adviser: The intention is to create a Board which will parallel the Boards of the other Provinces. It is intended that the Board will be independent in its functions in a semi-judicial way as it will have semi-judicial work to do in issuing licences and in disciplining people who have broken regulations or otherwise offended against the law which is set out in this Bill. For that purpose it is intended that the Commissioner make the appointments and control the Board only by the method of dismissing or appointing a member. But the control of the day to day activities of buying and selling liquor or issuing licences, of supervising the operation of the licence premises and seeing that the operators of licenced premises carry out their duties to the public and to the law. This duty is delegated to the Board and is outside the everyday functions of the Commissioner. This is the intention. Now this power is the normal power given to the Board in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario and so on.

Mr. Shaw: Supplementary question, Mr. Chairman, I wonder if it would be possible if the powers entrusted to this Board in the provinces mentioned, could be available to Members to make a comparison with the powers that we are proposing to delegate; in other words may we have something to work from?

Mr. Legal Adviser: It is a very difficult thing to make, an analysis of the varying powers given to each Board. I can make available to the Member the particular Act under which these Boards operate; Ontario, Saskatchewan, Manitoba, British Columbia which are in my office. I can check back what the powers of the Board are. The most recent law in this field appears to be Alberta Liquor Control Act. They have got two acts, one is Liquor Licencing and the other is Liquor Control. And they split the Board's functions between the two Acts.

Mr. Chairman: Councillor Chamberlist will you take the Chair again?

Mr. Chamberlist takes the Chair.

Mr. Taylor: Well, Mr. Chairman, I have a question to ask Mr. Legal Adviser. To put it very fair and square; really we have at the moment a Liquor Ordinance which is determined by this Legislative Council. Now, are we not, in this Bill before us, suggesting that we take the duties and powers, some of which are administrative, giving them to the Board, and then, subject to the approval of the Commissioner, allowing the Board to write their own Ordinance by Regulation, by Regulation I am stating. And then are we not taking the power of control of this Ordinance away from the Legislative Body in the Territory and virtually handing everything over to the Commissioner?

Mr. Legal Adviser: Power does vest in the Commissioner but is vested of being the executive authority exercising power in the Yukon Territory in matters such as this. Liquor control is one of the items listed in the power of the Commissioner and Council on which they can make legislation in the Yukon Act. It may be subject to advice by the Federal Government but the Federal Government has delegated the authority to make legislation to this Council and the Commissioner. The normal form is that the executive authority makes appointments and in an appointment such as an appointment to this particular Board, the real hope of obtaining a high calibre board with men of ability and integrity is to leave that power of appointment in the hands of the Commissioner and not subjected to every day debate in a legislative Chamber. So far as I know there is no similar appointment such as this vested in the hands of the legislative assembly of any Province.

Mr. McKinnon: There's no similar parallel anywhere else!

Mr. Legal Adviser: It may be but..

Mr. Chairman: Councillor Taylor, please proceed.

Mr. Taylor: Mr. Chairman, I ask another question of Mr. Legal Adviser, and this is the way it was foreseen. Is there any reason why, in the Territory, we cannot have a Board, chosen by the Commissioner, by and with the advice and consent of Council, who would take, what we thought we were getting was an up-to-date ~~capsulization~~ and reshaping of the Liquor Ordinance. Now can we not have a Board who would still administrate this Ordinance that this Council provides rather than giving the Board the right to write regulations?

Mr. Legal Adviser: It's essential to give somebody the power to write the detailed regulations under which an Ordinance such as this is carried into effect. Some person must have it, or some group. The power is given to the Board to make the regulations. But this power can only be exercised subject to the Commissioner; in other words the Commissioner must approve each regulation and I would imagine that the Board, in issuing regulations, would recite on the front of the Order that it had the approval of the Commissioner. This would be a necessary part of the legislation so that if the matter was contested in court it would be necessary to prove, by handing in a correct copy from the Queen's Printer if the matter was denied, handing in a copy proving that the Regulations had in fact the Commissioner's approval to make them law. Now this is a power which the Commissioner has in almost every Statute in the Revised Ordinances and every Statute since, the power to make Regulations. This is the forum, this is not the place to make Regulations. If they are disapproved of a Motion can come in and if it is in the provinces of course, on losing the confidence of the House, the particular Minister responsible could lose office. It is a delegation of power. There is no seizing of power. For convenience it is necessary. Now this Board will have various sorts of powers, all listed out in Section 8; if the House wishes to take away any particular power it can do so. If it wishes to add a particular power that is the privilege of the House in making this legislation. This is the list which the Administration thinks the Board should have for the convenience of carrying out their function.

Mr. Taylor: Well, Mr. Chairman, I was very interested in the remarks of the answers to my questions that Mr. Legal Adviser has given. But are we not really eroding the controls, any legislative controls that the people have. Let's put it this way. We represent the people. Now we speak on behalf of the people. The people know today, by going and purchasing a Liquor Ordinance, midnight amendments or no, where they stand in respect of liquor. If they are in doubt or if they feel agrieved or something seems to be wrong, the first person they get hold of is a Territorial Councillor and we sit in and we make another midnight admendment if necessary, in order to right a wrong, or to build up the Ordinance. Now, it has been my experience in my years in Council that when the Administration wants something generally the way they get it is to throw out a carrot and get everybody targeted on the carrot and then walk in and take the bulk of things away. I am beginning to become highly suspicious of this. I still maintain that the people are entitled to have their legislation provided by their legislators, their elected representatives. I feel it would not be in the best interests of the people to give, more particularly at this time; to give this right over to the Commissioner, this right of regulation whereby -- you can do these overnight, you can make changes, people never know where they stand, bad legislation could be effected. Certainly the Council I am told, have the right

Mr. Taylor continues..

to change it at the next Session, but however the damage could well have been done by the time that happened. Actually we are just giving away our rights if we accept this particular concept. The concept foreseen by those who addressed the Liquor Board were that this Ordinance would remain in existence and the Liquor Board would see that it was upheld; would look into the granting of licences as per the Ordinance; would look into the the manner, the way, and who could consume liquor in accordance and so forth, and I'm not content to accept the next two sections. Section 8 provides what the duties and powers of the Board shall be. This seems, to the most part, in order with the exception where we have drawn out from our legislation the responsibilities which we now possess and have given to them. I'm not happy with this and I don't think I am going to go for it really.

Mr. Chairman: Councillor Livesey.

Mr. Livesey: It seems to me, Mr. Chairman, listening to the Legal Adviser discussing the question of regulation, that regulations I would think, are set up, the passage which empowers Administration to create regulations are set up in order that the administrative force can make the Ordinance operative but usually, in most cases the legislation should be around 75, 80 or 90% of all the total and maybe 10 or 15% regulations. But in this situation here it seems to be the complete reverse whereas the power to legislate is entirely removed in favour of the power to regulate. This is what I see in this Ordinance. Therefore we are, by moving into this field on this basis, we are going back to government by regulation rather than government by legislation. I believe that it is commonly understood that all regulations are required to do is make the legislation operative without opposing or destroying or changing from a relative point of view any particular aspect of the legislation. The regulations are the revolving, the mercurial aspect if you like of the operation of any piece of legislation. This is a complete reverse. For instance let me quote one thing that I thought we felt in the Yukon that we fought for for a long time and this was a question of being able to have two bottles of beer with a meal and also have it on Sunday. I think this caused a tremendous uproar after I believe I found, I came across where the Ordinance, the Liquor Ordinance in the Yukon did **not** mention Sunday as being a day upon which liquor could not be consumed, therefore that which is not written is not implied. Therefore you could drink on Sunday. Obviously if it doesn't say you can't why obviously you can. And I found this out and everybody hit the ceiling in here. They were then wondering who had told me about this and where did I get the information and all this sort of thing. They weren't interested in the fact that we just found something that the people wanted but couldn't otherwise get. So then the Administration came back with another piece of legislation to try to destroy what we had already found to be missing out of the previous piece of legislation. So the result is that the public were entirely happy with the fact that they could have a couple of bottles of beer on Sunday but there were other people that weren't and some of us who recommended this were condemned to the lower quarters of heavy heat and several other climates, and we were not foisting anything on anyone, or making it possible for people to do things that they otherwise wouldn't do; so the question of liberty. So what would happen if we turned this whole question of the powers to legislate over to a Board who could regulate in place of the legislation, and this is.....that they could take that privilege that we have fought for and wipe it out and everything else that has been created. Mind you, I can still agree with the Commissioner's statements at the beginning of this discussion this afternoon, Mr. Chairman, that there are certain aspects of the present legislation which certainly make the Ordinance inoperative. I don't

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Mr. Livesey carries on... think there is any question about that and it is a difficult Ordinance to operate because it is one item in all the legislation that we have to talk about here that the public are exceedingly interested in. I think they are more interested in this Ordinance than perhaps any other Ordinance. So, to turn the whole question from the legislative body over to another body at the moment unknown, over which we have no power; we will no longer legislate. It seems to me that we are taking an awful chance Mr. Chairman.

Mr. Chairman: Mr. Legal Adviser.

Mr. Legal Adviser: I feel that some of the Honourable Members are under a slight misapprehension. When we were drafting this Bill there was a temptation to which at times I am sorry I did not give in to. To just have as Section 8 "The Board shall have and exercise all powers and duties necessary for the administration of this Ordinance" full stop and in the next section to say "The Board may make regulations for, carrying out the purpose and provisions of this Ordinance" full stop. This is the normal way in which half of the legislation in this Green Book has been drafted. But in an excess of caution because this Board was being set up and would in fact be free from day to day, control by the Commissioner, a very careful exercise was undertaken of checking through each of the powers in the list which go down to (l) in Section 8 and go down to (t) in Section 9. And each one was analyzed and studied to see, was it a suitable power for the Board to have. That is why they appear here. It is not with the intention of broadening the Board's powers so much as making it clear that their powers come from this Council in this legislation. And as the Honourable Chairman well knows, if they exceed their jurisdiction outside the actual powers delegated to them, they are liable to a certiorari or mandamus or a prohibition as the case may be.

Mr. Chairman: Any further comments before I read Section 8.  
(Reads Section 8 (a) to (l).)

Mr. McKinnon: Question, what is the procedure, Mr. Chairman, if the majority of the members of this Council disagree with the way that the Board is functioning under any one of these powers from (a) to (l)?

Mr. Chairman: Mr. Legal Adviser.

Mr. Legal Adviser: They have no direct control over the Board. All they would have to do is pass legislation dealing with the matter if that was so. Their method is to exercise pressure on the Commissioner by requesting or moving a Motion that the head of the Liquor Board be dismissed, or a Member, as the case might be, the whole Board. This is the way.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Would the salaries that the Liquor Board, the Liquor Control Board come under the jurisdiction of the Commissioner-in-Council or would they be otherwise.

Mr. Chairman: To whom is the question addressed Councillor Shaw.

Mr. Shaw: To the Legal Adviser, Mr. Chairman.

Mr. Legal Adviser: In this particular case, as this Ordinance is drafted, the staff of the Board will be public servants, seconded for the purpose. Their salary does in fact come under the Council. But in a normal set-up of a Crown Corporation, such as many of the Liquor Boards in other Provinces, they will be employed directly by the Board so the control will be on the Board and through the Board then on this staff.

Mr. Taylor: At this point I will resume the Chair.

Mr. Shaw: Well, I am just trying to ascertain, Mr. Chairman, if Joe Blow, the Member of the Board, whether his salary will be down in Appropriations, in the Estimates I should say, to be approved or otherwise.

Mr. Legal Adviser: Yes, any member of the Board, his particular salary will be voted on by both the Financial Advisory Committee and the Council later on.

Mr. Chairman: Councillor Chamberlist.

Mr. Chamberlist: Mr. Chairman, I take it that if the Financial Advisory Committee did not want to pay for the services of a particular Board there would be no Board?

Mr. Legal Adviser: Well, dealing with the Liquor Board, they have certain ways of getting money. The control is slightly different, but it would be an error to pay themselves money when the appropriation had not been made because they do not pay themselves. The Government pays them,.....if they took it out of the whiskey fund, they would be breaking the law.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: A number of years ago Mr. Chairman, I recollect there was a certain person, I think he was a Territorial Engineer, and the Council did not approve of what he did and they could not fire so what they did was they reduced his salary to \$1.00 so the man quit. Could the same thing apply to this Liquor Control Board?

Mr. Legal Adviser: Yes, that power would rest in the hands of the Council.

Mr. Shaw: Thank you Mr. Chairman.

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

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Mr. Chairman: At this time I will call Committee back to order. We are discussing Bill No. 28. Have you anything further at this time on Section 8?

Mr. McKinnon: Well, Mr. Chairman, I can't leave it without saying I'm having trouble with this Section. The Board shall exercise all powers, and it's an extensive list of powers. We've already seen . . . . under Section 1, we know that the Board, as it is now is going to be appointed by the Commissioner, the Commissioner shall fix the salaries, travelling and living expenses. We've been told by Mr. Legal Adviser that if we don't agree with the way the Board is acting that we disagree by a majority of Council against one of decisions, the only power that we have is to put pressure on the Commissioner to put pressure on the Board that he's already appointed and that he's paying their salaries. It seems to me that we're completely removed from any power as to the field of liquor jurisdiction whatsoever. Completely stripped.

Mr. Chamberlist: Mr. Chairman, there's another thing that Mr. Legal Adviser may answer again, in the delegation section.

How can the Commissioner, who has been delegated certain powers under the Yukon Act, by the Federal Parliament, delegate those powers to a Board? Especially when it says the Board shall have and exercise, now the Commissioner in Council can do this, but when the Commissioner does it, it is delegation of powers that he has been given. Now would Mr. Legal Adviser correct me on this?

Mr. Legal Adviser: Mr. Chairman, as this Section is drafted it contains a delegation of authority from this Council to the Board. Section 8 says the Board shall have and exercise, the Board exercise the powers in that list on it's own and they do it as a normal routine manner without having to do it by regulation. In Section 9, it says "subject to the approval of the Commissioner, the Board may make regulations," and it gives a long list of their regulating power. That power is given to it by the Council. It's axiomatic that what the Council gives it can take away. The power to make this legislation lies with this Council by virtue of the terms of the Yukon Act and they can take that power away. What is being asked for in the Section is that they give some of it's own power to the Board.

Mr. Chamberlist: Do I understand Mr. Legal Adviser to say that the Section is asking for the legislative body to give some of it's own power to the Board? Mr. Legal Adviser hasn't answered but he has indicated this is what it is, Mr. Chairman. I would submit then on that basis alone, that it may well be that a court will rule that the power of the Board will not be sufficient at law. When we say that the Board shall have and exercise and knowing full well that we are allowing the Commissioner to compose that Board, we are in fact, allowing the Commissioner, whose powers, . . . . . allowing the Commissioner to delegate the authority that has been given to him in matters of liquor to a Board. Now, this is where I say there is a delegation which cannot be given.

Mr. Legal Adviser: Mr. Chairman, so far as I know, without studying the Ordinance piece by piece, the powers that are given the Commissioner in this piece of legislation are first of all to appoint the Board, secondly to approve the regulations which the Board may make and so far as I know that is the end of the Commissioners power under this Ordinance, except that he may have a residue of power in the prosecution of some constitutional matter

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like that, but so far as powers are concerned, speaking from recollection, these are the only powers given to the Commissioner. The Board is being given the power within the intention of the Bill to give this power if Section 8 and Section 9 are passed by the Council, in the Bill, this will make it legally effective to transfer this power from the Council to the Board.

Mr. Shaw: I have another question, Mr. Chairman, before this Board institutes any regulation, will that necessarily have to have the Commissioner's signature?

Mr. Legal Adviser: Mr. Chairman, if I was asked my opinion at the time, I would say that the Commissioner's approval must be expressed on the face of the order by the Board.

Mr. Chairman: One question from the Chair, directed to the Commissioner. Am I still to understand that the Commissioner actually desires this ...these duties and this type of Ordinance?

Mr. Commissioner: Mr. Chairman, at the present time the way the Liquor Ordinance is written, it gives in my opinion a power to the Commissioner which no one single individual should have the opportunity of exercising. And at the particular point, gentlemen, I see no way in which you can justly and fairly and properly administer an Ordinance of so much public importance as the Liquor Ordinance by anything less than a consensus of opinion. Now if I haven't made myself clear, Mr. Chairman, I will be happy to expound more.

Mr. Chamberlist: Well Mr. Chairman, I do agree that ...with what the Commissioner's just said, that the existing Liquor Ordinance places in the hands of the Commissioner, powers that go beyond anything in any legislation we have before us. As I have mentioned the other day, under the terms of the Ordinance, the existing Liquor Ordinance, you cannot even question the Commissioner as to why he can do and cannot do something. The answer you will get, the legal answer you will get from a present judge of the Northwest Territories is that you cannot search the mind of the Commissioner. Now this is alright in one particular case, just recently, the previous Commissioner, there perhaps would have been no sense in attempting to search the mind there because it could have well been that nothing would have been found. Apart from that, the point that I make is that he is correct in saying that what we are looking for is an improvement to the last one and anything would be an improvement to this one, to the last one. I do feel though, and this is the thing that's worrying me as the Honourable Member from Whitehorse North has referred to it is those words, "the Board shall have and exercise all powers and duties for the Administration of this Ordinance". There is no stop gap to hold them back. Now where is the power to restrict them if the Board gets dictatory out of line, alla Monsieur McGiugen of the British Columbia control board. Now where are the powers to regulate that if we happen to have a Chairman who gets to an age of where everything is right in his eyes and everything is wrong in somebody else's eyes. If there's something in there it can be worked out I'm sure but there's nothing in there as I see it anyway.

Mr. Legal Adviser: Mr. Chairman, it's not intended that this Board consist of a single individual. It could be but it's not intended. It's intended to be a Board of not less than three members so to exercise all the powers delegated to the Board by this Council will need a majority of two of the three members. I agree it could be, it is not intended. We are taking the power to appoint, the Commissioner is asking the power to appoint three members and I think if you ask him his intentions....probably he will tell you his intentions are and the number he intends to have.

Mr. Chamberlist: Mr. Chairman, this may be the intention but I think we have to look beyond the intention if the intent cannot be followed. It is well to say that where the language is clear I've said that before, effect must be given to it. Now it's already said that if there is only one member left on the Board, he fulfills the full functions of the Board. Now I'm sure it's not intended but he does this but if he's in the position of being the one there, because the others have become deceased or for other reasons he is in the position of being the Board.

Mr. Commissioner: With respect, Mr. Chairman, it is very possible that with a three man Board we might have an accident. Look at what happened yesterday with our neighbors in Alaska, if we have an accident, possibly two of these people are killed. Now surely to goodness we're not going to lock up the Liquor Control Board and the liquor operation on this account. You have certainly got to be prepared but every possible contingent cannot be written into the legislation. But it is definitely our intention to have three people and have three people there on a continuous basis. But certainly the whole thing cannot be allowed to grind to a dead stand still if some Act of God has removed two of these people from the immediate availability of conducting their duties. This interim may be one day it may be one week but surely to goodness we don't have to lock up everything for that period of time.

Mr. Chamberlist: Mr. Chairman, to proceed, this Section 2, beg your pardon, Section 1.....it's immediately above Section 4 but it's not Section 3....it says, "where there is no vacancy on the Board or only one vacancy two members constitute a quorum and where there are two vacancies the member holding office may exercise and perform all the powers and duties of the Board under this Ordinance." Why isn't there a safe-guard in there to make sure that the acts and decisions of that one man are sufficient to comply with the Ordinance itself. That it must be a minimum of two.

Mr. Commissioner: Mr. Chairman, at the present time, I am the Liquor Control Board. Now we're trying to improve on that particular situation and what we are pointing out to you is that the day can conceivably arise and it may be beyond our immediate ability, like this afternoon, to give effect to further appointments. The way this thing is written and constituted at the moment this Board is responsible for the day to day activities. They are empowered to do the purchasing, selling and the provision of premises. These are continuing functions and these continuing functions have to be exercised. It is highly conceivable that at some point in time they may of necessity have to be conducted by one man. They have been getting conducted by one man during the Territory's history for sixty-eight or seventy years or whatever it is.

Mr. Chamberlist: Yes, this may quite true, but in the legislation; this has been passed by the Council. The legislation tells the Commissioner what your duties are, in this Ordinance the legislation cannot tell the Commissioner, cannot tell the Board what their duties are. They are going to make the regulations for the Administration. Now the regulations are not made by the legislation. This is what Councillor Taylor referred to but we're going to finish up with a piece of legislation by regulation. Now this is the difference there.

Mr. Commissioner: With respect, Mr. Chairman, you could carry this thing to the ultimate degree and say that effectively nothing could be done at all unless it was conducted by this Committee. Now this is the Committee of the House that we have now. You could carry it to that particular point and quite frankly, gentlemen, it could be made to work, the only thing is that the Committee would

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have to be in continuous Session, but it could be made to work. What you are attempting to do is you are attempting to bring about an orderly satisfactory control of liquor in the Yukon Territory by delegating to this particular group of people that responsibility. Now I don't think that there is anything less than this required if this Board is going to be an effective Board. Mr. Chairman, while I'm on my feet. I don't like to leave the Committee meetings at....when they're having this important discussion but I am committed to a meeting with Commissioner Hodgson in about twenty minutes time and if Committee agreed, I would like to be excused at this time.

Mr. Chairman: I wonder then if possibly Councillor Livesey might possibly want to talk with you before.

Mr. Livesey: Yes.

Mr. Chairman: Section 9. Councillor Shaw.

Mr. Shaw: Mr. Chairman, I would direct a question to the Legal Adviser. I think it's already been asked but it doesn't seem to have been answered or it doesn't seem to have got through. Is there anything in this particular Bill which states that all regulations must be approved by the Commissioner and that these regulations shall be tabled at each Session of Council?

Mr. Legal Adviser: It's in the Bill that the Board may not make any regulations without the approval of the Commissioner. There is an Ordinance passed, I think at the last Session of this Council, that all regulations made by anybody with regulation power must be tabled on the first day of the following Session.

This is always done and in addition to this the regulation must be....the fact of the regulation being made and it's title and purpose must be published in the daily press. But no regulation can go into effect made by the Board; (a) without the approval of the Commissioner; (b) without publication in the newspapers, if they have made a regulation; (3) that it must be tabled in the House. This is the law as it stands, not all in this Bill, but it is the law.

Mr. Chamberlist: Mr. Chairman, this applies to Commissioner's regulations. Oh yes, this applies to Commissioner's regulations but these are regulations of the Liquor Control Board. Now there is nothing to say that the regulations of the Liquor Control Board have to be tabled.

Mr. Legal Adviser: This is not so. It would be the intent of the Administration to amend the Ordinance to make it so because it's the clear policy of the Administration that all regulations be tabled, that all regulation titles be published. I haven't time to look at it now but this is our intention and if I find this is not so, I think the Administration will bring forward a Bill at the next Session to make it so.

Mr. Chairman: We'll now proceed with Section 9. (Reads Section 9 of Bill No. 28) Clear?

Mr. Chamberlist: Question. Well, Mr. Chairman, this is the Section that I have been waiting for. This is a complete open sesame of making the Yukon Territory one large cocktail bar. This is old history, there are no restrictions. They talk about control. How can you control liquor when it's been sold everywhere. The idea now, as I take it, is to have any store, any bank, any post office, anything, they can all sell liquor. This doesn't restrict to anywhere. All that the Board may or may not say is where liquor is to be sold and the suggestion that this Board will control a number of licensed premises in any municipality

or any other area of the Territory this gives them a power that shouldn't be if you're not going to control where the liquor is to sold. I know that it's somewhat ironic that for a long time you had to have a number of rooms to have a liquor licence, you know, and members of this Council sat here knowing full well that a report was going on and an investigation was going and turned down the thought of giving anyone a liquor licence that would be issued to somebody who was ....who had sufficient rooms at the time. They changed the Ordinance to suit, you know, so that they could get their knives into somebody. Now they come along with something else. Somebody had to go and put an investment of a million dollars just to get hold of a liquor licence now anybody can just open a two by four stall and sell liquor. We're fighting against bootlegging, if the police are trying to stop bootlegging, what's to stop a cab driver from legally bootlegging. He can sell liquor in his cab stand. There's no objection in there. Well where can't you sell liquor. I would ask to Mr. Chairman, if somebody can tell me, under this Ordinance, where you cannot sell liquor. Can anybody see?

Mr. Legal Adviser: Mr. Chairman, this is a regulating making power. Other parts of the Ordinance deal with who may or not sell liquor and this is provided by a system of licensing and there will be a series of different types of licences available. There's a series of regulatory sections dealing with how, when and why, and all the rest of it, dealing with licences. They come later. This is merely the hor'deurve of this particular Bill.

Mr. Chamberlist: Well I don't like that particular hor'deurve because this hor'deurve is going to say to this proposed Board that, you make the regulations as to where to sell the liquor. This is what is meant by legislation by regulation because of the simple reason there's legislation that we have now, we know ahead of time who is going to be able to sell liquor but not this way. We're not going to know because the Board is going to make the regulations and they're going to say who is going to sell liquor and we, the representatives of the people, won't know or have anything to say in it at all. Because we have no control over the Board, we have no control over the sale of liquor. There are people who will come to us and say well you get, perhaps, a church on one side and a bar on the other and say why are you doing this and the other one will say well why are you doing this and we can't give them an answer because we have nothing to do with it. Then both of them will say then why did we elect you, we elected you to represent us. We didn't elect you to get somebody else to do these things. Now this is where I can't go along with a piece of legislation that doesn't spell out what the legislation is going to be. All this is spelling out is the powers it is going to give to a Board and this is wrong, it's no good at all.

Mr. Legal Adviser: Speaking from recollection, I think that this list of powers is the same list of powers that a Liquor Board has in Alberta, Saskatchewan, Manitoba, in British Columbia, in Ontario, in Quebec, in Newfoundland and so on. They don't vary that much.

Mr. Chamberlist: Well they have natural gas in Alberta, we don't have any here so, so what?

Mr. Chairman: Councillor Chamberlist will you take the Chair?

Mr. Chamberlist takes the Chair.

Mr. Taylor: Yes, I was just going to suggest as well these are Provinces and I don't think we have obtained Crown Colony status as yet in the Yukon. Talking about being a Crown Colony, I don't think we've even got that far yet so I don't think that necessarily applies. I would like to ask Mr. Legal Adviser, firstly, how did Section (m) creep into this thing and what is the reasoning behind the policy makers in this?

Mr. Legal Adviser: The reason is to give the power to the Board, to say, and the Board says apart from political pressure that there may be enough licensed premises at the moment in a given place. The Board has decided then they wear it. Rather than have another body such as the Commissioner say arbitrarily without having a special inquiry for the purpose how many they have and how many they haven't. The intention is, part of the intention is, so the Board can say in advance we are coming to the upper limit of licensed premises in a particular area.

Mr. Taylor: Mr. Chairman, this brings up a very good point. This matter has been before Council before and Council were of the opinion that this was not desirable to do it this way. Now it's very entirely possible if we're talking about liberalizing liquor in the Territory that we still don't want it done this way, that theoretically the Board could go do it anyway if it is the wish of some operator in the community to say we don't want competition, the Board can cut off any future development. Now we've also said to people, in order to encourage accommodation in the Territory, you build a thirty room hotel and you, sir, shall have, if you so desire, a cocktail lounge. Outlying districts, you have to have, I believe, fifteen rooms, and you, sir, can, you have our full assurance you can have a cocktail lounge. Now, we talk about (m) where we're going to start limiting licences we're going to start limiting accommodation at the same time and then the poor guy who is going to get it the toughest is the individual Councillor who can be elected or defeated and have no control over this Ordinance just on matters such as liquor, and liquor is a very good one, in fact, to use as an example. I'm very sorry to see this in here and I can, reading between the lines, I can see where this can be very grossly abused and well, indeed, as the Commissioner said earlier, I noted his remarks, he said well I'm the one-man Liquor Board in the Territory and I need help. I still can't see why we can't have the protection, the people can't have the protection of the Ordinance, midnight amendments an all, it's still workable. With the new proposed amendment, liberalization of liquor as we've seen it, and still have a Board appointed by the Commissioner in conjunction with the Council or Advisory Committee in Council or however Council should decide and administrate this Ordinance without giving away all the powers of the people. I just can't see it. There is no possible way that I can be encouraged, on behalf of the people I represent, to accept the erosion of duties and legislative powers that we will be giving away here. There's just no possible way, it's an insult to a man's intelligence to even ask him to do it.

Mr. Dumas: Mr. Chairman, the Legal Adviser said, let the Board decide it and let the Board wear it. I presume he meant let them suffer the consequences of their decisions. Well unfortunately, I think it's the Territorial Councillors that will suffer the consequences of their decisions and this is exactly the type of thing we musn't allow. We can't. I think the Legal Adviser has a problem in that he can't distinguish between a Province and our Colony. This colony of the Yukon. I agree we need a Liquor Control Board and I know that all the Provinces have them but they're responsible in the Provinces to the Prime Minister of each Province or the Cabinet in each Province. The Prime Minister and the Cabinet is elected, here you're suggesting that the Liquor Control Board be responsible to an appointed executive. It just won't work.

Mr. Livesey: Well there's one other point that I can see and I hope I have the indulgence of the Committee to read this thing in the newspaper. It is an item in the Calgary Herald "B.C. Socreds won't raise drinking age. Vancouver: A Motion to lower the drinking age in British Columbia to 19 from 21 was narrowly defeated by delegates to the annual convention of the British Columbia Social Credit Party on Friday. However the convention strongly favoured replacing the Provinces one-man Liquor Control Board with a three man member Commission." Now here is where you have the whole question of liquor in the hands of the party, in the political party, where the people join and are members and make the decisions. This is the difference, this is a political issue as was obviously brought up during their convention. This is a point we're talking about in general, is the inclusion of people making decisions.

Mr. Taylor: Well Mr. Chairman, I would just be very happy if Mr. Commissioner, Mr. Chairman, could explain to me why the three member Board instead of himself cannot administrate this existing Ordinance?

Mr. Commissioner: Mr. Chairman, make no mistake about it, this is very, very possible. You can constitute this thing in a hundred and one different ways. You can say, that the Liquor Ordinance as you have that presently exists that for lisencing purposes, the Commissioner will set up a Board or conversally that a Board will be set up to pass judgment on lisencc applica-tions and will be a Desciplinary Board, in other words, infractions of the Liquor Ordinance will be brought forward by Liquor Inspectors except an offence to the Criminal Code, will be subject to the review of this Board for disciplinary reasons. Mr. Chairman, there's no end of combinations, I'm sure the two or thre that I've mentioned are peanuts compared to what Mr. Legal Adviser could ream off to you. There's just no end to these things and for me to stand here, Mr. Chairman, and tell you that the present Liquor Ordinance, as it is written could not be administered by a Board, would be an absolute untruth 'cause it certainly can be and not only that, you could take sections out of the Liquor Ordinance and say that as it applies to those sections, the Board would have powers to do certain things. There's just no end that I'm aware of to the different combinations that you can have.

Mr. Taylor: Thank you Mr. Chairman, I just wanted to establish that point.

Mr. Shaw: Well Mr. Chairman, I've been listening to this conversation for quite some time and I've come to the conclusion that to get agreement on having a Board such as this is going to have a pretty rough ride. I think though, that what we can do is to forget about all this fancy Control Board, fancy isn't the word, and that we have a Liquor Control Board that will have the power of operating the liquor business in the Territory under the Ordinances as they are. That part of their duties will be, from time to time, to recommend changes that will bring them into line and to rectify or straighten up some of the midnight moves and all this kind of thing. It would appear that, that would be the answer to this situation. The Commissioner has indicated, which to me seems quite understandable, that many of these problems land up on his desk. I would feel, Mr. Chairman, that he's got lots of other things to do, more important things than be a judge and jury on liquor applications and all the other various other possibly much smaller items that come to his desk from time to time. I would feel that let us start off with the Liquor Board, have them work under the Ordinance and then from time to time let it be their duty to feel out the public and to present, from time to time, Ordinances that would streamline and have the thing running in a business like manner. Certainly this, as it is set up, seems to get objections from just about every section of it, mainly because there is no Ordinance governing these things they

are by regulations completely and utterly and possibly with a great deal of justification. Perhaps we could make a move in a smaller manner or smaller way by creating a Board and as the Board got operating the Ordinances and the regulations and all these factors could be streamlined as it went along. I think that is the answer, Mr. Chairman.

Mr. Taylor: Well, Mr. Chairman, I think it should be made abundantly clear to the Administration, that we're not just sitting here picking Boards apart. We have spent four years, we asked for a Board as a result of a recommendation of the Committee on Liquor and we were asked what kind of a Board we thought should be constituted. We have told the Administration this and it's quite obvious that our wishes are not being adhered to by this legislation. Now, I don't know....it could be Ottawa that is doing this and it could be the local Administration but as I said before we have an entirely different opinion on how a Board should be established and this is been going for four years now. We've asked for other amendments to the Ordinance and we've always been told now, hold off, no more midnight amendments, we've got a complete revision coming, and I'm not prepared to accept any part of this. I'm sure the people of the Yukon would feel the same way.

Mr. Shaw: Mr. Chairman, could I ask a question? It's unfortunate we haven't a report of the Liquor Committee, at that time, in front of us. What did they recommend in the way of a Board? I'll refer that question to the Legal Adviser, Mr. Chairman or the Commissioner. What were their recommendations in respect to a Board? Should it have these powers or should it be going under the Ordinance?

Mr. Legal Adviser: Mr. Chairman, I don't know exactly, speaking from memory what the recommendation was, except that there was a debate within the Committee itself as to whether or not they would have a Board and my recollection is that they said they weren't sure the Yukon was ready for not for a Liquor Control Board yet. This legislation was not dictated by Ottawa, it was drafted because the House wanted a new Liquor Ordinance and because it would appear to be the feeling that they wanted a Liquor Board, a Liquor Control Board. So in setting up a Liquor Control Board an exercise was gone into to see what powers the Board should have and the whole Ordinance was reviewed. All the powers of a Liquor Board, the whole policy was reviewed and this is the distillation of that particular exercise.

Mr. Taylor: Well, Mr. Chairman, respectfully I would submit that the excuse, if my memory is correct, at the time given for not accepting the principle of a Board was, it was going to cost too much money and that the Territorial Treasurer did not feel that he wanted to relinquish this authority to a Board. That was four years ago.

Mr. Legal Adviser: I wasn't here, Mr. Chairman, four years ago, I don't know. I can tell you what the instructions were of drafting this. We were to consider and did consider whether or not a Board should be set up. If a Board was set up then, what power should it have. Each individual item has been taken from somewhere else. It is not our wisdom alone that went into this.

Mr. Taylor resumes the Chair.

Mr. Chamberlist: Mr. Chairman, I can't quite understand why it might have been difficult to administer the existing legislation and the Commissioner says, I am the Control Board for the moment. I can't understand why he hasn't been enforcing these Liquor Regulations. We haven't had a Liquor Inspector for two years and



certainly we can't say....it cannot be said that all the .... all sections of the Liquor Ordinance can't be enforced, it hasn't been enforced and it hasn't been enforced for the simple reason that the Administration has been waiting for a new Liquor Ordinance so they haven't enforced anything. Now does it mean that if it takes some time before we hammer out a new Liquor Ordinance, that no enforcement of the Liquor Regulations are going to be maintained. Are we not going to do anything on this?

Mr. Legal Adviser: I'm not sure that it's correct to say that the present Liquor Ordinance is not enforced, Mr. Chairman, and I did not hear the Commissioner say that it is not enforced.

Mr. Chamberlist: My apologies if I was not heard correctly and also I would point this out here that I am saying that the Commissioner has said, I am the Liquor Board, he has said that. Now the Liquor Ordinance has not been enforced. Now the Commissioner knows full well that there are certain sections of the Liquor Ordinance that has been enforced and there are certain sections that I helped make him enforce. You see, which he did, you Mr. Legal Adviser, you know I helped you in that as well. The point is that we are supposed to have a Liquor Inspector to enforce certain sections of the Liquor Ordinance in relation to offences. Now for two years we have been without a Liquor Inspector. Why haven't we had a Liquor Inspector? Quite often we've been told, it's unenforceable, now I don't believe this. Does this mean that until such time as we have....make a decision to have a Board, whether to change the Board from the Commissioner to a three-man Board that the Liquor Regulations cannot be carried on. I'm asking this, Mr. Chairman, for the simple reason, if, as Mr. Commissioner said, there's no reason why a three-man Board cannot administer the existing regulations. Why can't he administer the same regulations in regards to offences that the three-man Board will administer them in regards to offences? So to me there seems to be a not too clear policy of the Administration at the moment in regard to this particular Bill. One thing is clear, that the Commissioner wishes to have a Board, now I agree that there should be a Board but not the way this is. The Commissioner wants his Board and the Council here is saying that we want the Board to be our Board. That's the difference.

Mr. Commissioner: Mr. Chairman, with respect, the Liquor Ordinance is being enforced. I'm sure the Court docket down here is full of offences under the Liquor Ordinance, they probably fill a volume like this at least each week. We have not been conducting Liquor Inspection to the extent that possibly the Ordinance permits or allows because there are many impractical applications to the type of inspection service that a Liquor Inspector position was created to accomplish. I certainly would want it thoroughly and clearly understood that we are not about, nor have we already thrown the Liquor Ordinance out the window and are not enforcing it. This would not be a proper situation but there are many aspects, and the Honourable Member who brought this up, knows full well of the enforcement of many of the aspects of the present Ordinance. Something else too I would like to point out, Mr. Chairman, so that my remarks are not misconstrued, concerning a Liquor Commission or a Liquor Board, and that is, that it has to be properly set up so that it is going to be effective. There is no point in trading in what we have now for something that is not going to be practical and workable. There's just no point to having it. All we're doing is adding more administrative waste with no more effect than what we have at the present time. There's certainly a lot more to it than just saying we're to have a Liquor Board and that's the start and finish of it, this is not going to be the cure-all simply by creating it.

BILL # 28

Mr. McKinnon: Well Mr. Chairman, I must congratulate the Honourable Member from Whitehorse because no one could put it more candidly in a nutshell exactly what the problem is and the political sensitive area that liquor is to every person here, plus the Commissioner plus Legal Adviser governments across the Prairie Provinces have fallen and have been voted in on their Liquor Policies for the area and Mr. Chairman, when you have such a politically sensitive area where is the control and where should it be, with an executive officer appointed by a Federal Government four thousand miles away or politically oriented to the needs of the people, with elected Council

I honestly can't see how this huge wide chasm could be bridged at this time with this Liquor Ordinance as it now stands. I think that we're going to have to somehow ameliorate a stop gap measure until the time comes when the Government in power can take responsibility for the actions of the Board and be prepared to either stand or fall on the recommendations that they give the Board, and make no mistake about that it's the government and the Cabinet in the Provinces who control the Liquor Board. As I say, governments have risen and fallen right across the Prairie Provinces on what directions they have given the Liquor Board which they control and I really, listening to the discussions that have gone on this afternoon, can't see how we're ever going to have a meeting of the minds on this subject.

Mr. Shaw: Mr. Chairman, that's what I said when we started off and I still feel the same way so I think the only answer to this particular Bill is to take ....and try and resolve these very sensitive, as it has been termed, sections that are new and somehow or another create a Liquor Board that can enforce the Ordinance and really study the situations to make proposals from time to time. In my experience, in the Territory, Mr. Chairman, practically all of the changes in the Ordinance has been proposed by this Council and it hasn't been proposed, we'll say, from a group that study it. We have made moves and some of them were quite alright and some didn't work out quite so well so that the thing certainly does need reviewing in certain aspects and if we try to get this Board started, I think myself, that we could gradually get around this particular .....as it is here. As time progresses, it might be another ten or fifteen years, but at the same time, there is no way we can ameliorize this particular Bill the way it is. So we either forget about it...we forget the Board entirely and I think that latter would be a bad move because the Committee, I'm trying to find it in that book but I can't find it, I do understand that they did recommend a Board so if we went from that particular angle I think we would be making some headway. We've got absolutely no place from the time we started on this Bill to this present time except to find that we can't go anywhere.

Mr. Chairman: Do you wish to proceed? Section 10 (Reads Section 10 of Bill No. 28)

Mr. Chamberlist: Question. Here's a contradiction that I never .....the Commissioner shall appoint a person as Director of Liquor Control. Now the idea first is to have a Board that's in charge of the whole picture of liquor. Now, the Commissioner he appoints the Director of Liquor Control. What does the Board do? I thought the Board is going to run the liquor business. Now the Commissioner got in one part, he appoints a Liquor Control Director then what does the Board do? Can Mr. Commissioner answer that?

Mr. Commissioner: Mr. Chairman, under the Public Service Ordinance, this is the only way you could ever get a Director appointed.

Mr. Chamberlist: I don't follow this, here we have a piece of legislation comes before us with a general idea that all matters relating to liquor and personnel will be placed in the hands of a Liquor Control Board, now this is the way it's brought forward. Now we come across Section 10, which says the Commissioner shall appoint a person, now we find ourselves in this position, that the Commissioner, he appoints and controls the Liquor Control Board, and the Commissioner also controls the Director of Liquor Control, the legislature has had nothing to do with either.

Mr. Legal Adviser: This is the decision of a previous Council to give these powers to the Commissioner to appoint public servants.

Mr. Chairman: Might I ask a question from the chair, of Mr. Legal Adviser, am I to understand then that even if the liquor department is not governed by this Council that they are public servants under the Public Service Ordinance?

Mr. Legal Adviser: They are at the moment and the intention of this Bill is to appoint three individuals that will be the Board, then their staff will continue to be public servants. They may be succendent so far as control is concerned but they will be public servants with the rights of public servants and the duties of public servants.

Mr. Chamberlist: Well, Mr. Chairman, under whose direction then does the Director of Liquor Control come? Is he under the direction of the Liquor Control Board or is he under the direction of the Commissioner?

Mr. Legal Adviser: Even in effect, the title I could only describe him best as a manager-director. He will work under the Board, he will be responsible to the Board but his pay and costs will of course come under the Public Service Act.

Mr. Chairman: One further question, will this man, will this Director, will he come under our budget or will he come under a part of a separate budget over which we have no control, taken from liquor profits?

Mr. Legal Adviser: I'm not sure of the answer to that question. The intention is he will be paid from public funds but who will write the actual check whether it will be a check drawn by the member of the Board or two members of the Board and passed over to him using their funds for....accounting to the Federal Government, I don't know, but he will be a member of the Public Service and if the questioner goes farther his salary can be reduced to a dollar a year.

Mr. Chairman: Clear on 10. Eleven. ( Reads subsections 1 & 2 of Bill No. 28) One question again, do I then determine that the Director, salary is paid out of this account?

Mr. Legal Adviser: I don't know, I just honestly couldn't say. The Territorial Treasurer will be able to answer detailed questions but as I understand it there is to be no change in the method of administrative money in that sense. He's responsible for the money.

Mr. Chairman: Three ( Reads Subsection 2 of Section 11 of Bill No. 28) Clear? ( Reads Section 12 of Bill No. 28) Clear? ( Reads Section 13 of Bill No. 28) Clear? ( Reads subsection 1 of Section 14 of Bill No. 28)

Mr. Chamberlist: Mr. Chairman, this you could never let go through. To suggest that this Committee would place itself in even thinking of passing legislation to give the right to a few people to suspend without a hearing. Is this what this administration is asking for? It'll never get past me.

Mr. Legal Adviser: This is the intention. This power is specifically asked for because it may be necessary. If something happens which is a gross breach the Board must be able to act without the formality of having a court case, it acts there and then. Now this is a suspended licence. This is not a cancellation of a licence. It's a power of suspension and this power exists in very many fields that you can suspend forthwith and then hold a hearing. Then he either gets his licence back or the action is upheld but this can be a very necessary power in the case of a fire trap, it could be a gross current breach of the law and you want to close the man down just like that.

Mr. Chamberlist: Mr. Chairman, to suggest that the Board may by order, if it deems sufficient, you know that the Board deems sufficient with or without a hearing suspend any licence under this Ordinance. The worst thing that can happen in our world is to have somebody be accused of murder and the person who is accused of murder has a right to be heard.

Mr. Legal Adviser: It's all in the subsequent sections. There's a complete code of hearings laid out.

Mr. Chairman: Section 2 ( Reads subsection 1 & 2 of Section 14 of Bill No. 28) Clear? (Reads subsection 3 of Section 14 of Bill No. 28)

Mr. Chamberlist: Question. Right here, is where a suspension can be for twelve months without a hearing. The Board wouldn't have to hear anybody, for twelve months. Mr. Legal Adviser, you read that, this is what it says does it not, Mr. Chairman.

Mr. Legal Adviser: This is what it says, Mr. Chairman, this Board is intended to be a disciplinary body. You give it a power and the same order may be valid. They may hold a hearing, they may bargain with the licensee. This may be the case where in a dangerous situation you close down a man just like that and you say you must put in proper fire escapes, you must do this, that and the other thing, and when you do, we'll give you back your licence. It's a clear case and this power exists in every other jurisdiction. I don't want to be reprimanded too frequently for saying they do it in the Provinces but I have myself appeared on the part of the defence in hearings before Liquor Boards where we were already suspended and nobody thought it was an odd power to exist and the particular offence was keeping old clothes in a cellar of a hotel.

Mr. Chairman: Question from the Chair, why is this not possible under the Fire Prevention Ordinance?

Mr. Legal Adviser: It may be, the intention is that the Board will develop the tourist industry in the best way it can as well as control the licences. One of the members made reference to this that it may be the way to get a big establishment built. They may want a licence and the Board may say yes you can have your licence but you must fulfill certain requirements, certain laws. They may start to upgrade the standard of outlets for liquor sales throughout the Territory. They may or may not, this is a matter for the Board if the Board exists. They might do it piecemeal they might do it gradually, and they might come

across a recalcitrant hotel operator who would refuse to cooperate, who would continue to keep old clothes in the cellar and then they would say, alright, the inspector goes down and they give him about twenty chances and on the twenty-first they say okay your licence is suspended. There's nothing that brings about an improvement in the operation of a hotel quicker than a suspension.

Mr. Chamberlist: Mr. Legal Adviser is now suggesting to this Committee that a Board may suspend for up to twelve months without dealing with the matter. There is nothing to compel the Board to deal with that matter for twelve months because it may be terminated, the suspension may be terminated before the expiration of the twelve month period by a further order of the Board". They can terminate it indefinitely without giving any reason why. What type of legislation is this that the Administration is asking us to put into effect? How can Mr. Legal Adviser, from a revolutionary country that he was born in, even suggest anything like this? I don't understand. And where is there provision for appeal from the Board's decisions? No provision for an appeal. The Board can suspend. Nobdoy can appeal against them, what are you setting up, a communist presidium or something? I've never heard anything so darn ridiculous. Not only do you want to take the rights of the elected representatives away, now you want to take the rights of the people in the street away. This is where we've got to say no to you, I've got to say no, and that's for sure. Apart from interfering with the liberty of the individual, this is setting up an absolute dictatorship. It's bad enough with what we've got now but we don't have to make it worse.

Mr. Chairman: Section 4 ( Reads subsection 4 of Section 14 of Bill No. 28)

Mr. Chamberlist: That's another thing Mr. Chairman, the Board may, after holding a hearing, now they can suspend before the hearing and after they may still suspend it, no appeal. The poor blighter has nothing to say.

Mr. Chairman: ( Reads subsection 5 of Section 14 of Bill No. 28)

Mr. Dumas: I'd like to move that the Speaker do now resume the Chair.

Mrs. Gordon: I'll second that Motion.

Mr. Chairman: Order please. It has been moved by Councillor Dumas and seconded by Councillor Gordon that Mr. Speaker do now resume the Chair. Are you prepared for the question? Are you agreed? Any contrary? I'll declare the Motion carried.

Mr. Speaker takes the Chair.

Mr. Speaker: Order please. I'll now call Council to order. May we have a report from Chairman of Committee:

Mr. Taylor: Committee convened at 10:40 a.m. to discuss Bill & Sessional Papers. Mr. D. Kelly and Mr. J. Summers attended Committee to discuss Sessional Paper No. 10. The Motion put forward on November 21, respecting Sessional Paper No. 10, carried in Committee. Committee recessed at 12:00 noon and reconvened at 2:15 p.m.. I can report progress on Bill No. 28. It was moved by Councillor Dumas and seconded by Councillor Gordon that Mr. Speaker do now resume the Chair and this Motion carried.

Mr. Speaker: You have heard the report of Chairman of Committee. Is the House prepared to adopt the same. May I have your further pleasure?

Mr. Taylor : Mr. Speaker, on the agenda for Monday, it would appear that we have some considerable length to go on Bill No. 28 and possibly the Administration may have some answers to some other Bills. There are Motions which should be considered in .... Motion to go into Committee Monday morning. One Motion and there are several Sessional Papers.

Mr. Speaker: Thank you Mr. Taylor. Are there any further comments or further business?

Mr. Dumas: Mr. Speaker I move that we call at 5:00 o'clock.

Mr. Speaker: Is the House agreed? The House now stands adjourned until 10:00 a.m. Monday morning.

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Monday, November 25, 1968.  
10:00 o'clock a.m.

Mr. Speaker read the daily prayer. With the exception of Councillor Taylor, all Councillors and Mr. Legal Adviser were present.

Mr. Speaker: I have for your attention this morning the tabling of Sessional Paper No. 44. 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? Turning to Orders of the Day, Motion No. 9 is in Committee and Motion No. 11, moved by the Honourable Member for Whitehorse East and seconded by the Honourable Member for Whitehorse West, that Sessional Paper No. 40 be passed into Committee for discussion. Would the Member be prepared at this time to proceed with this motion?

All: Question.

Mr. Speaker: Are we agreed? I'll declare the motion carried.

MOTION CARRIED

MOTION  
CARRIED

Mr. Speaker: I wonder, Mr. Clerk, if you could ascertain if the Commissioner is available for questioning? Here he is now. Are there any questions?

Mr. Chamberlist: Mr. Speaker, a question for the Commissioner. Will the Commissioner be investigating the method of purchase of Yukon artifacts by the City of Whitehorse?

QUESTION  
RE PURCHASE  
OF ARTIFACTS

Mr. Commissioner: Mr. Speaker, it is very difficult for me to give a definitive or direct reply to that question because the problem has not, to my knowledge, arrived on my desk, and until it does, Mr. Speaker, I would be rather hesitant to commit myself to a course of action which may, indeed, prove to be either unnecessary or unwarranted, depending on the circumstances at the time.

Mr. Chamberlist: A supplementary question, Mr. Speaker, to the Commissioner. Would the Commissioner say whether investigations of municipal matters come within the confines of the Inspector of Municipalities?

QUESTION  
RE DUTIES OF  
INSPECTOR

Mr. Commissioner: Mr. Speaker, as a generalization, as this is a very dangerous question to answer just off the top of my hat, I'm quite confident that the duties of a Municipal Inspector.... those things which he is obliged to do and those things which he can do are very clearly outlined in the Municipal Ordinance, and I do believe, Mr. Speaker, that before I should be asked to commit myself to an answer on the generalized question of that nature, I would like the opportunity of referring to the Ordinance to see, indeed, just exactly what the prerogatives and the requirements of the Inspector of Municipalities are.

Mr. Chamberlist: Mr. Speaker, without going into debate on the matter, I know it would be out of order, I wonder if Mr. Speaker would allow the previous two questions to be treated as written questions and the reply from the Commissioner in writing?

Mr. Speaker: Well, I would suggest to the Honourable Member that he write them out as written questions and I think this would be quite in order. Are there any further questions?

Mr. McKinnon: Mr. Speaker, I have a written question to the Administration. In the Vancouver Province of October 5<sup>th</sup> of this year, the Minister of Public Works, the Honourable Arthur Laing, is quoted as making the following statement: "In addition to the six million a year spent on the Alaska Highway for maintenance, eighteen million dollars would be spent over the next five years to replace fifty-four small bridges, another seven hundred thousand on an experimental program to cut down on the dust on sections of the highway and forty-one miles will be blacktopped." Could the Administration provide Council with details of this program?

QUESTION RE  
PROGRAMS  
FOR ALASKA  
HIGHWAY

Mr. Speaker: Are there any further questions?



QUESTION  
RE ENTRANCE  
KEYS

Mr. Dumas: Mr. Speaker, I have a direct question. Would the Commissioner, in view of the fact that one of the Honourable Members nearly got locked in this building over the week-end, I'll present this question. Would the Commissioner endeavour to obtain from the Minister of Public Works, if necessary, Federal Building entrance keys for all the Councillors?

Mr. Speaker: Are there any further questions? May I have your desires on Public Bills and Orders?

Mr. Shaw: Mr. Speaker, I would move that the Speaker leave the chair and that Council resolve itself into Committee of the whole to discuss Bills, Sessional Papers and Motions.

Mr. Chamberlist: I second the Motion, Mr. Speaker.

Mr. Speaker: Moved by the Honourable Member from Dawson, seconded by the Honourable Member for Whitehorse East that Mr. Speaker do now leave the Chair and the House convene in Committee of the Whole to discuss Bills, Sessional Papers and Motions. Is the House prepared for the question on the Motion? Are we agreed? I will declare the Motion carried and the Honourable Member for Whitehorse East will please take the Chair in Committee of the Whole.

MOTION  
CARRIED

MOTION CARRIED

Mr. Chamberlist takes the Chair in Committee

Mr. Chairman: I'll declare a short recess.

RECESS

BILL # 28 Mr. Chairman: The Committee will come to order and we will proceed on Bill No. 28. I wonder of Members of Committee can guide me as to what was the last Section we had completed? I believe it was Section 9.....so we're starting Section 16. Mr. Clerk has indicated that we have completed Section 15 and starting 16. Are there any further comments to be made on Section 15? If not I will read Section 16(Reads Section 16) Clear? (Reads Section 17) Clear?

Mr. Dumas: Mr. Chairman, does this mean that the Board in it's discretion can have liquor destroyed and what if there is an appeal, to the suspension, and why would they be allowed to destroy some liquor and not other liquor. To put it another way, why not refund for the whole thing?

Mr. Legal Adviser: Mr. Chairman, some of the liquor may be suitable for purchase, some of it might be bootlegged and some of it might be adulterated and some of it might not be liquor at all and the Board needs to have authority to purchase liquor if satisfied it came from itself that can be checked with seals and so on. Other doubtful liquor can be destroyed or disposed of, and this is a fairly normal provision.

Mr. Chairman: (Reads Section 18) Clear?

Mr. McKinnon: Question: Mr. Chairman, I see no provisions at all made for a licence that would allow for retail outlets to sell beer, wine or liquor?

Mr. Chairman: Licence No. 8, I would say would be, Special-Off Licence. I wonder if Mr. Legal Adviser.....what do you think?  
Mr. Legal Adviser, the question from Councillor McKinnon, is that No provision has been made for a licence to sell retail in a store

Mr. Legal Adviser: No it's not intended to have this provision.

Mr. McKinnon: Some progressive thinking legislation this is.

Mr. Chairman: Order please, any further comments. Well from the Chair, I wonder if Mr. Legal Adviser could indicate what a Special Off Licence is?

Mr. Legal Adviser: Off-hand I just don't know. An Off Licence is presumably a licence to sell for consumption off the premises. A Special Off Licence might be a type of licence we have now, where a beer parlour can sell a case of beer and in some cases, a hotel can sell a full bottle of whiskey or other liquor.

Mr. Chairman: I wonder if the Honourable Member from Carmacks-Kluane would take the Chair for a moment please?

Mr. Livesey takes the Chair.

Mr. Chamberlist: Mr. Chairman, there doesn't appear to be sufficient definition of what these licences' are. It may well be left to a Board to interpret the legislation as far as the licences are concerned. Now looking at it from my point of view, and I see No. 8 - A Special Off Licence. Mr. Legal Adviser will perhaps recall that in the United Kingdom, an Off-Licence is referred to as a place, a store, that you can.....it's called Off Licenced Premises. A store where you can purchase liquor but you must not drink it on the premises that you purchase the liquor. I wonder whether, if it is not intended, as Mr. Legal Adviser answered in reply to the Honourable Member from Whitehorse North question, whether the regulatory powers would be used by the Liquor Control Board to interpret a Special Off Licence as a licence for the selling of liquor in an ordinary retail outlet?

Mr. Legal Adviser: No, Mr. Chairman, the policy is not to have liquor for sale in ordinary stores. This is not policy which is reproduced in this Ordinance. It is intended to allow pharmaceutical firms to be able to sell preparations which may contain alcohol such as Bay rum in heroin and such like things. It's intended to continue the existing forms of licence which presently are in operation whereby a hotel....a beverage room can sell a case of beer or an hotel cocktail lounge, I think, getting a special licence for the purpose, can sell bottles of whiskey whether it's confined to their guests or to outsiders, I'm not sure, but all regulations made by the Board detailing out the various regulations as to how these licences must be operated, subject to the approval of the Commissioner. There's no real change intended in the licence permissions except, Train, ship or aircraft licence, so far as I know.

Mr. Dumas: Mr. Chairman, I know what a Special Occasion Licence is, at least I think I do, it's a banquet permit, but what is No. 13, A Special Licence?

Mr. Legal Adviser: Mr. Chairman, the Commissioner suggests that we bring forward a short paper detailing out what each of these presently cover and any suggested changes to make the matter clear to the Honourable Members.

Mr. Chamberlist: Mr. Chairman, further question. This is a very good suggestion that the Commissioner has made. I wonder Mr. Legal Adviser, what provision has been made for some hotels who do not wish to have a liquor outlet but wish to give the guests in the hotel the right to purchase liquor? Is there any provision made under these areas for a hotel operator to supply the traveling public, his guests, with liquor? By the bottle?

BILL # 28

Mr. Legal Adviser: There's no provision in the Ordinance for this as such, but there's no objection to the suggestion being made. To put it another way, I don't recall a suggestion being made so the idea was not put forward for consideration, if the Honourable Member wishes it to be put forward then it will be considered, but it needs consideration by the Administration.

Mr. Dumas: Well they also put forward, would the Administration put forward the idea touched on by the Honourable Member from Whitehorse North of retail outlets for liquor?

Mr. Legal Adviser: Well the suggestion will be put forward and no doubt the suggestion will be considered but what will happen would depress me as far as the suggestion is concerned because it would be a major change of policy and would need a lot of consideration.

Mr. Chairman: I'll resume the Chair. Thank you Councillor Livesey.

Mr. Chamberlist resumes the Chair.

Mr. Livesey: Mr. Chairman, one point that I'd like to bring forward. It's not good arliamentary practice to ask the Speaker to take the Chair in Committee. Numerous problems could arise if this condition were to go forward as a general practice.

Mr. Chairman: Thank you for bringing it to my attention, Mr. Speaker, I was under the impression that in Committee all members of the Territorial Council were sitting as equals, but however I will follow your suggestion

Mr. Livesey: In the event of a dispute arising in Committee, Mr. Chairman, the Speaker would find himself in the position of defending his own actions.

Mr. Chairman: Just one moment, just so I can clarify the suggestion, I.....there has been a Deputy Chairman appointed....I am the deputy Chairman, now if Members of this Committee will advise me who will be the Deputy to the Deputy I will call upon him when the occasion arises.

Mr. McKinnon: The Honourable Member from Dawson has volunteered his services, Mr. Chairman.

Mr. Chairman: I understand that the Honourable Member from Dawson has volunteered his services as Deputy, Deputy Chairman?

Mr. Shaw: I didn't hear the Member from Dawson saying anything about that, Mr. Chairman. I think that the experience hat can be gained by the Honourable Members from Whitehorse would be very good. It's very seldom they happen to be in the Chair, either the Speaker's Chair or the Deputy Speaker's Chair and I think the time has now come where this experience will be of an inestimable value and I would therefore propose that the Honourable Member from Whitehorse North proceed as the Deputy, Deputy, Deputy Chairman, Mr. Chairman.

Mr. Chairman: No we only require the Deputy, Deputy this time. Is this agreed that Councillor McKinnon act as the deputy to the Deputy Chairman. My apologies to Mr. Speaker. Is there anything further on Section 18?

Mr. McKinnon: Mr. Chairman, I wonder if I could clarify a point that it was not considered by the Administration in presenting this legislation that there be a provision made for the purchase of beer or wine in a retail outlet? Is that correct?

Mr. Legal Adviser: No this is not correct. What I said was, that it was not considered to create a special class of licence to cover the case that was suggested by Mr. Chairman, which was that a hotel which had no licence whatsoever to serve people who were drinking on the premises, should have a special class of licence created for the purpose only of allowing it to sell liquor to it's own guests, presumably for consumption either off the premises or in the privacy of their hotel rooms. This would be a very, very special class of licence and it's a unique idea which, possibly might be able to be made to work but it's a brand new idea that I have never heard of before and I can say it was not considered. The other was a matter of policy and was given consideration.

Mr. McKinnon: Mr. Chairman, under Section 18, "subject to the regulations, the Board may on application issue a licence to a person and the following licences." Now the Board has full regulatory control over what each of these licences mean and the provisions that will make each licensee qualify under these different types of licences, is this correct?

Mr. Legal Adviser: Not quite correct, Mr. Chairman, the Board has the regulatory powers but these regulative powers can only be exercised as a matter of law, subject to the approval so if they go off the rails in creating new types of licence and new privileges and if they were to decide for instance, as a matter of policy every store, whether it's a drapery store or a bicycle store or motor car store which would be able to sell beer or wine off the premises, such could only be done by a regulation and the Commissioner would, one conceives, disapprove of the regulation if he wished to and one conceives that he would wish to.

Mr. McKinnon: If the Commissioner agrees with this policy set by the Board as to the issuance of licences and to regulations and new policies through regulations then it could conceivably be the policy of the government then?

Mr. Legal Adviser: The conception is so outlandish that I find it difficult to conceive of all this. This is estraining the meaning of this law beyond it's normal connotation.

Mr. McKinnon: Well let's not try to be ludicrous about this. I'm not trying to be....I'm trying to make the point if discretionary powers, which I understand by the word "may". Now in a cabaret licence, the Liquor Board conceivably had the policy that said well, "we think the entertainment in Cabaret's is getting a little too outlandish and we don't agree with the policy of entertainment in Cabarets and we think that we'll make regulations so that there'll be no more entertainment in Cabarets." Now this is not that ridiculous an assumption. Now the Commissioner may be of like minded thinking at that time and say "I agree with you, I've been to a couple of the places and I don't like the type of entertainment; I hate psychadelic music, I just can't stand it and this is all that's being appearing at the clubs now let's wipe it out," He agrees with the Board on this and there's the end of entertainment in Whitehorse. Now you may say this is ludicrous or outlandish, I don't think it's that far fetched They have the control of doing this type of thing if they agree in concert that they should act this way. Is this correct, is this a correct assumption?

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Mr. Legal Adviser: Yes, taken to the extreme point this would be the effect, it wouldn't end the entertainment in Whitehorse, but it wouldn't end entertainment in Cabarets, it's a slightly different thing and this conceivably could happen if you had a Commissioner who was so outlandish and have a Board that would be so outlandish. The purpose is, one hopes, to have it within reasonable limits.

Mr. Chairman: Mr. Legal Adviser, from the Chair, in the issuing of a Special Off Licence, I wonder if the premises could be defined for the off licence sales, because if you look in the definition section, in the interpretation section... "licenced premises means premises in respect of which the licence has been granted and includes any building or other place appertaining to such premises." Now what are we talking about if there was a Special Off Licence issued to the premises.

Mr. Legal Adviser: You have me cold here, Mr. Chairman, because I think I already said I don't know what a Special Off Licence is so I cannot really say what type of premises we're talking about for sure. I'm only guessing. Possibly the Commissioner may know because he's signed these licences a number of times.

Mr. Commissioner: Mr. Chairman, subject to there being another category, and I don't believe that there is, at the present time off premises sales are handled by a special licence and I believe this is in fact what is referred to. Now these special licences are available as per terms of the Liquor Ordinance at the present time and one of the prior requirements is that you already have a licenced premises. Now, in the municipalities, the special licences for...to permit the sale or off premises consumption of liquor, now I'm not talking about beer, this falls into category, I'm talking about liquor, is confined to people who already have a liquor licence. Now beyond the confines of a municipality these special licences for off premises hard liquor sales may, indeed, be made available to a person who has a beer licence and this, indeed, goes on in one or two instances that I do believe exist in communities where no liquor licence exists. Now when we bring forward this explanatory paper I think that one of things that should be in this explanation, is an indication of the type of premises to which at the present time, the Liquor Ordinance permits ...to give this type of licence.

Mr. Chairman: Forgive me, gentlemen, I find myself wanting to get into debate and acting as Chairman at the same time. Would the Honourable Member from Whitehorse North please take the Chair?

Mr. McKinnon takes the Chair.

Mr. Chamberlist: I've ....over the week-end I've done quite a bit of study on this Ordinance and quite frankly I find that it is not a new Ordinance. All it does is remove from the existing power the Commissioner and transfers the existing Ordinance to the Board. It doesn't go beyond that in my opinion, but what it does do and what I'm concerned about, in Section 3, .... Section 3, subsection 3....."The Commissioner may assign duties to the Board in addition to those specified in this Ordinance".

Now, the Commissioner may say to the Board, "effective tomorrow you will put into effect prohibition", now the way this is written, he's got powers to do that. Now I'm sure there's a lot of people agree that this should be given but this is where the power is lying there. There's such a mix-up here as to what

applies. In the interpretation section, they have a definition of a package this is not clear, are cartons excluded from there? A just and generous rule applies here, and I'm sure that Mr. Legal Adviser will know what I'm referring to there. It is so confusing and so unclear that the ordinary person in the street can be committing an offence without any intention whatever. The language of the Ordinance itself put so much doubt into the minds of people, it put so much doubt into my mind that I must accept that it will put doubt into the minds of people who are, perhaps, less prone to look at everything closely. Now we're not helping the liquor situation at all if, as a legislative body, we start giving support in its legislative powers to another body. This in effect what we will be doing, we will be giving to a Board support in its powers. The courts have tried their utmost to show that they're dissatisfied with the passing on of a legislative body of administrative powers without the right to go to a judicial decision. I'm sure that Mr. Legal Adviser will again agree with me when I say that the way this is set up now it is being set up so that the Liquor Control Commission becomes an administrative body without anybody having recourse to any decision that is being made by the Commission. The fact that the Commissioner, that we legislate, giving the Commissioner the powers to appoint this Board immediately places the Commissioner in the position of receiving an administrative order. Legislative order to carry out administrative function, and when he puts this Board together he then places the Board on an administrative setting. To me, this interferes with the liberty of the individual, in as much as the authority of government becomes the prime mover instead of the interests of the individual concerned. I want to make sure that this doesn't remain the case and I would ask that Mr. Legal Adviser view my remarks in this and come up with an amendment to this piece of...proposed piece of legislation so that the legislative body are not placed in a position of giving subordinate legislative powers to somebody who will take away the rights of the people. Now this is what we're doing in here. I've gone over this very thoroughly in the past two days and I've tried to even argue from the Administration side but I can't overcome that fear that I have of the power of an administrative tribunal. To remove from the individual the rights to go before his peers and answer any charge that is made against him. Thank you, Mr. Chairman.

Mr. Legal Adviser: Mr. Chairman, there's a lot of merit in what the Honourable Member has said. Not only has he got my sympathy in some of his remarks but he certainly has the sympathy of the whole Administration because the difficulty in administering an ordinance like this is a very real difficulty. The main purpose of the in general terms, as the Honourable Member states, is to transfer regulation making authority from the Commissioner to a Board. The Commissioner has kept retained the power of approving all their regulations and therefore this Bill retains this power in the hands of the Commissioner. If the Honourable Member has done the research he tells me, he will be familiar with the problems which have occurred in Canada, in Great Britain, many other countries, in America, where because of large growing size of government and its involvement with people and with vested interest it became more and more difficult for central government directly to deal with the operation of regulatory laws such as the Liquor law and the solution invariably has been to transfer the details of regulation making authority from Parliament itself to some other body. The Commissioner has already said that he finds difficulty as a one-man decision maker in making many of the decisions which he is called to make under this Ordinance.

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After taking advice, he has felt that these decisions as to whether or not to grant a licence, whether or not to do something else, would be more acceptable to the public if they were not the decision of one man sitting in a lonely office at the end of the corridor but if they were the decisions of a group of people who by a consensus, could arrive at a decision. The only way I can think of legislatively carry out the suggestion of the Honourable Member is this, to have the Commissioner retain the regulation making authority in his own hands but to allow the Board to carry out the complete operation of the Ordinance, subject to the regulations which the Commissioner himself would make. This would possibly be a more even sharing of the power involved. Now so far as appeals is concerned, this question of giving a right of appeals, exercise, my mind, the Commissioner's mind and everyone who anything who had anything to do with this Ordinance in a very very real way and it's not lightly in any manner that the power of appeal was taken away. The power to appeal against the Board was, in fact, not put in this Ordinance. It was only done after a lot of consideration had been given and advice had been sought from many quarters. There is no question that there is a lot to be said for giving the right of appeal to a licensee when his licence has been cancelled to give him a right of appeal of a court because one must, no matter how one drafts an Ordinance, agree that the licensee at that point has a vested property interest, although you may say, in the Ordinance, he has not. In fact, he comes to think of himself as having a vested property interest and it is arguable that such a vested interest should not be taken away from him and he should not be put to grievous loss or the loss of his licence and the tremendous damage that will go to his property without the right of an appeal to the court. It is definitely the other way when a person is applying for a licence or for any particular privilege under the Ordinance because the giving of this privilege or licence to him is a matter on which a discretion must be exercised. If it's a question of discretion then it becomes a question of an opinion of the people who are giving it as to whether or not, possibly there should be two licences in Clinton Creek or only one or whether there should be three or whether there should be a Cabaret or not a Cabaret in Clinton Creek, or Dawson City or anywhere else. These are questions of opinion and the courts are in no better position to form an opinion than the Board. In fact experience has shown, that they are in a much less....good position to form this. So, so far as allowing an appeal against a discretionary decision of the Board on this discretion to the court, all experience has shown that to allow such an appeal locks up the Ordinance, makes the administration intolerably difficult and wherever it has been given, authority has invariably tried to take it away again. Almost always with the consent of those who had the right of appeal because the area becomes full of doubt. If it was possible to devise convenient method of appeal whereby a person has suffered a loss under the licence, his licence is taken away, it might be possible for a licence is suspended, and I think as the Honourable Member has suggested, it should be suspended for a given period, maximum given period not as long as a year, say a month, and in that period of a month some hearing should be held and some opportunity to be given to the person whose licence had been suspended to enable him to make representation to the Board to revoke the suspension. And if a cancellation is effected then he might have the right to have a full hearing and it is possible it is arguable, there's a lot to be said for it but he should have a further right of appeal to a court certainly on a question of law. Beyond this my wisdom doesn't go but I do say there's a lot in what the Honourable Member has said and if it was possible to formulate a set of rules within this Ordinance to enable this to be done to then I'm sure we would go a long way with it.

Mr. Chamberlist: Mr. Chairman, I'm sure Mr. Legal Adviser will .....was really being very humble himself when he suggested that's as far as his wisdom will go but I'm sure he has read some of Lord Koake's remarks and some of Sir Frederick Pollach's remarks on administrative law. The term "administrative law" is sometimes referred to as separate laws and legislative powers instituted by administrative tribunals. Now this is where the danger exists because if we allow to happen what could happen under this Ordinance we would be placing the people who .....whose interests we are bound to protect in an .....a position of not being able to come forward to a legislative body until such time as there is an election or until .....even then....under our present system until such time as the legislative and executive body function together without any recourse to the court. I think it would be only fit and proper to point out the purposes, as I see it, of this particular Board is for expediency and nothing else, to allow the administration to have a function of it's own inside the powers of the Territorial Council and this is what I don't like because the legislation should come from this body and if we make legislation which gives the right to another body to make subordinate legislation, that subordinate legislation supersedes anything further that this legislative body can act upon. This is what I've been researching and this is the thing that I feel would be completely in error if we go along with any phase where the Commissioner in Council is not the responsible authority right the way through. Quite frankly, I don't know who drafted this piece of legislation up but it would be either somebody who just got out of law school or somebody that thought he knew so much about the Yukon....you know....this is special for the Yukon only. But certainly it is not a piece of good drafting and I am not a drafter of legislation. I'd like to just read into the record these following remarks,"the term administrative law is sometimes used to describe the decisions of what is called administrative tribunal which it is asserted cannot be reviewed by the court because they are grounded on what is described as expediency. Whatever the nature of the expediency it is introduced to the people as the public interest in regards to the public interest, such tribunal purports to deal with fundamental legal rights. They adjudicate without being judges, the tribunal emulate courts without being courts and often there is no appeal from their decision to constitute a court. The concept of legal rights may be dealt with majesterially according to the dictates of expediency to the exclusion of the long established law of the land something alien as well as sinister which is most unfortunately being allowed to creep into our system of law." This was said by Sir Frederick Pollack who died in 1937. Now this must be described as an instrument of justice in human affairs and certainly we're not granting any justice in human affairs if we set up administrative bodies that remove completely the rights the individual. The whole complex of our law, further, apart from the fundamental objection, the people are being denied access to the court, a violation of an inherent right, it appears to be a trend to place officials above the law, a trend which can't help but result in the most flagrant abuse to inherent rights." This was Edmund Burke. Now these people who are great jurist, who have studied from time to time and use their minds to protect the interests of the individual and have set down policies that most people have adopted, British Common Law, has accepted. I feel that there's a necessity and I will say this that if there was a state of emergency, such as war, certainly the public interest as a whole must come before the liberty of an individual because this is where the necessity arises, where you use administrative law and I don't think



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that any person would object, it follows because there was a necessity there. But, what happens when there is a complaint against an administrative tribunal in that although it is in the public's interest it has miscarried its duties. If there is no way to get to the law surely under any other circumstances, you would be able to go to law and try to obtain a Certiorari, or when it fails to hold a hearing as it was supposed to you'd get a writ of mandamus and you can't even do that under this, the way this legislation is written up. This is why I would ask that Mr. Legal Adviser take a real good look at this and let us try and protect the people at all times. I tell you it's so repugnant to me the way this legislation is written out that I could not go for any portion of it while the powers are removed from this legislative body to govern the interests of the people.

Mr. Legal Adviser: Mr. Chairman, it would be helpful if the Honourable Member would read the other half of the book. Koake was Attorney General to Queen Elizabeth, Pollack was a Judge of England with a very narrow bias on torts and everything else. The laws that were suitable for the time of Queen Elizabeth are not suitable in the Twentieth Century. Pollack was an old man when he made these statements from the bench and he put them up to Lord Chief Justice Stuart who wrote a book which I think the Honourable Member may have read called, 'Law and Order', in around 1937 or 1938, and when I was at the university, and I went to the same university as Edmond Burke, and Edmund Burke was making these speeches around about the period of 1789, 1790, 1795, and he was a member for Bristoff. I wrote a thesis for which I got a prize on that exact argument of the Honourable Member. That is when I was in college, and since I have grown up and my mind has developed and I've been mixed up in the government, I've come to realize that there's been advancement made in government even since 1937 or 1938. There were two Royal Commissions in England set up specifically to study the recommendations by Pollack and Chief Justice Stuart, the latest of which was the Dunnamore Commission, and both of them found it impossible to recommend any change in the practice of making laws by regulation. Parliaments have to delegate this authority as it just has not got the time to do it and could not be summoned into Session just to decide to give a licence to some fellow down the road or not. The only suggestions that were made by either of the two Royal Commissions which sat were that some safeguard should be invented to allow the Parliament, the legislative body, to control the tremendous volume of legislation and to see that no unjust regulations were made or that if they were, they could be revoked. They suggested a type of guillotine clause that where any regulation is made it should be laid before parliament and within fifteen days, thirty days, forty-five days, or thereafter, it could be revoked on a motion carrying a substantive majority of the members. So far as I'm concerned, we have no objection to such an amendment going into this Bill. By law here, every regulation made by every regulative body - and if I might divert myself for a second, the Honourable Member speaking on the last occasion when this Bill was under discussion said that only the Commissioner must file and publish regulations. In fact, under the Regulations Ordinance which passed this House this year, it said 'regulation making body'. The Commissioner is just but one regulation making body which presently exists. In fact, he's the normal one at the moment but one would hope that there would be other authority given and any regulation making body, which would include this board, would be subject to the Regulations Ordinance and must publish and file and table the regulations of the Commissioner in this House. The Administration would have no objection whatsoever to a clause going into this Bill that where any regulation is made by the board subject to the approval of the Commissioner then certainly it must happen. That is, it must be tabled in this House if you want to make it specific not later than the first day of the next Session or if the House is in Session, within say seven days of its being made and that

if on a Motion by the majority of the Members, it should be reversed or thrown out, cancelled or revoked, it doesn't matter then that's it, it's been revoked. But positive decision making is a matter which needs administrative thought and if regulation making bodies exist it is because it is the wish of the ordinary people who want to deal with people they can talk to. If this power is taken away of making regulation and making decisions then people cannot go and talk to the people they are dealing with. The stock exchange has a series of regulation making bodies across Canada, more and more everyday. Security laws are increasing in the field of consumer protection legislation. More and more we're going into the hands of regulation making bodies. It's done at the wish of the people and as a consequence, bends to the people. In the field of labour law legislation, the trade unions and the employers both are all anxiously seeking the assistance of the government in bringing in regulation making bodies, mediation bodies and negotiation bodies into the field of labour law. In every field of which a citizen today is involved he will find that in the Federal government or in the local government level or in the Provincial government level he's more and more going into the hands of administrative law and clearly this is the citizens wish. They do not want to be in the hands of an unknown civil servant, one man decision making people. The Council has been constantly ....I won't say attacking it might be construed as a wrong word....but constantly attempting to move power from the Commissioner to somewhere else. In a whole series of these Bills which have been presented by the Administration in this Session the Commissioner has been attempting to divest himself of his power of benevolent despotism which invests in him. He doesn't want to be a benevolent despot, he doesn't want to be a despot at all. He wants to hand this power over to groups of people, to bodies who will actually deal with it and deal directly with the citizens. True, he will retain the power of supervising and everything else but he wants to divest himself of his power but not to give that power to a legislative body for everyday use. The legislative creates the power in the Commissioner. All he's asking the legislative body to do is to transfer some of the power which you already have vested in him to a Board and allow a group of people to handle these decisions and not allow them to rest on himself. This I think represents a spirit of the McRuer report, the **Dunn** report and the earlier reports and our legislation has all been drafted in this knowledge and every person in the Administration may not know it by heart but they have read the McRuer report and it has been the wish of the Commissioner in his request to me so far as possible in drafting all our legislation, it take note of the recommendations of Chief Justice McRuer which were recently published in Ottawa, in Ontario.

Mr. McKinnon: I wonder it being after 11:00 o'clock we'll call a short recess. In the speaking order as I have it, it's Mr. Chamberlist, then Mr. Livesey, then Mr. Shaw.

RECESS

Monday, November 25, 1968

11:00 o'clock a.m.

Mr. Chairman: We will call Committee back to order.

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Mr. Chamberlist: Mr. Chairman, the remarks that Mr. Legal Adviser, before recess, tended to discuss the qualities of those jurists and judges of years gone by, it was not my intention to go into debate on the quality of those people but just to make reference to the remarks they had made with reference to administrative law. Mr. Legal Adviser, looking towards my table, saw that I had a copy of the McRuer commission's Report On Civil Liberties, hastened very quickly to refer to the McRuer report, and I think it's only right that the McRuer report which is a very very recent report, and by well known and prominent jurist in Canada, writes and quotes the remarks of Chief Justice Rinfret when he said, "The principle that no one should be condemned or deprived of his rights without being heard, and above all without having received notice that his rights would be put at stake, is of a universal equity and it is not the silence of the law that should be invoked in order to deprive anyone of it. In my opinion, nothing less would be necessary than an express declaration of the legislature in order to put aside this requirement which applies to all appeal courts and to all the bodies called upon to render a decision that might have the effect of annulling a right possessed by an individual." Now this is where I call for the protection, I agree with the Honourable jurists remarks, in finality on this particular point I would say if Mr. Legal Adviser recognizes the need to protect the individual is a paramount importance, I would be glad to see an amendment to this legislation made so that an appeal to the Court can be made from a tribunal.

Mr. Legal Adviser: Mr. Chairman, I cannot give undertakings on behalf of the administration. I can say this, once the point has been brought to attention that the suspension of a licence, this is not a temporary suspension, should not last beyond a certain period, and that period should be the arduous time at which the Board, assuming the Board goes through with this legislation, the Board can allow the person to have a hearing on the fact of the suspension. Now I would be prepared to recommend an amendment to this because I think that point was overlooked. Now so far as an appeal proper is concerned, I agree there is merit in an appeal against a decision which takes something away from a person. Now in the discussion which lead to the drafting of this particular section, I draw the Honourable Member's attention to one point, in every Provincial law dealing with liquor there appears a section which I was aware is deeply obnoxious to the Honourable Member. This is a section which says, "No decision of the Board may be taken, may be appealed by way of certiorari or mandamus, or other prerogative writ". Now this section appeared in the original draft and was taken out, the intent being that the inherent power of the High Court which is vested in the Territorial Court would remain unimpaired so that any method of appealing against a decision which would infringe natural justice, around hearing, refusing a man to call his witnesses, or improper action of the Board, a decision which might be ultra vires of the power of the Board to make, or any unjust decision of this nature would be appealable to the Territorial Court under the normal common law, in other words, the decision was to allow a common law to operate on this because as the Member knows, it needs a special decision, a special section to give the right of appeal, it would also need a special section to take away the common right of appeal by way of certiorari. Now the decision was taken, not to put in the appeal section, and

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Mr. Legal Advisor continues: conversely not to take any appeal away that would vest by virtue of the common law which is applicable in the Yukon Territory. Now if the Honourable Member requests that further consideration be given to the matter of appeal, this is a different thing. It would have to be discussed and agreed, or not agreed, by the Administration or whoever is responsible for the policy in this Bill, but if the Honourable Member so requests consideration will be given and discussions will be held, and it would be hoped the decision would be to give a decision that an appeal should lie against any decision of the Board which took away any vested interest or right in a person which had previously been vested in him under the Bill.

Mr. Chamberlist: Mr. Chairman, Mr. Legal Adviser again has pointed out something that is further important to all of us here, that if the Administration want to do this then it will be done, but we are the legislative body, and why can't the Administration gather that it is what the legislative body wants. If we make a suggestion and you deny us our suggestion, does this mean that we have to accept the legislation as you want us to accept the legislation, because I don't think we have to do that. Again, Mr. Legal Adviser suggests that if we wish to make reference to a provision for appeal that the Administration will consider, I don't think it applies, I think if this body makes the legislation that there be provision for appeal, and that if we want provision for appeal, the Administration should accept what the legislation wants, not the legislature accept what Administration wants. You know - this becomes an annoying thing continuously that the whole debate is based on whether the legislature should pass a piece of legislation until it is satisfactory to the legislature, it should not be passed. This is the main thing involved in it, certainly I want to see for myself, and I am sure, there is no member of this committee, no member whatever, who upholds the denial of the right at common law to a person to appeal the decision we deed from him an inheritent right. Now I want to see provision for the appeal; now certainly I don't want to interfere with administrative powers where they do not interfere with an individual liberty and right to earn a living, because certainly we have to give the Administration, whether it is our own Administration, or your Administration, because it is not our Administration - I mean this has already been proved by the Commissioner, by Mr. Legal Adviser, we're - you know trying to get together, but it's not happening yet, but in the meantime you're separate from us, but certainly the attitude must be that the individual must have his inheritent right to protect him, and I would ask if Mr. Legal Adviser, after we have gone throught this Bill and before it comes up again, for further discussion that it be looked into to see where those things that are repugnant to Members of this Council by way of removing those inheritent rights be corrected. Thank you, Mr. Chairman.

Mr. Livesey: Well as I see it, Mr. Chairman, wihout going into legal specifics there is no doubt in my mind that only authorities on the question of right, and especially the right of government point to the fact that subordinate legislation must come under control of the government in power at all times, and the general trend, as I have stated on numerous occasions, is that the subordinate legislation tends in all government to overwhelm and eventually subdue the powers of the legislative body and that is precisely

Mr. Livesey continues:  
what is going on here in this legislation. It would seem to me that this Ordinance has been drafted on the basis of the skeleton of the law is enacted in the Ordinance, and the main body of the law is unnamed regulated decisions which have not yet been named, no words, no description, and we as the representatives of the people having, at the moment, the confidence of the people of the Yukon Territory are being asked to practically disenfranchise ourselves from one of the hottest issues that comes before any legislative body in Canada, that of liquor. Now this is quite a request, there's no question about it, quite a request. Now one of the statements of the Legal Adviser this morning, Mr. Chairman, was to the effect that the Administration itself by setting up these Boards, they were creating a body to assist the people of the Yukon Territory, but the way I see it from this position is, that if any body is set up as a legal institution where they are in no way responsible to the elected people, then how could this be assisting the people of the Yukon Territory under the present system of government? Because under the present system of government, the government is separated, and it's separated in law. Now the power of this Council as wholly elected people comes from the Yukon Act and the power to make legislation is described in Section 16 of the Ordinance, and in Section 16 of the Ordinance, legislation is created by, and with the advice, and the consent, of the Council, in other words, the consent of the people of the Yukon Territory. Now, how are we going to work on this piece of legislation, the liquor legislation, in any way, shape or form, if all we are given is a skeleton in the Ordinance which is going to be placed in the hands of another appointed body for which we have no control, and this is precisely what is being asked in this legislation, and I submit, Mr. Chairman, that no matter which way you look at it the people of the Yukon will be totally disenfranchised from any say whatsoever in the question of liquor and how it is controlled. I don't see how we can even touch it once this Board is set up, Now if the government in the Yukon was set up on a different basis whereby the government was elected, and the Board was responsible to the elected government that is an entirely different situation altogether, But here we have the Board being responsible to an appointed body, who is not responsible to the people, and if the appointed body is not responsible to the people, we are in effect taking away a power provided by Parliament under the Yukon Act from ourselves, placing it in an unknown body appointed by the Administration, and by so doing, we are transferring the power to make policy to such an appointed body, and a policy apparently, which is at the moment not described, So for every gain we have made as a Council over the last ten or fifteen years with regard to any freedom we may have gained in the question of the sale and distribution of liquor could be wiped away without their consent, without us even knowing anything about it, because the usual way that Regulations are brought before the attention of the Council is at the next session. In the meantime, the Regulations have gone into force and once something is established it becomes more difficult to move it, if we knew beforehand what is going to be established, it would be a different thing, but we don't, not in Regulations. Regulations are established first and discussed second, and I submit, Mr. Chairman, that if we follow through on the basis of the questions which are raised in this legislation to which we must submit answers, I suggest do far more research on this type of legislation than we have done so far, because if this becomes a pattern the people will have practically nothing to say about anything that's going on in the Territory at all.

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Mr. Chairman: I'll turn the Chair back to the Honourable Member from Whitehorse East.

Mr. Chamberlist: Thank you and I'll resume the Chair and Councillor Shaw, would you like to speak?

Mr. Chamberlist resumes Chair.

Mr. Shaw: Mr. Chairman, when this group of people went around the Territory a number of years ago to investigate and hold hearings in respect to the matter of liquor they made certain recommendations, and one of these recommendations was that a Board should be created. Certainly I feel myself that is a very very good suggestion, however, I was under the impression, Mr. Chairman, that this Board would operate under the Ordinances relating to liquor. It was quite a surprise to me to find that instead of working under an Ordinance, it will be working under Regulations. The member from Carmacks-Kluane aptly described it as just a skeleton, and then we put the meat on from there. Now the Legal Adviser brought up a very interesting subject when he mentioned the matter of Regulations. To my knowledge, Regulations are created - I mean in my estimation, Mr. Chairman, we must have Regulations, Regulations you can't have everything down in the Ordinance, and you cannot have everything by legislation but the Regulations must come under more or less the intent of the Ordinance, and these Regulations are tabled at the session of each Council. Now the interesting point of this, what the Legal Adviser has brought up, was the matter of revoking a Regulation. Now I am not aware of Council having the power to revoke Regulations, that's a very interesting subject, and the Commissioner may make Regulations, and when the Commissioner makes Regulations, I will say that the Commissioner has been very much guided by Council's wishes in the matter of Regulations, But in the future, we could very well have a person that would say, 'that is the Regulation, I am in power to make it under the Ordinance and that is the way it stays' so, if we accepted a Board such as this is outlined it could very well occur that the people, as has been stated, would have no say whatsoever. A member that was elected to create laws for the country in certain specific matters, such as we have with liquor, matters under the Territorial Government auspices, they would come to a member and they would say, we don't like this Regulation and you would listen to them, I'm sorry I can't do anything about it, these are Regulations made by the Board. If we gave the Board the power to make these Regulations and though we may be made aware of the Regulations at each Council session, we will have no power in revoking these particular matters. I would like to ask the Legal Adviser, Mr. Chairman, if he could explain, perhaps that's the word, why the Board was set up in such a drastic manner, rather than establishing a Board that would control the Ordinances under existing Regulations, or Regulations to be made? Why this was completely by-passed and it was given all powerful in a group that would be a number of men, and I appreciate the statements you made that when you get a group of men, they don't all think the same, I will agree with that, but I think the Honourable Legal Adviser would certainly appreciate the fact that these would all be administrative people and not subject to any of the wishes of the people.

Mr. Legal Adviser: Mr. Chairman, the intention was to give the Regulations making part to someone, that when the actual draft was being discussed it was thought preferable to let the Board be the originator of the Regulations, and the Commissioner be the approver, or disapprover to give him the right of veto, because for administrative purposes it's easier if you say to the Board, go and make your Regulation, rather than the Board should say to us, you start with the Regulation, because they're running the business. If they want to extend the store opening in Whitehorse from 6:00 to 7:00 let them put up a Regulation for the purpose and we will approve or disapprove it. It's merely an Administrative convenience which may not meet the wishes of the Council, There's no objection whatsoever to redrafting that section and saying, the Commissioner may make the Regulations, it's merely an Administrative convenience and carries no secret connotation whatsoever. Now I have spoken to the Commissioner and the Commissioner says, 'No Regulation that has not got general public acceptance is worth the paper that's it's written on.' So the Honourable Member raised the point that there is no power he knows of in other legislation whereby Regulations which are in force can be revoked by the Council. It is true I don't know of any provision in any other legislation, but it seems to me not unreasonable for the Commissioner to say, "if Regulations have not got general public acceptance then let them be wiped out" but he has to know about public acceptance, so my suggestion is that a section be inserted in the Ordinance, that upon any Regulation being made, whether it's made by the Commissioner, or made by the Board, it doesn't matter how you word this section, 'upon any Regulation being made and shall in the normal way be tabled before the Council', and add in a subsection which says, 'that any such Regulation upon being so tabled may be revoked by a majority vote of the Council on a motion introduced for the purpose'. Now if any of the members feel that the Regulation is a bad one, it has not got general public acceptance, that it's unwise or for some other reason, if he produces a motion to the Council and suggests that it be nullified or revoked, then if the section is in the Bill, this is transferring the real authority to the Council, possibly for the first time in legislation, they're getting real teeth in Regulation making power. So I don't think that's an unreasonable suggestion.

Mr. Dumas: Mr. Speaker, I think - Mr. Chairman - I believe that the problem we are faced with here is a larger one than just this Bill, in fact I think it's the same old problem that we discussed and fought with so strongly in the fall session last year of Council, and again the first, second and third session of Council this year. It's a system of government really that we're talking about, it's that old problem once again, and it's that problem that has arisen in every major Bill brought before this session of Council, who is running the Territory, the legislators are not responsible. I think this legislation would go through without any problem were this in fact, a type of government as we have in all the provinces of Canada, and all the United States, just about everywhere else in North America, save our sister Territory, And so it's once again, we can debate here for hours and days on this problem, as we have done in the past, and there's been some excellent debates this morning, but until we solve this basic problem we're going to run into arguments, we're going to keep running into these stone walls and stumbling blocks, on every Bill, on every major Bill that's presented with these types of sections in it, where we want to set up Boards that are

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Mr. Dumas continues:  
responsible to the Commissioner. The Commissioner in Council does not mean, unfortunately as the Governor in Council means for the Federal Government, and this is where we run into a problem. The Legal Adviser has suggested in the past that we are cutting off our noses spite our face, because when there is an executive Council set up we'll want them to have the power that we are here vesting in the Commissioner. Well words are fine, but until we get some action in this respect, I don't think we can go along with this type of legislation. The real problem, as I said, must be solved or the struggle is just going to continue everytime a Bill such as this is presented to us. Now I don't know if we should carry on discussing this Bill in the same vain we have continuously, we have more work to get on to, and we certainly have to get through to the end of this Bill, but I'd like the Administration to realize where the problem lies, and all the fancy words we can throw together here aren't going to help solve that problem. The only thing that's going to solve it is some action, and the action must emanate from Ottawa.

Mr. McKinnon: Mr. Chairman, in the language of the day, I'm going to have to inform the Legal Adviser that he has a real hang-up, and everytime he hears the word Commissioner in Council, I can hear him visibly wince at his table, then he stands up and draws the analogy of the situation in Parliament, and the situation in the provinces, and says that, we would just be usurping our executive authority if we ever, and that seems to be in the far distant future, receive any of this authority. Well, Mr. Chairman, every statute that's on the law books of Canada starts out, Her Majesty, by and with the advice and consent of the Senate at House of Commons of Canada enacts as follows, and then it goes on to the statutes. Now anybody who didn't know the substance of Canadian parliamentary democracy wouldn't even know what they were talking about when the form of the statutes starts off in this manner. Mr. Legal Adviser knows what it means, every Member of Council knows what it means, every Member of any legislative body in Canada knows what it means, it means that the four years dictatorship of Cabinet which the people have seen the right to induct the responsibility of government in our making laws, that's what it means, and Mr. Chairman, when Commissioner in Council is put into legislation at this time, it serves a dual function; one, it serves the function now when we're not a responsible body that the people have some protection for them written into the Ordinance, and when the happy day comes where the executive making decisions is transferred from the Commission to the legislative body, it means the same thing as it means in the statutes books of Canada that the group who have the cabinet and the majority of the House are making laws, this is what it means and nothing else. And, Mr. Chairman, further in every statute, in every Provincial statute, in every Federal statute, in the regularity section the Regulations read, the Governor in Council make Regulations, now we all know what this means too, it means that the Government are making the Regulations even if they give this power to a Regulatory Board are responsible for the decisions and the regulations that that Board makes. Now, Mr. Chairman, under this system of government if we want this control of Regulations, that's in the hands of one person, the Commissioner, because we are governed unlike any other area in North America, and as the Honourable Member from Whitehorse West has said, 'save our sister Territory, the Northwest Territory'.



Mr. McKinnon continues:

We are actually giving away any type of control of the Administration that we now have in this system of government, and, Mr. Chairman, I submit, and I agree whole-heartedly with the Honourable Member from Whitehorse West that until the system of government changes, the chances are just too great for the people of the Yukon Territory to accept the Regulatory control, carte blanche, in the hands of an appointed Board responsible only to the Commissioner of the Yukon Territory, Mr. Chairman, the legislation is just the right legislation at the wrong period of time in the Yukon's history, and something is going to have to be done to change the all encompassing powers of the Board responsible to the Commissioner, completely removed from the legislators of the Yukon Territory in the most politically sensitive area of legislative confidence that we have in the Yukon Territory at this time. And no practical political animal with any sense of ever hoping to continue as a legislator in the Yukon Territory would give this right away that he now has under the present Ordinance at this time, and I submit, Mr. Chairman, that if the system of government were different, where the Council was responsible, where we were willing and able to accept the responsibility for any Regulation that could be made in a subordinate authority, to which we give that authority, then we'd be willing and we would be able to accept the responsibility for our Board that could stand and fall on what Board that we'd given the powers to are doing. This is not available under this system of government, and if a member of this Council was irresponsible and really didn't believe in the platitudes that are multi, about responsible government. It would be the easiest thing in the world to give this Regulatory control to an authority which wasn't responsible to this body, then we could say, well this authority has the power, you can't come to us and complain because we have nothing to say about it. Mr. Chairman, we have a small say now, we're going to continue to have that small say, and we're going to work in the area to get more, and Mr. Chairman, I'll just say once again, that it's just a shame that this happens to be, the right legislation at the wrong period of time in the Yukon's history.

Mr. Chairman: Any further discussion on this at this time?  
(Reads Section 19 subsection (1) and (2), Sections 20, 21, 22, 23, 24, 25 subsections (1) and (2) of Bill No. 28).  
Councillor McKinnon, would you take the Chair for a moment?

Mr. McKinnon takes Chair.

Mr. Chamberlist: Mr. Chairman, in this particular section reference is made to a corporation. Now if we look up the interpretation section 2 (m) "sale" in relation to liquor includes exchange, barter or traffic and the selling, supplying or distribution by any means of liquor (i) by any partnership or by any club whether incorporated or unincorporated or, (ii) to any member of such partnership or club; so that in actual sense it limits it to partnership or a club that is incorporated or unincorporated; it doesn't make any reference to a corporation other than an incorporated club. Now this is, Mr. Legal Adviser, might be able to point out why it doesn't even refer to a person under the section dealing with "sale". There's nothing in the interpretation section that denotes a person or a corporation, but as I say, simply a partnership or a club that is incorporated or unincorporated. Mr. Legal Adviser, I'd like a comment on that.

QUESTION  
RE "SALE"

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Mr. Legal Adviser: Mr. Chairman, this is a general section. We know that licence; are, in fact, issued to corporations, and by corporations we mean companies, and we know they are issued to clubs, there's a committee for club licence, what we intend to say is that the name of a company, or the name of a club is not sufficient. We want the owners, or corporation of the club, as the case might be, to name a person so that we can actually have somebody that you can say is personally responsible, and if you want to bring a charge you bring a charge against that person, possibly as well as the corporation or club. It's no different from the existing intent of the liquor law, as is at the moment, it's not intended to change policy in this manner.

Mr. Chamberlist: Mr. Chairman, it hasn't been noticed before, and I have noticed it now, that a corporation cannot be charged, I submit, with a legal sale, because a sale denotes in the interpretation section what is an offence, what an offence of the sale is, and the only time that sale is an offence is in relation to liquor includes exchange, barter or traffic and the selling, supplying or distribution by any means of liquor (i) by any partnership or club, but it doesn't say that it deals with any person or corporation, so you only have two areas, or two groups of people, who can really be penalized under this particular interpretation because it says - now Mr. Legal Adviser is smiling he knows full well I hit on the big point there - because it was left out, the corporation, and it left out the individual, so quite frankly if this went through and I was being charged I would fight on the basis and say, where does it say, as a person, that I can't sell liquor. It only says a partnership or corporation, which is clear can't sell liquor.

Mr. Legal Adviser: Mr. Chairman, I am aware of the acuteness and ease which the Honourable Member can move from Court to Court by means of a definition to another definition, but "sale" here says, "sale" includes exchange, barter or traffic, by includes it means in addition to all its other meanings, it has these additional meanings, it still has its ordinary meanings, and the "sale" to me means that a person buys something for money or other goods, it's a formal contract, It's to cover the English cases which originated around about the 1898 period that you have this broad definition 'tacked on' includes sale. To cover the position of a partnership or a club, so that one partner giving another a bottle of whiskey is caught under this, or one member of a club.

Mr. Chamberlist: Come now, Mr. Legal Adviser, surely you can't overcome something of this nature like that. It is not in the interpretation section, and the interpretation section of this Ordinance applies to this Ordinance only. Now the word "sale" is clearly defined in exactly the way the word Board is defined here, director, inspector and licence. And sale only deals with a partnership and a club. It doesn't deal with a person or a corporation, now it should be in there to make it quite clear that nobody can evade their responsibilities under this Ordinance.

Mr. Legal Adviser: Mr. Chairman, I don't want to come back to the same point, but there are approximately definitions running from (a) to (p) in this definition, and every single one of them says, except one, so and so means this. In this particular definition, unlike all other definitions, it said it includes, the word means is not used, and it's omitted for the specific purpose of catching ordinary uses of the word "sale", there's a special purpose includes is used instead of means, the only time in the whole of the definition section which runs for three pages is that word used.

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Mr. Chamberlist: Well it's not clear to me, Mr. Chairman. Thank you, I'll resume Chair at this time.

Mr. Chamberlist resumes Chair.

Mr. Chairman: At this time I will call it 12:00 o'clock and we will recess till 2:00 o'clock this afternoon.

RECESS

RECESS

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Monday, November 25, 1968.

2:00 o'clock p.m.

Councillor Taylor, Councillor Shaw and Mr. Commissioner not present.

Mr. Chairman: At this time I will call Committee back to order. BILL NO. 28  
We are now dealing with Bill No. 28. Are there any further comments on section 25? Councillor Dumas.

Mr. Dumas: Mr. Chairman, if I could just comment once more very briefly and generally that Committee might see fit to go through this Bill and discuss each section on its merit. We know what the over-all problem is. It's the problem of trying to fit twentieth century legislation into nineteenth century framework.

Mr. Chairman: (Reads section 26 and 27 of Bill No. 28.)  
Councillor McKinnon, will you take the Chair, please, for a minute?

Mr. McKinnon: Yes.

Mr. Chamberlist: Mr. Chairman, section 27 imposes a double penalty. It imposes a penalty firstly because where a person is convicted and this would mean summarily convicted, that would be by a court of competent jurisdiction; after conviction the Board then cancels his licence. I wonder if Mr. Legal Adviser can comment on this particular feature.

Mr. Legal Adviser: I can, Mr. Chairman, and I agree that at first reading the Board has a certain objectionable feature in that it would appear to give a double penalty. This is not as uncommon as might be thought. It occurs in many other types of legislation. When a Civil Servant is found guilty of theft, he may be dismissed by the Commissioner. Without any further hearing, he accepts the decision of the court and imposes this penalty of dismissal. When an Army officer is tried before a Civil Court and found guilty of an offence, then he may be cashiered without any further necessity of a court marshal. The same thing occurs with police officers. The same thing occurs with doctors, with dentists, with pharmaceutical chemists. It also occurs with lawyers. A lawyer is found guilty of theft of his client's funds - fraud or misappropriation - then without any further rigamarole other than summoning him and telling him what has happened, the Law Society will cancel his right to practice. It's fairly normal under the circumstances but would, I apprehend, only be used in the case of a serious offence, because cancellation of a licence is quite a heavy penalty. It's difficult to categorize under what circumstances the section would operate, but although it appears to have potential injustice attached to it, it's a normal circumstance in the type of legislation with which we are dealing here and in dealing with regulations or bodies which control the acts of individuals.

Mr. Chamberlist: Mr. Chairman, I would submit that the circumstances and examples given by Mr. Legal Adviser differ from this particular instance for the following reason: that here a person is dealt with judiciously and convicted and then he is also dealt with Administratively and penalized, whereas in the other cases referred to he is dealt with judiciously in both manners because the legislation - let's say in matters of a member of the legal profession where a member of the legal profession would be convicted by a court, the legislation requires that that person

BILL NO. 28 would be disbarred and have his licence removed, but here the Board is an Administrative body and this is where the case differs and this is where it is a penalty where the board cannot be appealed against and we're coming back to the same subject again, that a person has already been convicted; he has the right of appeal. Now, before his appeal is heard the Board can make a decision to cancel his licence, yet in a legalistic point of view once he has made his appeal that the position stands until the appeal has been heard; whereas here as soon as the summary court has convicted, the Board may immediately step in and cancel a licence. Now, supposing - Mr. Legal Adviser, I'm sure, gets my point - when after conviction of this person, he takes an appeal to the courts. The licence has already been cancelled, so the court reverses that appeal, and it might take three months for the appeal to be heard, so this person has been deprived by an Administrative Board of his livelihood and then he is found that his conviction wasn't properly given.

Councillor Shaw and Mr. Commissioner enter Council Chambers.

Mr. Legal Adviser: I agree, Mr. Chairman, this is a very valid point and I am glad that the Member has brought it to our attention. A recent case in British Columbia made this very point. A lawyer there was found guilty by a court of summary jurisdiction of a certain type of fraud. He appealed to the Court of Appeal and lost his appeal. Now, his licence to practice was cancelled by the British Columbia Law Society, which was accepted as perfectly proper at that time. He attempted to appeal to the Supreme Court of Canada and was hindered in some way from doing this, and he served a five- or six-year sentence, and I think he served five years of a ten-year sentence, or six years of a ten-year sentence. This is a very recent case, and the Supreme Court of Canada upheld his appeal. The following spring he went back to the B.C. Law Society and he applied for his practising certificate, and the Secretary of the Law Society refused to give it to him, and was upheld by an order of the Benchers on the grounds that he had been guilty of a criminal offence and that his certificate was properly cancelled at the time and that that was an end to the matter, and by that useful device, Certiorari, the lawyer applied to the Supreme Court of B.C. and successfully had an order directing the Law Society that as the law stood, the reversal by a competent court of a conviction put the matter in what was described as the status quo ante. It was as if he had never been convicted and they were directed to restore him to the register and, if he so wished, with effect from the original suspension. I would be prepared to recommend that a subsection should be put in here to the effect that where an appeal was launched that no cancellation of the licence should take effect until the appeal had been disposed of and this would meet the point of the Honourable Member. In other words, a man is convicted of some serious offence - say, continuous bootlegging or something like this - and the Board decided in view of the conviction to cancel his licence. He appeals; and they should not be allowed to interfere with his licence until the matter has been disposed of by the courts to which this man would have access to keep his appeal going, and on the final distribution of his appeal, then they would have the power. I think this would meet the point raised by the Honourable Member.

Mr. Chamberlist: Yes, Mr. Chairman, except that in the paragraph it should clearly denote that the thirty-day appeal period that is allowed for an appeal against summary conviction should be the time factor because supposing he doesn't make his appeal immediately; suppose he doesn't make his appeal until the thirtieth day. Surely, the Board cannot take his licence away until such time as his time

which is allowed by law for him to appeal has run out. Does Mr. Legal Adviser agree with that point?

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Mr. Legal Adviser: I take the point, but there was a recent decision in the Northwest Territories where a man lodged an appeal after the thirty-day period. The appeal was contested by the Crown on the grounds that the notice had been served after the thirty-day period, and the judge was asked to dismiss it on technical grounds and the judge refused, and the Attorney-General of the day refused to permit the Crown a second appeal on that ground. So, if we put in a limiting thirty-day period here, we might be preventing an appeal after the thirty-day period which I don't think the Honourable Member would wish. I would prefer it if it was just a general section saying that in the event of an appeal, cancellation should not take effect until the appeal had been disposed of, and that in the event of the appeal being successful, the Board should not cancel under that particular section.

Mr. Chamberlist: Yes, but, Mr. Chairman, this may be all well and good, but if it is left in that manner upon conviction and before the convicted person has decided to appeal, what is to stop the Board from immediately cancelling the licence? This is the question I would put to Mr. Legal Adviser.

Mr. Legal Adviser: No, it is basically a question of drafting to meet the wishes of the Honourable Member. It is basically a question of sale that until the criminal proceedings have finally been disposed of, the Board may not cancel the licence. Now, let him and his lawyer hunt and harry to try and find extra time if they can. Why should we block them?

Mr. Chamberlist: That's satisfactory. I'll resume the Chair now, Councillor McKinnon. Thank you. Is there any further comment on section 27? (Reads section 28 and 29(1) of Bill No. 28.) Order, please. The Chair would like to ask if I have conducted myself in the wrong manner?

Mr. Legal Adviser: In a property proper manner, Mr. Chairman, as far as I am aware. The only reason the House was smiling was that you are coming to the centre of the bridge.

Mr. Chairman: (Reads section 28 and 29(1) of Bill No. 28.)  
Councillor Shaw.

Mr. Shaw: I think, Mr. Chairman, that this particular section is, in my opinion, going a little too far in everyday circumstances. It does appear that at the present moment that these persons at this particular age do have access to liquor through a form of boot-legging and there is no question that they are obtaining this liquor and going in backrooms and so forth and consuming the same.

Mr. Chairman: Order, please. Carry on, Councillor Shaw.

Mr. Shaw: I would feel though that perhaps twenty-one is getting a little too advanced in years to commence having this right or prerogative, so that I would feel that in view of the fact that most children do not complete their high school until they are almost nineteen years of age, that it would be to the interests of the parents and the children that they have the opportunity to first complete their studies before embarking on the drinking program. In view of that, Mr. Chairman, I would feel that nineteen would be a better age to permit persons to drink in this, what we might call a more enlightened era, if we can call it that, that persons that had completed and had their high school diploma of

BILL NO. 28 Grade XII, if they had that prior to eighteen, well I would be quite agreeable personally that they would have these rights of drinking. In other words, if they finish their high school education, this would be somewhat of a bonus to them if you could put it that way. I would object, Mr. Chairman, to eighteen years of age just as a general over-all picture. Now, we might say that why have any restrictions at all. You see there is a school of thought that says no restrictions whatsoever. Drink at any age. Well, I don't agree with this at all. I don't think the age, in my estimation, is the important part of this, Mr. Chairman. I think it is more or less the important thing for these children, for these girls and boys, or youths, or whatever you may happen to call them - teenagers - is that they, if possible, finish their high school education because that is the key after Grade XII that will open up the lock for obtaining further education which is not possible, that is university education, without having attained this Grade XII objective, and so, myself, I feel that nineteen would be the permissible age; that eighteen could be, if they had this high school diploma prior to their eighteenth birthday, and I know there has to come a time when we have to give our viewpoints on this and it is a very controversial subject. It is so controversial, Mr. Chairman, in fact that it may be and could be and possibly should be - I'm not being emphatic on any of those alternatives - that this is where a plebiscite would be most useful to find out what the parents thought of this situation. I will conclude at this time and hear what other Members may have to say on the matter.

Mr. Chairman: Councillor Dumas.

Mr. Dumas: Well, Mr. Chairman, I reserve my final decision on this until after we have heard representations from various groups and organizations, which we intend to do on this Bill, because I would really like to hear what the people have to say on this, the people involved. However, the Honourable Member from Dawson mentioned that there is a school of thought that thinks there shouldn't be any age limit, and indeed maybe no legislation in this area. If our society were other than it is, I would feel this way, but we cannot legislate morality and we shouldn't be legislating in liquor or sex or anything else, but I suggest that the society we live in is not that sophisticated, unfortunately. Our culture in North America is only a couple of hundred years old. It hasn't evolved to the stage where we are fully conversant with all of the adverse ramifications in all of these fields. Therefore, the people of our society request that we legislate, and after all, that is all we are doing, is representing the people. They want legislation in liquor and we must give it to them. I think, for about the same reasons as the Honourable Member for Dawson has stated, that eighteen is too young. It is not that it is too young; it is just that it could cause an embarrassment in certain circles, primarily in educational circles. I'm sure we can all imagine some of the scenes that might take place in some of the classrooms around the Territory. So I, too, am opting at this point for a nineteen-year old drinking age, but I do reserve the right to change my opinion if representations from the people indicate that in fact they feel differently about the lowering of the drinking age.

Mr. Chairman: Councillor Gordon.

Mrs. Gordon: The Ordinance before us deals with a specific change in age as far as our drinking laws are concerned. I think everyone in this Chamber that will agree with me that twenty-one is the state our society says the age we must reach

when we reach maturity. I know all of you have known people at the age of fifty who had very little maturity. You have also known people under the age of twenty-one who are far more mature than their years would comentate, and I think this is one of the areas in which we must go back to the people in our constituencies to feel and assess their feelings and our deliberations and the eventual result.

Mr. Chairman: Councillor McKinnon, would you please take the Chair.

Mr. McKinnon: Yes.

Mr. Chamberlist: Mr. Chairman, some time ago there was a youth conference held in Whitehorse and at that time I seconded a Motion which called for the age reduction being reduced to eighteen. Since that time I have not completely, but somewhat, changed my views, but I agree with the suggestion that has been made by the Honourable Member from Whitehorse West that we wait before finalizing anything on this point until such time as **all** those who wish to make comments on this particular piece of legislation, have commented, and there is no doubt about it that I have received some personal correspondence from different people who have quoted me from various parts of the New Testament. One of them referred to the Old Testament, which I am also familiar with, where I speak from the culture that is six thousand years old, and in that culture there has always been room for change. Now, we have to have change and I am prepared to accept the change that the majority require whether it is a change that I am in agreement with or otherwise. It is unfortunate that the misuse - it is not recognized that the misuse of alcohol is not related to age because youth misuses alcohol but so do many so-called mature people misuse alcohol. I was brought up in England where I saw very, very little drunkenness and I saw very, very little problems brought about by drunkenness that exists in the North American continent. It is commonly known that you could walk around Picadilly Circus drinking straight out of a bottle of whisky and nobody will interfere with you. The police won't interfere with you, but the moment you interfere with somebody else, then that is a different matter, and I'm not suggesting that we should, you know, condone the parading up and down with everybody with a bottle at his lips, but I am just submitting that the age of people does not matter when it comes to the misuse and the manner in which drink can be obtained. It was interesting to note at this youth conference that it was the children themselves - I'm referring to them as children but they are really not - some of them are much more mature than some of the older people I've seen here - I'm not referring, of course, to this Chamber, but they made a very, very valid point. They said, well, why should we be forced into the secrecy of drinking. This is when we get into trouble. We go driving. We take drink with us in the vehicle, and when we see that somebody is coming along, we have to try and get rid of the evidence, so we drink it as fast as we can. This is when we get into trouble. I see, quite frankly, no reason for restrictions of a nature of drinking with a family in a restaurant. For instance, I find it hard to understand why I cannot take my son - why I couldn't take my son when he was eighteen into a restaurant and have a bottle of wine at the table while we're having dinner, yet in my own home I'm allowed to have a bottle of wine on the table while I'm having dinner. Now, what difference does it make? He's still with his parents. He is still in our custody. He is still in our care, and yet we fall into stupid types of legislation that would restrict that type of thing. Why should a young man of 22 or 23, married to a young



BILL NO. 28 girl of nineteen, not be allowed to take his wife out for an evening and to dine and have wine with her, and why can't he go into a cocktail lounge and buy his own wife a drink? She can be a mother. She can have children. This is fine, but she can't have a drink with her husband. Why can a young man of eighteen be called to the Colours and serve his country - this is fine; he is allowed to do that - why can't he have a drink? He can't have a drink because he's under-age, but he's not under-age to place himself in the firing-line. This again is ridiculous, and these are the things that really bring down to consideration as to when is a child of eighteen capable of drinking or not. When is a child of nineteen capable of drinking or not? When has that person reached the stage of maturity that would allow him to drink sensibly? A lot goes down to the fact that there has been a lack of educational facilities available to the youth of the Yukon in how to drink or that the purpose of drinking is a social thing. The churches would argue with me and they would say no, and they would come out with a few more quotes from various texts of the Bible. Now, I, and I want to make it clear so that the church organizations in the Territory should know clearly what my stand is, that I will not consider myself in the position of being told what to do by any church organization who would like to see complete prohibition because as far as I am concerned, complete prohibition is just as much interfering with the liberty of the individual as any other points that I have made at this Table. I say that we will co-operate with church organizations to listen to their particular feelings about the control of the distribution of liquor. I agree that we have a function to perform in that. Now, to come back again to the age situation. As I said, I feel, under certain circumstances, that eighteen is too young. Under other circumstances, I have no objection. I think when the time comes along we should spell out clearly what the minimum age limit is and who are exempt from that minimum age requirement. Thank you, Mr. Chairman. I will take the Chair back, Mr. McKinnon. Are there any further comments? Councillor Shaw.

Mr. Shaw: Mr. Chairman, I have further comments on that. I did hear a Member state that they couldn't make up their mind. I did not wish to make up my mind on this particular thing, but here we have a very real problem to resolve. It's always a problem, whether you do or whether you don't, and I felt that I should state how I would personally feel about such a matter. I also did state, Mr. Chairman, that possibly a plebiscite - this may be something in the order of a plebiscite that would be most useful in ascertaining the people's feelings. We have one of two things to do to come up with an answer. Either you're for it or you're against it. If you are for it, how? If you are against it, why? So, I have attempted to do that. I would state though at the same time that this is, as we have already intimated, to be put to the people to get the briefs and hear them before a final decision is made, but I think that it is my duty more or less to, at least publicly, state how I feel on this very important matter.

Mr. McKinnon: Well, Mr. Chairman, it looks as though I am going to be forced to give reasons that I don't know of and state an opinion which I'm not sure of, which is exactly the reason that I put the Motion that we have a select committee of Council to hear representations from all groups effected by the different clauses in this Liquor Ordinance, and I'd like to assure this Committee that upon listening to the various briefs that I am going to stand up before third reading of the Bill in this House, declare my intentions and my reasons why I am agreeing or disagreeing to any or all of the clauses in the Bill, and I think it would be premature and presumptuous of me to be making a decision at this time when

I really don't know what I'm talking about. Thank you, Mr. Chairman. BILL NO. 28  
man.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Well, I had known about this coming up for quite some time. I have known in fact for a month, I believe, and as a matter of rumour for six months, and possibly longer, and this has been discussed for many, many years, so that I'm not completely ignorant of the contents as such. In order to - let us put it this way, Mr. Chairman - briefs are one thing from organized groups. They do not indicate the feeling of the people on the whole. They indicate feelings of various and sundry organizations that may have an intense interest either for or against the particular matter. Now, I would suggest, Mr. Chairman, that if this is so important, which it is, that this is the time to have a plebiscite. This is something worth having a plebiscite on; then you get the feelings of the people, and then you can put that into effect. I know it hasn't worked. It's done the opposite in the past when we've had them, but maybe we can have one that will go - we can pass legislation that will go in accordance to the wishes of the majority of the people. I would sooner see a plebiscite on this subject, Mr. Chairman, than having to make a decision or to have to have briefs and then make a decision because that is not necessarily the feeling of the people. It just depends on how well organized some people can become. There is only one answer to this - if you want to know how the people feel about it - if the Council itself does not want to make a decision, I feel that something like this is something that could well go to a plebiscite, but I have given my opinions so someone will have something to work on and get their teeth into. Thank you very much, Mr. Chairman.

Mr. Chairman: Councillor Dumas.

Mr. Dumas: Mr. Chairman, just one comment. I think that the feelings of the people are represented through this Council, and I'll be willing after hearing the briefs to make a decision on this.

Mr. Chairman: Any further comments? Councillor Livesey.

Mr. Livesey: Yes, Mr. Chairman, the only question I have is that I would like to find out the fellow that brought this political hot potatoe into our Chamber without us having anything to say about it. You know this is one of the reasons we need responsible government so we can control the legislation that is going to be presented before the Council, and I think this is about one of the hottest issues that possibly we may discuss, and it seems as though we have got the finger on the buzzer but somebody short-circuited the whole outfit and we got it anyway, whether we wanted it or not. I, personally, can tell you gentlemen that I have seen no great horde at my backdoor nor at the front clamouring for this legislation. So, it is quite obvious that it isn't coming from the people, not as a whole, but it's coming from somewhere and this is the point that excites me. I'm just trying to figure out just where it came from; whether it's the Administration that doesn't feel they are making enough profit off the liquor that is already being sold, that they have to add two years more down the ladder to sell more liquor - or three years - and not only that, they suggest that the age limit should be lowered, but of course they don't suggest that the limit of responsibility should be lowered. They say the limit of responsibility should be aged twenty-one and that the limit of drinking should be eighteen. Now, there is a span of difference

BILL NO. 28 there which places a great responsibility on the parents, if I read the law correctly. However, in any event, I agree wholeheartedly that this is a question that the public have to get their hands on and deal with it as they may. There is no reason to think any different. This is something that the parents will have to have something to say about and I personally don't want to say yea or nay until I've heard what responsible groups and parents groups and people who wish to offer briefs and petitions - I want to listen to them first before I make up my mind because the whole of the Yukon will be effected and this is one item, of all the legislation that is going to be put before us at this session, ~~where~~, I think, we must listen to as many people as possible before we come down with any hard set of rules or decisions on this point. Thank you, Mr. Chairman.

Mr. Chairman: Any further comments on section 29(1)? (Reads section 29(2) of Bill No. 28.) Councillor Dumas.

Mr. Dumas: Mr. Chairman, I wonder why grand-parent is in there?

Mr. Chairman: Mr. Legal Adviser.

Mr. Legal Adviser: To make it possible for a grand-parent to give his grand-son a drink at Christmas, if necessary.

Mr. Dumas: Well, Mr. Chairman, how about the great grand-parent? Why discriminate?

Mr. Legal Adviser: It was just the fact that we didn't think there were many great grand-parents around, but I am quite prepared to amend it to include great grand-parents.

Mr. Chairman: Councillor Livesey.

Mr. Livesey: My brother is almost that. There are hundreds and hundreds of other people that married early in life. This is very, very possible, but I agree with the Honourable Member. There shouldn't be discrimination.

Mr. Chairman: Councillor Dumas.

Mr. Dumas: No, Mr. Chairman, seriously though, I was trying to make a point. I don't think grand-parent should be in there as a matter of fact because I don't think that - at least the way it reads, if a grand-parent were a guardian, fine, but a grand-parent per se, I don't think should be entitled to feed liquor to his grand-child without the parents' consent, just as nobody else should be able to.

Mr. Chairman: Councillor McKinnon, would you take the Chair a moment, please.

Mr. McKinnon: Yes.

Mr. Chamberlist: Well, I'll go beyond what Councillor Dumas has said. I see no reason why somebody goes visiting to their aunt and has dinner with their aunt and sit at their aunt and uncle's table. They sit at their mom and dad's table. They can have a drink of wine, but they sit at their aunt and uncle's table they're committing an offence. I mean, that is stupidity. Is this called first-class draftsmanship? I heard Mr. Legal Adviser say it was well drafted. Well, I can't see that at all. I hope that Mr. Legal Adviser will take note of the remarks that have been made with reference to this particular section and adjust it

accordingly. Thank you, Mr. Chairman.

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Mr. Dumas: Mr. Chairman, just one short question. How does this read in the Provinces, normally - this particular sub-section? Roughly the same, apart from the age?

Mr. Legal Adviser: I think this is a question of the moving finger writing and then moves on. It seemed to the people who were drafted in this - not just the draftsman - I mean people considering it - that there was a case to be made out for a husband, for a grandparent, because a parent and his children might visit and a boy of eighteen or nineteen might want a glass of wine. We didn't think in terms of aunts and uncles because then you start moving up to a point along which you must draw a line. Do you deal with first cousins and second cousins? We thought that by moving from parent to include grandparent or legal guardian, you would bring in a number of cases within the normal area of social entertainment where, during normal social entertainment or intercourse, you would try and avoid technical breaches of the law. If we weren't liberal enough to suit the Members on my right, we appear to have been far too liberal for the Honourable Member on my left. What we were doing was trying to delicately move down the middle path.

Mr. Chamberlist: Mr. Chairman, I think that Mr. Legal Adviser has seen the point and I'm sure he will make some effort to amend that so it doesn't become so distasteful to anybody that's reading it.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Mr. Chairman, before there are any changes made I think I would like to reserve my opinion on that until these briefs have been submitted.

Mr. Chamberlist: Councillor McKinnon, I will resume the Chair.  
Councillor McKinnon.

Mr. McKinnon: Mr. Chairman, I was wondering what a sacramental purpose was? I know that Dr. Timothy Leary is now trying to escape prosecution in the United States because he says that giving LSD to his disciples is part of a sacramental purpose.

Mr. Legal Adviser: Well, I think this is a matter that should be left to the courts, but there are religions where in communion wine is given, and I think there are ceremonies in other religions where, when a boy reaches a certain stage of maturity, he partakes of a feast and wine, and the giving of wine to boys under twenty-one. At the age of thirteen is Bar Mitzvah, I think, is a common circumstance and I had not heard that any Bar Mitzvah ceremony was performed here at which that was not done merely because there was no permission granted by the Liquor Ordinance to allow it to happen.

Mr. Chairman: Any further discussions on this particular point? From the Chair, I would point out that there are other ethnic drinking patterns, such as on St. Patrick's Day. (Reads section 29(3) of Bill No. 28.)

Mr. Dumas: Question. By any licenced premises, do you mean a dining-room that serves wine and beer, also?

Mr. Legal Adviser: If the Honourable Member would read the next subsection it says that, "A person under the age of eighteen years may enter a licensed restaurant, dining-room, train, ship, aircraft or premises in respect of which a Special Occasion Licence

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has been issued."

Mr. Chairman: Take the Chair back a moment please, Councillor McKinnon.

Mr. McKinnon: Yes.

Mr. Chamberlist: Mr. Chairman, I have to maintain in this debate because licenced premises; the interpretation of licenced premises is something that must be given a close look at because the interpretation says licenced premises means premises in respect of which a licence has been granted and includes any building or other place appertaining to such premises. Now, if he happens to be in the outside toilet of a lodge, which has outside toilets, you see, and they have a licence there, then he is on a licenced premises. This is just one, perhaps a ridiculous way of looking at it, but this is how this reads. Now, the hallway of a hotel - the lobby of a hotel is licenced premises. Now, this would prevent a young person from being in the lobby of a hotel because it includes any building or other place appertaining to such premises. I wonder if Mr. Legal Adviser can remark on my comment on this.

Mr. Legal Adviser: Well, it was our understanding at the time the section was drafted that the licence would be issued in respect of a hotel, in respect of a given area which would be licenced, and that it would be unlawful to sell liquor in any part of the hotel except that licenced premises, and under the normal rules, with which the Members are familiar now from the debate on the Hotels and Tourist Establishments Ordinance, as well as the Liquor Ordinance, is intended to have separate toilets and facilities attached to each licenced premises, that is independent of the hotel proper. So, it had not occurred to us that this technical block might arise that a person on his way from one innocent part of the premises to another might have to pass through a licenced premises. There's no question but that if this is technically possible, we would attempt to remove such an anomaly from this Bill, and if any Honourable Member is aware of any possible anomaly, we will be only too happy to introduce amendments to take care of this point.

Mr. Chamberlist: Thank you. I'll resume the Chair. Any further discussion on section 29(3). (Reads section 29(4).) Any questions? (Reads section 29(5).) Any questions? From the Chair, I won't go over these at this stage because there'll be other comments I can make at a later time. (Reads section 29(6), 30(1) and (2).) Will you take the Chair a moment, Councillor McKinnon.

Mr. McKinnon: Yes.

Mr. Chamberlist: Mr. Chairman, why are there two sections such as this 30(1) and 30(2) when a licenced premises surely is a public place, and a liquor store is a public place? Why have subsection (2) which says no person shall be in an intoxicated condition in a public place? Is there a difference there?

Mr. Legal Adviser: Mr. Chairman, there is quite a difference. Section 30(1) says no person shall be in an intoxicated condition in a liquor store or a licenced premises. It's intended that this subsection stands on it's own because this is the area primarily over which the government or the Liquor Control Board, on it's behalf, wishes to have control. This is the primary area. Now, subsection (2) which reads no person shall be in an intoxicated condition in a public place is inserted with a certain amount of reluctance because this is an area over which the Liquor Control

Board, as a board attempting to control morals, does not primarily wish to have detailed control. It is felt that doings of a person and his conduct and moral behaviour in a public place is and should be governed by the Criminal Code in force here, which is the Criminal Code of Canada, but this section does appear in the existing Liquor Control Ordinance presently in force, and if the section is withdrawn in toto, then the position arises that we have a grey area, an area of doubt as to what to do with a person who is found in a public place in an intoxicated condition. Now, British Columbia moved in an experimental fashion into this area, and the Attorney-General instructed the police not to take prosecutions against people who were found intoxicated in a public place, and this experiment has continued to be an on-going one in British Columbia, and presently this area is being explored, and I understand that some action is being taken in both Saskatchewan and Manitoba in the same fields; that is, that the Liquor Control Boards there, which in effect of course indirectly mean the Provincial Government, is attempting to pull back from the moral control of people in public places, and only to retain the control of people and their conduct in regard to liquor in licenced premises or areas such as liquor stores, over which they have direct control. Now, the power of prosecution for a local offence here is a grey area, and the matter arises as to what would be the power of the police to deal with the person, to remove him for his own good, to some place, so this section is left unchanged, but to reflect the view of the draftsmen, the policy behind the Bill, the further subsection goes in which has not been read:- no prosecution in respect of an offence under subsection (2) shall be instituted except with the approval of the Commissioner. Now, this puts that particular offence in a special category of its own, and how this will be dealt with is a matter of public support, public opinion, and it is possible to change it. It is put in here so that the Members can meet this particular situation fair and square. Should a person's moral conduct be controlled in a liquor bill or should it be left to the Criminal Code of Canada? It's a fair issue.

Mr. Chairman: Mr. Chamberlist would like to ask a supplementary question.

Mr. Chamberlist: Mr. Chairman, in view of this would there not be the necessity to interpret what an intoxicated condition is, and also, now that Mr. Legal Adviser has mentioned it, subsection (3) had not been read, that where it says no prosecution in respect of an offence under subsection (2) shall be instituted except with the approval of the Commissioner, I don't understand this. You want this legislation to give powers to a board and then also give separate powers to the Commissioner in the same piece of legislation, because this is what is being asked in this part. You are asking - the legislation is asking that the Commissioner be able to appoint a board, but as to the moral aspect of being drunk in a public place, this is removed from the board and the powers are directed to the Commissioner. Now, this is a re-delegation of a delegation. It becomes a worse piece of legislation now because now you have brought in both the administrative board and the Commissioner as two separate units to the administration of this Ordinance. Now, I wonder if Mr. Legal Adviser would comment on that and also as I said an interpretation or who shall interpret an intoxicated condition.

Mr. Legal Adviser: Well, the courts have been able to interpret without very much difficulty in a similar section who or who is not in an intoxicated condition, but I have been properly frank in telling you the reason for this section, and it is a section on which we would like the guidance of the Members, because frankly it

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is experimental. It is intended to move into this area to remove potential clashes between those who are enforcing law and order and the ordinary citizen, and leave those areas to the Criminal Code. The subsection (3) makes it clear that it is not intended to be the normal thing to prosecute a person for being in an intoxicated condition. Normally, we would hope that a person would be picked up, brought to either a rehabilitation centre, if that was possible, to the hospital if it was necessary, or be put in the cells of the police barracks, but subsection (3) makes this clear, or attempts to make it clear. Subsection (2) means that no action would lie against those who picked up these intoxicated persons. This is frankly an open suggestion in this particular area, and it's purely for the Members - this particular policy is not pushed very strongly. It's a suggestion and it is in the Bill, and I have been absolutely frank in giving you the background reasons for this whole section and how it came to be drafted, and I hope the Honourable Members will help us in this rather than think that we're trying to be obstructive or secretive about it, but the power of prosecution means that the prosecution would go on but it would need the approval of the Commissioner, so I think it would be much more proper that the Commissioner should give his approval rather than the Board. It's not a re-delegation.

Mr. Chairman: Councillor Livesey.

Mr. Livesey: Yes, I'd like to address this question to the Legal Adviser, Mr. Chairman. In view of the Right Honourable Prime Minister's decision to separate in law the question of moral issues and criminal issues, is intoxication per se criminal or is it moral?

Mr. Legal Adviser: Well, if you ask me the direct question, there is no - the definition of a crime in Canada is something which is prohibited by the Criminal Code of Canada. There is no offence of being intoxicated simpliciter, just intoxicated in the Criminal Code. You must do something positive. As one of the Honourable Members pointed out, you can walk around Picadilly Circus with a bottle of whisky in your hand and not be interfered with, but once you interfere with another person by causing a disturbance, by an assault, or an obstruction or any one of a series of things - if an intoxicated person does that they immediately offend against the Criminal Code of Canada, but our view was that if the Federal Government, who have been dealing with the question of intoxication, have seen fit to draft their offence in a certain manner tying it down, then let them continue to handle it as a crime, but, as I say, there's several views on this question.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Well, Mr. Chairman, by this particular section I can see the Commissioner is going to have a full-time job acting as a kind of a board to decide whether a fellow should be charged with this or charged with that or charged with something else, so he'll have to forego the normal habit of sleeping in the evenings, I believe, to attend to the matters that will come up if this would come into effect. I can see, Mr. Chairman, how futile it is to continually, because a man is just drunk, guiding him over to the bucket and fining him ten dollars or twenty dollars and letting him out again and the same thing occurs. It really isn't serving any useful purpose and I can understand this very clearly that this just plugs up the courts and serves no useful purpose. However, we could say that it's a man's right to get drunk without saying whether it is immoral or whether it is illegal but you do get a situation where a person is drunk that he may bother his

neighbour. In other words, a drunken man has rights; the person that is not, also has rights. Now, it appears to me that when people have complaints with their neighbours on different matters, perhaps small matters, they make a complaint to the police and the police will say very well, I can't do anything unless you will make a charge. So, my question would be to the Legal Adviser, Mr. Chairman, is a person that is being offended against wants to get rid of this person, that he has to make a charge before anything can be done? In other words, the onus of responsibility is going to be on the person that is being offended to stop this type of - it may be harassment - it may be a multitude of things - where does that fit in, Mr. Chairman?

Mr. Legal Adviser: Mr. Chairman, so far as the Criminal Code of Canada is concerned, if a person is intoxicated and they cause a disturbance, commit an assault, or do any one of a series of things which are listed out in the particular section, then he has committed a criminal offence, and it's proper for the police to lay an information charging that he committed an offence against the Criminal Code of Canada. It's not necessary for a private individual to lay a charge, and these charges are commonly laid by the police, but this is a different thing to the offence of being in an intoxicated condition. There is no offence in the Criminal Code of being in an intoxicated condition full stop. That doesn't exist.

Mr. Chamberlist: Perhaps, Mr. Chairman, I could help the Honourable Member from Dawson by letting him know that in the Territorial Magistrate's Court what occurs is that a person is charged as being intoxicated contrary to sections so and so of the Liquor Ordinance, and they are charged with being intoxicated. They are not charged under the Criminal Code, but are just dealt with under the Criminal Code section that deals with summary convictions. I mean this is about - it is the procedure that matters here. I'll resume the Chair at this time and we will continue to section 32.

Mr. McKinnon: Mr. Chairman, before we do this section, I wonder if I could ask a question? This is a fairly well delineated system of responsibility in the Provinces, Mr. Chairman, where the Attorney-General of the Province who has contracted the services of the Royal Canadian Mounted Police goes to the inspector and says now, the Legislative Body have decided in their wisdom that the law should be interpreted in this manner under this section. Now, what is the relationship of our government with the inspector of the R.C.M.P. as to the interpretation of our Ordinances?

Mr. Legal Adviser: The power of prosecution in the Territory rests in the hands of the Attorney-General of Canada, who is the Attorney-General of the Government of Canada and who by law has that power. Exactly who would have the power in a local prosecution under a local ordinance, I would not like to say without detailed research into the subject. Possibly in order to save detailed research into the subject, it is necessary to pass subsection (3) which makes it clear that at least in this offence the prosecution may not be instituted without the approval of the Commissioner.

Mr. McKinnon: Mr. Chairman, I take it that Mr. Legal Adviser feels certain that this would suffice as to the interpretation of this Ordinance?

Mr. Legal Adviser: Nothing is certain in life except death. It is my opinion, for what it is worth, that this will make sure that prosecutions under this section must first have the approval of the Commissioner before they can go ahead.



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Mr. Chairman: Any further comment? Councillor Livesey.

Mr. Livesey: My interpretation of the law, and I think the interpretation of the origin of law, is a deterrent against crime, or deterrent against doing that which society does not allow. Is what I see before me, Mr. Chairman, at this particular point a give-up on behalf of the government by which they are saying, well, we can't beat them, so we'll join them. This is a most peculiar situation to me. I've taken this question up with certain learned gentlemen before, when it comes to the question of, I think, one person was charged in one year over sixty times. I asked a certain person, I said, well, isn't the law supposed to be enacted in order to attempt to prevent this sort of thing taking place, and the answer is yes. Well, I said if you provided that - if the laws provided that deterrent sixty times in one year, surely that is an obvious indication that the law is not doing what it is supposed to do, and the intent of the law is either side-tracked or ignored. Now, what I want to know about this is have the government, or whoever proposed this legislation, come to the conclusion that the law as a deterrent is no longer capable of taking a care of the problems of liquor. So, we now just cross it off the books, and say, well, there is no further problem. We shut our eyes to it and just hope it goes away. I'd like to direct this question to Mr. Legal Adviser to find out just what his thinking may be on this particular aspect of the legislation presently before us because it seems to me that unless a certain agreement takes place, and no prosecution can take place for a person who is intoxicated. Am I correct?

Mr. Chairman: I wonder if Mr. Legal Adviser could answer this question and then we will recess.

Mr. Legal Adviser: I'm not sure what the question is exactly.

Mr. Livesey: Well, the question relates to the intent of the law. The intent surely is a deterrent. When it is the intent to deter and it's not doing so. Now, it seems to me that someone who has created or drafted this legislation, or been asked to draft it, seems to be giving up on the job. They figure that the law is not doing what it was supposed to do, and it is no longer a deterrent so then we just cross it off and forget all about it. Now, surely there must be a deterrent or something that takes place which is considered criminal, and if it is a criminal offence - this is why I asked the first question. Is it criminal or moral? That is what I wanted to know in the first instance.

Mr. Legal Adviser: Well, I think I gave a short answer to that and said in my opinion as a lawyer, being intoxicated per se is not a criminal offence. Again, speaking as a lawyer, it is not intended that law, this or any other law, be primarily as a deterrent. This law, like the others which have come before the Council, are intended to guide and to control the people with whom they deal and not primarily as a deterrent. This is a very, very small percentage of the object of this or any other Ordinance.

Mr. Chairman: At this time Committee will recess for fifteen minutes.

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Mr. Chairman: I will now call Committee back to order. Is BILL NO. there anything further in Section 30? You will note that Section 28. 30 is listed and Section 31 is not shown. Would Mr. Clerk tell us where 31 finishes and is listed.

Mr. Clerk: Mr. Chairman, there is a misprint from where it says 32, should be 31 and the misprint carries on to Section 42 which is again numbered correctly.

Mr. Chairman: We will now read Section 31 which is marked now as 32 is 31 and it will continue so there will be one point ahead as we read the Sections. (Reads 31).

Mr. Dumas: Mr. Chairman, isn't that kind of broad? "No person selling or offering for sale or purchasing liquor from the Board shall either directly or indirectly offer to pay a commission, profit or remuneration or make a gift, to a member of the Public Service of the Yukon Territory". You mean a clerk down in Purchasing or in Printing or a delivery boy or something can't receive a gift from..

Mr. Legal Adviser: Well, I suppose gift may be broad, but the intention of the Section is to be as broad as possible because the particular evil with which one contends is a salesman or representative of a particular brand attempting to get his brand pushed by the Board to the exclusion of another brand. This is the intention of it. It may not happen to any great extent here because the sales are not big enough but it certainly is something with which provincial Boards have got to contend.

Mr. Chairman: Councillor McKinnon, will you take the Chair please?

Mr. Chamberlist: Mr. Chairman, here is another case of ridiculous legislation. Mr. Legal Adviser makes a suggestion that it is not what it intends to appear but once this goes through this is law. Now, it would appear to me that the Honourable Member from Whitehorse West has brought up a point that makes it ludicrous for the simple reason that I, as a hotel owner, have a visit from one of the thousand or so members of the Yukon Territorial Public Service, I have invited him to my house, I offer him a drink. I have given him a gift. I give him a pencil which is marked "the Normic Hotel". I have given him a gift. Now this is ludicrous. We can't have anything like that in here. It should say exactly what you mean. The idea is to stop any bribery for a specific purpose and it should spell it out, not place it in a position that every Public Servant in the Yukon Territory has to be careful who he is talking to. Do you sell liquor in your establishment. Sorry, I can't take that hamburger from you whether you want to buy it for me or not. This is what it means the way it is written out. Now it might be going to an extreme but it shouldn't be there because somebody might want to just make a little problem for somebody and say he has been receiving meals from so and so. An hotel keeper can't even invite somebody to dinner because he is going to give him a gift. This is ludicrous. It must not be in there.

Mr. Legal Adviser: I'm in the Council's hands. Possibly the addition of the words "make a gift" might be stretching it and if the Honourable Member were to offer me a dinner I certainly should accept it and if anybody wants to make a suggestion that this come out, this is it. It is the wishes of the Council. There is no positive policy on it. It's a question of trying to make it broad enough to cover the evil which is a possibility of giving a commission or a remuneration to a member of the Board or a person employed by the Board and they will be members of the Public Service. If anyone would like to, not necessarily at this

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Mr. Legal Adviser continues... moment, suggest an amendment, it certainly will receive every consideration.

Mr. Chamberlist: I will resume the Chair at this time.

Mr. Chamberlist resumes the Chair.

Mr. Chairman: (Reads Section 32, 33(1),(a),(b)).

Mr. Shaw: Mr. Chairman, I wonder why a crime committed by a corporation is five times worse than a crime committed by an individual?

Mr. Chairman: I haven't come to that Section yet, with respect.

Mr. Shaw: Well, I had to bring in one with the other, with respect, Mr. Chairman.

Mr. Chairman: Perhaps if Councillor Shaw will allow me, I will read the whole Section.

Mr. Shaw: I'd be delighted if you would, Mr. Chairman.

Mr. Chairman: Thank you. (Reads 33(2)(a),(b)). Any questions? Councillor Shaw?

Mr. Shaw: Mr. Chairman, I wonder why the offence is worse with two or three people involved than one person involved. I just wondered the reason for it.

Mr. Legal Adviser: I'm not sure what the reason is. It just appeared to be customary because it is thought that a Corporation is a bigger unit than individuals and can adopt a course of crime of defrauding the Board and should pay more.

Mr. Shaw: It would appear to me then that you could take an hotel that has a licence in this town and has formed a company which, of course is a corporation, and an individual that is also operating the same type of premises; he happens to have enough finances so that he does not have to get anyone else to help him finance the operation, that he should get off with a maximum of one thousand dollars but the other persons get nicked for the same offence up to five thousand dollars. I just wondered; we were talking about justice, it is a case of making fish of one and fowl of the other as far as I can see.

Mr. Dumas: Mr. Chairman, personally I agree with this distinction between an individual and a corporation. In a corporate entity it's hard to point at persons when you are talking about a corporate entity; in fact it can be a public corporation that owns amongst its chains an hotel which sells liquor in the Yukon Territory. In fact, as a matter of fact, one of the hotels up here is part of a chain; or a couple of them are in the Territory. And it also is more likely that a corporation could possibly benefit to a greater extent by contravening a regulation if they so desired than might an individual. A corporation also might be able to cover up their crime more so than an individual. I am in favour of this Section Mr. Chairman.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: I can't quite see the thinking Mr. Chairman. We talk about a Corporation. In a case such as this an offence is not necessarily committed by a Corporation. It has to be committed, it appears to me, except in exceptional cases, by an individual who may be working for that Corporation. I mean, surely to go

Mr. Shaw continues....

to the extreme, whether a man is shot to death by an individual or shot to death by five or six people, he's just as dead. It's just as wrong, no greater, no lesser. I just don't see the point. Like I stated, because a person is not able to finance his own hotel, so he gets two or three other people to go in with him and by necessity forms a company which is a corporation, then that person is liable to five times the amount of a fine as a person who has the finances to create his own establishment. Now, I would ask the Legal Adviser, is this not the intent of this particular Section?

Mr. Legal Adviser: The intent is to more heavily punish a Corporation but one knows in practice that a small Corporation is going to be treated in Court as if it were an individual. But a large truck load of illegal alcohol coming to or from somewhere without duty having been paid is more likely to be the work of a Corporation than an individual. We may come to the stage here; one hopes one would, when a brewery or a distillery might actually operate within the Territory. In that even the penalties for breaches of the licensing laws in the manufacture and distribution of alcohol without paying duties, for instance, must be very, very heavy because the profit to be made on the illegal distribution of alcohol is extremely high.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: I would ask the Legal Adviser this particular question. Would he not feel that perhaps in the instance which he has just quoted that there be some reference to a Corporation of some magnitude and a small Company so necessary to start up an hotel in the Yukon.

Mr. Legal Adviser: I agree it will be preferable if this could be done but I would be lost to define the difference between a big and a small Company. A Company may have an actual turn-over of a million dollars a year and there may be only two issued shares in the names of two individuals. It is not easy to define it and the Income Tax Act and the various Corporation Profit Tax Acts have consistently failed to do anything except to deal with the profits of a Company. They can never really define the magnitude of a Company.

Mr. Chairman: Councillor McKinnon, will you take the Chair please?

Mr. McKinnon takes the Chair.

Mr. Chamberlist: Mr. Chairman, let us for a moment revert back to Section 32 as it deals much with Section 33 as well. The words that are somewhat difficult to follow at this particular stage is the suggestion that every person who refuses or neglects to obey an order of the Board or who contravenes any provision of this Ordinance or the Regulations is guilty of an offence. Why? Does this mean that if the Board gives instructions and they do not apply to me; if I don't have anything to do with it I'm still guilty of an offence because I haven't complied with it. Now this again is bad legislation, and I say it's bad drafting. If it makes regulations, its regulations should be spelled out inasmuch as they affect those people who may or may not be committing an offence with reference to liquor; actually committing an offence. But to spread out in such a manner that every person who refuses or neglects to obey an order; why should I obey an order or a Board? This is why I am afraid of the powers that we would be giving by subordinate legislation. The powers to me that whatever the Board may say, you have to obey it. If you don't obey it you are guilty

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Mr. Chamberlist continues...  
of an offence but you can't say "why must I obey it?". You are automatically guilty of an offence just by the fact that you are not obeying it. You've no opportunity to question it? Before we go any further I wonder if Mr. Legal Adviser would not say whether this particular Section should not be clarified and adjusted to make it clear exactly what is intended.

Mr. Legal Adviser: Mr. Chairman, the only order of the Board that a person must obey is the lawful order of the Board and there will be no objection to making that clear if it was unclear in any way. But if a person neglects to obey a lawful order of the Board but by an order of the Board it must be an order of the Board; a specific order and that order must be proved in Court. It comes in the same category as to disobey the order of a town planning board of their inspector to demolish a building. It's an order, a solemn order. Now, when the Board has the power to close down an hotel, to order a person to appear, and so on; they are all orders which were issued on the signature of the Chairman or the joint signature of the Chairman and the Secretary. They are orders in the same manner as a Court Order is an order. But no power is given to this Board to enforce its own order in the same way as a Court for instance can send out the Sheriff or the Marshall to bring the person in to Court to be punished for contempt of Court. If a person disobeyed an order of the Board then he can be charged; if it is not a lawful order then he must be found not guilty. But it only applies to people over whom the Board has jurisdiction. If the Board has no jurisdiction in the area or no jurisdiction over the particular person, then he can quash the order by certiorari. He has plenty of legal means to see that he gets his rights. But to say that it's bad drafting is an exaggeration. This is an exactly similar section to hundreds of sections which appear throughout Canada for the same purpose in relation to other Boards. It is necessary to give the Board the power to enforce its order; but to enforce it not by its own officers but by applying to the Court. Then it becomes for the Court to decide it.

Mr. Chamberlist: Well, Mr. Chairman, surely Mr. Legal Adviser will agree that if this Board orders a person to appear before them as a witness, they are going to perform a judicial function the moment that that person becomes a witness. Now if that person becomes a witness in a hearing then surely he is entitled to the protection of the Court? Is this not so?

Mr. Legal Adviser: And he gets it because he is charged with failing to attend before the Board when he gets his notice. The charge comes before a Court. That's protection, what more does he want.

Mr. Chamberlist: But if he attends he is being dealt with judiciously, Mr. Chairman, in a quasi judicial manner. Doesn't it then take this Board out of the administrative realm into the legislative realm? And then is it not subject to appeal of the Court, any decision that this Board makes? This is the point I want to get at.

Mr. Legal Adviser: I don't see the point! The witness attends in obedience to the order. He has obeyed the order. He can't be judged. When he is before the Board he is treated like any other witnesses; he swears, takes an oath and gives his evidence; is examined, cross-examined, as the case might be and you carry on with your hearing.

Mr. Chamberlist: Mr. Chairman, Mr. Legal Adviser is not so naive not to recognize the point that I am making. I am saying, Mr. Chairman, that if the Board summons a person by an order to appear

Mr. Chamberlist continues...

before it and can question that person and that person therefore can be questioned by the Board and common law gives him the right to be represented by an agent or counsel, - a witness cannot be by agent or counsel? The Criminal Code makes it quite clear that any person can appear, any witness can appear by agent or counsel. He is an accused person because this is why the Board is sending for him and for no other reason. The Board sends for him because he is being accused of an offence. That is why they will make an order, for him to appear. The moment that an order has been made for him to appear he must appear. If he doesn't appear, according to this Section, he will be prosecuted for not complying with the orders of the Board. If he does appear then he will be questioned by the Board as an accused person, accused of an alleged offence. Then he is entitled to counsel and he is entitled for somebody to appear as his agent. Now, if he is entitled to those things then the Board is sitting as a quasi judicial Board and therefore has the right to appear before the Courts on appeal. How would Mr. Legal Adviser overcome that point?

Mr. Legal Adviser: This is a procedural matter. Any person can be summoned, whether he is an accused person before the Board or not. There're plenty of witnesses that will be asked, one hopes, by the Board. If they don't appear then they can be charged with failing to appear. But the Board will make more orders than this. They will make orders to people to close, say at midnight; to close at some other time; or with a persistent offender he is told to stop whatever course of conduct it is. If he insists on continuing to sell liquor in contravention of even the Fire Marshal's Order, then an order will be served on him; he will be told to stop it and if he disobeys he can be charged. This Board will be acting through an Inspectorate who will report back to the Board and the Board will issue instructions from time to time and the orders must be obeyed because this is the law. If they are not obeyed then the Board will have no power to do anything about it except to complain to the Court. The Courts will then enforce this Ordinance and then the person becomes an accused person. He has the right to appear by himself or by counsel or by agent and the normal law of the land will operate. This is currently the system whereby many of the Ordinances and Statute Books operate. The Labour Standards Ordinance which we discussed in great detail in the last House operates in the same way through the Labour Standards Officer; the Workmen's Compensation Ordinance works in exactly the same way; the Fire Marshal's Ordinance works in the same way, and so on Ordinance by Ordinance. There are inspectors, Boards and so on who can issue instructions to a person to do something. If he disobeys the instructions then it comes to the Court and the Court decides what the punishment should be if any punishment is to be issued at all. There is nothing unusual about this; nothing secret about it; it merely follows the form which the Honourable Member and the whole House has been familiar for many years past.

Mr. Chamberlist: May I continue, Mr. Chairman?

Mr. Chairman: Continue, Mr. Chamberlist.

Mr. Chamberlist: The remarks of Mr. Legal Adviser just made, Mr. Chairman, with reference to other Boards are of no concern in this particular matter because of the different surroundings, the commencement of this piece of legislation leaves out the Commissioner-In-Council and Mr. Legal Adviser is already aware of our feelings on this. But as far as I can see it, when the suggestion is that every person is guilty of an offence without the offences of which he might be guilty of being spelled out, who is going to regulate what those offences are? There is not one suggestion in here as to what is an actual offence that this

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Mr. Chamberlist continues...  
purported Board is dealing with; just simply that any person who refuses and neglects to obey an order is guilty of an offence, but what offence, what type of order? This is left absolutely wide open for a Board to say whatever they want to say and anything that anybody disapproves of, of what the Board has said, constitutes an offence. Now, I'll go on to deal with Section 33 which has already been raised with reference to the penalties imposed on corporations and individuals. I wonder if Mr. Legal Adviser will explain why these penalties that are in our local Ordinance are higher penalties than the Criminal Code provides for? Perhaps Mr. Legal Adviser will explain that?

Mr. Legal Adviser: It is a question of reaching out your hand when you are drafting an Ordinance and deciding what type of penalty you will impose and I could not say exactly what example we had before us when we thought of these penalties. But the high scale of the penalties is mainly due to the fact that all the normal day to day offences have been eliminated from the Bill so it is not necessary to provide for a special offence, as a rule \$25.00 for the first liquor offence and all these various things. You provide a one shot penalty and you hope that the Court will be reasonable in the interpretation of the Ordinance. This is the hope. The reason for the difference. I think I have already explained, is corporations are not in the habit of, but **it is** within the compass of big corporations to commit offences and gain large amounts of money. This being so, it would be proper to milk them of large sums by way of penalties.

Mr. Chamberlist: Well, Mr. Chairman, I can't understand how it is necessary for us to legislate against corporations in a manner which becomes discriminatory against them because they are a corporation. This, I think, is a point that my colleague from Dawson made. Why legislate against corporations over four or five times as much as you would legislate against an individual? If the intention is to have a heavy penalty for an infraction of the Ordinance, why not have that penalty the same so that it applies to everybody. It is quite often that there are many corporations that are husband and wife teams who incorporate because of tax reasons or incorporate because of the risk attached to the particular type of business they are in. This doesn't make them any more wealthy just because they are a corporation than the private owner of a hotel. I know corporations that own small lodges on the Highway. They may have four or five units in. Their net worth might be \$25,000.00 and I know corporations whose net worth might be \$1,000,000.00 and I know individuals whose net worth might be \$1,000,000.00. So you become discriminatory inasmuch as you say - simply because you have taken advantage of the Companies Ordinance within the Territory and incorporated your affairs. Sometimes some parents do that to make certain that their children are protected on Death Duty matters and things like that. You are just going **along** in this legislation, Mr. Chairman, Mr. Legal Adviser, you are going along on the basis - well corporations can sometimes do things that are very bad and they make a lot of money for themselves; so well, put in a clause that will take care of the bad guys as well as the good guys. This is the **type** of thing that it seems this legislation is speaking about now and it is discriminatory in itself; it shouldn't be and I say again that I know that the Police and the Court don't like the idea of having a minimum fine or a minimum penalty placed in a penalty clause but when a maximum penalty like these penalties in here - certainly somebody might appear not before a Magistrate or a Judge who, being legally trained, is able to examine the circumstances under which a person is being charged but might appear before a lay magistrate, a J.P. whose concern is not perhaps for the strict letter of the law and also is unable

Mr. Chamberlist continues...  
to understand what is meant by jurisprudence. He is unable to understand so consequently he doesn't use that which he should be using and he says "well, I can hit you for \$3,000.00 bail". So he hits for \$3,000.00. Now, the law permits him to do this. The law says that he can fine up to \$3,000.00 and you couldn't even appeal against that for the simple reason the law says it is this. You can't appeal the law on the basis of 'it is excessive', because it cannot be excessive if we grant - a person can be penalized \$3,000.00. I think generally we should say that where the Criminal Code makes provision for certain sentences and certain fines and maximums, why do we have to in local legislation go above **what the Criminal Code through practice** in Canada has already incorporated in the Statutes, why extend it?

Mr. Legal Adviser: Mr. Chairman, penalties under the Criminal Code vary from trivial penalties to debt, and summary conviction - they are so very tremendously varied in the fines involved and they do deal differently with corporations and individuals. There are two points one must remember; one is that a corporation cannot be put in prison; officers can but the corporation itself cannot and very often the corporation commits the offence. **The** second thing is that there is no minimum fine anywhere in this Ordinance and this was the express wish of the Commissioner who does not agree with the principle any more than the Honourable Member does of having a minimum fine controlling an offence in Court where this is possible and it can be avoided **in this** and it has been taken out of the whole Ordinance. So that when a corporation comes up it could be fined \$5.00. All that is done here is to give a discretion to the Magistrate if he wishes to accept this discretion to increase the fine on a corporation beyond what he could have done if it was an individual, no more. It hasn't said you must fine a corporation more; it hasn't said you should fine a corporation more; it just said the maximum for an individual is a thousand dollars for one offence and five thousand dollars for a corporation. Beyond this there is no more and **as far as** the size of the fine is concerned, whatever the Council wishes the Council may have.

Mr. Chairman: Anything further, gentlemen? Mr. Livesey.

Mr. Livesey: Mr. Chairman, under what section is the Board set up as a Court of Record?

Mr. Legal Adviser: Without a quick look through the Ordinance I couldn't say but my recollection was, making an attempt to import the terms of the Public Inquiries Ordinance somewhere in it to hold them under procedure and how they must try their cases. Whether it actually got in or not I could not say without reading it through but that was the intention starting out through all these Bills; to give them the powers of a Commission or Inquiry, a Board of Inquiry when they were actually holding a Court or a quasi Court and if the Board of Inquiry Ordinance were accepted this would be a wise set of provisions.

Mr. Chamberlist: Mr. Chairman, the remarks of Mr. Legal Adviser just a few minutes ago to me appear to conflict with what he has already said. He said that the Public Inquiries Ordinance would provide for this Board to be set up as a Court or Quasi Court. Now this is what I heard - well if it is being a Quasi Court surely it must be quasi judicial? Well, Mr. Legal Adviser has intimated 'yes'. Well if that is the case why is Mr. Legal Adviser continually saying that this will be an administrative body, when he says now in fact that it will be a quasi judicial court.

Mr. Legal Adviser: The main intention of this Ordinance is to create



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Mr. Legal Adviser continues....

a Board which will have a dual effect and will not necessarily utilize both functions at the same time. One function of the Board is to be a body which controls and supplies the purchase and distribution of liquor; to make rules and regulations or at least, depending on any amendments that come through the Ordinance, advise the Commissioner on how to make regulations or what regulations should be made. It should advance the standard of the establishment in which liquor is sold and to generally operate the Ordinance not too unlike the way a government department would operate; its second major function is to act as a quasi judicial body, to hear applications for licences, to determine what the standard should be that an applicant must bring forth; to hear any complaints which may be made against the licensee or their operation and all these second functions should be determined by the Board, acting in a quasi judicial manner, independent on influence from the Commissioner, the government or even this Council. And when acting in this capacity, they must ensure absolute fairness to any person against whom a complaint is made and they must deal in a detached manner with any complaint. You have two general areas of operation by the Board; one is the operational side and the other is the quasi judicial side and in the quasi judicial side one would hope that it would aim to emanate the standard of the High Court Judge in their dealings with the public.

Mr. Chamberlist: Mr. Chairman, just to follow up this conflict that I feel has been made now for the last few days. Is Mr. Legal Adviser now suggesting that one of the functions of this Board will be that of a quasi judicial court. If this is the case, isn't it so that any ruling of a quasi judicial court is subject to review by the Courts of the land, isn't this correct?

Mr. Legal Adviser: Yes it is automatically subject to review by the Courts of the land, not necessarily now by way of appeal as if it were a Court like a Magistrate's Court but it is subject to review; in other words by order of the Territorial Court, or on a refusal by the Territorial Judge to issue such an order by the Court of Appeal for the Yukon Territory which sits in British Columbia. They would be bound to produce their documents, give the reason for the decision if necessary and they are subject to review and by prerogative writ or in any other manner by which an appeal would lie by the common law acting in this capacity. In the capacity as a regulatory body, operating the buying and selling and distribution of liquor, then they are not subject to review by the Courts and it is the intention that this Board will have these two functions; quasi judicial on the one hand and administrative on the other. There is no contradiction in this; it is the same Board but in one way it sits on a Monday and the other sits on a Wednesday.

Mr. Chamberlist: Mr. Chairman, Mr. Legal Adviser has now separated the functions of this particular type of Board. Now I take it that he also said that one of the administrative functions will be the purchase and selling of liquor. Mr. Legal Adviser affirms this by nodding his head. All right now up to this time now, under our present liquor administration, would Mr. Legal Adviser be able to show where the power to purchase or sell liquor has been given to the Government of the Yukon Territory?

Mr. Legal Adviser: If necessary, yes. It's in the Liquor Ordinance. But don't ask me at seventeen minutes past four to produce a Section by eighteen minutes past four; but it is in the Liquor Ordinance and it is done perfectly lawfully. This function is presently performed by what one might term the Government, which is the

Mr. Legal Adviser continues...  
Commissioner, the Council, and it operates in practise through the functions of the Director of Liquor Control.

Mr. Chamberlist: Without going into the detail, Mr. Chairman, I wonder if perhaps Mr. Legal Adviser can prepare some advice to Council as to where that power came from and who has the power to do that?

Mr. Legal Adviser: He will do his best, Mr. Chairman.

Mr. Chairman: Councillor Livesey.

Mr. Livesey: One thing that baffles me Mr. Chairman is how we can talk about quasi judicial bodies and Courts of Record if it cannot be pointed out in the Ordinance we are discussing just precisely where this authority exists and is spelled out or written out; if we don't know where it is, what are we talking about? That's what I want to know. And my second question is, is it buried in sub-section 3 of Section 3 of the Ordinance under Yukon Liquor Control Board, and if it is, then I would suggest Mr. Chairman that this is a most peculiar way of discussing a power that is not described. Now surely the law that which we are talking about is that which is written and if it is written it can be described. If it can't be described we shouldn't be discussing it and that is the position I am in. I want to know where does it state in this whole Ordinance that this Board shall have the powers of a Court of Record?

Mr. Chairman: It is nineteen minutes after four that he asked that question.

Mr. Livesey: This is a different question.

Mr. Chamberlist: This is the same question as yesterday.

Mr. Legal Adviser: This is a different question; it is very difficult for me to try to look through two Ordinances at the same time, but to answer the first question, it is in Section 5 of the Liquor Control Ordinance if the Member would care to look it up. That's the first question. In relation to the second question I would have to examine the Ordinance and check it back but this power is given. The power that is given is at its discretion, to grant at its absolute discretion, to grant licences or refuse licences. This power is given to the Board. The Board is set up under Section 3. Its general power to grant licences is under sub-section (d) of Section 8. I may refer to sub-section (a) but that is only to buy and import. Is the Honourable Member referring to the selling power of this Board or the licencing power? Well, the buying and selling power is Section 8, sub-paragraph (a), or paragraph (a). The licencing power is paragraph (d). The general power of prescribing the types of licence and the qualifications and procedure necessary are in paragraph (1) of Section 9. The types of licence which may be issued; the Members have already discussed, it's at Section 18. The terms and conditions which may be imposed in the licences is Section 19. The prohibition against selling except in the licence is sub-section 2 of Section 19.

Mr. Chairman: Are we ready for the question before we continue?

Mr. Livesey: I'm still not satisfied Mr. Chairman. This body has been set up as a Court of Record.

Mr. Legal Adviser: I never said it was set up as a Court of Record. And it wasn't the intention to set it up as a Court of Record. A Court of Record is a very special thing. One might occasionally give the power to a Court of Record certain bodies but without procedure similar to the Public Inquiries Bill one would not make this in any way a Court of Record or give it any of the powers of a

Mr. Legal Adviser continues....  
Court of Record. It will be improper to give it the powers of a Court of Record unless similar powers have been given to other Boards and bodies of a similar type and a code of procedure begun to be instituted within the Territory.

Mr. Chairman: Any further questions?

Mr. Livesey: Well, Mr. Chairman, if it is a quasi judicial body then the quasi judicial powers should surely be spelled out?

Mr. Legal Adviser: Well, that may well be that is a matter for the decision of the Council.

Mr. Chamberlist: Mr. Chairman, of course Mr. Legal Adviser is well aware that it is recognized that as a quasi judicial Board, its powers must be spelled out; otherwise it ceases to properly function unless its duties are spelled out. There is no doubt in my mind about that one.

Mr. Legal Adviser: I'm not so sure about how much is supposed to be spelled out; it is a matter of a difference of opinion. I agree that there is a case to be made for a certain amount of spelling out but too great a detail in spelling out would only block up the hearings. When a Board is dealing for a suspension of a licence, it says that the Board may have to hold a new hearing. Now that hearing must be subject to the finals which are judicially considered and judicially laid out. It must be fair and the exact same type of hearing as is heard by Boards of Inquiry into the conduct of individuals such as doctors, dentists and so on, Labour Boards, Boards of Arbitration and so on. The rules are known and the rules are easy to list out but not necessarily in detailed legislation anymore than the details of how a Judge must be fair can be contained in legislation. But if the Members want to suggest some amendments this is a matter for them. It depends on how far we go. It's much easier to control a Board through the Courts if it's not spelled out; if it's left to the general control of the Court as to what consists of fairness.

Mr. Chamberlist: Mr. Chairman, the existing legislation on Liquor spells out the duties of the Board that is convened by the Commissioner. There is no one who can argue that particular point. And not only that; it has to have form within the sphere of section that spells out what the Board must do and how it is to go about having its hearing. In fact the Court has already ruled that that type of Board performs a quasi judicial function so there is no doubt about it at all that what we have in the legislation now spells out the duties of the particular Board of this nature. Why can't we have it in a new piece of legislation? Why should we give this power to a subordinate body to propose, to legislate the very things that we should be legislating ourselves. Every time these things come up we keep on going back to the same thing over and over again; that we've got to have that. And we've just got to have it! We can't operate without it.

Mr. Chairman: Section 34, sub-section 1 (Reads Sec. 34(1)(a),(b), (2); 35)).

Mr. Chamberlist: Question. I wonder if Mr. Legal Adviser can say why that should be prima facie evidence, that a person is party to an offence.

Mr. Legal Adviser: It is artificial, Mr. Chairman; it's quite artificial. It happens to be the custom in this type of legislation and has been for three generations. A barman serves a drink to a person who, we'll say is under twenty-one, and he is charged.

Mr. Legal Adviser continues...

Then in court, he is only a barman, he's got no money. The correct person to be charged is the owner of the premises. He should be charged. This is an artificial conception but it's one which exists. The employer is guilty of an offence committed by the employee when it's a technical breach. The same thing occurs with restaurants and every form of this form of legislation where improper food is served in unsanitary conditions. The employee may be charged; he may be guilty but the person who owns the premises, the employer; he is given what is termed the carious liability for the acts of his employee; it's artificial but it exists.

Mr. Chamberlist: I don't care if this has been like this for ten generations; this is the same thing again. It exists. We know it's bad law; we know it's artificial but it exists so we will have to continue it. What an attitude to adopt in this particular thing! The employer, the man that owns the hotel, he may be in Bermuda and an employee, he commits an offence so prima facie proof that the offence was committed and the employer is responsible and he's two thousand miles away. And you tell me that it's artificial, you know - its, oh, I'm at a loss for words when anything like that comes up!

Mr. Legal Adviser: Mr. Chairman, I didn't say because it's artificial; I said it is artificial and I can see that it is artificial but in case after case the employee is accused of a certain offence in relation to the operation of a premises and the employer is charged as well and the employer says "but I told him not to". This place might be bootlegging for twenty-four hours a day. There might be thousands of cases of booze in the back and then the employer says "I told him not to put any booze in the back, Did he do that; oh isn't he bad". And the employee gets fined \$5.00 and there is no proof whatsoever that the owner had anything to do with it. This is an artificial method of getting at the person who, one must conceive knows that the offence takes place, or if he didn't, should have known about it.

Mr. Chamberlist: This comes back to the adage - let one innocent man - rather let one guilty man go free as long as we can get ten. This is the attitude that is adopted now in this. I've given you an example. The owner is no way near the premises. Now he doesn't know that a bartender is bootlegging, to take your particular instance. He doesn't know anything about it at all. He can't know because he is so many miles away. He might be incarcerated in gaol, in the penitentiary for some other reason. He doesn't know anything at all about this so he will automatically be subject to a penalty and they will give him another six months to run concurrent with what he is already doing notwithstanding the fact that he doesn't know anything about it. You darn right it's artificial and we shouldn't allow legislation of this description to be in our books. And we shouldn't condone legislation that's artificial. We should provide for legislation which will convict the guilty, not place the innocent in the position of being found guilty for something that he knows nothing about.

Mr. Legal Adviser: With respect, Mr. Chairman, I couldn't make any change in this. This is a necessary piece of legislation; I'm sorry about it.

Mr. Chairman: (Reads Section 36).

Mr. Chamberlist: Question. This is another thing that comes in - an example was given the other day. You go and give one of your

Mr. Chamberlist continues....  
friends a bottle of liquor because he's got a party going on; you give him liquor out of your own stock; you're not selling it to him. You're giving it to him. I commit an offence every year by making gifts of bottles to different people. Who doesn't do this? Perhaps Mr. Legal Adviser doesn't give any of his liquor away. I don't know but I do this; I think all of us do this. We give somebody a gift; we give them a bottle of liquor. We can be fined for doing this. We can go to gaol for six months for doing this. We can get fined \$3,000.00 for doing this. Now, how can we allow this type of legislation to be in here. I don't think we should. I think we should spell out exactly what we mean and what we intend this legislation to be. This has no intention, surely, that this legislature should place itself in the position of submitting others to prison for offences that we now commit ourselves every other day and we shouldn't even think of allowing a piece of legislation like this to go forward.

Mr. Legal Adviser: Mr. Chairman, this is a technical section. It is there to make it easy to draft an information. When a person is found with unlawful liquor in their possession then it is harsh to ask the policeman to say whether that is Teacher's Scotch or whether it is Rye or whether it is water and rum. It is merely that you state in the information that the person is in possession of alcohol within the meaning of the Ordinance, and then people will know by smell or taste or analysis that it is without stating the brand or kind or the price or the consideration. It's just to make the drafting of an information a little bit less technical and to avoid the position where by misstating whether it is rum or whiskey a person who is otherwise guilty will be able to evade the punishment. This is a technical section; it says it's sufficient to state the sale or keeping for sale etc. without stating the name or kind of liquor on the information for summons. That's all it is.

Mr. Chamberlist: Mr. Chairman, Mr. Legal Adviser keeps saying why certain sections are in there but he doesn't say what can be done under the interpretation of the word 'sale'. Now this is the thing that worries me because if as Mr. Legal Adviser has already put it in answer to my question I put forward earlier today, that sale includes person and corporation. Then anybody who supplies a bottle is guilty of an offence. I don't care whether the police say this is Scotch or Rye or whatever it is. He's supplying a bottle. I'm supplying a bottle to my neighbour; I'm guilty of an offence. If I changed with a friend of mine; I gave him a bottle of Rye for his bottle of Scotch; I committed an offence; I've bartered and I'm liable to six months in the bucket or three thousand dollars. These are the things that should not be in there; if they don't mean anything they should not be in there but if they do mean something then I do not see why good citizens, good neighbours should be placed in a position of jeopardy and this is exactly what is happening. It is bad legislation. We must spell out exactly what we mean and what is not included in there. I know the purpose for which the Administration wants this. Certainly it's a good purpose but these things that have been brought up to you show that they can have policemen who are trying to make a name for themselves; some of the younger ones still think they get their stripes quicker this way; and just come forward and will start prosecutions on that. Now I have often loaned somebody a bottle of liquor and I have had it paid back to me - the bottle of liquor has been paid back to me; two people have committed an offence. Now, surely Mr. Legal Adviser can look at this in a way to draw out cases of this description so that it shouldn't be there, otherwise

Mr. Chamberlist continues....  
it becomes a mockery, a laughing stock.

Mr. Legal Adviser: To get a present of liquor is not to have a sale. It's not a sale. So, what I suggest to the Honourable Member is to get a present of liquor, you can go to another man's house and get liquor. What this Section does is it creates no offence; it merely organizes a situation that when a policeman is bringing an information against somebody for committing an offence he can state in simple language what happened and not have to measure the amount of drink in the bottle. He will just say that the man is charged with unlawfully possessing alcoholic liquor contrary to the Ordinance, full stop and it will be as simple as that; rather than have to say the name, the brand and the type. It controls what goes into the information and not whether a crime has been committed. It has nothing to do with the Ordinance apart from that.

Mr. Chairman: (Reads 37 (1),(2)(a),(b)). Councillor Dumas.

Mr. Dumas: Mr. Chairman, sub-section (1) - you mean to tell me that if the prosecution goes into court and says I have here a statement from an analyst saying that this in fact is alcohol that that's all that's needed?

Mr. Legal Adviser: At that point that's all that's needed because it's prima facie evidence. If the accused said it's not a certificate well then that's the end of it. Then they've got to produce evidence but if the accused says nothing; does not deny that it's a certificate of an analyst; in other words he doesn't deny the truth of what's in the certificate and he doesn't deny that that person is an analyst then the Justice has it in front of him and he is entitled to take note of it. If the accused says he is not an analyst, he's something else, then that is an issue that has to be fought out. But it enables the Justice to read the certificate and find out what it is about. Sub-section two is merely a replica of what is in the Criminal Code with the addition of..... consent.

Mr. Chamberlist: Mr. Chairman, I wonder if Mr. Legal Adviser can just say how does one rebut a presumption.

Mr. Legal Adviser: You rebut a presumption by saying "I know that fellow and he's no more an analyst than I am". He's not an analyst, or you can produce an analyst certificate yourself and say that the contents of that certificate are wrong. You can query it, you can question it. But think of your time. You've got to have time; you've got to be given notice by the Police. They've got to say, here is a certificate and in a week's time I'm going to call that analyst or produce a certificate. You can do as you like about it. They are not going to take you by surprise.

Mr. Chairman: (Reads Section 38 (a),(b); 39(a),(b),(c),(d)).

Mr. Chamberlist: Question.

Mr. Chairman: Councillor Chamberlist.

Mr. Chamberlist: Mr. Legal Adviser, to put a posing question to you; if a person has a camper and with the camper he goes on a public campground. Now keep in mind this has been designated as a public campground. He sits outside his camper and he has a drink of beer. As you know, we have already referred to campers

BILL NO.  
28.

Mr. Chamberlist continues...  
and the land about it as being a place where you can drink. Now at the place around it in this hypothetical instance I have given you is on a public campground which has been declared a public campground. Now is he complying with the law that he may drink outside the camper or has he broken the law because he is drinking in a public place which a public campground is declared as?

Mr. Legal Adviser: Well, perhaps the Honourable Member could supplement his question by referring to any part of this Ordinance where it is an offence to drink in a public place.

Mr. Chamberlist: Perhaps this is a good question that I have missed. So this would mean then that one can walk down the street and drink from a bottle and it is not an offence.

Mr. Legal Adviser: As I conceive it Whitehorse might become Picadilly Circus.

Mr. Chamberlist: Actually I did refer to it as one open cocktail bar in the Yukon. This is my opening remark in this debate... but surmising that it was regulated - and I've given you an example. What I want to ascertain - it is because of that really the whole Ordinance would be defeated because if you can't drink in a public place; there's nothing to prevent you from drinking in a public place. You can drink anywhere so the Ordinance becomes superfluous to the needs..

Mr. Legal Adviser: There is no section to my knowledge that makes it an offence to drink in a public place and if a person sits outside in a campground on a bright summer evening cooking his trout or his grayling he can have a bottle of Chianti beside him and he can be happy and he will have committed no offence. The law doesn't say he must do this but the law says he may.

Mr. Chamberlist: Mr. Legal Adviser, I take it then that a person now will be able to walk out of a cocktail lounge with a glass of whiskey in his hand and sit outside on a bench outside the hotel like the good old days and just sip his drink while he is watching the world go by.

Mr. Legal Adviser: I think he would provided he did not disturb other people, and I think this is the philosophy of this Ordinance, of the Bill.

Mr. Chamberlist: I agree with that philosophy.

Mr. Chairman: (Reads Section 40 (1)).

Mr. Chamberlist: Would you read the second section Mr. Chairman.

Mr. Chairman: Is this a new section - oh, it's sub-section 2. (Reads sub-section 2 of Section 40).

Mr. Chamberlist: Mr. Chairman, yes, of course, everybody sees that the remarks made earlier by Mr. Legal Adviser were wrong. That in fact you can't make a gift to anybody. This makes it...

Mr. Legal Adviser: I never implied that you could, or never intended, shall we say, to imply that you can make a gift. The reason is because; not because a gift of a bottle of whiskey from the Honourable Member to me would be such a terrible thing to happen, if it was ever to happen, but because when illegal transactions take place one of the commonest excuses is 'somebody gave it to me'. It's the abuse of gifts that causes law to be narrowed down to try and eliminate this particular excuse. If this is the only excuse, 'I didn't break it, it broke in my hand'.

Mr. Chamberlist: Mr. Chairman, Mr. Legal Adviser, you're only talking about a class of people who will be making excuses to try and beat the law after having sold a bootleg bottle of liquor. But what about the innocent guy who gives his friend a bottle of booze. He gives his friend a bottle of liquor and he comes under the same category. He can be prosecuted in exactly the same way and a respectable citizen has got to go to Court and convince the Court that he didn't in fact sell this bottle for a profit; that in fact he did give it as a gift and that in fact he is different from the man who was there in Court a half hour before who actually was a bootlegger. But for the purpose of the charge the charge becomes the same. This is what I'm getting at.

Mr. Legal Adviser: I know, that is just one of these unfortunate instances. It just cannot be helped. In order to attempt to deal with bootlegging and illegal transfers, disposals and so on it is unfortunate that the innocent recipient of a gift from the Honourable Member would be caught if there was a raid and his excuse would serve him nought. This is because everyone who is caught in a raid gives this particular excuse so that throughout the provinces, no doubt in other places with equal reluctance to the Yukon, this type of restriction finds its way into legislation. It's harsh but there it is.

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

**MOTION .  
MR. SPEAKER  
RESUME  
CHAIR**

Mr. Shaw: I second the Motion.

Mr. Chairman: It has been moved by Councillor Dumas and seconded by Councillor Shaw that Mr. Speaker do now resume the Chair. Are we agreed?

All Agreed:

MOTION CARRIED

**MOTION  
CARRIED**

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

Mr. Chamberlist: Mr. Speaker, Committee was convened at 10:15 A.M. this morning. Bill No. 28 has been studied and I can report progress. It was moved by Councillor Dumas and seconded by Councillor Shaw that Mr. Speaker do now resume the Chair at 4:50 and Mr. Speaker resumed the Chair.

**CHAIRMAN OF  
COMMITTEE  
REPORT**

Mr. Speaker: The House has heard the report of the Chairman of Committees? Are we agreed.

All: Agreed.

Mr. Speaker: May I have your further pleasure.

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

**MOTION RE  
COMMITTEE  
ADJOURNED**

Mr. Chamberlist: I second the Motion, Mr. Speaker.

Mr. Speaker: You have heard the Motion. Are we agreed?

All: Agreed.

Mr. Speaker: I will declare the Motion carried. The House now stands adjourned until 10:00 A.M. tomorrow morning.

MOTION CARRIED

**MOTION  
CARRIED**



Mr. Speaker read the daily prayer and Council was back to order. All Councillors and Mr. Legal Adviser were present.

Mr. Speaker: I will now call Council to order. Is everything now in order Mr. Clerk?

Mr. Clerk: Yes Sir.

Mr. Speaker: I have for your attention the tabling of Sessional Papers 45, 46, 47 & 48. Are there any reports of Committee? Introduction of Bills? Notices of Motion or Resolution? Are there any Notices of Motion or Resolution?

Mr. Dumas: Mr. Speaker, I'd like to give Motion regarding Sessional Paper No. 45. Sessional Paper #45

Mr. Speaker: Would the Member please read the Motion in order that Notice may be given?

Mr. Dumas: Move that Sessional Paper No. 45 be moved into Committee.

Mr. Speaker: Are there any further Notices of Motion? Notices of Motion for the Production of Papers? Under Orders of the Day? All we have is Motions, Motion 9, which is already in Committee. I wonder Mr. Clerk if we could have the Commissioner for the question period? I will call a short recess.

RECESS

Mr. Speaker: I will now call Council to order. Are there any questions?

Mr. Taylor: Yes, Mr. Speaker, I wonder if Mr. Commissioner has yet heard anything in relation to the conference in Ottawa to be held in December?

Mr. Commissioner: Mr. Speaker, further inquiries were made from my office yesterday, but as yet we still have no reply on this particular matter.

Mr. Speaker: Are there any further questions?

Mr. Chamberlist: Mr. Speaker, I wonder if Mr. Commissioner can give a reply to my question to the reference to the purchasing of artefacts and the duties of the Municipal Inspector for the City of Whitehorse?

Mr. Commissioner: Mr. Speaker, I believe these were to come forward in the form of written answers and they haven't come to my desk yet, Mr. Speaker, but as soon as they do they will be brought forward.

Mr. Speaker: Are there any further questions?

Mr. McKinnon: Mr. Speaker, I'd like to direct a question to Mr. Commissioner. Two days ago, speaking before the Standing Committee, of the House of Commons, and Indian Affairs and Northern Development, the Honourable Minister of Indian Affairs, and Northern Development, Mr. Chretien announced a program where private companies doing business in the North would have to employ white, Natives and Metis who were residents in the North rather than bringing in outside personnel. Has the Administration any details of this program announced by the Minister?

Mr. Commissioner: Mr. Speaker, we do not have any details on this as announced by the Minister and I would be very happy to bring these details forward as soon as they are available. Just as a matter of reference, I think that Council will recollect that in the Anvil agreement between the Federal Government and the Anvil Mining Corporation reference was made to this particular hiring practice and may well be that this is, indeed, what has formed the basis for the policy announced by the Minister. However, I would be very pleased to have my office make inquiries and get this information available for Council.

Mr. Dumas: Mr. Speaker, supplementary to that, I wonder if the Commissioner can tell us what method is used to find out if in fact this practice is being carried on local jobs?

Mr. Commissioner: Mr. Speaker, I have no knowledge of what means or what test is used to check into this matter.

Mr. Chamberlist: Mr. Speaker, I wonder if Mr. Commissioner can say whether the Minister has indicated to him when he will be bringing forward a program for further autonomy for the council of the Yukon Territory?

Mr. Commissioner: Mr. Speaker, the last conversations in this matter were conducted in the presence of the Council and the Minister and myself and I have had no further definitive word from the Minister on this particular matter.

Mr. Dumas: Mr. Speaker, I have a question to the Honourable Member from Whitehorse East. I wonder if he can tell us anything about this matter and I wonder also if he can tell us anything about the constitutional conferences being held this month?

Mr. Chamberlist: Mr. Speaker, I would only be able to give an answer to that question after discussing the matter with the Commissioner.

Mr. Taylor: Mr. Speaker I wonder if Mr. Commissioner could advise me just when we can expect the Supplementary Estimates or is that information available as yet?

Mr. Commissioner: Mr. Speaker there was a meeting scheduled for nine o'clock this morning with Budget Programming Committee and unfortunately it had to be cancelled and I'm very hopeful that there will not be any more than one day's delay in bringing forth of the Supplementary Estimates.

Mr. Speaker: Are there any further questions?

Mrs. Gordon: Yes Mr. Speaker, I wonder if the Commissioner could indicate to the House the projective dates for Frontier Television in the other outlying areas besides that in Watson Lake?

Mr. Commissioner: Mr. Speaker, could I have the privilege of bringing this forward as a written answer?

Mr. Speaker: Are there any further questions? if not may we pass to Public Bills and Orders?

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

Mr. Dumas: I'll second the Motion.

Mr. Speaker: Moved by Honourable Member from Dawson and 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, Sessional Papers and Motions.

Is the House prepared for the question on the Motion? Are you agreed?  
I will declare the Motion carried and the Honourable Member for  
Watson Lake will please take the Chair in Committee.

MOTION  
CARRIED

Mr. Speaker leaves the Chair and Mr. Taylor takes the Chair.

Mr. Chairman: It is my understanding that you concluded your  
deliberations when last Committee sat at Section 41. Do I have  
it that we proceed with Section 42?

BILL #28

Mr. McKinnon: Have we the right numbering Mr. Clerk?

Mr. Clerk: Mr. Chairman, there will be a new page coming up.  
Section 31 was in fact missing so the numbering as printed is  
correct.

Mr. McKinnon: We have a missing Section?

Mr. Clerk: Right and I will have that for you very very shortly.

Mr. Chairman: Section 42, I take it 41 has been read? Section  
42(Reads Section 42)

Mr. Chamberlist: Mr. Chairman, with respect, Section 41 (2)  
was not read Section 41(1) was read.

Mr. Chairman: Thank you. (Reads Subsection 2 of Section 41 of  
Bill No. 41)

Mr. Chamberlist: Question. Mr. Chairman, I wonder if Mr. Legal  
Adviser could indicate where there would be proof of intended  
consumption.

Mr. Legal Adviser: If a policeman walks into a premises and finds  
a man with a glass half full in his hand it will depend on whether  
he is an optimist or a pessimist, whether he'll say it's half full  
or half empty, but there's a certain assumption to be drawn that  
the man standing with a half full glass has consumed half of the  
glass and intends to consume the remainder. Now this is proof,  
not conclusive proof and to save a question on the next Section,  
the same applies to evidence as used. The words are very, very  
carefully chosen to avoid using the word "conclusive proof" and  
they reflect a change in drafting action. We're not using the  
word "prima facie evidence" or we're "prima facie proof" we're  
using evidence and it's a matter for the magistrate to accept it  
or reject it. It's a matter for the defendant, in such a case, to  
object to it to get a ruling on it or to produce evidence on the  
contrary. It's not binding on the magistrate, he can use a  
discretion.

Mr. Chairman: Are we clear on 41? Have you anything on 42?  
One question from the Chair, Mr. Legal Adviser, is it normal in  
legislation to provide for such things as "purporting to be signed"?

Mr. Legal Adviser: It is quite normal. When a certificate is  
handed in there is a signature at the foot which may be adjacent  
to that of the Commissioner. That certificate on its face  
would be described using the word, "purporting". It's purporting  
to be signed by the Commissioner. Now in fact it is signed but  
purporting means it offers, it is an offer. It says this appears  
to be signed by the Commissioner. When a document is handed in  
with the Commissioner's signature on it that's evidence of the  
fact stated but it's not conclusive evidence. It's evidence of  
the fact that it was signed or sworn by the party, an affidavit  
handed into court purports to be signed and sworn by a party but  
a person can always stand up in the witness box and say I never  
swore that. It is not uncommon. It's very common when signatures

BILL # 28 for confession to criminal crime is initialed. A person says I never signed it, if I did my hand was forced or I was beaten into it. It purports to be signed by him so it's accepted by him at face value. A photograph accepted in evidence by a judge is a commonly acceptance on the same basis. If there's a dispute over a road accident and somebody took photographs of the position of the cars and to be helpful the judge says well I'll accept this on it's face value. You've two cars here and for the purpose of discussion until it's disproved we'll assume these are the two cars and this is the position of accident and then he turns to the police constable and says well if you see that, what do you see? What does this truly represent?

Mr. Chamberlist: Mr. Chairman, I wonder what matters in particular would a certificate of this nature apply to on, it would appear to me from this, that the court would simply accept a certificate relating to any matter as long as the certificate that shows a signature and a member of the Liquor Control Board. Now what matters in particular would this certificate apply to?

Mr. Legal Adviser: The commonest matter is a certificate saying that such and such person who was charged with selling liquor did not, in fact, have a licence. It might be a certificate of the hours and conditions of his licence. The accused person can say I have a licence but you've got to get a certain distance in a trial before you throw the other person on the defensive so that he's got to rebut, so you may have to prove necessary certificates or position of a place within the licencing law or that the fact that it is alcohol or it was sold by the Board or something like that. Now if it's contested, the person says that's not true then he almost immediately returns to the Crown and they've got to call the person who says, is that your signature, it is and so on.

Mr. Chamberlist: But surely, Mr. Chairman, the mere fact, the mere fact that this Section says that the production of a certificate is evidence of the fact. Does this leave any room for questioning by an accused person that these are not the facts? Does it leave room for that?

Mr. Legal Adviser: It leaves this open and this word is deliberately chosen to make it clear that it's evidence. It's some evidence and in a lot of Sections it says conclusive evidence and we have been very careful to make sure that the word "conclusive" or anything that would leave the magistrate to believe that the accused may not dispute this is removed from the Section.

Mr. Chairman: Section 43 (Reads Section 43 of Bill No. 28) Clear?

Mr. Livesey: Mr. Chairman, isn't this exceedingly powers of arrest? It seems to me that this could practically mean anything and that the peace officer has taken unto himself a position of both judge and jury when he makes the arrest. There doesn't seem to be any limitation and I would wonder if Mr. Legal Adviser could explain to the Committee why such broad powers are allowed?

Mr. Legal Adviser: Would it be convenient for me, Mr. Chairman, to deal with Section 43 and 44 at the same time. They are on a very similar point.

Mr. Chairman: Section 44 (Reads Section 44 of Bill No. 28) Clear?

Mr. Legal Adviser: Mr. Chairman, Section 43 and 44 are designed to fit together. The declared intent is to give whatever powers that are necessary to the police or a police officer to enforce this Ordinance but to stop at that point and to give him no more power than necessary and we have not followed Provincial legislation in this matter. We have attempted to follow the common law. It's a matter of common law and it's permitted under the Criminal Code that when a peace officer sees a person committing an offence, he's got to seize. He may arrest for a crime if a peace officer has reasonable grounds to believe that the person has committed an crime even though he doesn't see it he can also arrest but this power is not given in this Ordinance. We have only given the first type of power that is the power to arrest when he actually sees something take place in front of his eyes. Section 44 deals with the power of search and the general idea is that in order to search a vehicle or person in a vehicle or the land in the vicinity of a vehicle. A person who has reasonable grounds for believing something took place can search it. Then we move onto buildings, we then have to go to a justice and swear out the information, the peace officer must swear out the information that he believes on reasonable grounds that liquor is being unlawfully kept or had or for unlawful purpose. Only then with his warrant may he search a building. Now when he believes on reasonable grounds that an offence has been committed or is about to be committed he may enter a building but he may not enter a private dwelling without an order. Now this is an attempt to preserve the sanctity of the home. In carrying out these powers of search it's necessary to provide a penalty or an offence for any person who obstructs and Subsection 5 of this Section provides that when a woman is being searched only a woman officer or a woman employed for the purpose may search her. It's an intent, as I said, to repeat, to give the necessary power but to refrain very very carefully from giving too much power to an arresting or searching officer.

Mr. Dumas: Mr. Chairman, I have two questions. First of all, what are reasonable grounds and in fact, doesn't this allow a peace officer to harass somebody if they so wish and believe me it happens?

Mr. Legal Adviser: I'm not saying it doesn't happen. It has happened from time to time that officers have exceeded their authority but there have been cases fought as to what are reasonable grounds for several hundred years. Now fairly well settled as a result of a decided case, he must have reasonable grounds, meaning that he must have some form of evidence either admissible or inadmissible and he must believe it and he cannot use the power given to him for an oblique purpose. To put it another way, the main cases, both English cases that went into the House of Lords, were an arrest was made of a person. In one case a man who in the habit of selling old clothes was arrested on the charge of possessing property believed to have been stolen. Now in fact no power of arrest lay with the police on that charge without a warrant. When the man was brought in it was found that in fact, the clothes had been stolen but nevertheless when a person challenged the arrest on those grounds damages were given against the police and this case was upheld in the House of the Lords. On the second case a man was found at the back of a hospital walking away from the back entrance where the ambulances were kept and he had a sack of soap flakes on the crank of the bicycle and the policeman asked him for his name and address and he gave what was thought to be a false name and address. He asked him where he got the soap flakes and he said he got a present of them from an ambulance driver. He was arrested on a charge of possession of goods reasonably believed to be stolen and they were unable to prove that in fact, the soap flakes came from the hospital, ten yards away. The man was found not guilty and most unreasonably sued the police force and false imprisonment and got damages. Unfortunately the

the same police station in Liverpool that was involved in each case and the case went to the House of Lords and damages were given. The powers of arrest and reasonable grounds were carefully laid out in that. That case has been since followed the courts in Canada have laid down fairly well what are reasonable grounds. It's a judicial phrase that the police understand. Nobody is perfect and it's possible to pretend that you've got reasonable grounds but the officer is subject to cross examination in the box as to what his grounds were at the time. This is the maximum protection that can be given to these persons of these circumstances without stultifying the power of the police to make an arrest. The police must be protected from making an honest mistake.

Mr. Dumas: Well, Mr. Chairman, I think the reasonable grounds basis for this type of thing are too broad and I think that many of these cases never get into court but in fact a lot of harm and a lot of annoyance can be caused without ever going into court. My other question is, at one point in the recent Yukon history, and I'm referring now to Subsection 2, search warrants, in one case in recent Yukon and this is within the last four years there were in fact fifteen to twenty blank search warrants in effect throughout the Territory at any given time. Now what I would like to know, and Mr. Legal Adviser may need some time to find out if this is so, are there presently any blank warrants in effect in the Territory. I understand that these warrants were issued on the basis that they could be filled in at any time by a peace officer if he wanted to pull a raid so to speak.

Mr. Legal Adviser: To be frank with you, Mr. Chairman, I don't know and I have no means of finding out, but if such warrants exist, to retain them for future use as blank warrants is contrary to series of decisions of a Canadian Court and would be improper and it would be an abuse of justice to use such a warrant.

Mr. Dumas: Well, Mr. Chairman, I suggest that it's this body's duty to find out if there are any in existence and surely we have means of finding out what's going on in our Territory.

Mr. Legal Adviser: On a vague allegation like this, Mr. Chairman, we can't set up.....what are we to do on looking for blanks search warrants? Are we to search every person in the Territory? We just have not got the authority to deal with this.

Mr. Livesey: Mr. Chairman, I think what the Honourable Member is driving at is that peace officers carry search warrants with them in case they are needed.

Mr. Legal Adviser: This is an allegation which, on behalf of the police, I would resent having been made. It's an allegation, which in view of my remarks earlier, would be alleging that officers of the R.C.M.P. are commonly engaged in improper practice. I don't believe that they do carry blank search warrants. It would be improper for them to do so and they are aware that it's improper and I don't believe that they do.

Mr. Shaw: Mr. Chairman, this particular Section 43 has been in the old Ordinance for ten years that I've been aware of and one slight difference in which present section states that on reasonable grounds. I wonder, Mr. Chairman, on what reasonable grounds the reasonable grounds were omitted in the new one? I will direct that to the Legal Adviser, Mr. Chairman.

Mr. Legal Adviser: I'm sorry I was talking to the Commissioner. I missed the question, I'm sorry.

Mr. Shaw: The old Ordinance states.....it's almost the same with the exception of whom he may on reasonable grounds and on what reasonable grounds the reasonable grounds were omitted on the new one?

Mr. Legal Adviser: The word "reasonable grounds" appear throughout the Section.

Mr. Shaw: Mr. Chairman, I would bring to the attention of the Legal Adviser, Section 63 of the present Ordinance, page 722.

Mr. Legal Adviser: Section 22 ....63, Mr. Chairman, is a double Section. It gives the power without any grounds to arrest a person found committing an offence. It then goes on to give the additional power to arrest on reasonable grounds any person who is suspected of committing an offence. We have retained the first power, that is to arrest without warrant, a person who is found committing an offence and the second power has been dropped from the Ordinance. In other words, he cannot now arrest on reasonable grounds a person suspected of committing an offence and this, from the point of view expressed by the Honourable Members one would expect this to be a big improvement.

Mr. Shaw: Mr. Chairman, I would thank the Legal Adviser for the information. I do note now that we have suspects and finds which are a different thing.

Mr. Chamberlist: I wonder, Mr. Chairman, if Mr. Legal Adviser, can first say why the words, "reasonable grounds" have been used, where in the Sections of the Criminal Code in the Summary Conviction Section, it refers to "reasonable and probable grounds." Would Mr. Legal Adviser say why that particular word has been left out. If there any ulterior motive for it?

Mr. Legal Adviser: If it's a parallel Section I'd be prepared to put it in. I'm not sure that it is. There's no malice in this because this set of Sections here is very much milder than the set of Sections which appear in the existing Liquor Ordinance. The attempt has been made, an honest attempt, to try and limit the police power to the necessary area unlike the old Liquor Ordinance and some Provincial Ordinances, which just calmly hand over block of power to peace officers to effect searches and arrests on many grounds. The deliberate policy has been this, to limit this power because experience has shown that when there is a restrictive Liquor Act in a Province, it is commonly used as the excuse for searches and the excuse for arrest by over keen and over zealous officers.

Mr. Chamberlist: Mr. Chairman, reasonable grounds would include I suppose, the actions of one police officer telling another police officer that an alleged offence has been committed in a certain spot. Now he finds...he can sign an information that Constable B, on reasonable grounds lays in information. Now the reasonable grounds when it comes to questioning him was not he had anything to do with the actual investigation or that he does not know anything about the investigation. The reasonable grounds are the grounds that he has been told by another constable that an alleged offence has taken place so he becomes an informant for purposes of swearing out an information. Because of this particular reasoning, it would seem to me, that a peace officer who may arrest without warrant a person that he finds committing an offence against this Ordinance or regulation is the only thing that should apply through Section 44, that is that if he has....that if he finds a person committing an offence then he can do something but Section 44,

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is that if a person, a peace officer, who has reasonable grounds for believing may go ahead and obtain a warrant. There's a conflict to my way of thinking there. Also I would like to know why the necessity for allowing a constable to search a person without a warrant. We are interfering with the individual then, certainly if he thought, and I'm not quite sure if this is the right thing to do as well because policeman have been known in Yukon in years gone by when they used to be Fire Inspectors, policeman used to be able to do the fire inspecting in the Territory, used to go into somebody's home to have a look at his Yukon chimney just for the purpose of trying to find out something else but it gives him the in to the place. Now why do we have to allow a policeman to search a person because when he searches the person what's he supposed to be looking for under this...liquor? You mean he can't tell whether a guy is carrying a bottle of liquor on him without taking his pants and jacket off and with a woman without having her to disrobe and take her clothes off? You can't tell whether she's got a bottle? Where do you think she'll be hiding that? You know it seems to me that the reasoning behind it is all wrong. Why give a peace officer the right to go and search a person? By the same token a man can be in a bathing trunk but he can be searched. If they're looking for narcotics put it in a different thing but don't put it in a Liquor Ordinance because under this thing they're just trying to find a way and means of avoiding the rights of the individual. I would think that should be removed as far as the person is concerned, that no person should be subjected to a search without a warrant.

Mr. Legal Adviser: Mr. Chairman, I would ask the Member to be reasonable in this Section. The Section is very much less harsh and arbitrary than the Section it replaces in the old Ordinance. The only power of search that is given without a warrant of a person is a person who happens to be found in a vehicle or a boat. One assumes that a vehicle will normally be on a highway and the boat will be on the river. It's quite impossible to expect that the person would be put under surveillance until the officer can go and get a search warrant. If this power is not left there then the particular objection that some of the Members took to blank search warrants being in existence will be impossible to guard against. You must allow a police officer reasonably to do his job and reason means what an average person in the course of his business would take a decision upon, those facts. This is not unreasonable. Now anywhere else where he wants to search the person he's got to get a warrant.

Mr. McKinnon: Mr. Chairman, with all due respect yesterday I think that I asked a very reasonable question in this House. It had to do with the liaison between the legislative body in the Yukon and the R.C.M.P. and it was an embarrassing question and it was called a "six barrelled question" "six mark question", by the Honourable Legal Adviser. Mr. Chairman, the reason why it was embarrassing was because, unlike any other jurisdiction that I know of on the North American continent, there is no liaison in the Yukon and the Northwest Territories, no legislative liaison no liaison between the people and the constabulary. It's one of those sad areas where we're suffering very real growing pains and Mr. Chairman, it behoves this Council and I think it's a dangerous precedent and a sad practice where this Council gives legislative authority for the police to act in an almost carte blanche fashion when it comes to warrant and arrest and yet the elected Members at this table have no recourse through the Attorney General of the Yukon Territory because no such office exists and nobody knows who actually handles the Attorney General's duties of the Yukon Territory. Mr. Chairman, I say it's an area which is a difficult one to ascertain responsibility in, it's an area that I think is essential immediately to ascertain where the control of



police functions come from. Does it come as it does anywhere at all on the North American continent from the people or does it not? If it doesn't then it has to and it has to come almost immediately because it is that an important a function. Where the representatives of the people and the police are separated with no liasion between them, Mr. Chairman, all kinds of difficult precedence and very dangerous practices can arise. You can't lay the blame at anyone's doorstep in this, you can't say well the legislative Council should force themselves and their directives to be accepted by the constabulary. You can't say that the R.C.M.P. are acting in a high-handed and arbitrary manner. The truth of the matter is, Mr. Chairman, there is no middle ground that is the bumper between the two areas and this is the area that has to be created and the jurisdiction layed down and as I say, Mr. Chairman, it's difficult to be able to rationalize the broad powers given under various Ordinances here when there is absolutely no relationship between the people who make the laws and the people who enforce them.

Mr. Shaw: Mr. Chairman, for the edification of the Honourable Member for Whitehorse North, who was at University at the time, the Council endeavoured to have a type of an Attorney General for the Yukon Territory. We did get to the extent of where we thought that this was about to happen and in this matter the Council, I'm not quite sure whether this came into being but there were papers to sign an agreement with the Department of Justice to enter into a contract with the R.C.M.P.. However it got to a point where Council had no jurisdiction whatsoever over, I'm not saying the Council itself, but there was no body in the Yukon that would head the Department of Justice under the direction, we might say, of the Commissioner in Council, so that Council eventually said well what is the use of signing something just as a matter of formality and the facts are that the Department of Justice is wholly and completely the function of the Federal Government. That's where it belongs, that's where it is. Law making is restricted to matters such as are of a purely Territorial nature and while I'm on my feet, Mr. Chairman, I don't see how in the sam hill you could ever, if it's necessary to give powers under the Ordinance for leasing the matter, they just have to be spelled out. Either that or you say, well let us not have any such a thing, just let's make the Ordinance. You may not do this and you may not do that ~~we could go~~ back and if you do well of course these may not...are redundant so if you put them in you have the next alternative, you must put in power to enforce them. The present Ordinance, and I quote you number 64, "gives this very right to search vehicles." Now apparently due to this affluent age many people have boats as well as they have vehicles. At one time it was just row boats, now we have power boats so it is carried on from...they have added to the automobile these power boats and search may be done in instances like that so that as far as I can see, unless it can be shown different Mr. Chairman, we have the same law put down here, in fact it's not quite as flexible, it provides more onus on the searching authorities, It's a similar thing ever since I've been in the Yukon, with the exception that boats have been included as well as automobiles. I note that at one time, an officer could without a warrant, if they suspected, suspected, Mr. Chairman, they must find you committing an offence, which is a very large departure from what it has been for these past thirty or forty years. I see Members shaking their heads but if they would open up the Ordinance on page 63 they will find that any peace officer may arrest without warrant any person who he finds committing or whom he on reasonable grounds suspects," there's nothing about suspects here, This is committing so I say that there is more latitude to the person now than there was previously. The difference I find is that a boat is included where it wasn't before. I would ask the Legal Adviser if I am correct in my assumption that there's more latitude in this Ordinance than the old one and that boat is included otherwise it's the same?

Mr. Legal Adviser: This Ordinance was drafted, Mr. Chairman, to adopt the recommendations made by Chief Justice McGruer in Ontario this year, where he criticized the common form of Provincial legislation has been too broad in the powers of arrest, search and retention given to the police and. This Ordinance was an attempt to reflect the liberal approach, that's liberal with a small "l", on the Chief Justice of Commission on Civil rights and only the necessary power is given and much less power is given here than is given in the old Ordinance. I would request, if it's proper for me to do so, that it be passed without change because you can't enforce the Ordinance if it's any different.

Mr. Chamberlist: There's a series of questions that I would like to ask Mr. Legal Adviser, one the first I would like to ask is, for what offence could, under this new piece of legislation, for what offence could a person be searched?

Mr. Legal Adviser: It depends with or without a warrant. A peace officer with reasonable grounds for believing that any liquor is being unlawfully kept. It might be a person under eighteen. He's not allowed to keep liquor under this Ordinance, and if he keeps it in a car and the police sees three people intoxicated driving down the street has grounds for believing they're under eighteen and stops the car then he's entitled to search them and the car. I don't want to be giving a long list of possible offences but this is just an example. It would appear to me that it's not unreasonable that he should have the power to do this.

Mr. Chamberlist: For a person over eighteen, Mr. Chairman, I wonder what offence Mr. Legal Adviser would suggest.

Mr. Legal Adviser: Well as the Honourable Member is aware there is not many offences that can be committed in public by a person. One would be the offence which is still in the Bill, being intoxicated in a public place, if he wished to use that. He can stop and search a lot of offences without relation to the Liquor Bill, under the Criminal Code.

Mr. Chamberlist: That's what I'm getting at, that's the very thing I'm getting at.

Mr. Legal Adviser: Under the Liquor Bill itself there are a comparatively few number of offences that a person can commit which would cause a search to be put under way. One would be bootlegging but it's difficult to think of other offences other than a person intoxicated or a person who for instance, may be sitting in a car causing a disturbance in some way. That would bear on the Liquor Ordinance if he happened to be intoxicated but I would think that the bulk of searches if this Bill goes through must take place under the Criminal Code and not under this Bill.

Mr. Chairman: Order please. I think at this time I'll declare a brief recess.

RECESS

Tuesday, November 26, 1968  
11:00 o'clock a.m.

Mr. Chairman: At this time I will call Committee back to Order. We were discussing Section 44.

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Mr. Chamberlist: Mr. Chairman, firstly I think I should point out that in my opinion, as far as I understand, the Crown Prosecutors office is. The office of the Attorney General for certain purposes the question as to whether we have the liaison between this body and the police enforcement department here certainly is a matter that could be taken care of very simply by the Territorial Administration as much as it has been already suggested by the Prime Minister when he was Minister of Justice, that he would be quite prepared for the Yukon Territory to take over the Department of Justice. Now these things are the things that can be worked out, but right now what we must concern ourselves with, especially in view of this particular legislation, is that we don't interfere too much with the individual rights, and at the same time, serve the public interest. Now the Honourable Member from Dawson suggested that at one time a person could be arrested just simply under suspicion, and this time not so. All we can do is look at Section 41 (2), the question which I had raised earlier, that proof of consumption or intended consumption is cause for an offence being committed so that if even is suspected that a person is intending to consume, that he might have a glass which has got liquor in it, then he is suspected of going to consume that liquor, he just might be holding it in his hand. Certainly there's no reason why suspicion should be grounds for an alleged offence. Now as far as I see it, the interference with the individual is something that must not be condoned especially where there are very very few grounds under this Liquor Ordinance which a person can commit an offence. This has already been made clear by Mr. Legal Adviser, and because of that we should be free of this obnoxious piece in this particular legislation. I do not see any objection in the searching of a vehicle, or searching of a building, with or without warrant, if the grounds and not only reasonable, but probable. What is reasonable to one individual may be unreasonable to another, and the suggestion well it's up to the court to decide what is reasonable, the court decides this after the policeman has taken advantage of what he might consider reason for grounds. He must also be in a position to know that the grounds for an alleged offence taking place is a probable ground that is taking place. Mr. Chairman, my suggestion is that when this matter comes before us again, a suggestion that a person may be searched with or without warrant be removed from this Ordinance.

Mr. Dumas: Mr. Chairman, under the terms of this Ordinance, on what grounds would a police officer want to search an individual?

QUESTION  
RE GROUNDS  
TO SEARCH  
INDIVIDUAL

Mr. Legal Adviser: The main restriction which remains in this Ordinance on the public is the prohibition against a person under the age of 18 possessing or consuming alcohol, so the people most concerned with this section would be persons under 18 who are in possession of alcohol. Now one would hope that the Ordinance would achieve the result of cutting down bottlegging, and cutting down the use of illegal manufacture and distribution of alcohol, so if that hope is fulfilled the causes of searching vehicles with an attempt to obtain evidence of illegal use of alcohol by adults will be

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Mr. Legal Adviser continues:  
minimal, so basically it's a section which would attempt to control the sections dealing with who can possess liquor lawfully. Now the word reasonable is carefully chosen, the word probable is carefully left out, because legal decisions have shown that this is a restriction on the police officer, which makes the enforcement of the section virtually impossible unless he can see himself that the person actually has a bottle or something in his pocket. He may not know this, it may be an attempt to conceal it in a handbag, to conceal it inside a parka or something like this. He should be able, in the case of a boy, to search him, in the case of a girl, if necessary, bring her into the nearest detachment, or the nearest place where you can get a matron or equivalent, and have the person searched.

Mr. Dumas: Mr. Chairman, I'm not really happy with this legislation and the way it's written up. I'm going to go along with this because I think if we ask the Police to enforce the laws that we make, we have to give them the means to do so. I think there may be another answer, there may be another way of approaching these things but until we come up with a satisfactory one, we have to make do with what we have. I think it's unfortunate that it leaves room for abuse.

Mr. Shaw: Mr. Chairman, in the police force of any size you will always get the over zealous. It doesn't matter what department, people you go to, I say, whether it's government, whether it's individuals or whether it's the police that go too far, and that is unfortunate. I recollect at this table, Mr. Chairman, a number of years ago when the inspector was - I forget the inspector at the moment, he stated that he would be pleased to hear from any Member of Council, as a representative of the people in the particular area, to bring to his attention these over zealous actions of any of his force that he would discipline them. I realize that isn't the exact answer, but it's something that can happen, and it's unfortunate if this happens, and I very much disagree to this type of thing, and certainly there should be discipline in that respect. But when we are talking about searching vehicles, Mr. Chairman, for liquor I would like to bring to the attention of the Committee the seriousness of this drinking in cars, impaired driving. Now impaired and intoxicated is a very fine line, and I don't know where one starts and where one finishes, but persons in an abnormal, and are, what I would think, called drunk. This is something that in my estimation the laws are not stiff enough. Impaired drivers are potential murderers. In the United States last year, Mr. Chairman, there were 53,000 people killed in automobile accidents, and according to the statistics, 50% of these accidents, or these deaths, alcohol was involved. Now that's 26,500 people that had they been sober, there's a very good possibility they would be alive today. So when we come to vehicles, I don't know about the rest of this section, I'm stressing vehicles, Mr. Chairman, particularly, I think that there should be quite some authority to be able to search a vehicle. If a police officer comes to me and asks me, if he can look in my car and my person, and he thinks I'm impaired or something like that, well then I would say he has that right in order to protect the other fellow that's on the street, my fellow citizen, this is a kind of a two-way street. Now excesses and abuse of power is another thing, I don't agree with that, I absolutely do not agree with that, but I certainly feel that it's just about time the people that are sober, they must have and driving in a decent manner, or walking on the streets,

Mr. Shaw continues:

they must have every protection that we can give them in the world. Those are the persons that also one has to consider about what rights they have, and they have this right to live.

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Mr. Chamberlist: Mr. Chairman, with respect to the Honourable Member from Dawson, it is mixing two pieces of legislation in two segments of law completely. There is no dispute whatever that a policeman who believes on reasonable and probable grounds that a persons impaired cannot be stopped and corrected, because this would take place under the Criminal Code, which is separate entirely from this piece of legislation. This legislation is for the control of liquor. An impaired driving offence, is an impaired driving offence, under the Criminal Code and it's treated as such, and nobody is disputing the fact that a policeman shouldn't have the right to stop a vehicle and ascertain whether to book the person and so doing, and at the same time when he stops the vehicle, he can search the vehicle, and if he saw the person is impaired he deals with him in accordance to the requirements of the Criminal Code. This is not the point that concerns me, what does concern me is the fact the inherent right of the individual is again being placed in the position of being removed from him by an excess power given to the authority officers of legislature. Now it's quite true that in many many instances policemen use common sense, they do not abuse our authority, we are fortunate today in the Territory, and I am pleased to be able to say this, that we have a fine group of policemen to carry out their functions of police who enforcing in a proper manner, and I doubt whether, perhaps during this particular period, we may have anything that would come up that we may question. But some of us that have been here some years recall incidents where there have been grave and serious actions taken place in the part of terms of R.C.M.P. officers who have been stationed in the Yukon Territory, who have abused their powers, and this is where we must protest, not for those individuals who are here today, but those who might be tomorrow, and we have to protect our people of the Territory against any abuse that may take place. To me it seems an absolute, unnecessary piece of legislation to place in the position any individual whether he has, in fact, committed an offence, might have committed an offence, might be suspicion that he will commit an offence, without it being known by an actual police officer that an offence has been committed, that he should be able to be searched for liquor under this Ordinance. Now the suggestion that was made earlier, and although Mr. Legal Adviser, Mr. Chairman, says that he did not say that, my interpretation of what he said was the purpose of the section dealing with the search of the person is for purposes of looking for infractions under a Criminal Code. Well then there must be .... there is already legislation to that effect, but to give the right of search of a person, and give also authority under common law to a policeman to commit an assault, because when a policeman touches a person, he commits an assault on that person. When he has the power to search a person then he isn't committing an assault because we have given him the power to do it. Now I don't like this section because of that particular thing, and the Honourable Member from Whitehorse West says, well I'll go along with this because we have to give the police enforcement powers on their legislation, but it may be abused. Well that mere thought, that it may be abused, to me is necessary to - it shows a need not to be in the legislation. Now, Mr. Chairman, I have

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Mr. Chamberlist continues:

no objection, as I said earlier, to any of the other parts relative to search by warrant, or search without warrant, because I do believe under this particular piece of legislation the need is there, but I would ask Members of this Committee not to support that portion that gives the right of search of any man or woman in this Territory to the police for a reason that may be good, or may be bad, or may not be at all.

Mr. Legal Adviser: Mr. Chairman, just one point before the next speaker. I did not say the purpose of the power of search in this Ordinance was given for Criminal Code purposes. I said the reverse. The power of search is given for an offence under this Ordinance, the Criminal Code itself contains powers to deal with offences under the Criminal Code.

Mr. Dumas: Mr. Chairman, I was misquoted by the Honourable Member from Whitehorse East too. I did not say that we give the power even though it may be abused, although certainly the implication is there. But I think it's our job to try and protect the individual from the extreme case and this is what we must always do in legislation, but I think in just about all the legislation we have gone through this Council and previous Councils, that on the extreme there could be abuses, and this is just another one. I would like to see that gap filled in, I don't like to see the possibility of abuse there, but it's true in all legislation and until we find a way to fill it in, I think the better good is served by passing the legislation. The greater number of people are protected by passing the legislation, although I too, like the Honourable Member from Whitehorse East have a great respect for the rights of the individual, and the individuals. Now the trend of the discussion this morning may be misunderstood, it may be that those reading Votes and Proceedings might think that we are, in fact, criticizing the R.C.M.P., well it's certainly not my intention to do so. I have been in the Yukon for 13 years and I have travelled quite a few countries of the world, and it's my belief that the Royal Canadian Mounted Police are one of the best police forces, if not the best, in the world, and I think they have been doing an excellent job in the Yukon and I've heard of very few abuses of power. But the fact of the matter is, that if we have legislation where power can be abused, if it's abused once or twice it's wrong, and this is what we must try and protect against. I think that we have to show a good amount of support and put our full support behind the R.C.M.P. for the job they are doing, but I agree with the Honourable Member from Whitehorse North that we must have a liaison with the R.C.M.P. If we don't have it, if we don't get it and get it soon, our two paths can go in opposite directions and we could find ourselves in a real trouble spot in a matter of a year or two, and the further apart we get, and I suggest there is a gap now between those making the laws and those enforcing them, the further apart we get the more out of hand matters can become.

Mr. Shaw: Mr. Chairman, I wish to clarify, if possible, the thinking of some Members in Council in respect to this particular matter. I note in the section that it is no different than what it has been in the past, the things are the same before. How would a person get evidence, is in one of the precepts of this business I think, it seems that one has to produce the evidence in Court in order to prove that an offence has been committed,

Mr. Shaw continues:  
and you can't search this person. For example, I was reading a little while ago where they were smuggling drugs into a country and they had it around a person, so of course, they were searched and they found it out. But if they couldn't search, they didn't have a warrant either, if they hadn't searched this person they wouldn't have found it. Likewise, if a person had three or four mickeys in their coat pocket and you couldn't touch that person, or search for that, then of course, you would have no evidence. I can't see how you can reconcile something like this, Mr. Chairman, that's the point.

Mr. Chairman: Is there anything further on this section?

Mr. Shaw: Would the Honourable Member from Whitehorse East tell me what would happen in a case like that? If I were arrested and my pockets .... and I had two, or three mickeys, or any quantity in my pocket and the policeman stopped my car and he wanted to know if I had any liquor, and I said, No, so he searched the car, but he couldn't search me, I had it in my pocket. Where do we go from there?

Mr. Chamberlist: Mr. Chairman, under the sections of this particular Ordinance it is not an offence to have a dozen mickeys on your person, this is the point I'm making. There is no such a thing, you can have as much liquor as you want, what the police would want to know is whether you obtained this liquor unlawfully. Now you don't have to be searched, if you have bottles on you, and the police asked, if you had any liquor on you without touching you, and you say, 'yes I have, I have six bottles of liquor on me,' now he doesn't have to search him but he's already been told that he has six bottles of liquor, and if he says to him, 'well have you got this liquor on you,' and the guy says, 'no I haven't,' but supposing he has there's no reason why he can't lie to the police, all he has to ascertain .... the policeman must ascertain that the liquor that was obtained, was obtained unlawfully. It is not an offence for him to have liquor under this Ordinance, it does away completely with having liquor in a public place, he can have all of these six bottles open, just half full, there's no offence. Perhaps the Honourable Member from Dawson doesn't realize that this is the point that I'm making, it is no longer an offence to do these things, what offences would be committed, what offences could be committed. Mr. Legal Adviser says, 'well the purpose of this is to deal with people who are under age' but he doesn't say, why, what about the people who are over age, what reason do you have to search these people, it's not fair. And this I think is an explanation the Honourable Member from Dawson perhaps should accept.

Mr. Shaw: Mr. Chairman, perhaps I didn't quite explain this. It is an offence to have an open bottle of booze in your automobile. We, of course, are pre-supposing, but I would say, Mr. Chairman, that if this were accepted in this Ordinance, there would be Regulations which would condemn, and I think rightfully should condemn having open bottles of booze in automobiles. It states that in our existing Ordinance, is that right Mr. Legal Adviser?

Mr. Legal Adviser: It is in our Ordinance but there is no reference to this particular type of offence in this particular Bill.

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Mr. Shaw: In which case, you let that person go and you cannot search his person, he's got all this booze in there. He goes along another ten miles, by the time he's gone another ten, twenty miles he's in really fine shape, and he's all primed up to kill somebody coming along the highway. I think that person should be stopped before he gets to that point.

Mr. Chamberlist: Mr. Chairman, the Honourable Member from Dawson is with respect speaking in a manner that doesn't follow the substance of the debate, because I'm not disagreeing that the person shouldn't be stopped because perhaps he has been drinking too much. I am wanting to know why should he be searched, this is the only reason, but he can't be searched because he has liquor on his person, because there is nothing illegal in the Ordinance under which he can have liquor. I'm not suggesting for a moment that he shouldn't be stopped, that he shouldn't be restrained from drinking any more - fine, this should happen, I agree, but where does the search of the person come into it?

Mr. Shaw: Well, Mr. Chairman, all I can see then, if you allow this, then all you do is pick up the pieces later on of probably some innocent family that has got it in the neck, on account you couldn't search this person who had a bottle of booze in his pocket and could later consume it, because you can't do that, you got to wait until it happens.

QUESTION  
RE NEW  
REGULATIONS

Mr. Livesey: I don't think we are getting anywhere really on this debate, because quite obviously, if the old Ordinance is repealed not one thing belonging to it will have effect over this Ordinance, this is a totally new piece of legislation. However, I wonder, Mr. Chairman, if I could inquire in view of the fact that there may in the future, be in Regulations, are those Regulations presently drafted, or just at what point in time may we look upon the new Regulations in order to find out just what variations there may be under the powers provided in the new Ordinance?

Mr. Legal Adviser: The Regulations haven't been drafted yet, Mr. Chairman.

Mr. Chairman: May I proceed?

All: Proceed.

Mr. Chairman: (Reads Sections 45, 46 and 47 of Bill No. 28)

QUESTION  
RE POLICE  
RAID

Mr. Chamberlist: Question? Why, if the police raid a building, if the police raided the Whitehorse Inn, so somebody walks along, you mean a policeman should be able to go up to him and say, 'what is your name and address', why?

Mr. Legal Adviser: Mainly, because the police officer wants to know who he is.

Mr. Chamberlist: Mr. Chairman, why should he have the right to know who he is, why should a person be interfered with who is walking on the Queen's highway, if he is not interfering with anybody?



Mr. Legal Adviser: When there is a raid, under this Ordinance, it's only a raid for illegal manufacture of booze and I have never, certainly not in this country, been in a building which was raided. But everyone has a experience of a police raid, and as soon as the knocking comes on the door, everybody goes through windows, into yards, over out buildings, and an assembly of fifty people suddenly becomes one unfortunate man who slips on the floor and can't get away fast enough. Now if outside these windows, or back doors, the police catch the people who are making their way legitimately, one might say, homewards surely it's not unreasonable for the police to stop him and say, 'who are you, and what were you doing in there'. This is not unreasonable. If he can get away without being caught, that's fine, but if you're unlucky the least you might do is say who you are and what you're doing.

Mr. Dumas: Mr. Chairman, surely the police have this power at any rate so it doesn't matter whether he's in there or not.

Mr. Legal Adviser: I am afraid this is not so. This is an old sore, it's a missing link in the common law. A person at common law does not have to give his name and address to anybody unless, You have a special statutory provision, a person's name and address is his own private property, he doesn't have to tell anyone at any time, unless it's a special statutory provision to the contrary. So unfortunately, it needs this statute provision to force the person to give his name and address.

Mr. Livesey: Mr. Chairman, I was going to say, is it not true that a person is not required to give any information whatsoever to any officer unless he is represented by Legal Council.

Mr. Legal Adviser: Now this is an extension of it. A common law is that a person does not have to give any information to anybody. A Peace Officer, and the danger that members may go too far in dealing with Peace Officers, a Peace Officer is a citizen, with a citizen's power of dealing with crime who happens to be dressed in a uniform for the purpose of enabling citizens to recognize him and call on him for assistance. This is what a Peace Officer is and it's not unreasonable that he should be entitled to ask a person his name and address in default of a common law provision.

Mr. Chamberlist: Mr. Chairman, I certainly would agree if a person was found in a building, but when it extends it to, in or around buildings, then you are just interfering with people, and then you make it an offence if the fellow said, 'well, look I disapprove of you trying to interfere with me, my name is Joe Smith, but my name doesn't happen to be Joe Smith so I have to give you my correct name and address'. You're getting into the realm of police state and this is not what you give anybody, and these things are just obnoxious. No person, as far as I am concerned, just simply because he walks past a building where there is a police inquiry going on inside, or a police raid, should peaceably conduct himself going from point A to point B should be placed in a position of being penalized if he doesn't wish to give his correct name and address. Now in the building, yes, not outside the building.

BILL  
NO. 28  
QUESTION  
RE DEFINI-  
TION OF  
INTOXICA-  
TION

Mr. Chairman: Will there be anything further on this section? I'd like to, just before we proceed to the last two sections, if I could take you back to page 10, section 31. I believe you have the revised page now. Section 31 which was missed yesterday reads, No person shall sell or supply liquor to a person who is, or appears to be, intoxicated. A question from the Chair, how do you define intoxication?

Mr. Legal Adviser: Well, an Irish judge, pardon the expression, used the definition that a person is drunk when the same two legs that carried him into the premises are not the two legs that carry him out. Now this is drunkenness. Intoxication is somewhere between impairment, which is an expression familiar to everybody else, and drunk, but also includes drunk. The person is suffering from the effects of alcohol in such a way as to render him unable to use his faculties in a reasonably normal way. Now this section says, he either has to be drunk, or appear to be drunk. The reason appears to be, is that some people appear to be drunk and should be dealt with as if they're drunk, whether or not they're drunk, to enable the section to be enforced reasonably this is as much in the protection of a bar owner as it is anything else, that if a person gives the appearance of being drunk, then the bar owner is entitled to say to him, 'I won't serve you any more'. But if you make it, that he who is intoxicated then you are putting an onus on the bar owner or the bartender, which is unfair. He has to make a judgment of the man that's actually intoxicated and in the event of a dispute, or trying to get rid of him out of the premises, he might be found guilty of assault, or suit for assault if the person happened to be unreasonable. This section that's drafted is a very very reasonable section.

QUESTION  
RE BREATH-  
LIZER TEST

Mr. Livesey: Mr. Chairman, in view of the fact that the Regulations at the moment are mute, is it the intention of the Administration to use the breathlizer test as a means of ascertaining the interpretation which could be applied to the word, intoxication?

Mr. Legal Adviser: The breathlizer test doesn't prove that a person is intoxicated, it proves that a person has a certain number of milligrams of alcohol in his blood stream. The law then has to go further and deem a person whose blood contains that percentage of alcohol to be committing an offence, or to be intoxicated, as the case might be, depending how you do your definition section. But I cannot visualize a breathlizer being used for this purpose. In connection with cars that's a completely different thing, but this section it's primarily directed to bar owners who are forbidden to sell drinks to people who are unable to handle them at that time, and it's not unreasonable.

Mr. Livesey: A supplementary question, Mr. Chairman, is it the intention of the Administration to use the breathlizer test as part of the mute Regulation?

Mr. Legal Adviser: I'm not aware of any present intention, but should it become necessary, and this is as a means of enforcement, or a means of dealing with any situation, certainly the Administration will use every means available of since or otherwise to see that the law is upheld.

Mr. Chamberlist: Mr. Chairman, this word, or appears to be BILL  
intoxicated, may again bring abuse against an individual. NO. 28  
Most members here will recall some years ago, Mr. Commissioner,  
I am sure will recall this particular case, there was a  
discussion taking place on main street here when the former  
editor of the Whitehorse Star, Mr. Tom Bain, a former lawyer  
Mr. Wick Wiley, and two prominent business men were standing  
talking with a fellow who was well known - who has been  
deceased some years, We had a kind word for him, we called him  
Sausage Harry, and Harry was one of these people that when  
he walked, he walked with a roll. They were all standing  
together outside the Whitehorse Star building talking and  
Harry left them talking and just crossed the road, a police  
car zoomed up, pulled this man into the car and charged him  
with intoxication and these other people went into Court to  
show this man was not intoxicated, that this was his normal  
way of walking. Now this is where the abuse takes place,  
because he appeared to be intoxicated, he can then be  
arrested, thrown into a car and thrown into jail, and you  
have to go on more than appear to be intoxicated so far as  
I am concerned, not to abuse the individual. There was an  
abuse that took place.

Mr. Legal Adviser: Mr. Chairman, I am disappointed that the  
Honourable Member would not take the trouble to read the  
section. The offence here which is created is an offence  
not against the person who is doing the drinking, it's  
against the supplying, and if the Honourable Member is  
advocated that we should remove this section or change it  
so as to make it possible, desirable, obligatory on the part  
of a bar owner to give drink, or sell drink to a person who  
appears to be intoxicated, then I couldn't defend any other  
part of the Bill if this section wasn't passed in this form.

Mr. Chamberlist: Mr. Legal Adviser's remarks do not take  
into consideration the fact, the way it indeed is written,  
that no person shall sell or supply liquor to a person who  
is, or appears to be intoxicated. I gave the example because  
the bartender may not recognize whether this person is  
intoxicated or it is his usual manner. Not apart from his  
being deprived of a glass of wine, or glass of liquor, because  
in his opinion, the person appears to be intoxicated. Now  
I wonder if Mr. Legal Adviser would like to apologize for his  
dubious remarks because he didn't understand what I said.

Mr. Chairman: Order please. I don't feel any apology is  
required. Now is there anything further on section 31? We  
return to section 48. (Reads section 48 of Bill No. 28).

Mr. Chamberlist: Is there a difference, Mr. Chairman?

Mr. Chairman: Mr. Legal Adviser.

Mr. Legal Adviser: Not to my knowledge it's not different.

Mr. Chamberlist: Well why is one referred to as the Yukon  
Consolidated Revenue Fund, and then later on it refers to  
Consolidated Revenue Fund. Is there a difference?

Mr. Legal Adviser: It's not intended to be, it's the typists  
error I suppose.

Mr. Chamberlist: Thank you.

BILL  
NO. 28

Mr. Chairman: (Reads sections 49 and 50 of Bill No. 28).  
Mr. Chamberlist, would you take the Chair a moment.

Mr. Chamberlist takes Chair.

QUESTION  
RE DRAFT-  
ING OF  
LEGISLAT-  
ION BILL

Mr. Taylor: Mr. Chairman, unfortunately yesterday I had business in Watson Lake and I was unable to be here for the debate on the central bulk of this Bill. It certainly occurs to me that the Bill in its existing form would never at any time receive my approbation, and it would be a pity, I would think, to see some of the proposals in this Ordinance thrown down the drain merely because we fail to agree to accept one segment of the Ordinance. I find it repugnant to even consider that we should deal in a manner whereby the Administration of the Territory could inflict legislation by Regulation upon the citizenry of the Yukon without the direct consultation of the legislative body. I feel that the Ordinance has given the people of the Yukon at least protection, I feel that it is the duty of the legislature to make these laws and that Regulatory powers should be kept to a very very minimal point. I have a question I would like to direct to Mr. Commissioner at this time, and he might consider it to be a loaded question, Mr. Chairman, but it's something I think we should know and know at this point in time, that is this. If the Select Committee established by Council to study this particular Bill and to have hearings, and to make recommendations upon it so decided that they wish to rewrite this particular piece of legislation in a form for presentation to the Council, in a form which would retain the existing Liquor Ordinance and yet establish a Board in the body of the other desirable factors in this Bill. Would the Commissioner permit the Legal Adviser to draft this legislation for that Committee?

Mr. Commissioner: Mr. Chairman, I don't think I should be called upon to answer a hypothetical question and this is exactly what this is. I have no idea what is going to come as a consequence of the Select Committee having discussions with the general public, it may well be that the end results of these discussions will result in Council making recommendations concerning this Liquor Ordinance that bear no resemblances to that at all which is before us right now. It also may well be that many of the recommendations that are here will meet with public approbation and it will be a question of Council deciding as to whether or not they wish to see the proposed Liquor Board, as a Board simply of licencing and discipling authority, and the balance of the Administrative powers under the Ordinance to be left in the hands of the Commissioner, with the minimum amount of Regulations and the vast majority of the items continued to be written up in the Ordinance. And with respect, Mr. Chairman, I would say this, that you are going to find the Administration as co-operative is within our powers to be co-operative in bringing about, or bringing forth a piece of legislation which is going to meet with the approval of all the people concerned. I may say that we have not brought this legislation forward with any thought in mind that it is going to be accepted, carte blanche, we are not even remotely suggesting this is going to happen. I would also say that many of the things that are proposed here are proposed that they may be accepted even on an experimental basis ultimately, because if Council and the Administration and the general public find that some of the privileges concerning the possibility of lowered drinking age, if it is accepted, accepting the proposal that drunkenness is no longer an offence under the Ordinance, also that having

Mr. Commissioner continues:

liquor on a person in a public place is no longer an offence, it is very very possible that even if these things are accepted, and they are in general practice for a year or two, it may very well be that Council will see that they're being abused and they will wish to retract some of these things,

It may well be, Mr. Chairman, that any of these things . if they are accepted, may well be retracted at a very early date by more legislation. So I think an answer to this question that has been posed here, I would like to say to you, I commend Council for the action that they have seen fit to take, namely the handing of this to a Select Committee and I would say further that as a consequence of the hearings, and the public opinion that is made available to the Select Committee of Council, it would certainly be in my humble opinion a commendable situation if a Committee of Council at that point of time would sit down with a Committee from the Administration, which would certainly of a necessity include the Legal Adviser to see what indeed could be accomplished to bring forth a piece of legislation that would meet with Councils and the public's approbation, because there is no point to bringing forth legislation that is not ultimately going to have public acceptability. This is one of the main reasons that this Ordinance is before you now. Many of the things that are in our present Liquor Ordinance, the law is being flouted this very minute . . . a hundred and one places in the Yukon Territory. It just no longer meets with public acceptability. I say particularly in this manner with regard to having liquor on one's person in a public place. This is just not publicly acceptable. You can't even put a bottle of liquor in your suitcase at home and take it up to the plane and go on a trip, for goodness sake, without breaking laws, it's going on all the time. So on this basis, and this basis alone, Mr. Chairman, I think Council is off on the entirely right track on what they are doing and I would consider it to be a privilege that the Administration will have, along with Council, to see what can be done as a consequence of the public hearings that are going to be held to come forth with the final analysis of the piece of legislation that is going to meet the requirements of all concerned.

Mr. Taylor: Mr. Chairman, just before I resume the Chair, I wonder now if I can take it from the remarks of Mr. Commissioner that he would then agree that the Legal Adviser would be available to this Committee, or the Select Committee for redraft of legislation, if we so chose.

Mr. Commissioner: Mr. Chairman, there is no reason that I can see why this would not be a practical possibility

Mr. Chairman: From the Chair, I wonder if the answer is a possibility with the answer, Yes.

Mr. Commissioner: Mr. Chairman, I still claim I can't answer a hypothetical question, I say this to you, if it is a practical situation that the Legal Adviser can be of assistance to the Select Committee in redrafting this legislation and getting it into a form which winds up with public legislation and administrative acceptability, the answer is yes.

Mr. Taylor: I will resume the Chair at this point and declare Committee in recess till 2:00 o'clock.

Mr. Taylor resumes Chair.

RECESS

RECESS

Page 439.

Tuesday, November 26, 1968.  
2:00 o'clock p.m.

Mr. Commissioner not present.

Mr. Chairman: At this time I will call Committee to order. Have you anything further at this time on Bill No. 28? BILL  
NO. 28

Mr. Chamberlist: Mr. Chairman, I would like to make some over-all comments. I would like the Commissioner to be here because I wish to put a couple of questions to him.

Mr. Chairman: I'll declare a brief recess.

RECESS

RECESS

Mr. Commissioner enters Council Chambers.

Mr. Chairman: At this time I will call Committee back to order and we have with us Mr. Commissioner. Will you proceed, Councillor Chamberlist.

Mr. Chamberlist: Mr. Chairman, I represent a constituency wherein there are an equal number of churches to that of liquor outlets, and I have been asked by both sides a number of questions. Now, because I wish to wait before I put the majority of these questions to the Administration until I hear what the various organizations and briefs have to say, I will not labour too long on this particular subject. What I do want to know from Mr. Commissioner now, especially in view of the absence of regulations regulating the sale and consumption of liquor in hotel establishments, what is the limitation as far as the issuing of liquor licences to hotels are concerned, i.e. how many rooms per hotel establishment before a liquor licence is to be issued; whether liquor licences will be issued to other than establishments that have rooming accommodation, and whether it is the intention to maintain the existing regulations in as much as one must have thirty rooms in the municipal area of Whitehorse, and less than thirty rooms outside the municipal area of Whitehorse. I wonder whether Mr. Commissioner could give some information on this particular.....

Mr. Commissioner: Mr. Chairman, we have no fixed views at the present time in connection with the questions that have been raised, and I would say this, that these are matters of very great importance to the general public and to the business community of the Territory, and it would be certainly my intention that before any regulations were put into force, should this Ordinance be passed without reference to these particular points in legislation, I would feel that these matters are of such importance that it would be my duty to have full consultations with the Members of Council before these types of regulations were formulated.

Mr. Shaw: Mr. Chairman, representing a constituency that has double the amount of churches to what they do liquor outlets, I would ask if some time between now and next spring at about the time we would be having these enquiries made, if the regulations - if we could have copies of the regulations - to know just about how it would be set up.

Mr. Dumas: Mr. Chairman.

BILL  
NO. 28

Mr. Chairman: Mr. Dumas.

Mr. Shaw: Mr. Chairman, I asked a question.

Mr. Chairman: Oh, pardon me. Mr. Legal Adviser.

Mr. Legal Adviser: If I may answer that question. Until the frame within which the regulations must operate is reasonably known, I think it would be a barren exercise to draft any type of comprehensive set of regulations, and in any event the Commissioner has said that this will be a matter of serious consideration and the Council will be asked, presumably as a separate exercise, to approve the points of policy involved in making these regulations. This will be a different thing from the regulations itself. Now, there are many things that appear presently in the Ordinance on which one would assume there would be no change. It would just be moved into regulations to fill a lacuna which otherwise would develop in the law.

Mr. Shaw: A supplementary question, Mr. Chairman. Would the Legal Adviser, Mr. Chairman, feel that the Ordinance as it exists - the new proposed Ordinance as it exists - is adequate without having other sections added to it? In other words, let us put it this way, that everything would be by regulations other than contained in here or is it presuming that other amendments would have to be made?

Mr. Legal Adviser: In my opinion, Mr. Chairman, this is so, but if changes are made in a particular section, it may call for other changes to be made which are complimentary to the particular section which was changed, but assuming that the bill was passed as it is before you now without any changes, it would be sufficient to govern the control of liquor sale, distribution and consumption in the Territory, but it would need a framework of regulations built around it in order to fill in the details which have been deliberately in this bill put aside for this purpose.

Mr. Chairman: Councillor Dumas.

Mr. Dumas: Mr. Chairman, just for the record, the score in my area is five churches to two liquor outlets, but the number of persons in attendance at each is probably in reversed order.

Mr. Chairman: Councillor Gordon.

Mrs. Gordon: This morning Commissioner Smith was a little apprehensive about answering hypothetical questions, but I think I have one that a number of people in the Territory are concerned about, and I would pose four points: the estimated emolument to members of the board; the number of additional persons required to establish a complete operation of the board; the estimated amount of wages and salaries to such persons, and the total costs to the taxpayers of the Yukon Territory.

Mr. Commissioner: Mr. Chairman, if I could have the benefit of supplying written answers, I will do my very best to do so, but off the top of my head, Mr. Chairman, I don't have that type of information.

Mr. Chairman: Would Committee agree to this proposal?

All: Agreed.

Mr. Chairman: Just one question from the Chair. As a point of

interest where in this Ordinance has provision been made in the regulation section or elsewhere for the people who make their own liquor, their own home-brew? Where is this provided, if at all?

Mr. Legal Adviser: I'd need a few minutes to look through it, but it is not intended to prohibit this practice, but there is a provision made in regulations. Regulations have been made for making home-brew. If it's not there, it should be. I think, subject to correction, that the board may,

but it is not intended that the board itself will give this authority. The board may act as a handling agent, and the particular sentence as I recollect it is carefully drafted with this in mind, not to presuppose that the board has the legal power to make this possible.

Mr. Chairman: Councillor Livesey.

Mr. Livesey: Mr. Chairman, a supplementary question. Is this not the question of Federal legislation rather than Territorial legislation?

Mr. Legal Adviser: That's the point I was making. It's Federal legislation and not our legislation. For convenience purposes, the board may act as the actual distributing agent on behalf of the federal authority for the licencing and so be able through its own records to keep a list but would not decide who should get what.

Mr. Chamberlist: Mr. Chairman, I wonder if Mr. Commissioner can say whether it is the intention of the regulation to break down the areas of the Territory in such a way as to limit licences to population to work on the basis of the free-enterprise system that wherever anybody wants to put his money, this is the basis on which it should be done.

Mr. Commissisner: Mr. Chairman, this is a policy matter which - in the same category as the original questions that the Council are asking. I think that there has to be consultation with the Council before regulations along these lines are promulgated. Also, I am a firm believer in local option in matters where these things are concerned and I realize that this may not be entirely and totally acceptable in many instances, but I think there is a.....  
.....that there has to be some provision of some kind particularly in organized municipalities where there is at least the opportunity of some type of local option, and my answer to the Honourable Member, Mr. Chairman, is that irrespective of what my feelings are, the regulations to control such things as the Council has asked would definitely be subject to consultation with Council.

Mr. Chairman: Is there anything further on this Bill at this time? Mr. Legal Adviser.

Mr. Legal Adviser: One point, Mr. Chairman. The last section says the Ordinance shall come into force on a day to be fixed by the Commissioner. It is not the intention to bring the Ordinance into force until a parallel set of regulations exists, so that the regulations and the Bill will come into operation on the same day. This will presuppose that the regulations will be drafted in advance of the Bill coming into operation.

Mr. Chairman: Councillor Chamberlist, would you take the Chair a moment? May I be excused to receive a phone call?



BILL  
NO. 28

Mr. Chamberlist: Yes.

Mr. Taylor leaves Council Chambers.

Mr. Chairman: Councillor Dumas.

Mr. Dumas: If there is no more discussion on the Bill, I was going to suggest we report progress on it, Mr. Chairman.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Mr. Chairman, we have in the Ordinance here - I just bring this to the Legal Adviser's attention - it is quite simple to omit something - no person - section 28 Prohibition - 'no person shall have or keep in his possession any liquor unless purchased in accordance with this Ordinance'; and in throwing out the old Ordinance you will find in the Revised Ordinances of 1965, First Session, where an ordinance is made to permit a person to manufacture. That is, under the regulations and statutes, of course, of the Federal Excise Department, but it is optional whether it is the Territory or a province that permits this, so I did bring this to his attention.

Mr. Chairman: Is there anything further on Bill No. 28?

Mr. McKinnon: Mr. Chairman, would there be, speaking of Federal and provincial split jurisdictions again, where in this Ordinance would it be allowed for a person under the Canada Excise Act to bring liquor into the country under certain regulatory provisions of that Act and not be in conflict with Territorial jurisdiction in the field of liquor?

Mr. Legal Adviser: Well, Mr. Chairman, there is always a basic area of conflict in liquor between the Federal jurisdiction and the Territorial jurisdiction. One tries to eliminate it and a person coming in from outside may do so in conforming with the Federal laws. It would be foolish for us to try to limit that because it would be unconstitutional for us to do it, but accidentally some time the amount that can be moved from one place to another may - I can conceive of a conflict, but one tries to eliminate it.

Mr. McKinnon: Well, we know of a prosecution under such a contradiction and there was a conviction upheld in the Territorial Court that even though, as you said, the Federal law would supersede anything that we could do Territorially, such was not held the case and the person was prosecuted and convicted.

Mr. Legal Adviser: It depends on the area within which Federal law has moved. The Federal Government has given to this Council the power to make laws dealing with intoxicating liquor, but it has reserved itself power under the basic BNA Act to make its own laws dealing with exports, taxes and the transfer of liquor across borders at certain times. So, there is a basic area of conflict here which is not easy to dissolve except with consultations, and I can conceive of a person reading one Ordinance and thinking he was immune from prosecution, and finding himself under a Federal act having committed an offence. It would be no excuse to a prosecution under a federal law to say that it didn't appear in our Ordinance.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Mr. Chairman, just one thing in this particular section

is 45(2)(b) in which the Federal Government ruled that it is invalid for this Council to take certain permissive actions in this particular instance; that is that you could give it without charge to your guests - the brew that you made. They came back and said you cannot. So, I don't know whether this will invalidate the whole section or just that section of the section.

Mr. Legal Adviser: Without consideration of the whole matter involved, I wouldn't like to give an opinion, and I'm sure the Honourable Member wouldn't expect me to.

Mr. Shaw: Oh, Mr. Chairman, I'm not giving an opinion. I'm not asking for an opinion. I mentioned the fact because it may save a lot of research if we did pass the law permitting this; felt that we were quite justified, and the Federal Government said we could not pass the section that permitted us to give a drink. If we gave a drink to a guest we were immediately charged and shoved in the hoosgow and so on.

Mr. Chairman: Councillor McKinnon, will you take the Chair for a moment, please.

Mr. McKinnon: Yes.

Mr. Chamberlist: Mr. Chairman, I wonder if Mr. Legal Adviser can make sure that in this new Ordinance there will be provision as a result of the conviction that the Honourable Member from Whitehorse North spoke about, that no person can be convicted for bringing in liquor into the Territory where it was permissible to bring that liquor in under the Customs Regulations. Now, the reason why this is - I note in this new Ordinance that there is nothing in there to this effect. You see, under the Customs Regulations, a person that visits the States and has been outside for forty-eight hours may bring in a certain amount of liquor. This is spelled out in the Customs Regulations. Now, notwithstanding that he brings that liquor in, declares it to a Customs officer that he has brought this liquor in; the moment he brings it in then the R.C.M.P. can charge him for having liquor in his possession other than bought in a government liquor store. Now, this is exactly what occurred, and the court at that time - I was the defence for this, Mr. Legal Adviser. I was successful in showing that it was a ridiculous piece of legislation. The magistrate at the time, the late Magistrate A.C.L. Adams, saw how ridiculous it was. I asked him for the absolute minimum penalty of one cent, and it is the only time, I understand, in Canadian history that somebody has been fined one cent just to show how ridiculous it was, but never the less it was a conviction under the Liquor Ordinance registered against this man because he had bought these screwdrivers, orange and gin, which are sold in small cans in Juneau while playing with a ball team, brought it into the country, declared it properly, had it in his car, got picked up by the police and charged with having liquor other than purchased in a government liquor store, and he was convicted. Now, immediately after that, there was an amendment to the Liquor Ordinance - you'll probably come across it - protecting that person or a person of that description from being charged with an offence of this description. Now, in this new piece of legislation, as far as I can see, this protection is not in there.

Mr. Legal Adviser: Mr. Chairman, this position might well be but our legislation would have to match a reasonable allowance by federal law for the importation, but I cannot conceive that if an importer under federal law was to bring in consignment after consignment after consignment, and then claimed the right under federal law to import liquor into Canada, that we would deem that

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reasonable. We would deem it reasonable, I presume, when the regulation would be made to that effect, if necessary, to allow a person to import for his own use a certain amount, and that would conform with what a Customs officer would allow a person to bring in for his own use. The amount can be fixed, and it is not intended to make difficulties in this field at all. If accidentally there are minor clashes of legislation before the board, they can be dealt with by regulation or by amendment and they certainly shall be.

Mr. Chamberlist: Thank you, Mr. Chairman, I will resume the Chair. Is there anything further? Councillor Livesey.

Mr. Livesey: Mr. Chairman, I have a question, and I'm not looking for a firm answer but I would like to address the Administration. I know that it would be difficult to give one, but in view of the cost difference between liquor in the Yukon Territory and liquor in other areas surrounding the Territory, which, the further apart these ratios become, why, the greater the incentive to bring it in illegally. At what particular point would the Administration feel the saturation point has been reached in cost to the consumer of liquor in the Yukon Territory? Is it 200 per cent of the cost or 300 per cent of the cost, or just how far can we go in cost in order to make a reasonable return in tax revenue for the Territory, and still not reach a point whereby the incentive will be to try to beat the law by bringing it in without any declaration?

Mr. Taylor enters Council Chambers.

Mr. Commissioner: Mr. Chairman, I don't think there is any saturation point. There may arrive a point in time when we would find that neighbouring jurisdictions, possibly due to the fact that they are very wealthy from other sources of revenue, might start to turn and look upon liquor as a no longer necessary heavy source of taxation revenue, and reduce their prices accordingly. At that point in time, it may be a matter of concern, but certainly at the moment there would not appear to be any saturation point in sight because as the cost of everything else goes up, so does the cost of liquor, and so does the taxation requirements of the Territory, or the revenue requirements of the Territory, and they have run in parallel with each other for many years in the past, and it would appear to me that they are going to run in parallel on a continuing basis far off into the future.

Mr. Chairman: Is there any further discussion on Bill No. 28? Does Committee wish that progress be reported?

All: Agreed.

Mr. Taylor: I'll resume the Chair at this point in time and I shall report progress on Bill No. 28. It is your wish, I assume now, that this matter be referred to the Select Committee?

All: Agreed

Mr. Chamberlist: Mr. Chairman, I wonder when we are going to have terms of reference for the Select Committee as far as days and date, etc. are concerned? Can Mr. Chairman give the Committee any information on that?

Mr. Chairman: I would strongly recommend that the Select Committee do at some point in time, fairly soon, get together and decide on these points - terms of reference. I wonder if - what

is your pleasure now? We have one Bill, an additional Bill, that I believe we have information on, and that is Bill No. 6, The Mining Safety Ordinance. Would you care to go to that at this time? Councillor Dumas. BILL NO. 6

Mr. Dumas: Mr. Chairman, the Sessional Paper in reference to that Bill is not yet in Committee. Is it necessary that it be in Committee?

Mr. Chairman: I would suggest that Mr. Legal Adviser or the Administration had prepared the information, and possibly he might be able to answer the questions right now without the introduction of the Paper. However, I'm at the direction of Committee.

Mr. Chamberlist: What bill no. is that, Mr. Chairman, please?

Mr. Chairman: Bill No. 6, The Mining Safety Ordinance. I believe there was a question in respect of women working at mine faces. Mr. Legal Adviser, have you an answer at this time in respect of this?

Mr. Legal Adviser: (Reads Sessional Paper No. 46.)

Mr. McKinnon: Well, Mr. Chairman, I'm extremely happy to see that the International Labour Organization at least is much more chivalrous, it appears, than the Yukon Territorial Council is at this time.

Mr. Livesey: Well, in reply to that, Mr. Chairman, I would like to advise the Honourable Member that we are those who feel that we don't like to create a restriction. Our thinking is in a manner that we do not want to deter any person from doing anything which they would like to do which, to me, seems to be an all-encompassing form of freedom rather than a restriction. This is the point I think was made by the Committee, Mr. Chairman, and I think to be perfectly free is something we've been talking about for many, many years and to actually bring it about in some instances would appear to be something like creating a miracle. Here we have an opportunity to leave it free and open so that if they do want to, they can. Rather than say we're chivalrous, we don't want to because we're trying to protect you from doing something that you might want to do, and we know nothing about it. This is a form of chivalry that I don't understand, Mr. Chairman, and I'm sorry to say that if any girl or woman would like to work down a mine - I'm not sure whether they would or they wouldn't - but if they want to, I don't see any reason to stop them.

Mr. Chairman: Mr. Legal Adviser.

Mr. Legal Adviser: The basic reasoning behind international conventions of this type is not primarily to protect people in places like Canada. This Organization and similar organizations, which are now attached to the United Nations, propose conventions for the protection of people who are not in a position in other countries to protect themselves, and the purpose of this particular convention is so that in underdeveloped countries where there are no trade unions or women's organizations to protect the women, that the force of international public opinion can be brought to bear on the government of the particular country, and it can be pointed out that there are members of the community who need special forms of protection and need it in certain areas such as night work, children working underground, children of a young age being allowed to work in dangerous

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operations; certain types of labour which need high protective devices such as working with phosphorous, and working with dangerous substances, working with materials which are radioactive, and these series of conventions are signed and ratified by most countries of the world. How many countries are signatory to this particular Convention No. 45, I couldn't undertake to say, but it is not primarily for the protection of women in Canada. It is primarily for the protection of women in other countries who are not in a position to protect themselves. The women in the Yukon or Canada do not need possibly this particular protection, but they might be willing to sacrifice the right to do something in an effort to further the cause of protecting others less able to protect themselves.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Mr. Chairman, I would like to remind the Honourable Member from Whitehorse North at one time sailors wouldn't go on a ship if a woman was on there. I would ask the Legal Adviser, Mr. Chairman, if the Soviet Union, China, Formosa are signatory towards this particular pact?

Mr. Legal Adviser: I don't know, but I feel sure that the Soviet Union is.

Mr. Chamberlist: Mr. Chairman, I think it is generally known that women go down in salt mines in Soviet Russia. There is no doubt in my mind that it is men at times who need high protection devices against women. I don't know what the concern is that women need high protection devices. I agree with Councillor Livesey that - sure, I wouldn't like to see women go down in the mines, but I think they should be given the right to refuse to go down if they don't want to go down, not just be told that they can't go down. We're thinking of all the people - men and women, and it is on that principle that I say no piece of legislation should separate one class against the other or one part because of the creed or colour or race or religion. The same thing has to apply to sex as well. You've got to have it in there so if people want to go down, they go down, not just say they can't go down. That's my stand that I take.

Mr. Chairman: Councillor Dumas.

Mr. Dumas: Mr. Chairman, as you know, on previous discussion I took much the same stand as the Honourable Member from Carmacks-Kluane and the Honourable Member from Whitehorse East. Now, in view of the information presented to us and in view of the fact that the Federal Government wishes to ratify the International Convention which is referred to, and in view of the fact that in some countries this International Convention is of great importance to protect women, I think we should be generous and allow this to go through so that the Federal Government may in fact ratify the Convention.

Mr. Chairman: Councillor Gordon.

Mrs. Gordon: Thank you, gentlemen, for all your chivalry. I kicked this off in the first place as being discriminatory, and I think you will all agree that in this enlightened day and age, more hope to see the countries who are signatories to this particular section of the International Agreements will become enlightened, and we can all be in a position to make a choice as men, or women.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Well, Mr. Chairman, I wondered if the Legal Adviser could find out who are signatories to this particular discriminatory type of legislation. It may be somewhat world-wide and in view of that it may - personally, I might be quite amenable to giving it consideration, but the fact that it is international - well, international could mean two countries. Is this really world-wide? I wonder if the Legal Adviser could get that information, Mr. Chairman.

Mr. Legal Adviser: Yes, I will get the information.

Mr. Chamberlist: Mr. Chairman, you know something has just given me a thought. Why don't we say that there cannot be women astronauts going up that way, because, you know, you can't give it to a woman. Why must we say there can't be women astronauts, but women miners going down that way? The thing has got to apply all the way around. You shouldn't separate them, and I think we should put this particular point to the vote, whether we want this in or not.

Mr. McKinnon: Well, Mr. Chairman, I don't think that anyone who is married at this Table should be allowed a vote on this issue. I say this because I think, Mr. Chairman, that they have a very peculiar interest in this matter. It sounds to me like they want to send their wives down to work in a mine.

Mr. Chairman: What is your pleasure in respect of proceeding with this Bill?

Mr. Shaw: Well, Mr. Chairman, could we get this information? Let it go until we get this information.

Mr. Chamberlist: No, let's put it to a vote.

Mr. Chairman: What is your pleasure? I'm at your direction.

Mr. Chamberlist: Division.

Mr. Chairman: Well, there can be no division without a motion, gentlemen.

Mr. Chamberlist: Mr. Chairman, I would move that the words.....

Mr. Chairman: Might I have your direction, gentlemen?

Mr. Dumas: I would move that section 6 of this Bill be accepted as written.

Mr. Chairman: Is there a seconder?

Mr. McKinnon: Mr. Chairman, just for advice, has there been any other amendments to this Bill whatsoever? I think the motion should be that the Bill be reported out of Committee without amendment.

Mr. Chairman: Is there a seconder to that motion?

Mr. Dumas: I'll second that motion.

Mr. Shaw: Speaking on the motion, Mr. Chairman, I asked for a little information, which you are not permitting me to get, and I hear quite a song and dance around here when somebody asks for something and can't get it from certain quarters. I shall abstain from voting on this particular item, mainly because I felt that

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I should have been able to get that information.

Mr. McKinnon: Mr. Chairman, I did not propose a motion at the time I stood. I just asked whether the motion, if there were no other amendments, would better be that the Bill be reported out of Committee without amendment. As far as I know, there is no motion before Committee at this time, and I certainly am not prepared to make such a motion until the Honourable Member from Dawson City has all the information he needs at his fingertips.

Mr. Chairman: I'm sorry. The Chair had it that you had moved a motion, so I will delete the item from the record.

Mrs. Gordon: Mr. Chairman, I move we report progress on this Bill.

Mr. Chairman: Does Committee agree?

All: Agreed.

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Mr. Chairman: The next item is Motion No. 9. (Reads Motion No. 9.) Councillor Shaw, will you proceed.

Mr. Shaw: Mr. Chairman, this is a situation that - what number was that? I was busy on something else. Yes, Mr. Chairman, in introducing this motion, it was for the express purpose of protecting something that is rightfully ours. We have two ways - there are two ways in which I protest the use of this term by the groups in Edmonton. One is from a moral point of view. It is absolutely stealing part of the history of this Territory and in the other respect it is a matter of dollars and cents. We have two major industries, you might say, in the Yukon; namely mining and tourism, and tourism is an expanding industry. Each year we find that it grows larger and larger. We have a promotional campaign that is, I think, most efficient but at the same time it is very small. We do not have the funds with which to promote something as we would like to. Now, tourism in this day and age, Mr. Chairman, is something that is vitally important economically to most areas. It is something that is competed for very, very strongly by high pressure advertising groups, and a name is of paramount importance when we start out to advertise a certain product. I think you will agree that in the past they have had competitions for names and given large sums of money in order to get the right name for the right product. The Edmonton groups realize the value of such a name. They realize that, Mr. Chairman, by endeavouring to copyright this name. Now, can one get any more conclusive proof of the value of something when people are prepared to try and steal it and then copyright it on top of that. At the time, myself and many other good people of the Yukon were very annoyed about this particular action and I think that that was the reason, the basic reason, when we saw how this infamy was about to be perpetrated, but we had to do something about it, and as a result, Mr. Chairman, the Klondike Defence Force was formed, and these people have done a tremendous job, but when we are talking about competing with a city the size of Edmonton of 350,000 people or 500,000, or whatever the latest Chamber of Commerce figures give, we find that with our limited population, with our limited resources, that it is just impossible to compete with the Madison Avenue-type technique which they have down in that particular area. So, what happens? We are more or less a child struggling in the wilderness of high-priced advertising. The Klondike Defence Force have done, as I stated before, Mr. Chairman, a tremendous job, but they have just reached the

end of their resources. It is very much like a Member of Council sometimes getting up here and asking for various things for his constituency - it's speaking to the wind. So that the only alternative left is to attempt by legal means to stop these people from carrying out this nefarious enterprise. I can't think of any better word to describe it. The only thing left - we cannot use force, we haven't the money to combat this with, but surely we have the resources, or can produce the resources to fight this battle in a legal manner. The courts, in my estimation, Mr. Chairman, is the last alternative that we have. If we leave this for another ten years, it'll be just that much harder to accomplish. We have to a degree certain authority from the copyrights department of the government to the exclusive use of this particular term, and I would say that we should use it. We should use every available resource possible by legal means to stop them from carrying on in the way they are. If we lose, Mr. Chairman, this battle, it is an honourable battle, and we will be no further behind than we are now. If we win it, we have set an example of where the little fellow might also have a chance under Canadian justice. I think that that is what it is set up for, is to give the little fellow a chance, and in this case we are the little fellow trying to combat the big corporation. That is the way I look at it, and, Mr. Chairman, I would ask support from the Members of Council to ask that the Territorial Government immediately institute proceedings as soon as they can figure out the ways and means and form they go about it to start on this right now. Thank you, Mr. Chairman.

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

Mr. Chamberlist: Yes, Councillor Taylor.

Mr. Taylor: Well, Mr. Chairman, in speaking as seconder of this motion, I wholeheartedly concur. I think it is well to remember that when we had this battle going with the City of Edmonton initially over the theft of the Klondike theme that we went to Expo '67 and stopped them there, and we stopped them there for one very good reason, and that was because in no world exhibition world they permit a distortion of history. Today, although we have remained mute for many months now, today we are at a point where we must do something and it certainly seems to me that the judicial process is the only answer. As the Honourable Member from Dawson has stated, our Klondike Defence Force, which was formed as a fighting wing of Council, has done a tremendous job and I believe are still active, working with little or no funds, but still plugging away. Now, the time has come when this must be taken to the courts. I feel also that the Federal Government have a stake here, and certainly when we talk about going to the courts, we're talking about the expenditure of revenue. We don't really know how much revenues will be involved, but I think the Federal Government certainly have a stake with us in this endeavour and should do everything they can, both financially and physically, to assist us in this regard. It is interesting to note, Mr. Chairman, that if this type of thing, such as Edmonton is trying and successfully doing, is permitted to continue, there just won't be any Yukon Territory left any more. At least nothing for the people of the Yukon Territory. Edmonton has stolen our Klondike, or attempted to steal it and doing a very successful job of it at the moment. I understand as of noon today that Mr. Bennett wants the rest, whatever Edmonton hadn't packed off. Apparently, he wants to annex the Yukon Territory north to the Arctic Ocean, and the Federal Government want the resources, too. I don't think that Mr. Bennett is alone because the Federal Government seem to place a pretty big importance on them. Well, this is a resource we're speaking of, and I don't think Mr. Bennett



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is going to get it. I don't think Edmonton is going to get it. I think this is something that belongs to the people of the Yukon, and the sons and daughters of the people of the Yukon, and the new people that come to the Yukon or for the future, and it also is our responsibility to ensure that history is not distorted and that we protect this most valuable industry, and therefore I also encourage the full support of this motion. Thank you, Mr. Chairman.

Mr. McKinnon: Mr. Chairman, I have a few questions I would like to ask; the first being, now that the government has the word Klondike copyrighted, how does one go about getting permission for the word Klondike to be used?

Mr. Legal Adviser: It is a mistake to say the word Klondike is copyrighted. We have registered a right in it similar to our pattern or trademark, but this is not to say it is copyrighted, and our rights to this word are fairly restricted. Any right claimed in accordance with the Federal Act under which the word was registered are limited to rights given by that Act and conditioned by the conditions laid down in the particular Act.

Mr. Chairman: Councillor Livesey.

Mr. Livesey: Yes. What point in time, Mr. Chairman, did Edmonton start using the word Klondike in relation to the action taken by the Territorial Government towards an attempt at making, or using the word Klondike as a trademark?

Mr. Chairman: Mr. Legal Adviser.

Mr. Legal Adviser: I would like to be relieved of any obligation to answer that particular question.

Mr. Chairman: Mr. Commissioner, could you answer that question?

Mr. Livesey: A supplementary question, Mr. Chairman.

Mr. Chairman: Councillor Livesey, with respect, would you care to have an answer before you put the supplementary question?

Mr. Livesey: I would like an answer, yes.

Mr. Chairman: Mr. Commissioner. Mr. Legal Adviser.

Mr. Legal Adviser: If the Council would bear with me, this has bearing on any law case the Council wishes to bring, and if you want to - well, enough said.

Mr. Chairman: I understand Mr. Legal Adviser's situation is the less said about giving out evidence that may be required at a later date, the better.

Mr. Livesey: That's a very good question well answered. Mr. Chairman, I wonder if the Administration would care to give an approximate cost of litigation.

Mr. Chairman: Mr. Legal Adviser.

Mr. Legal Adviser: I have made an enquiry and we would have a heavy cost of obtaining a detailed researched opinion from a group of lawyers, and it would come to several hundred dollars. The

cost of an action in the Supreme Court of Alberta would run to something around about two or three thousand dollars. The cost of an appeal, because no matter who wins, there will be an appeal in this case, would be somewhat less than that, and the cost of an appeal to the Supreme Court of Canada again would be somewhat less. Now, there is an alternative and that would be moving in the Exchequer Court of Canada because it is a particular type of federal act under which we would be claiming, possibly, injunctions or restraining order. It would be a matter for the researchers in producing an opinion to say which forum we should choose. Probably from the general area of any side benefits, apart from winning or losing the action, any side benefits that would accrue from publicity from being able to fight a case with a right of appeal and so on, probably the best forum to choose would be the Supreme Court of Alberta, Trial Division.

Mr. Chairman: Councillor Dumas.

Mr. Dumas: Mr. Chairman, I wonder if before we make a decision on something as important as this, and it certainly will be very serious and important if it ever goes to court, if we shouldn't make another attempt to have a meeting with the City of Edmonton and Klondike Exhibition Association to see if some sort of an agreement can't be worked out or if they might in fact voluntarily withdraw, and if this could be done it would be much, much better than our tackling them in the courts as something that could last for many, many years and be very expensive.

Mr. Chairman: Councillor Taylor.

Mr. Taylor: Well, Mr. Chairman, I can say without any qualification whatsoever that this has been tried and the Edmonton Exhibition Association have blatantly stated that they have gone too far with the thing now and that they have had, and I'm sure still have no intention of shutting it down. The business community of the City of Edmonton are involved and the Mayor Edmonton, the Mayor of the City, Mayor Dantzer, has expressed the very same thing, and to approach them again would do nothing but delay the process with has already been too long delayed.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Mr. Chairman, when we talk about costs, I realize that is an intangible thing and I, with all Members of Council, am most concerned with what we have to pay out of the budget. That is something that we should well be concerned with at any time, and also concerned about what this action must cost if we enter into it, which I hope we will. There is one thing, however, Mr. Chairman, that is very hard to evaluate and that is the potential value of this name for the future, for the next five years, ten years, fifty years, a hundred years and so on. That, how do you estimate those costs? I would estimate those as millions of dollars, not a few hundred or a few thousand dollars. We have courts set up in this land, Mr. Chairman, that will decide issues on whether something is right and on whether something is wrong. The fact that one part of Canada will blatantly steal a part of the history of another part, put it before the public in such a way that it indicates that that is the area where these historic things occurred is misrepresentation. Another point we could take, Mr. Chairman, is that this is harmful to the people of the Yukon. Now, when some party harms another party, they have courts in this land in which the party that is being hurt is able to go and get recompense or justice in one form or another. This is no different to anything else.

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This is something that is absolutely unheard of, to my knowledge, throughout the history of Canada. The only reason that they can continue with this larceny, Mr. Chairman, is because it is what you might term a multi-million dollar corporation. This is worth millions of dollars to those people in order to promote this type of a farce. The only thing is it is unfortunate because we are the ones that get it in the neck. We're talking about millions of dollars for the future which we could lose in this Territory and which they could gain. So, it is not something that is just within the next year or two. This is for the Yukon forever. Our children and our children's children. That's why I think it is so important to take this action. It is the only alternative we have left. We have nothing to lose and if we do not undertake this, I think that the people that come along behind us, and the Territory will progress and expand - they'll say, what is the matter with those fellows? Were they scared of taking these people to court? Were they scared of assuring their rights to something that belonged to them? I would not like to be branded with something like this. I think if you have something that is worthwhile, you fight for it, and you use every reasonable force that is necessary, as the Legal Adviser has stated on different occasions, within legal means. So, the only course we have left, Mr. Chairman, is legal means. That is the only thing that is left, and I would submit that now is the time to use that and give them the works.

Mr. Chairman: Councillor Dumas.

Mr. Dumas: Mr. Chairman, I've gone through several of these discussions before and I've been just as vehement as any other Member in the Committee about fighting, but I think there are several different ways of fighting, and the thing is to achieve results and I believe that if we were to approach - if this Committee were to set up a sub-committee to approach the Edmonton Exhibition Association and the City of Edmonton, and say, lookit fellows, if we can't discuss it out and solve this problem like intelligent people over a discussion table, then the motion is before Council. We are going to court and it is not going to be nice for either one of us. I think on this basis that we might have a far more solid grounds for discussion than any previous discussions that may have taken place, and incidentally I would be interested in knowing specifically who went down to discuss this matter with the City of Edmonton and the Edmonton Exhibition Association and when, or was it done through letters, through correspondence, or through the papers.

Mr. Chairman: Councillor Livesey.

Mr. Livesey: Well, what I don't know yet, Mr. Chairman, precisely what is - what has been reserved. Is it the word Klondike only, or any words in connection with Klondike, before or after, or within the meaning of? Just what precisely has been established as that portion of the word, or the whole of the word, or in connection with surnames, given names, names of towns, and so on? I'm not clear on this yet. I don't know what has been reserved as a trade name. For instance, if we say, well, all right we win. No one else but the Yukon can use the word Klondike. How about Klondike Days in Hong Kong? Does that have to shut off? We have the same problem now - for instance, a good many people belong to the Alaska Sourdoughs in southern British Columbia where I think if a good many people from the Yukon eventually wind up down there, we should have a few Yukon Sourdough Conventions; not necessarily Alaska Sourdough Conventions, and so on. Would we have to eliminate ourselves, disenfranchise ourselves from the

word Klondike. It seems to me if you are promoting a business that you want to push that word as much as possible. You want to keep pushing it in every corner of the globe. That would be the idea to advertise a thing in my opinion. I wonder if I could obtain an answer from the Administration as to just precisely what has been reserved as a quasi-form of reservation or an actual reservation or a legal reservation in relation to the word Klondike.

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Mr. Chairman: Mr. Commissioner or Mr. Legal Adviser.

Mr. Legal Adviser: What has happened so far as the legal right is concerned to the word Klondike, that is so far as the government have registered a right in it is concerned is they have registered this word under the Federal Trade Marks Act and they have all the rights granted to them in accordance with the section under which the word is registered.

Mr. Livesey: In other words, Mr. Chairman, instead of Klondike Kate, she is now known as Kate. I mean that is a ridiculous situation but this is what I am talking about.

Mr. Chairman: Order, please.

Mr. Legal Adviser: I don't want to go into a long legal disputation on this. I'd have to get out the Act and read what the Act says and then give the decided cases. We can get out the section and I can show the Honourable Members during the coffee recess.

Mr. Chairman: Councillor Shaw, would you take just a moment, please, just before recess?

Mr. Shaw: Yes. Mr. Chairman, in proposing this motion, I would ask the indulgence of Committee to look at this motion with the intent with what it was given. Now, when we are talking about instituting legal proceedings, as the Honourable Member on my left from Whitehorse East is so very well aware, how you make your accusation - I put it that way for want of a better term - means quite a deal. You may not put it in the exact reference to what you might think of normally. In other words, that charge won't stick but you use it as a different direction. So, that is what I mean when I ask the indulgence because this can be approached in all possibility from various angles, but I am thinking about, ultimately, the harm that it is doing the Territory by their misuse of this word. How the legal brains go about this, Mr. Chairman is something for them to determine but it is doing us harm and I would like to see it stopped and as far as evidence is concerned, I am sure the Klondike Defence Force has boxes of evidence showing how nefarious, how round-about these schemes are utilized by this organization to the south so that I am sure they would be pleased to make that available.

Mr. Chairman: Committee will recess at this time for fifteen minutes.

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Mr. Chairman: I will now call Committee to order. Is there any further discussion on Motion No. 9? Councillor McKinnon. MOTION NO. 9

Mr. McKinnon: Mr. Chairman, I'm afraid that I really need more background information and legal research information before I can say let's spend a certain amount of the taxpayer's money in this legal action in Edmonton. I agree wholeheartedly with everything that has been said in support of the Motion by the mover and the seconder of the Motion. However, I haven't had the ability of knowing the complete background of the situation as these two Members do. I think that before a large expenditure of the taxpayer's money of the Territory were spent, and Mr. Chairman, make no mistake about it that this is going to be tax dollars from the Territorial taxpayer and the Territorial taxpayer exclusively, because I can't see the Federal political body giving money to work in an area where it would be impolitic for them to do so, that all Members should have the background and the suggestion and the proposed method of legal action that can and would be taken if legal action were commenced. And Mr. Chairman, I wouldn't like to see this research and background paper being done by the Territorial Legal Department. I think that this should come from an outside body who are specialists in the field of registered and copyright law. I think before the Council embarked on a program of action that they have to be sure of what their chances are, of what the cost will be, of what plans are available before the Court to be able to give relief to us who think, and I agree that we have had our history usurped and stolen by Edmonton. But I could not at this moment justify without this background that is familiar and has been made available and they have been a part of making the Honourable Mover and Seconder of this Motion, that I couldn't commit the Territorial taxpayer at this time without having more background knowledge and more research done into the area of the legal consequences of us beginning action against Edmonton. If an independent Legal Authority researched the background of the situation and said you people, without a doubt, have an excellent case because you have had your history, a part of your history taken by another area of Canada and you have an extremely good chance of being given relief before the Court, and even if you had a 50-50 chance, that I know that the popular support that you would win from the rest of the Country in beginning this legal action against Edmonton would be eminently successful for the Klondike being restored to its rightful place, and that is in the Yukon. And Mr. Chairman, I would certainly like to see this research and background paper be prepared for Council by an independent legal authority who are experts in the field of registered and copyright law.

Mr. Chairman: Councillor Taylor.

Mr. Taylor: I was just going to ask the Honourable Member if he feels this law firm would be coming from the City of Edmonton or possibly the City of Calgary; in other words where would a person find these people and indeed, I might ask the Honourable Member if he feels that these people will embark upon the study without being paid? Where will the money come from there?

Mr. Chairman: Councillor McKinnon, would you care to answer that?

Mr. McKinnon: I think that these people can be found. I think that these people can be found in Whitehorse, Mr. Chairman, and I think that they are so interested in the area of the complete misuse of the Klondike history that they would be willing, for a minimal retainer, to embark on the course of action that I have suggested.

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Mr. Chairman: Councillor Livesey.

Mr. Livesey: Mr. Chairman, Members of Committee will note the questions I raised this afternoon and one of the reasons I raised them was to ascertain just precisely what that position, the position of the Yukon Territory is; just where do we sit. I don't feel that it's either competent or proper to enter into or embark upon any litigation of this nature without first having ascertained the exact position, from a legal point of view. I feel, Mr. Chairman, that it would be both wise and sensible to search this entire issue; and this is why I raised the questions as I did in Committee. I think this is the only approach, the only way that we can attempt to expect to be successful in any endeavour because after all there are two positions that can be taken. One could be considered negative if it failed and the only positive position is to, of course, boost the Yukon and forget the negative position. However, the negative position, or the approach to the elimination of the use of the word by others certainly has its points of merit and we know of course without a doubt who is in the wrong in this position and that is, of course, the City of Edmonton. There is no question or doubt in my mind but still before we proceed along these lines I would feel far more satisfied as a Member of this Council if we knew precisely where we stand in law before we make any attempt to proceed with any case against the City of Edmonton.

Mr. Chairman: Councillor Dumas.

Mr. Dumas: Mr. Chairman, I'm inclined to agree with the Honourable Member from Whitehorse North and his suggestion. However, before we even, if we are going to, before we even went that far, I still feel that we can hold further discussions with the City and with the Exhibition Association. I feel so strongly about this and I feel that we must be able to achieve something. I would be willing to be part of a committee and go to Edmonton at no expense whatsoever to the Klondike Defence Force or to the Yukon Territorial Government; in other words at my own expense, in company with one or two other people who are interested in this problem, to discuss this matter in an intelligent face to face manner with the people involved in Edmonton and see in fact if we can't achieve something in that manner. Then if we can't, I suggest going to the proposal of the Honourable Member from Whitehorse North. If that group, the group that he proposes, should come up with something that would put our stand in a favourable light on a legal basis, then I suggest we go to this Motion, but I think things should be done in that order. A calm, cool, sensible approach to try and effectively do that which we all desire; in other words bring our history back to the Yukon. And this is what we want to achieve. We don't necessarily have to make an actual issue of it at this point although in fact it has been; the thing is to get the job done the simplest most inexpensive way. The three stages that I've suggested, or that all three; that the Motion that the Honourable Member from Whitehorse North and myself have suggested, I think that these three stages would be the best way to approach the problem at this point.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Mr. Chairman, I very much appreciate the Honourable Member from Whitehorse West with his suggestion. I myself do believe in diplomatic negotiations on any problem. However, I would like to, for the Member's edification, Mr. Chairman, state that we have tried that; we have spent about \$25,000.00 in endeavouring to point out and asking, please asking these people if they would refrain from that; both the citizens of Edmonton, the Edmonton Exhibition, the Mayor and Council of Edmonton, the Premier of Alberta; we have

Mr. Shaw continues...  
that effort and that has cost us \$20,000.00 anyway in order to get this message across to ask them if they would please stop this because it's unfair and unjust. We have had complete negative results. I just mentioned that Mr. Chairman for the Honourable Member's benefit.

Mr. Chairman: Anything further?

Mr. McKinnon: Mr. Chairman, I wonder if I could ask the Mover of the Motion if I voted for this Motion that immediate legal action be undertaken, could I take it to mean the beginning of legal action would be in the preparation of a working paper so that we would know the background and the chances of success in the field of copyright action or registered action against the City of Edmonton?

Mr. Shaw: To answer that question, Mr. Chairman, firstly, I would feel that we must push in a resolute and determined manner to stop what is occurring. Now, possibly through my lack of legal knowledge and matters such as this my Motion is not phrased perhaps in the right direction. I feel that there is only way to do it if possible, is legal. Now how we go about that I'm not competent to say at this time. I will very much agree with that and what the Honourable Member from Whitehorse North has suggested may have a great deal of merit. The main point, Mr. Chairman, is the fact that this has been brought to Council's table, this table, so that from this we can evolve the best means of completing our desire to stop this type of fraud. Now I wouldn't like to get into specifics. It it's possible to get legal advice; if we can get unbiased legal advice, good legal advice on how, if and when - I'm being a reasonable type of person, I'd be very pleased to hear that. I would not, and I repeat I am not, Mr. Chairman, trying to put something, or force something through this Chamber except a start to stopping what is going on.

Mr. Chairman: Councillor Dumas.

Mr. Dumas: Mr. Chairman, could the Honourable Member from Dawson or the Honourable Member from Watson Lake tell me if there has ever been a face to face consultation... between an official group appointed by this Council and the Edmonton Exhibition Association or the City of Edmonton?

Mr. Taylor: Yes, Mr. Chairman, there has. More particularly, the meeting took place at Expo, at Laronde, or near Laronde and at that time we met with officials of the Edmonton Exhibition Association; Mayor Dantzer and other officials from the City of Edmonton and two representatives, myself and the Honourable Member from Dawson and, as a matter of fact, were completely refused. Further requests were then sent from the Legislative Council itself to the Premier of the Province, to the Mayor of the City, to the Exhibition Association and to the one person who was the promoter for the City of Edmonton and was quite involved at that time; and there was just no possible way that we could get these people to back off at all. I am quite confident that now it would be almost a waste of time to go down and talk to them again because there is just no way - they feel that they are in so deep now; so deeply committed to the citizens of their community that they are just not willing to stop. Thank you Councillor Chamberlist, I'll resume the Chair.

Mr. Taylor resumes the Chair.

Mr. Chairman: Councillor Chamberlist.

MOTION NO. 100

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Mr. Chamberlist: I would prefer to look at this whole situation from a practical sort of way. I have made my position quite clear. In my opinion what Edmonton requires is a firm answer to what they are doing. The firm answer is this; that the Yukon Territory with all its facets of power, the Territorial Council, the Territorial Administration, the people indeed themselves, fight against what they have been doing by way of misleading the public at large to the effect that Edmonton is the heart of the Klondike. Now I think that the most annoying thing to me is the fact that they have been lying to the public both nationally and internationally. This is why I have expressed myself to fight them. But at the same time we have to look at what way, what can be done and in what way they can be fought. Now, the Honourable Member from Whitehorse North has suggested and quite rightly too, I think, that there be a brief submitted by an unbiased legal authority on what our position would be if we took legal action. But I disagree with him when he suggests that it be from somebody in the Yukon because it cannot be unbiased. There are a number of law firms who can make this type of provision. He may have one in view. I won't view any of them. I won't view them for the simple reason that I think if this is to be done it should be done from outside where people will look strictly at the law and not from a sentimental point of view. Now this is what is needed to find out whether in fact there is legal ground for the Territory to fight Edmonton. Now I say this because there may not be legal grounds. The position, as far as this Sessional Paper is concerned, I think lays out some of the fine questions that must be asked before consideration is given to the overall picture. Now, firstly we see in four situations where there is a place called the Klondike Travel Trailer Park, the Klondike Steak House, the Klondike Hall and a Yukon Presentation of Klondike Entertainment. I find nothing wrong because the next thing we'll know we'll have to go to the B.C. Telephone Company and say look you've got an exchange that says Yukon. We want you to take that exchange out; you can't use the exchange Yukon. Now I don't find anything wrong with that at all. People even want to use the word "Klondike" in Australia and New Zealand; let them use it because somebody is going to say what does it mean. Then they will say it means the Klondike which lies in the Yukon. Now, what can you do; you can't go and stop somebody from referring to the Klondike. You can't stop somebody from referring to the Yukon. I find that there is nothing wrong with that. So we have to go down to the fine questions. First of all (1). Shall we prosecute every offender brought to our attention who has not applied for permission to use the word Klondike. I say no, we don't do that but contrary, I say everybody use the word Klondike and if you want to ask something about it write to us and we'll tell you the truth about the Klondike. Educate people and let them know what the Klondike means. (2) Undertake legal action against Edmonton and its Exhibition Association, with no assurance that litigation will be successful? That's the big question; that's where we have to get some unbiased legal advice and I mean unbiased inasmuch as not somebody who, as a matter of fact, somebody who has never been to the Yukon. It would be much better to look at this question on basic law. Has there been an infringement and this is what lawyers will look at; whether there has been an infringement. Local people may well consider the sentimental attitude towards the fact that they live in the Klondike. The Legal Adviser; if he hears that he might be guided or misguided, whatever way you may wish to term it, by the Administration, which way he shall think because Legal Advisers and Lawyers have three or four different ways of thinking in accordance to which arm or leg is being pulled. Now we must recognize this thing. Number three-encourage the widespread use of the word Klondike in all areas of Canada without application for approval. I say yes, let people use it as much as they want to; the actual word. Four; retain



Mr. Chamberlist continues....  
our registration of the word Klondike with no attempt to enforce it at the present time? I say yes, let's retain it; have people know that it's there but don't penalize anybody for using it. Now, renew our request to Edmonton to delete the word Klondike from their promotional activities. I say no to that but let them know that we are opposed to them suggesting that the Klondike is on Jasper Avenue. Now this is where we must fight and this is the whole crux of the thing as far as I am concerned; that the Exhibition people down there, the City of Edmonton, and to a great extent our Federal Government who stupidly pay money out to Travel and Tourist areas in Chicago or New York and Los Angeles and all over the place and by publicity allow the whereabouts of where the Klondike was to be mislocated by Departments working within the Government. This is the thing! Now we have got to say to the Federal Government and we have got to ask the Commissioner to say to the Federal Government that we are not happy with what they are doing; that we are also taxpayers of Canada and we don't want to see our tax money being paid out by the Federal Government to Federal Government offices to tell the people of America and other parts of the world consistent lies about where the Klondike is. Now if we can get it over to the Federal Government that they have a responsibility to this area because of the money they expect to make out of this area through the raw materials that they are going to get out of this area, then we must let them know that they have a responsibility to take care that what they are doing with reference to wasting our money and the taxpayer's money and the rest of Canada by misleading people into the effect that in Edmonton lies the heart of the Klondike; that it's Edmonton where the Klondike Gold Rush started, that in itself is false. This is what we have to do and I am very sorry that I am making Mr. Legal Adviser so tired. Mr. Legal Adviser, I know you can help us in doing this thing.

Mr. Chairman: Order, please address the Chair.

Mr. Chamberlist: Well, Mr. Chairman, I know that Mr. Legal Adviser can help in doing this thing, in helping the Administration let Ottawa know that they are condoning to no small expense the existence of a situation as it is today. We can only work together in fighting Edmonton and its Exhibition but we know that if we get the support of the Federal Government and the sympathy of the Alberta Government who I know, if it is put forward towards them that we do not object to the use of the word Klondike but object to the theme that they are using; that Edmonton is the Klondike, then I know we can get better results. But certainly, we must first do what the Honourable Member from Whitehorse North has suggested and that is; and I think would be part of the Mover's Motion, that there be an investigation made first as to whether the Edmonton Exhibition and the City of Klondike have in fact contravened the use of the word Klondike inasmuch as the location is concerned. Now I think if the Honourable Member from Dawson would agree that this is part of his Motion I would see no difficulty in his Motion being passed. Thank you Mr. Chairman.

Mr. Shaw: As you will note my Motion states, the meat of this Motion, that legal action be undertaken against the City of Edmonton and the Edmonton Exhibition Association for misuse of the term Klondike. Now that's an all-embracing matter. There could be various and sundry things that apply to that. I stated before, I do not wish to get down to the details because I'm not aware as to just how you would proceed with something like this. All I ask is that we do proceed resolutely in this matter. If it is first necessary to find out from an uninterested firm or an unbiased firm of lawyers I'm not against that Mr. Chairman. In such a matter as that if we could have a resolution from this Committee without actually taking action on this particular motion, to ascertain that first, it may be a very sensible move. It does appear that the

MOTION NO. Mr. Shaw continues....

9. opinon of Council is very much that this has to be stopped but that there are different opinions on how it should be done. Now, to keep this thing fluent, I would be quite agreeable, Mr. Chairman, that we did investigage by means of communication to the proper persons as to the realm, or the possibilities of pursuing this further with the objective in mind of stopping them in their misrepresentation.

Mr. Chairman: What is your pleasure in relation to Motion No. 9? The question has been called. Are you agreed?

All: Agreed.

Mr. Chairman: Any contrary. I'll declare Motion 9 has passed in Committee.

MOTION PASSED

MOTION PASSED

SESSIONAL PAPER NO. 30. Mr. Chairman: The next item is Sessional Papers. Sessional Paper No. 30. Sessional Paper No. 30 deals with the Canadian Travel Bureau Prize. Councillor Shaw.

Mr. Shaw: Mr. Chairman, we are practically back on the same theme as we were before and it is something that the Honourable Member from Whitehorse East has already mentioned. My question was: "Is it correct that the Canadian Government Travel Bureau has endorsed a travel contest which gives away a prize of a seven-day visit to Edmonton's Klondike Days?". The answer I received was that indeed Chicago Branch of the office of the Canadian Government Travel Bureau have inserted advertisements in papers promoting travel to Canada and advertising this Klondike prize of an all expense visit to the Klondike Days celebration in Edmonton. Now, Mr. Chairman, I'm not going to be too long on this but it is hard for me to realize how the Federal Government itself will permit Edmonton in the first place to carry on the way they are but then condone their employees for advertising the doggone thing. I could have used much stronger words, Mr. Chairman, but I used Parliamentary language in this case.

Mr. Chairman: Order, gentlemen.

Mr. Shaw: I just don't know where to proceed on something like this and all I can say, Mr. Chairman, or request, is that the Commissioner send a Telex, or some communication to the Canadian Government Travel Bureau pointing out to the, and sending possibly a map of the Yukon showing them where the Klondike is and various other information concerned with the history of Canada and demanding, and I say demanding because I think that is justly so, that they desist from trying to advertise a matter that, if yet not illegal is extremely immoral. I would perhaps ask a question at this time, Mr. Chairman, of the Commissioner; **has** he taken any action or would he be prepared to take action in respect of this particular matter.

Mr. Commissioner: Mr. Chairman, I am quite prepared to take action as indicated by the Honourable Member.

Mr. Chairman: Would Committee agree to such proposal?

Mr. Dumas: Agreed. Mr. Chairman, I have a Motion written out to this effect if it's necessary.

Mr. Chairman: Would the Commissioner feel a Motion would be required?

Mr. Commissioner: No, I have asked Mr. Clerk to make a note of the request as indicated by the Honourable Member and we will use that as our authority to proceed.

SESSIONAL

PAPER NO.

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SESSIONAL

PAPER NO.

31.

Mr. Chairman: Will there be anything further then on this Paper? The next Sessional Paper is Sessional Paper No. 31; Carcross Postal Service. Councillor Chamberlist.

Mr. Chamberlist: Mr. Chairman, it has been intimated by the Commissioner to me that the postal service cannot be increased because of the high cost of providing this additional service. The people in the Carcross area now receive a postal service of about twice weekly and with the mining activities that are in this area and the extra people who are moving into the area find that mail gets to them anywhere to a week to ten days late. It would appear to me that there is a suitable road, a very well kept Territorial Government road which is available and although I know the Administration has made a number of requests, to the Postal authorities there seems to be a negative answer in each case. Each time reference was made that Postal rates by rail are far too high. It appears to me that the Postal authorities in Ottawa are not recognizing the fact that there is an all-weather road to Carcross and I feel that Administration should make further efforts to get this service available to the people at Carcross. Thank you.

Mr. Dumas: Mr. Chairman, I wish to comment on that. When I first came to the Yukon thirteen years ago I lived in Carcross. There were about 150 people out in that area at the time. The Postal service at that time was delivered by truck from Whitehorse to Carcross every Tuesday and Friday. Now since then I would estimate that the population has about tripled or so and certainly there is more activity; there is more industry there. It seems to me that there should have been some progress in the Postal service and it would be in order for the Administration to once again request that postal service to that area be up-graded.

Mr. Chairman: Councillor Livesey.

Mr. Livesey: May I enquire, Mr. Chairman, if Carcross has a full accounting Post Office and what approximately is the number of residents there in the Carcross area, served by the Post Office?

Mr. Chamberlist: I understand, Mr. Chairman, in the region of 350 to 400 people in this area. I cannot answer the other question put by the Honourable Member. I'm not aware of it.

Mr. Chairman: Councillor Shaw.

Mr. Shaw: Mr. Chairman, I do have an enquiry. Does not the train run passed Carcross each day, back and forth that could provide a Postal service.

Mr. Chamberlist: Mr. Chairman, the information I received on a previous paper about the train services is that the cost of putting mail on the train would be so high as to limit the Post Office authorities from supplying postal service every day and this is why I asked that consideration be given to the postal service being used by route.

Mr. Shaw: A supplementary question, Mr. Chairman. Are the carriers of the present truck delivery the same as the railroad?

Mr. Commissioner: Mr. Chairman, no.

Mr. Shaw: Mr. Chairman, a further supplementary question. Would the Member know whether a bid was ever made for three or four days a week to Carcross - whas a tender ever advertised in order that prices could be ascertained.

Mr. Chamberlist: No, this, Mr. Chairman, this is the reason why I am pushing this particular subject because nobody seems to want

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Mr. Chamberlist continues....

to know whether it can be done in a more economical manner. The Post Office is giving negative replies all the time and I feel that this Administration must know the needs of proper postal services in all the areas of the Yukon and here one, which is so close, a matter of fifty miles away and we can't get a service every day in a place like that.

Mr. Chairman: Anything further on this Paper?

Mr. Chamberlist: Mr. Chairman, I would move that at this time Administration be asked to further inquire from the Post Office Department as to the possibility of getting additional postal service in the Carcross area in the immediate future.

Mr. Chairman: May I have a copy of the Motion?

Mr. Dumas: I'll second the Motion.

Mr. Chairman: I'll declare a brief recess while we make out this Motion.

RECESS

RECESS

Mr. Chairman: At this time I'll call Committee back to Order. I have a Motion. Order please. I have a Motion before me moved by Councillor Chamberlist and seconded by Councillor Dumas that the Administration be requested to continue in their efforts to obtain a more frequent Postal Service for Carcross. Are you prepared for the Question? Are you Agreed? Any Contrary? I declare the Motion carried.

MOTION  
CARRIED

MOTION CARRIED

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Mr. Chairman: Next Sessional Paper is Sessional Paper No. 34. Councillor Chamberlist.

Mr. Chamberlist: It is more than a year now when a promise was given in this Chamber, to this Committee that there would be a change in the lighting in the Carcross area. The lighting would be up-dated because of the very, very dim lighting that existed in Carcross. At that time just two lights were put on at the bridge and from advice I have had from various people in the area there has been nothing further done. Now the information, or the answer we have had is that the Yukon Electrical advised that the street lighting program scheduled for 1968 would not be undertaken because of pressure of work involving the supply of power to the mining industry and informed us that the program can go forward early in 1969 and that suitable provisions have been made in the new year's estimates for this purpose. Well, I understood that provision had been made in last year's estimates for this purpose and that hasn't been done, and I would also submit that where the Yukon Electrical have a franchise to instal lighting at the request of the Territorial Administration, it shouldn't take a year to instal it. I think it's necessary for Administration to say to the Yukon Electrical Company, well it's time for you to put this lighting in and you must follow your commitments. They haven't done this and I would ask that this Committee agree that the Administration proceed to tell Yukon Electrical to proceed with that lighting. The money is available for it and it is needed there very, very badly.

Mr. Chairman: Councillor Chamberlist, will you take the Chair a moment.

Mr. Chamberlist: Yes, I will.

Mr. Taylor: Mr. Chairman, I also asked a question that day. I would like to direct a question to Mr. Legal Adviser at this time. Does not, or does a franchise granted to an electrical company, in this case the Yukon Electrical, in the Yukon Territory, require that when these things are needed that they must provide them?

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Mr. Legal Adviser: I'd want to see the exact terms of the franchise to be able to give a clear answer on that.

Mr. Taylor: Well I don't happen to have a copy of the franchise, but I do know that in my area, at least the Communities of Ross River, the Community of Teslin and indeed Watson Lake, none of these communities - I can't think of one that though street lighting was budgeted for and requested; I can't think of one that received any, and this has been a complaint through my area as well. That is of course what prompted the question. It seems to me that the Yukon Electrical Company could well do it if they are making all this money and they are a private enterprise group and don't want to see Northern Canada Power Commission in here or anybody else. And they want a monopoly on power which they obviously have in the Yukon and they should be able to take on additional personnel and supply such minor things as street lighting. I really don't feel that the government should just pass this off without comment. I think the Administration should take these people to task on this because if we are giving them franchises I feel that they should live up to them.

Mr. Chairman: Any comments - Mr. Commissioner, would you like to comment?

Mr. Commissioner: Mr. Chairman, I can't help but agree with what the Members have said in this particular regard. While there is no doubt merit in the answer that has been given to us by the Yukon Electrical Company, I certainly think that it behooves us to see if our Engineering Department cannot at least secure the co-operation of these people to do what work is at least practical and possible even at this late date because we don't need these lights in the middle of July. It is in the middle of December and January that we need them.

Mr. Chairman: Mr. Shaw.

Mr. Shaw: Mr. Chairman, I recollect very well when these franchises were given to the the Yukon Electrical Company. At that time, which is quite a common occurrence, the Council wished to have the Commissioner-in-Council put on to this particular Bill as to who would manage things rather than regulations and so on. At that time I did agree that it was impractical to try and work something like that by legislation. One of the reasons given, and I agreed with it very much, and I still do agree with it, is that when you need to put up a pole and a light, and when you need to do this you can't wait until Council sits, you just put it up and away it goes. Well it seems as if this is working in reverse. I would feel, Mr. Chairman, that when the Territorial Government provides the money for these things; it is in the Budget and they give instructions that these things be put up; that there shouldn't be any excuses except a riot or a strike or something like that. There shouldn't be any excuses. These things should be put up and they should be ordered to put them up and they should be obliged to put them up.

Mr. Chairman: Councillor Taylor, do you wish to speak? Councillor Gordon.

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Councillor Gordon: This situation seems to me could be resolved in a very simple way. When these people with monopolies have received instructions from our Territorial Administration to do a certain thing that there should be a time limit within which they do these things; otherwise they are penalized.

Mr. McKinnon: Mr. Chairman, with all due respect to the Yukon Electrical Company Limited, I have a problem with a Crown Corporation in my constituency that so far exceeds any problems that any Member may have with a private enterprise corporation through a few street lights that are not in the community at this time, that the problem just pales in comparison. I have a Crown Corporation who only allows in an area of 1500 people twelve simultaneous phone conversations to go on with the Metropolitan Area of Whitehorse at one time; where people are getting quoted months and months before equipment is available for a phone where people cannot have private lines; where there are no lines, no cable facilities available for any phone or switching equipment in the foreseeable future. And Mr. Chairman, if we are going to get up in a huff about a private enterprise corporation which has a franchise in the Yukon, I think it would behoove us to look into the area of Crown Corporations that have franchises in this area also and compare the services that are given to the public between the two different organizations.

Mr. Chairman: From the Chair, would the Honourable Member note that we are dealing with lighting at this time and not other communications. Councillor Taylor.

Mr. McKinnon: We are condemning private enterprise, Mr. Chairman. Everybody is doing it right now.

Mr. Chairman: Order.

Mr. Taylor: Yes, I might say we are condemning private enterprise. We grant franchises and demand services. We give them sole and exclusive rights to provide them; then indeed we should expect something from them and if they don't produce something then it is our duty to condemn them. Certainly I have digressed a bit and we've gone on to communications but I certainly voiced my dissatisfaction with the utility company that the Honourable Member from Whitehorse North referred to. Indeed the problem that existed at Ross River - we put in our own telephone system and now they are moving in there and taking it over. But in the matter of street lights, by the terms of the franchise agreement which I've just located, I don't know that we have the right. That is why I asked the question of the Legal Adviser whether we have the right to put up our own street lights, for instance, or just what we have the right to do and what their obligations are. But certainly they should have an obligation under this franchise agreement. In any area where there is an agreement in existence they must have an obligation to put these things in upon our demand and if that is not expressed in this agreement then I think that all agreements should be overhauled and this written into it.

Mr. Chairman: Any further discussion?

Mr. Taylor: I'll take the Chair now.

Mr. Chamberlist: Mr. Chairman, I wish to make one thing clear. I'm not opposed to private enterprise or franchise. I'm just stating a fact that if a company had a franchise I think they have a responsibility to attend to what that franchise gives them. Now the suggestion that where there is an attach on private enterprise and the franchise is completely wrong and I am sure that the Honourable Member from Whitehorse North must recognize it that if you cannot be critical of action of private enterprise then there is certainly something wrong with the private enterprise system itself.

Mr. McKinnon: I think we could be critical of Crown Corporations.

Mr. Chairman: Is there anything further on Sessional Paper No. 34?

All: Clear.

Mr. Chairman: Next Sessional Paper is Sessional Paper No. 35. Councillor Shaw.

Mr. Shaw: Mr. Chairman, here we are taking a wack at a Crown Corporation. So I hope that the Honourable Member from Whitehorse North realizes that I am not prejudiced in my resolutions before this Council. We received a communication, Mr. Chairman, a little while ago in the area of Dawson that in the future if we have any complaints we have to contact Whitehorse to try and get things ameliorated. That if we wished to pay our bills we would have it mailed to us and we would have to mail the account to Whitehorse. Now, that Mr. Chairman, appears to me one of the most stupid edicts that you could have when you look at the way business operates in the Yukon Territory. There is a chartered bank in Dawson. It is a very simple matter that you can go and pay your account to the bank. There's nothing difficult about this; it's elementary, Mr. Chairman. There are people in the City of Whitehorse conducting business who send you an account and are quite happy when you pay it at the bank; it's a normal business transaction. And all I ask that the C.N.T. just wake up to 1968 and do the same type of thing rather than have someone write a letter, put it in an envelope and put a stampe on; incidentally a six cent stamp. I don't know whether they are in cahoots with the Post Office or not, but nonetheless that is what happens as far as the charges go I think that all Government cheques go for nothing anyhow. So, all I ask is that the C.N.T. arrange for somebody or something to receive the monies according to the accounts they send up.

Mr. Dumas: Mr. Chairman, in both this paper and the one we have just discussed, I find it quite amazing that in this paper particularly, in the Canadian national complex throughout Canada I understand that one of the few areas where profits are made is the Yukon. As a matter of fact probably the only area in Canada that they make a profit and we must have the worst service in Canada. They lowered the long distance rates after midnight to one dollar and you can phone anywhere in the Country, except if you live in the Yukon. It does not apply in the Yukon; it applies only if you live outside. Yet we are the only ones who are making a profit for C.N.T. Dawson City wants a little office set up there so C.N.T. would have to pay a little commission possibly to somebody to collect their bills up there, - one of the Banks, the Honourable Member has said. So it cuts into their profit a couple of bucks and that would be a very, very few bucks. They won't do it. It's not right; it's not fair! It's the same with the electrical company that won't put up street lighting when it has a franchise to do so. They make a profit here and a damn good one. These things should be done. I think that the people of the Yukon have been taking a back seat and taking second-class service for too many years and it's about time that we brought it to the attention of these corporations that we want to be treated like the rest of the Country.

Mr. Shaw: Mr. Chairman, may I ask a question in respect to this - that arrangements will be made by C.N.T. for the payment of monthly accounts in Dawson City sometime in the foreseeable future. Mr. Chairman, would the Commissioner be able to say what the foreseeable future is beyond tomorrow?

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Mr. Commissioner: Mr. Chairman, depending upon who is making the statement but this is how you define the word foreseeable future. The only answer that I can table with regard to these questions where there are outside agents involved are the answers that the corporations themselves supply to us and I think at the time that the question was originally asked I intimated that it would be normal business practice to permit the payment of practically any type of commercial transaction to a chartered bank. This has been going on in Canada since chartered banks were initiated and there would appear to me to be no reason why C.N.T. is not able to do this. Now, I have not personally been in touch with Canadian National Telecommunications but I will undertake personally to speak with them and see if something of such an apparently minor nature could not be made factual in the foreseeable future, being about yesterday afternoon sometime.

Mr. Chairman: Councillor Gordon.

Mrs. Gordon: In my constituency I have two areas in which there are no chartered banks. In the third there is a chartered bank. Each of them is serviced by C.N.T. When the notification reached the towns in my district I imagine the situation was the same there as what exists in Dawson. There was no decrease in the personnel in C.N.T. in Mayo; the people who had collected the bills before are still there and why this service should have been curtailed is beyond my understanding.

Mr. Shaw: Another very trite matter, Mr. Chairman, is if your phone is not working then you phone them up and tell them that it isn't working and they will look after it - in Whitehorse. Now, you know it's bad enough - I don't know how you do that. If your phone won't work you phone them up and tell them that it won't work. Now you explain that to me.

Mr. Chairman: Councillor Livesey.

Mr. Livesey: Now, in answer to the problems raised by the Member from Dawson, I might say that this arrangement with C.N.T. is Yukon-wide as far as I know. In my area, the whole of which is now converted to this system there is no one treated any different. All are treated the same apparently. Where I live we used to be able to pay our bills locally within a thirty mile area and now of course we have been transferred to Whitehorse also and so has Carmacks and so has Destruction Bay, Haines Junction, Beaver Creek, Champagne, Pelly River. As far as I know they are all the same. They've cut out all these offices.

Mr. Chairman: Anything further on Sessional Paper No. 35?

Mr. Shaw: Except that I just didn't get my question answered as to how I phone them when my phone doesn't work - that may not be a very good one but I don't suppose that can be answered...

Mr. Chamberlist: Go to your neighbours, that's easy.

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Mr. Chairman: We now have Sessional Paper No. 40.

MOTION RE  
SPEAKER

Mr. Dumas: Mr. Chairma, in view of the fact that there may be some business to conduct in the House. I'd like to move that Mr. Speaker do now resume the Chair.

RESUME  
CHAIR

Mr. Chamberlist: I'll second the Motion.



Mr. Chairman: It has been moved by Councillor Dumas, seconded by Councillor Chamberlist that Mr. Speaker do now resume the Chair. Are you prepared for the question? Are you agreed? Any contrary? 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 10:20 A.M., discussed Bills, Sessional Papers and Motions. Committee recessed at twelve noon and reconvened at 2:10 P.M. I can report progress on Bill No. 28 and Bill 6. Motion No. 9 was carried in Committee and it was moved by Councillor Chamberlist, seconded by Councillor Dumas that Administration be requested to continue in their efforts to obtain a more frequent postal service for Carcross. This Motion carried. Councillor Dumas moved, seconded by Councillor Chamberlist that Mr. Speaker do now resume the Chair. This Motion carried.

REPORT OF  
CHAIRMAN  
OF  
COMMITTEES

Mr. Speaker: You have heard the report from the Chairman of Committees. Are we agreed? May I have your further pleasure?

Mr. Taylor: Mr. Speaker, in view of a rather important matter of public concern, I would move that we revert to the Order Paper to Motions in order that a Motion of Notice be given of a Motion.

MOTION TO  
REVERT TO  
ORDERS OF  
THE DAY

Mr. Speaker: That we revert to Orders of the Day.

Mrs. Gordon: I would second that Motion Mr. Speaker.

Mr. Speaker: Moved by the Honourable Member from Watson Lake, seconded by the Honourable Member for Mayo that we revert to Orders of the Day. Is the House prepared for the question on the Motion? Are we agreed? I will declare the Motion carried.

MOTION  
CARRIED

MOTION CARRIED

Mr. Dumas: Mr. Speaker, I would like to give Notice of the following Motion. That an emergency debate be held to discuss Premier Bennett's announcement regarding the extension of B.C.'s boundaries to include the Yukon.

NOTICE OF  
MOTION RE  
EXTENSION  
B.C.  
BOUNDARIES

Mr. Taylor: I'll second that Motion.

Mr. Speaker: Is there any further business.

Mr. Taylor: Mr. Speaker, in respect of the agenda for tomorrow, unless we have more Sessional Papers, we seem to be slowly drawing to a close unless we get Supplementary Estimates or some amendments to Bills now under discussion.

AGENDA

Mr. Dumas: Mr. Speaker, would it be in order for you, Sir, to ascertain from the Commissioner as to whether any of these Bills or Sessional Papers will be forthcoming for tomorrow's sitting?

Mr. Speaker: Yes, if the House requires this I will be most happy to do so.

All: Agreed.

Mr. Speaker: May I have your further pleasure?

Mr. Speaker: May I have your further pleasure?

Mr. Shaw: Mr. Speaker, 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. tomorrow morning.

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