



The Yukon Legislative Assembly

Number 20

2nd Session

24th Legislature

HANSARD

Wednesday, October 10, 1979 — 1:30 p.m.

Speaker: The Honourable Donald Taylor

Members of the Yukon Legislative Assembly

Government Members

(Progressive Conservative)

Donald Taylor
Chris Pearson

(Speaker)

(Government House Leader — responsible for Land Claims, Pipeline, Tourism and Economic Development, Economic Research and Planning, Renewable Resources)

Watson Lake

Doug Graham

(Minister responsible for Education, Justice, Information Resources, Consumer and Corporate Affairs)

Whitehorse Porter Creek West

Dan Lang

(Minister responsible for Highways and Public Works, Municipal and Community Affairs, Yukon Housing Corporation)

Whitehorse Porter Creek East

Meg Sutherland McCall

(Minister responsible for Health and Human Resources)

Klondike

Al Falle

Hootalinqua

Peter Hanson

Mayo

Jack Hibberd

(Deputy Chairman of Committee of the Whole)

Whitehorse South Centre

Geoffrey Lattin

(Deputy Speaker and Chairman of Committee of the Whole)

Whitehorse North Centre

Grafton Njootli

Old Crow

Howard Tracey

Tatchun

Opposition Members

(Liberal)

Iain MacKay
Alice P. McGuire

(Leader of Official Opposition)

Whitehorse Riverdale South
Kluane

(New Democratic Party)

Tony Penikett

Whitehorse West

(Independent)

Maurice J. Byblow
Robert Flemming

Faro

Campbell

Whitehorse, Yukon Territory
Wednesday, October 10, 1979

Mr. Speaker: I will now call the House to order.
 We will at this time proceed with Prayers.
 Prayers

Mr. Speaker: We will proceed at this time with the Order Paper, under Daily Routine.

DAILY ROUTINE

Mr. Speaker: Are there any Tabling of Returns or Documents? Reports of Standing or Special Committees? Presentation of Petitions? Reading and Receiving of Petitions? Introduction of Bills?

BILLS: INTRODUCTION AND FIRST READING

Hon. Mr. Graham: Mr. Speaker, I move, seconded by the Honourable Member from Mayo, that the following Bills be now introduced and read a first time: The Retirement Plan Beneficiaries Ordinance and Matrimonial Property Ordinance.

Mr. Speaker: It has been moved by the Honourable Minister of Education, seconded by the Honourable Member from Mayo, that a Bill entitled The Retirement Plan Beneficiaries Ordinance be now introduced and read a first time.

Motion agreed to

Mr. Speaker: It has been moved by the Honourable Minister of Education, seconded by the Honourable Member from Mayo, that a Bill, entitled Matrimonial Property Ordinance be now introduced and read a first time.

Motion agreed to

Mr. Speaker: Are there any further bills for introduction at this time?

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

Are there any Statements by Ministers?

This then brings us to the Question Period.

QUESTION PERIOD

Hon. Mrs. McCall: Mr. Speaker, in answer to Mr. Penikett's question yesterday, it would be easier to respond to the specific question if I were aware of the Honourable Member's source of information. There is no policy within the Department of Health and Human Resources which forbids, in any way, any member of the staff to converse with MLAs. In fact, the philosophy within the department is one of openness. The very nature of working with the public means that staff are required to deal with a wide and varied number of people, where it can only be conducted effectively if communication is open and honest.

The question raised was if certain employees of my department have been specifically ordered not to converse with MLAs, even their own constituency representatives, I can therefore ensure the Honourable Member that his information is incorrect. If he is able to tell me the source of information I will be able to investigate the matter further. Nevertheless, even without that fact, I am convinced that whoever spoke to him has not only misled him but has either misconstrued the information or distorted such information. I am aware of the activity which has taken place during the last number of months where Opposition Members and some of their staff have been given information from my department openly and freely. I am sure that your own personal experience with members of my staff will have already convinced you that there is no such barrier to discussions with MLAs within my department.

Mr. Penikett: Mr. Speaker, I am not clear if I am responding to a Ministerial Statement or if we are in Question Period. Perhaps I could have your guidance.

Mr. Speaker: I believe the Honourable Minister has given an answer to a question that I believe was raised yesterday. Have you any questions?

Question re: MLA and Public Service Relations

Mr. Penikett: I would like to follow up on the Minister on this question and I am pleased with her assurances that no such instructions had been given and I am naturally concerned that there are certain people in her Department who appear to have given a contrary impression. In order to clear up the matter I wonder if I could ask the Minister, were I, with their consent, to give her the names of the persons who feel that they have had this information, if she would personally assure them that their jobs would not be victimized by my quoting their names to her?

Hon. Mrs. McCall: Mr. Speaker, it could be in contravention of the Public Service Commission to have names mentioned but if Mr. Penikett would like to reveal the sources to me privately, I would have it investigated thoroughly.

Question re: Commissioner's New Terms of Reference

Mr. MacKay: Mr. Speaker, my question is to the Government Leader, in respect to the new terms of reference for the new Commissioner, which were issued yesterday. I would like to ask him some of the history of these. I would like to ask him how many times he met with the Minister to discuss these terms of reference.

Hon. Mr. Pearson: Mr. Speaker, I probably discussed proposed terms of reference with the Minister six times in the past four or five months. These specific terms of reference I saw for the first time when they were made public.

Mr. MacKay: Could the Honourable Government Leader tell this House whether he at any time suggested that the word "Premier" should be attached to his office.

Hon. Mr. Pearson: No, Mr. Speaker, I did not.

Mr. MacKay: Could the Honourable Government Leader tell this House whether he at any time suggested that the word "Cabinet" be used to describe the Executive Committee minus the Commissioner.

Hon. Mr. Pearson: Yes, Mr. Speaker. I cannot be absolutely certain whether I, in fact, used the term "Executive Council" or "Cabinet". I am certain I used one or the other, they are synonymous, because that is the concept that I deeply believe in.

Question re: Provincial status/Responsible Government

Mr. Penikett: I, too, have a question for the Government Leader. In view of the frequently expressed opinion of Yukon's Member of Parliament that responsible government equals provincial status, would the Government be prepared to define, for the edification of all Members of this House, the essential difference between responsible government and provincial status, as he sees it?

Mr. Speaker: Order, please. I am not so sure that question would be in order as it may require a rather lengthy answer. I would ask the Honourable Government Leader if he does wish to reply to that question to make it very brief.

Hon. Mr. Pearson: Mr. Speaker, I am sure the Honourable Members opposite are quite well aware of the fact that there is a substantial difference between responsible government and provincial status. Provincial status in Canada can only be obtained through enactment under the British North America Act. When you have provincial status you have a premier, a lieutenant-governor, and you also have certain fiscal responsibilities that we, at this time, do not have, nor are we seeking.

Mr. Speaker, it is very conceivable, we think, to have responsible government in Yukon without coming under the purview of the British North America Act, and would assume the financial responsibilities that would be incumbent upon us with provincial status.

Until such time as we know what those financial responsibilities might be, we are not prepared to talk provincial status. Our stand has been all along, and it is supported by the Prime Minister of Canada, that the terms and conditions that might be imposed upon Yukon in respect to provincial status will be made well known, both to this Legislature and to all of the people in the Territory, and at that time and only at that time, then there will be a referendum and the people of the Territory can make up their mind whether they want it or not.

Mr. Penikett: Thank you, Mr. Speaker. The Minister's instructions to the Commissioner, which we received yesterday, directed her to arrange a constitutional meeting between YTG and the Council for Yukon Indians.

I would like to ask the Government Leader if he would consider referring the constitutional development question to an all-party committee of this House, which could engage the CYI in some

continuing and long-range discussions on this question?

Hon. Mr. Pearson: No, Mr. Speaker. We are the Government. We have a responsibility to the people who elected us to represent them to work towards responsible government.

It may well be that we will find it desirable to establish a committee of this House to do some work. When and if that occasion arises, we will be most happy to do so.

Mr. Penikett: Thank you, Mr. Speaker. Given this government party only represents 37 per cent of Yukon voters, while the House, as a whole, represents a whole range of Yukon opinion on this question, would the Government Leader consider inviting the Minister, on the occasion of his next visit to Yukon, to meet with all Members for discussion on constitutional development?

Hon. Mr. Pearson: Mr. Speaker, I am positive that the Minister will do everything he can to arrange to be in this Territory and attend this House at his earliest convenience.

Question re: Economic Strategy for Yukon

Mr. Byblow: I have a question for the Minister responsible for Economic Affairs. A stated priority of his Government is the development of a long-range economic strategy for Yukon.

Yesterday in his address, Mr. Speaker, he appears to have refined or changed that priority to read "creation of a Yukon mineral development policy". Could the Government Leader elaborate as to what has happened to the long term economic strategy.

Mr. Speaker: Again, I would ask that there be no lengthy reply to the questions. You appear to be asking for very broad and lengthy responses. Perhaps the Honourable Leader of the Government could respond in some brief manner to the question as posed.

Hon. Mr. Pearson: Mr. Speaker, on a Point of Order, is that to be assumed to be the Honourable Member's reply to the motion? He is actually speaking to a motion that is on the Order Paper.

Mr. Byblow: I raised that question out of order, Mr. Speaker.

Mr. Speaker: Are there any further questions?

Question re: Deficit Funding Agreement

Mr. MacKay: This to the Government Leader. In the course of his meetings with the Minister of Indian Affairs with respect to the changes of the terms of reference, can he tell this House if, at any time, any discussions were initiated with respect to any changes in the deficit funding agreement that this Territory has?

Hon. Mr. Pearson: No, Mr. Speaker, there has been no intention nor any desire upon anyone's part to get into the actual funding arrangements of the Government of the Yukon Territory at the present time. This is something that comes with provincial status.

Mr. Speaker, our funding arrangements are made through a series of meetings at the bureaucratic level with the Inter-governmental Committee consisting of people from this Government and people from the Federal Government, at the bureaucratic level.

Mr. MacKay: Can the Government Leader give us an assurance, then, that there will be no unilateral cutting back of the deficit funding within the next year or so by the Federal Government?

Hon. Mr. Pearson: No, Mr. Speaker, I cannot give that assurance at all because our deficit grant is a subject of negotiation each and every year. We are scheduled, in fact, to have meetings during the course of this month. They will be held here in Whitehorse.

Mr. MacKay: I would like to ask the Government Leader if we may then conclude that the entire negotiation with respect to the terms of reference of the Commissioner was carried out without any reference to the tax situation, without any reference to the Income Tax Act, which has been introduced in this Legislature.

Hon. Mr. Pearson: Yes, Mr. Speaker, the assumption is absolutely correct.

Question re: Texaco Canada's Withdrawal from Yukon

Mr. Penikett: I have a question for the Government Leader in his capacity as the Minister responsible for Economic Development. Was the Government advised of the reasons for Texaco Canada's withdrawal from the Yukon market, and was the Government party to any discussions with a view to having this company remain in business in the Territory?

Hon. Mr. Pearson: No, Mr. Speaker.

Mr. Penikett: Can the Government Leader tell the House if, to his knowledge, there is any formal or informal market sharing agreement between the petroleum products distribution and sales companies operating in the Territory?

Hon. Mr. Pearson: Mr. Speaker, I have to say no, not to my knowledge, at the present time. I do know that up until as little as five years ago, I am certainly sure that there was no such agreement. I

am sorry, I do not know if there is one now.

Question re: White Pass

Mr. Penikett: I have a supplementary question to the Government Leader which he may wish to take as notice. Can he tell the House, to the knowledge of the Government, within the meaning of the law, if the White Pass pipe line is a common carrier?

Hon. Mr. Pearson: Yes, Mr. Speaker, I believe it is.

I believe it is a common carrier, under the terms of its license, but it only, I believe, carries for one company.

Mr. Speaker: Are there any further questions?

Question re: Provincial Status/Land Claims

Mrs. McGuire: Yes, Mr. Speaker, getting back to this provincial status thing for Yukon, I would like to ask the Government House Leader, the Honourable Chris Pearson, should we receive provincial status for Yukon before the settlement of Land Claims, do you foresee this Government taking over the entire Yukon Land Claims negotiations with Yukon Indians?

Hon. Mr. Pearson: Mr. Speaker, it is completely beyond my comprehension that there will be provincial status before there is a Land Claims settlement.

Question re: Sharp Report on Urban Students

Mr. Byblow: I have a question for other than the Government Leader.

Yesterday I inquired of the Minister of Education with respect to his intention in dealing with the Sharp Report and he indicated a number of recommendations were, in fact, being implemented.

I would ask the Minister specifically if he plans to implement the third recommendation of the Report, that of creating an independent scrutinizing committee?

Hon. Mr. Graham: Yes, Mr. Speaker, we do and, in fact, we have taken steps to establish such a committee at the present time.

Question re: Flemming Report

Mr. Byblow: In the Minister's delivery yesterday, Mr. Speaker, he said the Flemming Report released last February, was still under review.

Could I inquire of the Minister what difficulty his administration is having with this Report and whether it is being shelved?

Hon. Mr. Graham: Mr. Speaker, it is certainly not being shelved. As the Honourable Member may or may not be aware, there are certain expenses incurred in implementing some of the recommendations and it is a question of coming back to the Legislature for sufficient funds to implement some of them.

Mr. Byblow: Mr. Speaker, could the Minister confirm or deny whether he has issued a directive prohibiting his school principals from talking to the Press?

Hon. Mr. Graham: No, Mr. Speaker, I have not.

Question re: Oil Pipeline in Western Yukon

Mrs. McGuire: Thank you, Mr. Speaker. To the Government Leader I ask, are you aware of a third alternative routing for the oil pipeline in western Yukon?

Hon. Mr. Pearson: Mr. Speaker, there are a number of alternative routes that are being espoused. As far as I am aware at the present time, the only one that has been filed with the National Energy Board and that is being actively pursued is Foothills', what they are calling now the Delta Junction Line, which would be an oil pipeline primarily paralleling the proposed gas pipeline route.

Question re: White Pass Rail Passenger Service

Mr. Penikett: Thank you, Mr. Speaker, I have another question for the Government Leader.

Can the Government Leader tell the House if, to his knowledge, there is any truth to reports that White Pass and Yukon Route railway has advised major tour operators that it will not be operating rail passenger service next summer?

Hon. Mr. Pearson: Mr. Speaker, I beg the indulgence of the House to not answer questions on White Pass, because of the precarious situation that it is in at the present time.

Now, I sincerely hope that Honourable Members opposite are going to take heed of that request.

Mr. Speaker, to the best of my knowledge, White Pass is still booking tourists for next summer.

Mr. Penikett: Thank you, Mr. Speaker. I am quite prepared to concur with the Government Leader's wishes in this question, but I wonder if I could ask him a supplementary question which concerns Government responses to anything that may happen in the front?

I would like to ask the Government Leader if he would contemplate, in the face of any abandonment of rail passenger service or otherwise, this Government making an intervention before the Rail Transport Committee of the CTC?

Hon. Mr. Pearson: Yes, Mr. Speaker, most definitely.

Mr. Penikett: Thank you, Mr. Speaker. In respect to the Government Leader's previous reply, I would like to ask him if he would also be prepared to make a Ministerial statement regarding Federal Government plans regarding financing of the railway as soon as he is aware of the specifics?

Hon. Mr. Pearson: Mr. Speaker, as soon as I am free to do so, I shall.

Question re: Oil Pipeline through Yukon

Mr. MacKay: Yes, Mr. Speaker. I would like to hear from the Government Leader if his government is supporting the application by Foothills Oil Pipeline to put an overland oil pipeline through Yukon?

Hon. Mr. Pearson: Mr. Speaker, we have made application to be an intervener on behalf of this Government and the people of the Territory at the National Energy Board hearings in respect to Foothills' Delta Junction application.

We are raising, in that intervention, a number of questions in respect to concerns that we have. The primary one is that we do not feel that the Foothills application properly takes into account the ramifications of a parallel pipeline in that corridor.

They, to our way of thinking, to our Pipeline Branch's way of thinking, have not taken into account all of the things they should have if there are going to be two pipelines in close proximity to each other.

Further than that, we have said that because of the obvious economic stimulus to the Territory, we would be cautiously in favour.

Mr. MacKay: Thank you, Mr. Speaker. The Government's position would appear to prejudice the hearings. I am wondering if the Government Leader has considered the recommendation of a Lysyk-type inquiry to determine the differences between this proposal and the gas pipeline, bearing in mind that the Lysyk Inquiry was the body which first suggested and legitimized a Yukon Heritage Fund.

Hon. Mr. Pearson: Mr. Speaker, the implication that we have prejudged anything is quite improper. The National Energy Board is required to hold hearings and we have reacted to that requirement. It is the first and only thing that we can do at this point in time.

Mr. MacKay: Mr. Speaker, the Government Leader has at his disposal quite a powerful pipeline branch and I expect a number of positions would be produced. I would like to ask him now then whether his pipeline branch or he, himself, is prepared to recommend to the National Energy Board that the supervision of an oil pipeline should come under the purview of the Northern Pipeline Agency which has been set up, originally, to supervise the gas pipeline.

Hon. Mr. Pearson: Mr. Speaker, we have not gone into the actual mechanics of the thing that far. However, it would seem to me personally, that it might make a fair amount of economic sense for Canada if the Northern Pipeline Agency Act was amended so that the Northern Pipeline Agency, and the expertise that they have now acquired, could be used as the agency that would have the overview of the oil pipeline as well, should it be built.

Question re: Alcohol Treatment Referrals

Mr. Byblow: Mr. Speaker, I have a written question for the Minister of Health and Human Resources. What is the present Government policy with respect to alcohol treatment referrals outside Yukon.

Question re: Tourism Advisory Board Terms of Reference

Mr. Penikett: Thank you, Mr. Speaker. I have another question for the Government Leader in his capacity as minister responsible for Tourism. On May 28th this year, the Government announced the creation of a Tourism Advisory Board with new terms of reference. Would the Minister briefly explain the Government's reasons for changing the terms of reference of the previous board.

Hon. Mr. Pearson: Mr. Speaker, with your permission I would like to take notice of that question and I will table a paper.

Mr. Penikett: Supplementary, thank you, Mr. Speaker. When the Government Leader is preparing his reply, I wonder if he would answer the following question if he can. Given that regional representation was achieved on the old board, I would like to know on what authority did the Government abolish the board whose members were appointed by this House and were required to report to this Assembly.

Hon. Mr. Pearson: I can answer that immediately, Mr. Speaker. That board was established by the previous House and should this House not wish to appoint such a board it is not required to.

Mr. Penikett: The problem, Mr. Speaker, seems to be that the Government has already appointed a board without reference to the House. I would like to ask, in view of the Government Leader's previous reply, if the question of membership of this board may be referred to this House and if Members may be invited to, as was the previous practice, nominate representatives?

Hon. Mr. Pearson: Mr. Speaker, there were a number of boards that were the creation of the House previously, when party politics were not a fact of life. Party politics now are a fact of life. This is the Government, and, Mr. Speaker, we must reserve our right to make these appointments to these boards.

Question Re: Dempster Highway/Year-round Maintenance

Mr. Byblow: I have a question for the Minister who has not spoken yet. What is this Government's present position with respect to year-round maintenance of the Dempster Highway.

Mr. Speaker: To whom is this question directed?

Mr. Byblow: It is directed to the Minister of Municipal and Community Affairs.

Hon. Mr. Lang: Mr. Speaker, could the Honourable Member please repeat the question.

Mr. Byblow: I am enquiring of the Minister, Mr. Speaker, to restate his Government's present position with respect to year-round maintenance of the Dempster Highway.

Hon. Mr. Lang: Mr. Speaker, as the Member knows, we did vote money in the last budget and it is our intention to continue to maintain it.

Mr. Byblow: Is the Minister assured that the present budgetary allocations for the Dempster maintenance is a practical and real assessment of actual costs.

Hon. Mr. Lang: Mr. Speaker, I believe, if my memory serves me correctly, we had this debate during the Budget Session. All we can do is forecast what is going to happen in the coming year. As we all know, Mr. Speaker, weather is the governing factor in respect to maintenance costs. That holds true throughout the territory, and not just one particular highway. Therefore, Mr. Speaker, I am confident that my Department has attempted to give a true and realistic picture in respect to the costs of maintaining that particular highway, as they do in all cases in respect to the highway system within Yukon.

Mr. Byblow: There was an announcement yesterday that an agreement was reached between the Northwest Territories and the Federal Government to maintain the Northwest Territories' portion of the highway. My question to the Minister is whether Yukon is party to that agreement.

Hon. Mr. Lang: Mr. Speaker, we only have a mandate in respect to decision-making within the jurisdiction of the Yukon Territory, therefore we were not party in respect to that particular agreement with the Northwest Territories. As explained and, I think, not properly reported, it is a fact that the present operation and maintenance costs are under the Engineering Services Agreement, which is an eighty-five per cent Federal contribution as opposed to fifteen per cent by the Territorial Government. Subsequently, there is a special arrangement in respect to the operation and maintenance of that particular highway, as is the case with most of our highways in the Territory.

Mr. Speaker, I would like to add prior to closing on that subject, it is obvious in respect to what I have just said that not only the Government here in Yukon feels that the Dempster Highway is going to be of importance to Yukon and Northwest Territories, but the Government of Canada obviously takes the position that it is in the national interest.

Question re: White Pass

Mr. MacKay: I return to a subject raised earlier by other Members, and that is the question of White Pass. I do not wish to be trampling into areas where sensitive negotiations are going on, but I would like an assurance or two from the Government Leader. The first assurance I would like is that the resolution that was passed unanimously by this House in the spring of this year has been forwarded, and that the present incumbents in the Federal government are aware of the contents of that resolution. To refresh the Government Leader's mind, it was: no subsidies for White Pass should be given until their financial records are made public.

Hon. Mr. Pearson: Yes, Mr. Speaker.

Mr. MacKay: Could I then ask the Government if they are still in support of that motion.

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Hon. Mr. Pearson: Yes, Mr. Speaker, to the best of my knowledge.

Question re: Board Appointments

Mr. Penikett: Thank you, Mr. Speaker. In view of the Government Leader's answer to my previous question on Boards, I feel I must pursue a related matter.

To the Government Leader, I would like, Mr. Speaker, to ask him if it is the view of this Government Party or does it endorse the views of the political patronage expressed by their Conservative comrades in Ottawa?

Hon. Mr. Pearson: Mr. Speaker, I do not know that we are talking political patronage at all. There have been appointments made to boards by this Government and they have been checked out and we have sought the advice of Members opposite in respect to those appointments.

Mr. Penikett: Thank you, Mr. Speaker, supplementary to the Government Leader.

The Federal Minister of Supply and Services recently stated that loyal Party workers "could look forward to being on the receiving end of government contract work and service work. Obviously it was a tool used by the Liberals and I do not intend to pass up the opportunity." Will the Government Leader give his assurance that this kind of patronage will not be the practice in the Territory?

Hon. Mr. Pearson: Yes, Mr. Speaker, most assuredly. We have one walking around this building at the present time, Mr. Speaker. We have hired my NDP opponent in the last election.

Mr. Penikett: Mr. Speaker, I can only say that speaks well of the Public Service Commission.

Hon. Mr. Pearson: And this Government?

Mr. Penikett: And this Government.

The Government Leader, in response to a previous question, made reference to consultation with Members opposite about appointments to boards. I would like to ask him when could this Member look forward to being consulted on appointments to boards?

Mr. Speaker: Order, please. I think that the question must be deemed to be facetious.

Are there any further questions?

Question re: Teslin Elementary School

Mr. Fleming: Yes, a question, Mr. Speaker, the Minister of Community Affairs.

I am wondering if the Minister could assure me if the Teslin Elementary School is on Territorial land, on Federal land, or is it on Number 13 Native Reserve?

Hon. Mr. Lang: Mr. Speaker, I would have to take that particular question under advisement.

Mr. Fleming: Supplementary, Mr. Speaker: in the event that it is proven to be on Teslin Indian Reserve Number 13, is the Minister aware that, under the Income Tax Act, the native people working for the school or teaching in the school, would not be obliged to pay income tax?

Hon. Mr. Lang: Mr. Speaker, as I said earlier, the question has just come to my attention and it would have to be taken under advisement and the answer given accordingly.

Question re: Decentralization of Government Departments

Mr. Penikett: Thank you, Mr. Speaker. I have another question for the Government Leader.

Since the Government has promised to decentralize government departments, or portions of government departments, can the Government Leader give us any idea of the number of public servants who have been decentralized since they came to office?

Hon. Mr. Pearson: Mr. Speaker, decentralization, it is a matter that would surely have to be reflected in Budget, because no matter how you cut it, the decentralization will cost money. Any decentralization plans that we might be considering now would be reflected in our budget.

Mr. Penikett: Thank you, Mr. Speaker. In the spring, the Government Leader said that the Government was taking "a hard look at moving two tourism people to Dawson City".

I would like to ask the Government Leader if these people have left for Dawson yet, or is the Government still looking?

Hon. Mr. Pearson: I am sorry, Mr. Speaker, the same answer applies.

Question re: Haines Junction Trailer Residential Lots

Mrs. McGuire: I have a question and a request to the Minister of Municipal and Community Affairs.

Would the Minister consent to supplying this Opposition Member with a written breakdown of the government cost of the trailer residential lots located at Haines Junction; land, installation of electricity, sewer, water and streets, in that order?

Mr. Speaker: Would this be considered a written question or is it meant as an oral question? It seems to me that the question does ask for quite a lengthy reply and perhaps the Honourable Member would wish to put that in the form of a written question?

Mrs. McGuire: Yes, Mr. Speaker.

Question re: Whitehorse Hospital Advisory Board Appointment

Mr. Penikett: Thank you, Mr. Speaker. I just have one very brief, very short question to the Minister of Health and Human Resources.

The bylaws of the Whitehorse Hospital Advisory Board state that the Territorial Council shall nominate a board member for a two year term.

I would like to ask the Minister when this House shall be receiving her nomination for a representative to this seat on the Board which may have been vacant for a year?

Hon. Mrs. McCall: Mr. Speaker, I must say I was unaware of that. I will take that under advisement and have an answer for you tomorrow.

Question re: Beer Prices

Mr. Fleming: Yes, a question, in a lighter vein, I presume to the Government House Leader, probably.

Has the price of beer risen in the last two weeks or so because, as a person who is in the business, as usual I have been the last one, I guess, to be informed?

Hon. Mr. Pearson: Mr. Speaker, not being a beer drinker, I do not know. I recall reading in the paper that it was intended by the Liquor Commission that the beer prices would be increased.

We will look to the Honourable Member from Mayo, Mr. Speaker.

Mr. Speaker: Order, please, order.

Hon. Mr. Pearson: Mr. Speaker, I am advised by one of the back benchers that the price of a case of beer has gone up forty cents.

Mr. Fleming: Supplementary, Mr. Speaker. Now that the price has gone up 40 cents and the Off-sales Liquor Act is still in effect and dealers are selling liquor for the Government at so much over the cost to them and so forth, has the Government made any arrangements to pay the off-sales liquor people that are selling it any more for selling that beer?

Hon. Mr. Pearson: Mr. Speaker, I am sorry I cannot answer the question. Liquor prices are set by an independent board, not by the Government. The board was established specifically to do this kind of thing and I am sorry, I just cannot answer that question; however, I would be happy to get an answer for the Honourable Member.

Question re: Klukshu Game Sanctuary Facilities

Mrs. McGuire: I will put this question to the Minister of Renewable Resources, the Government Leader? Does the Government Leader have any plans to properly facilitate a designated area in the Klukshu Game Sanctuary for summer campers and fishermen, of which I am sure he has received numerous requests and complaints from Fisheries and people in general, and if not, would the Government Leader consider closing the existing road to all traffic until such time as proper facilities are installed?

Hon. Mr. Pearson: Mr. Speaker, I beg leave to have notice of that question and I will get the answer.

Mr. Speaker: Are there any further questions? That will then close the Question Period.

We will now proceed to Orders of the Day under Motions Other than Government Motions.

ORDERS OF THE DAY

MOTIONS OTHER THAN GOVERNMENT MOTIONS

Motion No. 20

Mr. Clerk: Item Number 1 standing in the name of Mr. Fleming.

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

Mr. Fleming: Yes, Mr. Speaker.

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

Riverdale South, THAT Sessional Paper 79-2-23, being a Lease Agreement between McNevin Construction Limited and the Commissioner of the Yukon Territory, be referred to the Committee of the Whole for consideration, and

THAT the Committee of the Whole report on the procedure used in entering into the said lease agreement and on the contents of the said lease agreement including, but not restricted to, any commitments made to McNevin Construction Limited by the Commissioner of the Yukon Territory.

Mr. Fleming: Yes, Mr. Speaker, as you all well know, this was in the spring Session and we did not get to it. Now it is something that is more or less in the past; however, at that time I had many questions. I still have many questions about the way that the contract was allotted and so forth, where and by whom the decision was made to have a contract set out rather than let private enterprise build along the Dempster Highway.

Mr. Speaker: Order please.

Hon. Mr. Lang: On a Point of Order, Mr. Speaker, it is my understanding that this is a procedural motion and you do not speak to the resolution, you have to speak to the procedure of referring it to the Committee of the Whole. I think that the Honourable Member, in all fairness, is getting into the contents of the resolution itself.

Mr. Speaker: Order please. No, this is not considered a procedural motion. The Honourable Member is quite properly debating the motion and all Members will have an opportunity to debate the motion.

Mr. Fleming: Thank you, Mr. Speaker. As I have said, at that time I wish to know where and by whom the decision was made to go this route on the Dempster Highway rather than let private enterprise build along the highway because, we as MLAs at that time in the House, heard nothing whatsoever of anything that was going to happen on the Dempster Highway.

A project, I felt, and still feel, of a magnitude such as the Dempster Highway itself and such as the one that this contract actually calls for, which is \$264,446.14 a year, plus any costs over and above that that might come about due to inflation and so forth.

The only answers I seem to have gotten at that time from that former government was that this project was done this way because they did not want to have any two-bit operators along the Highway.

I could not accept that because I have felt that Yukon was pioneered by two-bit operators along the Alaska Highway ever since it started. I do not think that they have done so badly and I do not really feel that a government getting into the business of motels and hotels and so forth where private enterprise can actually do a good job is a necessary thing.

That was the manner in which it was done, as I say, and nobody in the House, as far as I know, knew anything about it. I would like to get a few direct answers. I would appreciate some facts as to the real reason it was done that way.

I think that, after reading the contract itself, that the Yukon Territorial Government has put the people of Yukon in jeopardy for the next thirty years, fifteen at least and possibly thirty. The contract calls for fifteen and then some renegotiating after that.

There are issues in the contract that will be costing the public of Yukon, I think, thousands and maybe millions of dollars before they are finished.

Therefore, I would ask, at this time, for the motion to be moved into Committee of the Whole for discussion, if I may have a second.

Mr. Speaker: Order, please. I believe we could get into a procedural pickle. Inasmuch as the motion notice given asks for this very same question, it would be necessary, I would feel, from the Chair, to deal with the motion which would have the effect of moving it into Committee of the Whole. It is the construction of the motion that makes it so.

The Chair would not entertain a procedural motion at this time to move it to Committee of the Whole because it would really be redundant.

Is there any further debate?

Mr. Penikett: Mr. Speaker, on the Point of Order, I wonder, since I am sure all Members of the House would like to see the matter raised by the motion dealt with in Committee of the Whole, I wonder if I might through you, sir, seek some advice from the Government side as to when this might appear on the Order Paper or how we would get it into Committee of the Whole?

Mr. Speaker: Just for the guidance of Honourable Members, there is a Motion, notice having been given, which is now under

debate in the House, and the motion would appear to ask that a matter contained therein be referred to Committee of the Whole.

The matter is up for debate and when all of those wishing to debate have spoken to the motion in the ordinary manner, then the Chair will put the question and the majority deciding as to whether the resolution shall be carried or negatived and so I would ask, at this time, for further debate, if there be any debate, before putting the question.

Mr. MacKay: Mr. Speaker, I would support this motion and not go into any detail at this time, because I think that the essentials of it are that until we have an opportunity to get into the details, there is very little more to be said. I would urge the Members opposite to vote for this motion and to have this matter moved into Committee.

Dr. Hibberd: Mr. Speaker, I would like some clarification on this. What the Chair has just outlined is indeed a procedural motion. You described it yourself as being a procedural motion, and indeed it is not a debatable item. If we are to debate the substance of this motion, we are not debating a contract? We are debating whether this should be moved into Committee. It is indeed procedural.

Mr. Speaker: The motion is substantive in nature, as I hope I have explained to all Honourable Members; however, it has the same purpose of moving the matter contained therein to Committee of the Whole and is quite debatable.

Mr. Tracey: Mr. Speaker, I would like to rise in support of moving this into Committee of the Whole so that we can hash it all out.

Motion agreed to

GOVERNMENT MOTIONS

Motion No. 23

Mr. Clerk: Item Number 1, adjourned debate, Mr. MacKay.

Mr. Speaker: I must advise the Honourable Member that he has some ten minutes remaining in which to debate.

Mr. MacKay: Thank you, Mr. Speaker. When I left off in my speech yesterday, I was suggesting that Commissioner Christensen had some private grievances; however, today we know that her main preoccupation was a concern for the future of the Yukon, and a concern that has motivated her throughout her life, and especially since she has held public office over the past four years in the Yukon. She has been a fine public servant. I think we all agree on that, and I hope we will see her active in Yukon affairs in future.

However, I would like you to examine her three main concerns that she expressed in resigning the post of Commissioner. The first was that she did not think that the role of mediator with the CYI and YTG was compatible with the role of Lieutenant-Governor. The second was that she, herself, was not prepared to be a figurehead, presiding over a regime with which she did not agree. The third was that she thought the Yukon was moving too fast in the direction of constitutional development.

I can certainly understand her reluctance to continue serving a government in Ottawa, which I feel has totally ignored her, and allowed her to twist slowly in the wind over the past three months. However, that may be my partisan bias.

The first objection she had, I think, was very practical. How can a Lieutenant-Governor, essentially an apolitical appointment, become embroiled in the most sensitive political issue of the day? It is a nonsensical notion, Mr. Speaker. If I could compare it to another issue of the day, it would be like asking the Governor-General of Canada, who must remain aloof from politics, to enter into the negotiations with Quebec on sovereignty association. Obviously it is not the kind of role that can be played by a Lieutenant-Governor.

One might conclude that the offer of this type of schizophrenic post was offered to assure her resignation. I doubt that anyone who is sincere and competent would accept such terms of reference.

I would state here today that only a fool or a knave would accept such terms and I cannot see the post being offered to anybody in future with these terms of reference.

The next point was that Yukon is moving too fast. Answers by the Government Leader today in Question Period indicate that we are at the mercy of the Federal Government with respect to funding. That, of course, is nothing new. Yukon has been at the mercy of the Federal Government for funding ever since it became a Territory.

What is new, though, is that this Government across from here has said to the Federal Government, "We are willing, able and ready to run our own affairs. We want responsible government." The definition of responsible government that we heard today, Mr. Speaker, was that of giving orders, running our own affairs. But of course, no, no, no, we could not be expected to pay our own bills,

Heaven's sakes, no.

Well, I say that is nonsense. Responsible government is where you are expected to pay your own way as well, in the terms of the fiscal regime that every other province in Canada operates under. So, it will be no surprise to me that when the fiscal crunch bears down in Ottawa, that Yukon will be required to pay more and more of its own share. After all, they will say, you now run your own affairs, so why should the rest of Canada support a lower tax regime in Yukon. What is in it for the rest of Canada anymore?

I say nobody across there is counting the costs of these moves and it is obvious from the questions answered today that no consideration has been given to what the quid pro quo of this new arrangement will be. We are living in a fool's paradise.

Perhaps we are not so foolish because we have to consider in this coming Legislative Session an income tax bill, Mr. Speaker, an income tax bill that will enable this government to raise additional tax revenues from Yukoners. There may be some technical reasons for introducing this as well, but it surely is no coincidence that along with the increased responsibility of running our own affairs comes the ability to raise the money to do so.

It is clear that this Government is prepared to have the voters pay any price in order to satisfy its desire for more power.

I reiterate my statement of yesterday that yesterday Yukon really became a province. It is a regrettable thing, because it has happened in a kind of back-door manner, in a way that nobody really feels terribly proud of, I do not think. It has left us with a feeling that perhaps we have only heard one-half of the story.

Really, in the evolution of any government, I think Yukon has only just got off its knees. I think we began to walk with party politics. Now we are running full tilt and, I am afraid, due for a nasty fall. Do not expect any sympathy from this side of the House when it happens.

On a lighter note, perhaps, so you do not feel that I am taking mean pills all the time, I would like to hand out a few bouquets for the performance of the Government over the past few months, Mr. Speaker.

I would like to congratulate the Minister of Human Resources for her approach and assistance to the group known as Yukon Lifeline in their attempts to help settle the refugees of Indo-China. I have been closely associated with that group and I must say that without the help offered by the Honourable lady the group would be nowhere near as successful as it has been and that we have, in fact, seen a number of people who might otherwise be still in camps or boats in southeast Asia now settled happily in Yukon.

For Mr. Graham, carrying the immense burdens of some of the most difficult portfolios that the Government has to offer, I would suggest that for a political novice he has certainly shown great speed and agility.

I would like to single out, though, the on-going negotiations on the Burwash School, as an example of what this Government should be doing an awful lot more of. I think that that is a sort of backhanded compliment, but the Burwash School negotiations shows a tenacity on the part of the Minister of Education in attempting to reach an amicable settlement with a very difficult problem in a very difficult area. I wish him all success in that negotiation. I think he can be rest assured that this side of the House is well behind him and I hope that he has no difficulty from his own caucus in pursuing the matter.

For the Honourable Government Leader, I have a compliment: I think he has reached for the stars with the Heritage Fund and I hope he does not trip over the key to the bank in going there for it.

I hope that the Honourable Walter Baker, Minister of Pipelines in Ottawa, was sincere in his statements when he came to Yukon, indicating so positively that the Yukon Heritage Fund would be a lot more than we had previously hoped for.

I indicate a little skepticism on that point. I would not want the Government side to feel that this is in the bag, because if one reads the prepared speech that the Honourable Walter Baker was supposed to give when he came here, that was issued in Ottawa, he said nothing very nice about a Heritage Fund. He did say that the pipeline revenues would look very nice in balancing the budget of the Yukon Territorial Government, which would indicate he had intended, before leaving for Whitehorse, that \$30 million a year would go into the general revenue of the Territory.

I have a copy of his speech and I would be happy to forward it to the Government Leader should he have any questions regarding that.

Finally, lest I forget the final Member on the front bench, I would like to congratulate him on the addition to his family, which happens to match the addition to my family and I would hope, and I end

on this note, that I hope that his own baby and my own baby, born within a few weeks of each other, will grow up into a better Yukon as a result of the efforts of their parents.

Mr. Speaker: Any further debate?

Mr. Byblow: Mr. Speaker, I, too, have some bouquets to bestow on the Government, but, Mr. Speaker, I must also respond to the recent announcements that, constitutionally, appear as progressive stages in Yukon's evolution, that appear as the main preoccupation of this Government and that appear and are even being heralded as advancements endorsed by a party that is supported by a majority of Yukoners.

Mr. Speaker, the Government must be reminded not to inflate their mandate beyond the thirty-odd per cent that actually voted for them. That translates into over sixty per cent of the Yukon electorate who did not want Conservatives in office so be careful in assumptions that preclude public endorsement. That public is telling you now that you are moving too far, too fast and the first consequences of this judgment unfolded yesterday.

The previous speaker articulated very clearly, Mr. Speaker, the mishandled dealings of this Government with respect to the Commissioner's Office. Indeed, it was a sad day for Yukon in the loss of its Commissioner. I am sure that this House and the Yukon public will urge her to return to public office, a capacity which her rational, her dignified and energetic talents are sorely needed in Yukon.

But, Mr. Speaker, my concern about this Government's attempts towards provincial status is predicated by the shroud of secrecy under which they appear to operate. The June 18th letter is not the only testimony, but that the Commissioner remained in a vacuum until yesterday about the terms of her Office is a supreme insult.

Mr. Speaker, a radio station with a copy of the letter called her before she had a copy. These are the ethics of a potential provincial government? Mr. Speaker, I believe —

Hon. Mr. Pearson: Mr. Speaker, I must rise on a point of Privilege.

Mr. Speaker: Order, please.

Hon. Mr. Pearson: I am sorry to interrupt the Honourable Member, but I must rise on a Point of Privilege.

Mr. Speaker: Order, please. Would the Honourable Member from Faro take his seat?

Hon. Mr. Pearson: Mr. Speaker, it must be clearly understood that this Government had nothing to do with either the terms of reference that the Commissioner received, nor the method by which she received them. She received those instructions from her employer. That is where it begins and ends.

Mr. Speaker: Yes, I cannot find that the Honourable Leader of the Government has a Point of Order. We seem to once again find ourselves in a position of two points of opinion between two Members.

However, would the Honourable Member from Faro continue.

Mr. Byblow: Mr. Speaker, with respect, I believe we agree that the evolution toward some form of provincial status is in order, but the question, I suppose, is whether or not that provincial status evolution must be the identical provisions afforded the rest of the provinces.

Earlier today, the Government Leader spoke with respect to that and said that our provincial structure will be different. But, Mr. Speaker, to date we had not heard of any refinements that would be necessary for us to survive in a limited population base, a limited talent pool, a limited resource area, in a 21st Century era of democratic reform that is necessary in Yukon.

Lumbering towards provincehood, under terms of Section 92 of the BNA Act, would render us bankrupt and incapable of handling our own affairs, unless we can demonstrate the ability and can refine our constitutional priorities and can debate those stages of evolution. Mr. Speaker, with the legacy of our past performance, I mean all of us, we cannot even fill Executive Committee requirements, so what responsible demonstrations of administration have we to our credit? What special provisions are in place to manage our resources, our lands, our public services, and pay for them too?

What alternative have you to the broken native commitment or is that in another shrouded and secret document between here and Ottawa?

Mr. Speaker, I suggest that Members opposite perhaps shroud themselves in the appropriate paraphernalia and call themselves a secret political service. But, Mr. Speaker, I should not perhaps be so critical of a government that has been so responsive in my riding. Mr. Speaker, more progress was made with this Government in the past year in Faro than in the past ten. A real spirit of

communication has opened up and problems been jointly tackled. This is not only to the credit of the ministers but to the credit of their civil servants. In particular, the excessively high land costs in my riding have been lowered, an acreage of sub-division is in place, the municipality is discussing continuing land development as our community expands early, expected to reach 3,500 within a few years. Already we have at least nine land sales in the community this year, well over a hundred per cent increase over last year.

The Minister of Municipal and Community Affairs is to be applauded for his visits to Faro, listening to our problems and activating along with his efficient staff, some dire changes. Perhaps at long last, Faro is getting some of its rightful return for keeping the Territory alive for the last ten years. In fact, the familiarization tour of Executive Committee to Yukon communities was a most commendable exercise, one that my constituents feel was useful and hope is repeated.

I must however remind the Minister that we do have some people in Faro wishing to retire and we have yet to provide for our senior citizens that we have neglected today.

I am also waiting for the announcement of road improvements in my riding. I would also advise that you attend to your Department's responsibility in community airport services so that we in turn may attend to our needs.

To the Minister of Education, the entire Executive Committee in fact, can also be the recipients of credit as well. Our school needs are being attended with the construction of the expansion, but a reminder here also, we will need another expansion even before you finish this one. Your performance to accommodate our overflow in portables is a bit of a sham in efficiency. It is October 10th and the buildings are still being constructed, but I understand that is the responsibility of another minister.

The Minister of Health and Human Resources has a monumental task ahead of her. Mr. Speaker, with respect, I submit that affairs in her Department are not well and across the Territory we are bearing the brunt of lesser services than could be. Ahead of us we have a health transfer, its complexities and of course a new hospital in Faro.

As an earlier speaker emphasized, this Government has yet to attend to cost of living, unemployment and so on.

As well, Mr. Speaker, the economic development strategies for Yukon being worked on for well over two years by two departments, Federally and Territorially, are still waiting to be materialized in any form. I await some direction with respect to labour legislation.

Decentralization is not visible, and I suggest that a viable vocational training centre is often suggested for my riding.

Mr. Speaker, we heard in detail, yesterday, of the many wonderful things that the Government is engaged in, the progress promoted, the studies in process, the rosy picture of administrative efficiency. Fine, Mr. Speaker, and I hope the momentum thrust by civil servants, and the Ministers alike, in progressive policies, and consultative approaches does not subside through misdirected priorities. I think the Government should perhaps define the constitutional ideals, attend to the responsibilities of Yukon day-to-day practicalities, communicate in less secrecy, demonstrate a capability for managing before demanding to hoard better responsibility.

By the precedent of history, governments must plan for the future and not react to it. Yesterday can never be undone.

Thank you, Mr. Speaker.

Mr. Fleming: Mr. Speaker, I will not belabour the subject too long; however, I must say that I was saddened by what happened yesterday, and slightly put out to boot, as well, that the Federal Government would do this. However, I see it as one of those things that is bound to happen when you have changes in government.

At one time I was in this House and fought very strongly to have the Commissioner's role diminished somewhat, but one must remember that at that time we were just a Council of the Yukon Territory and there was no political party. Things were not done on political party lines, and therefore I think that the wishes and wants of the people of the Yukon were more evenly distributed and put forth on any question such as this.

There has been no change in the way we stand today as the way we stood six months ago or before the Federal election. At that time the Liberal government was in power, and in one sense this Council was all opposition to them. It did not make any difference what your policies were or what party you felt you may belong to. You were here as an independent person and you were not doing just exactly what they wanted, so they wanted the power so they said, "Put the Commissioner there." In fact, they put that Commissioner there.

Nothing has changed. There is another government in power in Ottawa, but that government, at this time, has a following in this House so their wishes will be done, whether all of the Yukon want them, or half of the Yukon want them, or three-quarters want them, or a quarter want them, it makes no difference. So, they are sitting in a position where they can diminish the powers of the Commissioner and just carry on business as usual and do what they want, anyway.

I am quite sure that they will be handing down the orders to the Conservative Party across the floor.

I am not so sure, because of some of the secrecy that seems to abound within the Yukon, and in this House too, as to just how the Members across the floor take what happened yesterday. I hope we will hear from some of them.

I am never sure if the Federal Government is giving advice to the so-called government, the Progressive Conservative Party in the Yukon Territory, or whether the Progressive Conservative Party in the Yukon Territory is giving the advice to the Federal Government, and they are going along with it. No one really knows. We do not know how we stand, and we will not because of the political situation.

I am going to say how I feel about what happened to the Commissioner yesterday. I am not going to say that my constituents feel as I do, as the government would if they were making a statement, without knowing how those constituents feel.

I just have to laugh at Mr. Epp's newscast this morning, where he said, if the Commissioner had accepted things as he wanted them or as the Federal Government wanted them, and taken the position of the more or less Lieutenant-Governor and be the go-between between the Territorial Government, the Federal Government and the Yukon native peoples, everything would have been wonderful. She would have had lots of people around her and this is what she needed to find out what was going on, and of course, to advise the government, and so on.

I have to laugh a little, because that is simple to say, but from the past experience I have had with governments of any kind, really, there is only one group that would have been listened to in the Yukon Territory, and that is the Progressive Conservative group across the floor. The native people still would not have been listened to because she took their advice and handed it to Ottawa. They have not been listened to so far, really. I do not really expect them to be listened to.

The Federal Government, and whether the Territorial Government is going along with it or not I do not know as we do not really know how they feel, is determined, and I am sure of this, to have provincial status in their reign, even if they only last a week, if they could possibly get it through, so they could have the glory of saying, "We did this, we did this." It does not matter if it is right or wrong, good, bad or indifferent, it makes no difference to the political party. They are in power and they want more power.

I believe that they are so far out in Ottawa, as they were before when the other government was in there. They do not know what the Yukon people want. They are taking it for granted, the Minister is and so are the rest of them in Ottawa, because there are eleven Members across the floor, that the whole of the Yukon is set for provincial status. They have not questioned that matter. They have not come up here to find out whether the people really want it. They have not come up here to find out whether they could even afford it. They have done absolutely nothing but move towards the goal of provincial status while they are in power.

I think they will continue to do that. I think they are going too fast. There was not that much of a hurry. I think that the role of the Commissioner could have carried on for some time yet until such time as they had let the people know that they were definitely going to seek provincial status. I realize they had told us they wanted it, but that was all. They could have done a lot of ground work first, which they did not do and probably do not intend to do.

Enough about the Commissioner resigning. As I say, I am very sorry to hear it. I back her up wholeheartedly, one hundred per cent on what she did do in resigning and wish her well. I would have done the same thing, but I would not have been as gentlemanly about it as she was lady-like. I think I would have been a little stronger when I told them off.

However, of the Government of today, in their wisdom in doing all the things which they have done, they say, since last spring, I will not say that I am entirely disappointed with the work that they have done. I know it is a lot of work to do things. I know that there are people fighting every day to see that you do not get it done, politically and otherwise. These are the facts of life.

I was hoping there would be more on the equalization plan of the Yukon. I do not know exactly what it is yet; however, reading the

Hansard of yesterday the Government Leader only said that we intend to further the equalization of electrical rates for the residential consumers throughout the Yukon. That saddens me very much because I have fought for years for the business people in the small rural communities all along the Alaska Highway. That is one of the places where we need, you can call it equalization or whatever you want to, to get the rates lowered for the small business people along the Highway. I happen to be one of them. I am standing in that boat, so you can say it is a conflict of interest, you can say what you like. I might not vote on it, but I can still speak on it. It is not a conflict of interest, it is a fact of life that if you can ever do that, which I cannot see why you cannot when you can get the multitude of residential people helped, why can you not help a few small businessmen along the Highway. There are not very many of them. Their rates are just out of sight. I would have hoped that would have happened. The last time we got more equalization from the Federal Government, it went to the resident.

I will say this, I do not believe in the philosophy and the policy of the way they are doing it, but our residential rates are not really high anymore. We are being subsidized so much that my bill of \$50 to \$60, and other people's of the same size, ends up being \$10 or \$11. We are really being subsidized to death now and I know whose money it is, Mr. Minister, there is no problem there. But I am saying also that while you are doing that, the business people, the small business concerns have not been thought of.

As I said before, there are some things in the Territory that are small housekeeping things that you do not really pay much attention to it seems. For instance, the questions I asked about our Teslin school, I would like to explain that the Teslin school was built somehow on a reserve. It seems that nobody knows just what is going on except the people out there.

The question was brought up through the years and nothing happened and it is still there. Now it is becoming a kind of a sore spot.

Our L.I.D. systems are not working really that well, I believe, in the Territory, in the small centres. I think in the larger centres maybe they are. In the small centres they are not.

I think our Education Department is doing a better job than what was being done before. I will go along with that, and the Consumer Affairs, I go along with that. You are doing a fair job, I will say this. I will give you all the credit for doing a fair job.

However, as I say, there are a few other things that I am disappointed in, some of which will be coming up in the legislation, and I will be able to question it there. There is no use belabouring the subject here and now.

I will just close on that note. I hope that you do not feel too badly because I do not appreciate everything you are doing, because I do not.

Mr. Speaker: Is there any further debate?

Are you prepared for the question?

Dr. Hibbard: Mr. Speaker, I just cannot believe my eyes in what I am hearing from the Members opposite. For years and years and years we have been trying to get control over our own affairs, manage our own affairs, have the opportunity to get a cottage lot, to have the responsibility to be able to disseminate land for Yukoners. We have been looking for that responsibility for a long time.

Something happened yesterday. I am not sad. I do not share this with my Members opposite. Something happened. The Minister in Ottawa saw fit to see the democratic process reach Yukon. He turned over more power to the elected people of Yukon.

I have been fighting for that for years and I am very pleased that he has seen fit to let this happen. I do not think that that is anything to be sad about at all. I share the Members' concerns about what the Commissioner elected to do. I agree with them that she was a valuable person to have here. But if she does not agree with what her boss intends to do, then she did the honourable thing. She got out. If she still disagrees, she can do what the rest of us did and run for an election and get elected and then try and do something to change it, like the rest of us.

Mr. Speaker, I am so disturbed about what some of these people opposite are saying, about the innuendos that they are implying to what the Government here has done, I would like the opportunity to bring forward some of the facts.

In so doing, Mr. Speaker, I would like the opportunity to gather those facts, so I move for adjournment of this debate.

Mr. Hanson: I second that.

Mr. Speaker: It has been moved by the Honourable Member from Whitehorse South Centre, seconded by the Honourable Member from Mayo, that the debate be now adjourned.

Motion agreed to

Mr. Speaker: We will now proceed to Government Bills and Orders.

GOVERNMENT BILLS AND ORDERS

Bill Number 14: Second Reading

Mr. Clerk: Bill Number 14, standing in the name of the Honourable Mr. Pearson.

Hon. Mr. Pearson: Mr. Speaker, I move, seconded by the Honourable Member for Whitehorse North Centre, that Bill Number 14, entitled An Ordinance to Amend the Fur Export Ordinance, be now read a second time.

Mr. Speaker: It has been moved by the Honourable Leader of the Government, seconded by the Honourable Member from Whitehorse North Centre, that Bill Number 14 be now read a second time.

Hon. Mr. Pearson: Mr. Speaker, the object of this Ordinance is to repeal the fur export tax and to eliminate internal references to it in the Ordinance.

We are also taking the opportunity, Mr. Speaker, to update the Ordinance by changing the old expression "game guardian" to "conservation officer", provide for notice of an application to a court to obtain seized furs to be given to the authorities, and updating the schedule of animals of whose furs an export permit is required.

As well, Mr. Speaker, we have taken the opportunity to validate the regulation-giving power, something that we have been doing with all ordinances as they come to the House.

Motion agreed to

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

Are there any further bills?

I am sorry, I perhaps have missed something here. Do I take it that the question before the House was to give second reading to Bill Number 14?

Hon. Mr. Pearson: Yes, Mr. Speaker, I move that Bill Number 14 be referred to Committee of the Whole.

Mr. Speaker: Is there a seconder?

Hon. Mr. Pearson: Seconded by the Member from Whitehorse North Centre.

Mr. Speaker: It has been moved by the Honourable Leader of the Government, seconded by the Honourable Member from Whitehorse North Centre, that Bill Number 14 be referred to Committee of the Whole.

Motion agreed to

Bill Number 18: Second Reading

Mr. Clerk: Bill Number 18, standing in the name of the Honourable Mr. Graham.

Hon. Mr. Graham: Mr. Speaker, I move, seconded by the Honourable Member from Mayo, that Bill Number 18, entitled An Ordinance to Amend the Legal Profession Ordinance, be now read a second time.

Mr. Speaker: It has been moved by the Honourable Minister of Education, seconded by the Honourable Member from Mayo, that Bill Number 18 be now read a second time.

Hon. Mr. Graham: Mr. Speaker, this Ordinance will, in effect, establish an indemnity fund. The fund shall be administered by the Yukon Law Foundation and another section of the Ordinance says that the funds may be used for a variety of purposes.

The first purpose intended will give the Foundation the ability to pay out funds to persons who have sustained losses because of misappropriation of funds by lawyers.

The second place that the Law Foundation may pay out funds is to law libraries throughout the Yukon Territory, also for legal education, scholarships to law schools and that type of thing, legal research, law reform and the publication of information about the law in Yukon Territory.

There is presently no fixed rate of interest on trust funds in bank accounts, but we expect in Yukon, if we follow the lead set by B.C. and Alberta, that we will be able to get approximately three per cent on the minimum monthly balance on money in lawyers' trust accounts. We do not know exactly how much this money will amount to. We expect roughly \$20,000 to \$25,000 a year. Again, this is just conjecture.

I might add, though, Mr. Speaker, that it is not the only source of funds for the indemnity fund. The lawyers presently operating in Yukon will be making their own contribution to the indemnity fund in order to give it added strength.

The Bill will also make it clear that applications for reimbursement under this Ordinance will not be automatic. The applicant must first try to get his money back from the lawyer, and only if he fails in that may he apply to the indemnity fund for reimbursement.

This makes it a matter of discretion for the administrators to pay out money to the wronged client.

We did not feel that banks and large financial institutions should have the ability to go to the fund as readily as would a small independent businessman or a widow, or a member of the general public.

Another part of this Ordinance is the coming-into-force section. This section times the payout portion of this Ordinance to come into force just before some Yukoners in the Whitehorse area lost some funds through unlawful misappropriation of their money by a solicitor in the Whitehorse area.

There is one area in this Ordinance that may be of some concern to the Members opposite as it has been of some concern to the Members on this side of the House. We have in this Ordinance not allowed any appeal to the Trustees of the Yukon Indemnity Fund. We have, in the Ordinance, trusted in the good judgment of the Trustees, as have all law foundations throughout Canada that have such a fund.

I think, Mr. Speaker, that that basically outlines the major principles in the Bill. I think it is a good piece of legislation. I look forward to hearing the Opposition's ideas on the one area of some concern to us, and perhaps we can work out something in Committee. Thank you.

Mr. MacKay: Speaking to the principle of this Bill, I do have a concern about the right of appeal and I would be happy to talk further about that as we get into Committee of the Whole.

I am not sure what alternatives are available through that capping of the appeal process. I do have some other concerns about this particular Bill, and that is the fact that, in the first place, it is a retroactive piece of legislation which I think is very poor parliamentary procedure, that any legislative body should set about retroactively changing the way things were. No matter how well motivated that may be, there is a principle involved here that when you get involved in retroactive legislation, you are getting involved in a very dicey area. I oppose the Bill for that reason, because I cannot support in principle any piece of legislation that will retroactively change the situation.

The particular people who this Bill is trying to help had no expectation of help at the time that they were doing business. They chose to do business with that particular lawyer and, though it is a cruel world we live in, that is tough. They have lost some money, and while I appreciate that this Government is doing as much as it can to assist the business community, and other individuals, I think that they must remain with some principles with respect to the type of legislation they are passing.

I give a warning today that in the course of Committee of the Whole I would like to see a list of those people who have lost money from that particular lawyer's trust account, with the name and the amount. Presumably the Government has that or else we would not be trying to pass this legislation.

The principle of the Bill as it affects the future, I can agree with. I think that an indemnity fund funded in this rather painless way by accruing interest from trust balances which previously accrued to chartered banks, and putting it into an indemnity fund is a good idea. It is a well established principle in the provinces. I am not sure how the administration of the Act is going to work. I will get into that in Committee. How do we know that all interest is being credited to the fund? Is there any provision for audit, as there is in the provinces, that when auditing a trust fund the interest is certified as being all credited to the proper source? There are a number of administrative details such as that that I would like to get into, Mr. Speaker.

So to conclude, Mr. Speaker, my objections to the Bill are that it has a retroactive principle involved. It also has a no appeal principle.

My feelings are that such a fund is needed as has been demonstrated in the Territory and throughout Canada and so with mixed feelings I will be voting in favour of this Bill into Committee with the reservations I have already expressed.

Motion agreed to

Bill Number 21: Second Reading

Mr. Clerk: Bill Number 21 standing in the name of the Honourable Mr. Graham.

Hon. Mr. Graham: Mr. Speaker, I move, seconded by the Honourable Member from Mayo, that Bill Number 21, entitled An Ordinance to Amend the Supreme Court Ordinance be now read a second time.

Mr. Speaker: It has been moved by the Honourable Minister of Education, seconded by the Honourable Member from Mayo, that Bill Number 21 be now read a second time.

Hon. Mr. Graham: Mr. Speaker, the actual enactment of this Ordinance will come in two parts. First of all, we are requesting that this Ordinance be passed in this Legislature. The second part will be that Canada will enact a change in the Judges Act corresponding to our legislation.

The reason behind this Ordinance, Mr. Speaker, is that we foresee a need in the future for a second judge in the Yukon. In taking into consideration the extreme difficulty in passing twin legislation both in our Legislature and the House of Commons, we are requesting passage of the Ordinance at this time to give us the ability to bring it into effect at some time in the future.

We are presently, Mr. Speaker, expending over fifty per cent of a judges' time in deputy judges that we must bring in from other jurisdictions. The other problem that we are currently having, Mr. Speaker, is that in many cases these deputy judges are not available; therefore I think that this Ordinance is needed, not right at the present time, but it will definitely be needed in the future. I think it would be to the benefit of Yukon to have it passed at this time. Thank you.

Mr. MacKay: This debate is supposed to be more lively than this. I happen to agree with this particular Ordinance and will be supporting it. I think it is important that this Government, having passed this hopefully within the next few days, should then make sure that their counterparts in Ottawa, in Parliament there, are aware that this is something that we have passed.

I do think there is an urgent need for a second judge in the Territory and, by saying that, I am in no way criticizing the existing judge because I think he has served the Territory long and well. But I do feel though that a second judge will help to expedite cases that sometimes have to wait a long time for a deputy and will certainly help to reduce the amount of cases that will require outside help just simply because of the conflict of interest problems that a judge gets into living in the Territory so long. So I look forward to having a second judge and I hope that the Government will pursue the matter vigorously with Ottawa.

Motion agreed to

Mr. Clerk: Bill Number 22 standing in the name of the Honourable Mr. Pearson.

Hon. Mr. Pearson: Mr. Speaker, I move, seconded by the Honourable Member for Whitehorse North Centre, that Bill Number 22 entitled Third Appropriation Ordinance 1978-79 be now read a second time.

Mr. Speaker: It has been moved by the Honourable Leader of the Government, seconded by the Honourable Member from Whitehorse North Centre that Bill Number 22 be now read a second time.

Hon. Mr. Pearson: Mr. Speaker. The purpose of this Bill is to supply additional funds from the Yukon Consolidated Revenue Funds to the amount of \$1,151,300, to defray charges and expenses of the public service of the territory for the five months ending March 31, 1979.

Motion agreed to

Mr. Speaker: This concludes the Order Paper. May I have your further pleasure at this time.

Hon. Mr. Graham: Mr. Speaker, I move that the Speaker do now leave the Chair and we resolve into Committee of the Whole.

Mr. Speaker: It has been moved by the Honourable of Education, seconded by the Honourable Leader of the Government that the Speaker do now leave the Chair and the House resolve into Committee of the Whole.

Motion agreed to

Mr. Chairman: I shall call the Committee of the Whole to order. At this time we will have a short recess.

Mr. Penikett: Can you give us some indication of what we are going to be doing when we come back from recess? Are we going to proceed with the same Bills in the order that we just had them?

Hon. Mr. Pearson: Mr. Chairman, No, we indicated to all Members that we were not prepared to begin discussion of the Medical Profes-

sion Ordinance in Committee, possibly for another two weeks, because of the committee work we would like to get done. Also, I believe that we do need some additional time on Mr. Fleming's Motion. I would suggest that if it is at all possible, we deal with the other Bills that we do have in Committee at the present time.

Mr. Chairman: Recess.

COMMITTEE OF THE WHOLE

Mr. Chairman: I now call Committee of the Whole to order.

This afternoon, the first Bill we are going to look at is Bill Number 14, An Ordinance to Amend the Fur Export Ordinance.

I will dispense with reading Clause 1, but Clause 1 will have a general discussion.

On Clause 1

Hon. Mr. Pearson: The Bill, primarily, is designed to repeal the fur export tax and to change and bring up to date some of the specific expressions in the Bill. We are, therefore, repealing the expression "game guardian" and substituting for the two terms "game guardian" and "officer", the currently used term "conservation officer".

We are repealing the definition of "tax," because we do not need it anymore, and also the definition of "territorial employee".

Mr. Penikett: Thank you, Mr. Chairman. I would like to ask the Government Leader a fairly general question about the philosophical intent behind this Bill.

This House has been, on a couple of occasions in its life, into debates on the question of resource control and resource management, and so forth. The one area of resources, if you like, over which this Government does have control, is renewable resources, or game.

It is my view that, while we have some excellent people in the employ of the Government in this field, that this Department is probably understaffed and underfinanced, or has insufficient money to do the kind of job I would see done in the area of management.

That is a question that I would probably like to, perhaps, debate at more length at a later time, and there is an Ordinance coming which will give us that opportunity.

However, I would like to ask the Government Leader if he could respond in a general way to the reasons for eliminating the taxes. Now, I understand they were very small taxes, and I cannot remember the figures actually involved, but they were a matter of a few cents, even on something as valuable in today's market as a lynx, for example. I understand that the Government was not receiving very much revenue from this source, and faced with that fact, and probably some administrative costs involved in keeping track of the same, it has clearly decided to do away with this tax.

I wonder if the Government Leader could explain why they did not consider the other alternative, given those facts, which might have been to substantially increase the tax on some of these fur exports, with a view to recovering for the territory some of the costs of managing this resource, and giving the government a more effective management tool and a voice in not only the maintenance of the resource, but in the management and harvesting of the same.

Hon. Mr. Pearson: We have been functioning from the day we went into office on the basis of user-pay. So, what the Honourable Member suggests is completely in line with our philosophy that if you are not collecting enough tax, then raise the taxes to at least pay for the administration costs. We looked at this, and looked at it very, very hard. He is absolutely right in saying that there is very, very little money involved, and in order to make it a paying proposition, with the number of furs that are taken in this territory, it was deemed that we would be creating an undue hardship upon people who make their livelihood trapping, if we were to increase the taxes to a magnitude where it would be "worthwhile". The alternative was to eliminate the taxes entirely, but we have been very careful to not eliminate any of the control that we now have, and do exercise, over the resource.

Mr. MacKay: Mr. Chairman, before I launch into detail, I would like to congratulate you on a fine recovery, and I am glad to see you back in the Chair.

Further to the previous question, it would appear to me that government is now attempting to save money by eliminating this tax. Perhaps we could have an indication from the Government Leader how much he is cutting down on the government's cost by eliminating this tax.

Hon. Mr. Pearson: Mr. Chairman, we will not save any money. Because of the reporting procedures that are in place and which we intend to keep in place, the money will still be expended on controlling the resource.

We have all of the game that is taken in the Territory, or all of the fur-bearing game that is taken in the Territory, in fact, put on a computer and so on and so forth. We try that way to control it to know exactly what our inventory is all the time.

The tax was deemed to be a nuisance factor. The small amount of revenue just simply was not worth the problem of collecting. I guess, Mr. Chairman, we do save the money that would be expended in the collection of the tax, but it was not very much.

Mr. Byblow: Mr. Chairman, with respect to this seizure aspect being expanded in this Ordinance, what happens to the furs that are seized under the present Ordinance's provisions?

Hon. Mr. Pearson: Mr. Chairman, the furs that are seized by the Game Department are put in storage and are used, in some cases I believe sold, and revenue accrues to the Territory that way.

Mr. MacKay: I note from Schedule 1 of the Ordinance that there is no reference to grizzly bears. Is that a deliberate omission?

Hon. Mr. Pearson: I am sorry, Mr. Chairman. I will have to get the answer to that.

Mr. Penikett: Mr. Chairman, I hope I will not bore the Government Leader with this point. I would like to dwell for a second on this matter that we were previously discussing which was the tax. I think it is important since at this point it is the only resource which this Territory is really managing.

I am a little concerned that if such a royalty policy, if you like, were to become the policy of the Government for all resources, I think we would be in a pretty terrible financial situation if that were ever to come to pass. I can understand and appreciate the Government's statement that, at this point in time, people who are trapping for a large part of the year or whose income depends, in a large part, on trapping, might be faced with some special burden as a result of this tax.

I think that in terms of the inconvenience of the collection of that probably was a nuisance, not only for the Government but also for them, but the amounts involved were not such that I would guess that unless you had a very good year trapping, at current prices, that they would have been particularly burdensome.

I think it is important that we think about this for a minute. I wonder if the Government had given any thought to the possibility that the fur industry and the trapping industry, at some point in the Territory, possibly following the Land Claims settlement or some new massive rise in fur prices, would become much more viable with more families having a larger part of their income generated from it. I am wondering if the Government thought of ways where they might recover some of their costs in terms of managing this resource and how it might do that having abolished this tax.

Hon. Mr. Pearson: Mr. Chairman, in fact, just the opposite is happening. We are faced with a problem in this Territory because we are growing, having more people in the Territory, more recreational land, municipalities expanding their boundaries, et cetera, that we are finding that we are having to take away trap lines, eliminate trap lines and trappers from those trap lines because of their close proximity to recreation areas, because of the municipal boundaries that have expanded.

So, we are finding just the opposite. Possibly, in the future, hopefully in the future, for those trappers that do continue, we can make it a viable industry, and possibly at some future date the taxation of furbearers may be a viable alternative again.

What we are suggesting right now is it is our best judgment that just simply is not worthwhile at the present time.

Mr. Fleming: Yes, Mr. Chairman, I would like to ask, in changing the old expression "game guardian" to "conservation officer", is there a difference in the pay structure between those two now? Or would there be a difference in pay structure?

Hon. Mr. Pearson: No, Mr. Chairman, no difference at all. We are simply trying to standardize.

Mr. Hanson: Maybe I could answer the one about grizzly bears. They are not for sale as fur. They are taken as trophies. You have to get an export permit to ship them out to tanneries, but you cannot sell the hides until they have been tanned and marked. You cannot sell them as you would other furs.

Mr. Fleming was just talking about trapping. I would like to point out that there is very little trapping done in Yukon right now to worry about it to any great extent. Most people run from the bar and put a few snares out and get the price of another bottle and then

it is back up to the liquor store to get the permit to ship the fur out. I think it is a half a cent or a quarter of a cent.

So, really, it is just a bother to have it in there. But I believe the Game Branch is trying to encourage trappers to go out in the bush and get them back on the trap lines and this is a way, of course, of helping to get them out.

Mr. Penikett: Just one final point, Mr. Chairman. I cannot resist remarking on the contribution from my friend from Mayo.

I am naturally reassured and satisfied that the Government is recovering some income from this resource and I think it is probably a very bad practice to have a valuable resource leave the Territory without royalties. I must say that it is a little irregular and a little unusual that the Yukon Liquor Corporation happens to be the agency collecting the revenue. I will leave that as it is.

Clause 1 agreed to

On Clause 2

Clause 2 agreed to

On Clause 3

Clause 3 agreed to

On Clause 4

Clause 4 agreed to

On Clause 5

Clause 5 agreed to

On Clause 6

Clause 6 agreed to

On Clause 7

Clause 7 agreed to

On Clause 8

Clause 8 agreed to

On Clause 9

Mr. Byblow: Mr. Chairman, just a question with respect to the Schedule. I notice from the original Ordinance, that cougar is not included. Am I to assume that there are none in Yukon?

Mr. Hanson: If there were any, they would be in the southern Yukon.

Mr. Chairman: Are you satisfied, Mr. Byblow?

Mr. Njootli: Mr. Chairman, I just fail to understand that one point in Schedule 1 where it states that muskrat must be included in areas where you have to have fur export permits.

Can someone in this Legislature, maybe the Minister responsible, explain to me the difference between the old Ordinance and this new revised one, how it will affect the people of Old Crow with regards to muskrat.

Furthermore, Mr. Chairman, maybe I should just give a brief statement here, making a comparison where a trapper may have an export permit for three or four fox or four or five martin, or it would be lucky for a trapper to get six wolves in one season; whereas, on the other hand, in two months, one family could get 1,000 muskrats.

With regards to the export permit, regardless of the amount of fur in each category, what is the breakdown? How much would it cost to ship 1,000 muskrat out, how much would it cost to ship one mink out? For instance, in Old Crow, we ship our muskrats right out to Thunder Bay, Ontario.

I would just like to know the difference between the old and the new Ordinance at this point.

Mr. Hanson: There is no cost whatsoever except what you have to pay for the air freight. That is what it is all about, to cut the tax down on the fur. There is no difference at all, except that there is no money involved. It does not cost him a cent, or the buyer a cent.

Hon. Mr. Pearson: I would like to reiterate what the Honourable Member from Mayo has just said. Schedule 1 in the existing Ordinance says animals in respect of whose furs tax is payable when exported from the Yukon Territory: bear, white or polar, beaver, coyote cougar, fisher, fox, (black, cross, red, silver, blue), lynx, martin, mink, muskrat, otter, squirrel, weasel, wolf, wolverine. All that has happened, is that in the case of bear, I believe it is, there has been a change from "white or polar" to "black or polar." There were a number of fox specifically named by colour. I am told by the fur biologist that most people do have a problem defining, on the permits, what the colour is. All they really wish to know is whether it is a coloured fox or whether it is white. Other than that, I do not believe there is any change.

Clause 9 agreed to

On Clause 10

Clause 10 agreed to

Preamble and title agreed to

Hon. Mr. Pearson: Mr. Chairman, I move that Bill Number 14 be reported out of Committee without amendment.

Motion agreed to

Mr. Penikett: I do not want anyone to think I am being facetious on a procedural question or a Point of Order, this Bill is going to come into force on the day of Assent. I am kind of curious as to who might be giving Assent, if we do not have a Commissioner or an Assistant Commissioner.

Hon. Mr. Pearson: Possibly I was a bit remiss in the House today, or if someone had asked the question in the House, I would have been happy to explain where we are, administratively, at the moment. Perhaps we could do it right now.

The Administrator of Yukon Territory is an Order-in-Council appointment, meaning that he is appointed by the Federal Cabinet. Doug Bell has that appointment, as you are well aware. He, in fact, still has his appointment as Deputy Commissioner. When the Commissioner is ill, incapacitated, out of the Territory, or cannot act if the office is vacant, then the Administrator, automatically, by the Yukon Act, assumes all of the duties, responsibilities and powers of the Commissioner so the thing flows. Doug is here and in place and until a new Commissioner is appointed by the Minister, will be acting as the Administrator and so he has the right and the responsibility to enter this House, at our request, to Assent to bills.

Mr. Penikett: Sorry Mr. Chairman, I understood all that, but my reason for concern was that I understood from, I think, the Minister's press release or something that the departure of Mr. Bell was imminent too and that was my point of confusion, that there would be no one to give Assent.

Hon. Mr. Pearson: Mr. Chairman, Mr. Bell is transferring in the Department of Indian Affairs and Northern Development from the position of Deputy Commissioner with this Government, which is a Federal position as well, to the Department of Indian and Northern Affairs in their administration here in Whitehorse, so he will be staying right here in Whitehorse.

Mr. MacKay: Am I to understand, Mr. Chairman, that Mr. Bell will be administering the Territory then under the terms of the Yukon Act?

Hon. Mr. Pearson: Yes, Mr. Chairman, that is correct.

Mr. MacKay: But he is not physically located within this building, is that correct?

Hon. Mr. Pearson: Yes, for the present time he is going to be located in this building. There are a lot of wrinkles yet to be worked out. I will try to keep the House apprised of where we are at as we move along as a result of the terms of reference yesterday.

It is correct to assume that until his appointment is withdrawn, Mr. Bell is the Administrator of the Yukon Territory, no matter where he is at or what job he is in. That is a separate and identifiable appointment. It does not necessarily hold true that the appointment of Administrator follows or is connected to the Deputy or the Assistant Commissioner's job. It could be anyone appointed Administrator.

Mr. Chairman: The Chair would suggest at this time that if there are any more questions on this particular topic, they should be asked tomorrow during Question Period.

Mr. Penikett: I did not have a question, it is just a short piece of information that the Government Leader may appreciate.

On the same subject, I notice that it is the practice in the House of Commons and some of the provinces, that the Chief Justice can substitute in in the absence of the Lieutenant Governor.

Mr. Chairman: We shall continue now with Bill Number 18, An Ordinance to amend the Legal Profession Ordinance.

On Clause 1

Mr. Chairman: I will anticipate general debate.

Hon. Mr. Graham: Mr. Chairman, this clause is an expansion of the objects that can be made to benefit from funds given out by the Yukon Law Foundation. This list is an expansion of the list by adding law libraries, legal education, legal research, law reform, publication of information about the law et cetera.

Of course the main change is to include the power to establish, maintain and operate the Indemnity Fund which is established lower down on the Bill.

Mr. Penikett: I do not really know much about the legal profession and I have been fortunate enough not to have needed to have a lot to do with it and I hope my luck shall continue. I wonder if the Minister

could briefly explain why, in an Indemnity Fund, which purpose I understand and support, they have also broadened the scope to include these objects, the law libraries, legal research, and so forth? Is that on the assumption that maybe there will be money left over after a period of time? Does that have anything to do with it?

Hon. Mr. Graham: Yes, Mr. Chairman, that is the idea behind it. Besides which, at the present time, we, the Territorial Government, maintain a law library with some help from the legal profession in the Territory. It will, of course, get us out of that problem. The other thing is, of course, is that we do not have very many misappropriations of funds by lawyers. We do not anticipate a great many in the future; therefore we would like to see this money put to the best possible use.

Mr. MacKay: I am afraid I might have to ask some questions. Perhaps the Minister will accuse me of not having done my homework. If that is the case I will accept his barb and ask the questions. Who are the administrators of the Yukon Law Foundation and who appoints them?

Hon. Mr. Graham: Mr. Chairman, I think we will get into this further down but if you want I will go into it right now. The Yukon Law Foundation is, in reality, a kind of a charitable trust. It was established by the former Legislature in 1975. The trustees of this foundation are six people, three of whom are appointed by the Commissioner and three named by the Yukon Law Society.

The lawyers, originally, I believe opposed the amendments made in 1975 to the Legal Profession Ordinance but have since come to accept them and have appointed members to the Law Foundation.

Two of the members appointed by the Commissioner to the foundation are the Secretary of the Yukon Discipline Committee and one of the members of the Yukon Discipline Committee. As a matter of fact, Mr. O'Donoghue, the Deputy Head of Justice has recently been appointed to the committee. At present, Ron Veale is the Chairman of the Law Foundation and Don Kidd is the Secretary-Treasurer of the Law Foundation. Both of these nominations have come from Yukon Law Foundation. Is that okay?

Mr. MacKay: I appreciate that information as it helps me talk to the subject.

Some Member: Veale is a very good Liberal.

Mr. MacKay: I am sure that was not recorded; however, I would like it recorded that Mr. Veale is a very good Liberal. He also informs me that his profession is in favour of this particular Ordinance so I am not going to have very many difficulties with it.

The matter that does concern me though is the retroactive nature of the legislation and I think that some philosophical justification has to be given for that from the Government side. It is easy enough to say that some people could get hurt and, indeed, some people do get hurt, but if the Government went around looking for everybody who was hurt over the past ten years for any particular reason, they might find many, many other ordinances that should be retroactive as well.

So, I think there should be some philosophical argument to convince me, and others, that retroactive legislation is a good thing.

I am wondering, too, about the amount of losses sustained in that particular incident of misappropriation and what steps the Government has taken at this stage, because I believe the Government, itself, is responsible for the legal profession. What steps has this Government taken to try and ensure collection from the mis-appropriator - that is not a word, from Mr. Christiansen, what steps are being taken.

I understand the courts, when he was convicted, stated that he should indemnify the people who had lost the money. Where is that at? Perhaps this Legislation should not be retroactive if there is a source of funds available for that. I would like to hear on that subject.

I think it would be appropriate, since we are talking a fair amount of money, I believe, that a list of the creditors to this fund should be tabled at this time. I am sure that the Government has that.

On the future administration of this fund, I am not clear from reading the Bill - how the money is actually credited to this fund? Does it come as a result of a lawyer remitting the funds, or does it come as a result of the bank remitting the funds? Upon whom is the onus for this? I would like to get some clarification of that.

If there is an onus on the lawyer, who is going to make sure that the lawyer is doing as the Ordinance says?

There are a number of questions. You could tick them all off, perhaps.

Hon. Mr. Graham: Mr. Chairman, I believe as we go through the Ordinance, a number of these questions will be answered.

A couple of the ones that come to mind right away are who will be collecting this, as we expect roughly three per cent interest on the trust accounts. They will be collected by the banks. It will not be collected by the lawyers. It will not be paid by lawyers. As I understand it, it will be paid directly by the banks.

A couple of the other things: as to the principle of making this legislation retroactive, I do not have any problem with that at all.

As for tabling, in this Legislature, a list of the people that lost money in the case which I am sure we are all familiar with, I am not willing to do that. I do not think that we are making this Legislation for specific people who have specific amounts of money coming to them.

I think that we are making this Legislation on the principle that there have been people who have lost money. I leave it up to the good judgment of the trustees of the Yukon Law Foundation to decide whether or not the money that these people are claiming is actually due and payable to them.

I, as a politician, do not want to have any part of saying yes, you are due money, but you are not. I do not think that is our job.

I think that if you have a basic disagreement with the principle, then that is fine. I can live with that, but I do not think that we should be tabling a list of people who are claiming money from this instance that we are hoping to cover.

Mr. Penikett: Thank you, Mr. Chairman. The Minister's answer does raise an obvious problem, it seems to me, with the retroactivity of the Bill. In the case that has been referred to, there is a person under sentence, I understand it, to indemnify the injured parties. It seems to me that should the people administering the fund, in their wisdom, or the Foundation, decide that because of some lateness in repayments or something, that injured parties should receive money from this fund. It seems to me that puts the person under sentence under some kind of special peril.

I would be interested in knowing, and perhaps we could get in the detail of the thing, if such a person might then return money that has been paid out of the fund, to the fund, in the event that they were able to do so.

A second general question I would like to ask the Minister to answer before leaving Clause 1, is when I looked at some of the legislation that has been brought to this Session, I see at least somewhere around four or five hundred references to "The Commissioner shall" and "The Commissioner shall" and "The Commissioner shall" do this and that. I wonder if we ought not to very soon be changing that reference to "the responsible Minister shall" or some such similar phrase, because it seems to me we are going to have to be doing an awful lot of amending somewhere down the road.

Hon. Mr. Graham: Well, Mr. Chairman, I will try to answer Mr. Penikett's questions one at a time.

The first one: the lawyer in question has served his sentence. The people who had their funds wrongfully misused by this person in question have an obligation to go after that lawyer in any civil action they may pursue in order to recover the funds that have been misappropriated by that lawyer.

As we get along into the sections, you will see that under this Ordinance, the same condition applies. You must first of all exhaust all action that you, as a person or as a business, corporation, et cetera, have. You must exhaust all reasonable avenues to recover your money on your own. Only then may you apply to the Yukon Law Foundation trustees to be reimbursed for the money that has been wrongfully misappropriated.

The second question, as to the Commissioner: as I understand it, we are going to have a Commissioner appointed, and until something changes in the Yukon Act, I do not see any problem with leaving the Commissioner in our ordinances.

Mr. MacKay: It would not be right to let it go through so easily. Will you be answering one of my questions respecting the amount of money that has been lost from that trust account.

Hon. Mr. Graham: I do not have any idea what amount has been claimed by the people who have been wronged, supposedly, in the most recent case. To my memory, and I believe I asked this question of our Justice Department, I cannot recall any other misappropriation of funds by any other lawyer in Yukon. I stand to be corrected, but that is my understanding.

Again, as we get on in the Bill, you will see that we do stipulate a maximum amount of dollars that may be put into the indemnity fund over a period of years.

Mr. MacKay: There then remains the question of appeal of the Foundation's rulings. I wonder if the Minister could give us a dissertation upon the various alternatives there are to that, and why the Government selected the one that came out in this Bill.

Hon. Mr. Graham: There are, I believe, several alternatives. The first and most obvious one, of course, is an appeal to the Supreme Court to any decision made by the Trustees of the Yukon Law Foundation. That is one obvious alternative. But, I think that the basic reason I went for the no-appeal version was not only the fact that it is that way all across Canada in all other jurisdictions, but I have a great deal of faith in the people appointed to this Yukon Law Foundation. The people, appointed by the Commissioner, are extremely competent people. Two are independent lawyers from outside of the Yukon, one is the Deputy Head of Justice, and there are three others from the Law Society of the Yukon. I have a great deal of faith in their ability to judge and make fair restitution if it is warranted. I am open to suggestions, though. We have asked, and this is something we may debate, I am sure.

Mr. MacKay: I am not sharing Mr. Graham's confidence, perhaps, in all the members of that board. The principle appears to be the choice of going to the Supreme Court or dealing with the item at the level of the Foundation. I do suspect that the latter solution arrived at is best, as the money is accumulated, not from the public purse, but under the aegis of the trustees, and in a normal trust situation, I believe that the trustees have the final say. I would agree with that.

Clause 1 agreed to

On Clause 2

Hon. Mr. Graham: Mr. Chairman, if I may, there are a lot of different questions. Perhaps I could run through them to explain a couple of the things here as we go so I am not accused of ramrod-thing through.

One of the things that we did request, and there was some discussion over it with the lawyer, was the question of whether or not lawyers in the Whitehorse area should be requested to pay an annual fee to the fund. The Yukon Law Foundation has agreed to that, and the trustees will set their own fees payable. I think the other thing that was a problem, and that was whether or not the seventy-five lawyers who are presently registered in the Yukon but actually live outside should be requested to pay the annual fee? They will not, because they do not maintain trust funds in the Yukon. Anyone who maintains a trust fund in the Yukon Territory will be required to pay the fee.

Mr. MacKay: I appreciate the opportunity that the Minister has given to examine the subject in detail. Clause 63. (2) (c) providing for the payment out of the Indemnity Fund of expenses incurred in the administration of the fund and in connection with the audits, investigations, hearings or other actions... Am I to assume then that initiation of audits or investigations will be done by the Yukon Law Foundation or are we just going to pick up the tab for any of these things that come up.

Hon. Mr. Graham: They will be requested to pick up the expenses. They are also required, under this Ordinance, as you will see further on under Section 2, to make an annual audit available to the Commissioner, which will be tabled in the House. Each year you will get a report from the Yukon Law Foundation.

Clause 63.4 states that the Law Foundation will not pay out any more than \$50,000 in any one year. If, in fact, there is a misappropriation of funds, and it exceeds \$50,000, they have the ability to stretch it out over as many years as they require.

Mr. Fleming: What the Minister is saying then is that \$50,000 is retroactive 1975, that the fund would, upon Assent, be established for \$250,000. Is that true?

Hon. Mr. Graham: No, the fund will only be established with as much money as has been accrued since the banks have been paying interest on trust funds.

I believe that there is some money presently accrued by the banks, and this money will be turned over by the banks, in trust, to the trustees of the Yukon Law Foundation to pay out as they see fit under the terms of this Ordinance.

I do not know how much money it is, I am sorry. I just understand that there is some money that has presently been collected.

Mr. Fleming: I think it behooves the Minister to produce the amounts of money.

Hon. Mr. Graham: Pardon?

Mr. Fleming: I think it behooves the Minister to produce the amounts of money that are going into the fund at that time. If you do not know, could you get that information for us?

Hon. Mr. Graham: As I have said before, Mr. Fleming, we expect roughly \$20,000 to \$25,000 a year, depending on how the lawyers' businesses do. If their business drops off, I imagine the total amount that would be put in the indemnity fund would drop off. But we will get an accounting of the total funds disbursed, and we will

get an audit each year. So we will know, and I will table that audited statement in the House.

Mr. Chairman: Does that satisfy you, Mr. Fleming?

Hon. Mr. Graham: Section 63.6(2), Mr. MacKay, is one area that I am sure you will be interested in, "No reimbursement shall be paid out of the Indemnity Fund unless the administrators of the Yukon Law Foundation are satisfied that the pursuit of other remedies available to the claimant would be futile". In other words, they must exhaust all other civil action before such time as they may apply to the Fund.

Mr. MacKay: The word "futile", to me, does not imply what you said it implied. That was that it must exhaust all other civil action. It means that they, in their judgment, may or may not choose to pursue these things and then convince the Foundation that there is no point in suing somebody because he is broke. Is that what you are saying? I think that if you wanted to say something other, say what you said in the first place, you should have used different words, such as "remedies available have been exhausted". "Futile" implies quite a large element of judgment on somebody's part as to what is futile.

Unless you take somebody to court and actually bend them over and find out what they have in the way of assets, you may never actually recover all that you should.

So, I am wondering whether this word "futile" is sufficiently strong or if it leaves too much latitude.

Hon. Mr. Graham: We have attempted, Mr. Chairman, to leave a great deal of latitude to the judgment and the wisdom of the trustees of the Yukon Law Foundation.

As I recall, we did have some debate on this among ourselves, much the same that we have had here and we finally decided that "futile" gave them the latitude that we desired and it expressed our intentions as well. Consequently, we decided to leave it as it was.

I think, Mr. Chairman, the over-riding concern here was that we make available to the trustees the ability to give money where they feel that a person would suffer undue hardship going after the lawyer civilly.

The example that I brought up many times to my colleagues was that of a widow with a few children sold her home, had her total life savings in a trust account and the trust account was misappropriated, that lady would probably be in no position to hire a lawyer to take civil action; therefore, we would like to give the board the latitude to reimburse that lady for the cash that she lost. But by the same token, we also give the board the ability that, if another person or corporation had funds misappropriated, when, after the lawyer received an accounting, that would be returned to the trust fund.

The amount of money that had been paid out could be recovered by civil action and it would be repaid to the trust fund.

Mr. MacKay: I can certainly sympathize with the motivations of the Minister. What I am having difficulty with is seeing how this section actually achieves that. I think what you are saying to me is that the administrators of the Law Foundation will have the flexibility to decide, if you have a major financial institution which has lost money, and a widow with three children has lost money, they can decide not to pay this one, even though the remedies available to that claimant whose pursuit of these would be futile.

That, I think is what you are saying, whereas, equally the same legal conditions exist for the other person, yet they would be paid. I can agree with trying to instill that kind of latitude, but I do not think you are achieving it with that section.

Hon. Mr. Graham: Again, possibly this is another area where we should produce regulations, but the point that I am trying to make, and perhaps I am not making it well, taking this as a case in point, we would expect that a major financial institution to have the resources and the ability to pursue a lawyer that has misappropriated funds much more vigorously than we would expect a widow with the burden of three children. We would expect that the Foundation would be much more lenient with the widow than with the institution.

Of course, if both institutes or both people finally arrived at a brick wall where the funds were simply not available, it was like bleeding water from a stone, as it were, then I am sure that the Foundation would pay out.

But we have to, I feel, give them that latitude.

Mr. MacKay: As I understand then that major financial institution on the one hand and the widow on the other hand are in exactly the same position at the end, it is just that the number of hoops the institution has to jump through will be greater and harder, but in the end they will have an equal right to funds in this Indemnity

Fund, as does the widow.

Hon. Mr. Graham: That is right.

Mr. MacKay: I would like to draw attention to 63.8(1), again, the retroactive nature of this Legislation.

I think the Minister's previous explanations were reasonable. I think he is perhaps not telling everything. I think that perhaps he should say that if this were not retroactive that probably the Government would have to dip into its own pocket, or feel that it should dip into its own pocket to reimburse these people, that that would be another alternative rather than really dedicating the first two or three years' interest income out of this fund to something that happened three or four years ago.

I think that would have been avoided had the Government recognized that as a responsibility of theirs. There is a certain argument to make that it is their responsibility provided that they have been regulating the legal profession, that rather than being an alternative other than having retroactive legislation that dedicates the funds for the next two or three years to that purpose.

So, I do object to that section from a philosophical point of view, and also from the practical point of view that the people who did lose the money could have been reimbursed in some other form.

Hon. Mr. Graham: Mr. Chairman, I think it is incorrect of you to assume that the money would be coming out of the Government's pocket if this Legislation was not enacted. That simply is not true. It would not.

We have the responsibility for the Legal Profession Ordinance, much as we have the responsibility for the Medical Profession Ordinance, but if a doctor is sued for malpractice, they do not sue the Territorial Government.

I think that is a fairly good analogy. It is not done.

I think that it is just wrong to assume that we have the responsibility of paying those people.

To the second part, we will not be tabling a list of the people who have claimed that they had funds misappropriated. I really do not think that that is right. We are not enacting this Legislation for specific people. We are enacting it for anyone who claims to have had funds misappropriated by any lawyer.

Mr. MacKay: Yes, I think, on reflection, that perhaps the publication of the list of creditors would not be suitable for this Legislature. While it may well be that perhaps the president of the PC constituent association may be on the list, it may well be that there might be a couple of Liberals on that list, too. So, I shall leave that aside.

However, to return to the point of the analogy of the public not suing the Government for malpractice on the part of the Minister is not a good analogy. Because of the Government's involvement in the legal profession, its requirement for audits of trust funds, and its financial involvement to that extent, then it does have some responsibility. If it is requiring an audit of trust funds, which it does, and that audit, in this particular instance that I have some personal knowledge of, was perhaps somewhat suspect and there may, in fact, have been other remedies open to the Government to try and recover these funds from third parties. The whole thing could have become very messy and it could also have avoided, of course, this retroactive legislation.

I still object to retroactivity, as a matter of principle, and I hope not to see it again in any other ordinances.

Hon. Mr. Graham: Mr. Chairman, I would not undertake to put it into absolutely no other ordinances, because, you know, I am not familiar with everything that is happening within this Government, but I will admit that this is, in fact, unique to my portfolios in the present Legislation and I would hope that your wishes could be observed in future.

Clause 2 agreed to

On Clause 3

Clause 3 agreed to

On Preamble and Title

Preamble and Title agreed to

Hon. Mr. Graham: Mr. Chairman, I move that Bill Number 18, entitled An Ordinance to Amend the Legal Profession Ordinance, be reported out of Committee without amendment.

Mr. Chairman: It has been moved by Mr. Graham that Bill Number 18, An Ordinance to Amend the Legal Profession Ordinance, be reported without amendment.

Motion agreed to

Mr. Chairman: I shall now refer you to Bill Number 21, An Ordinance to Amend the Supreme Court Ordinance.

On Clause 1

Mr. Chairman: On Clause Number 1, I shall anticipate general debate.

Hon. Mr. Graham: Mr. Chairman, in this Ordinance, as I said previously, the increase in the number of judges from one to two will only come about after Canada amends her Judges Act, and we amend the Supreme Court Ordinance as it appears before you.

I might add that the expenses of the judge, such as salary, fringe benefits, pension and all travel expenses while employed as a judge, are paid in full by Canada. The Territory only pays the cost of court accommodation, secretarial services and other related office expenses.

We are, as I said before, past the fifty per cent point in using a second judge. We now have approximately twenty-five deputy judges and we have found that the loans are extremely difficult to arrange. They involve a succession of long distance telephone calls from the Deputy Head of Justice to the Chief Justices, judges, court staffs across the country and it is becoming increasingly difficult.

If a case that was due to come before the court and does not appear before the court and a deputy judge has travelled to Yukon, he goes back without ever hearing the case, so these expenses must be borne.

I think that if this Ordinance is passed in tact, it will be a decision for this Government to make, in due course, in consultation with Canada I might add, when we actually decide to fill the appointment of a second judge.

Mr. Chairman: Is there any further general discussion.

Clause 1 agreed to

On Clause 2 agreed to

Clause 2 agreed to

On Preamble and Title

Preamble and Title agreed to

Hon. Mr. Graham: Mr. Chairman, I move that Bill Number 21, An Ordinance to Amend the Supreme Court Ordinance, be now reported out of Committee without amendment.

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Mr. Chairman: It has been moved by Mr. Graham that Bill Number 21, An Ordinance to Amend the Supreme Court Ordinance be reported without amendment.

Motion agreed to

Hon. Mr. Pearson: Mr. Chairman, I move that we call it five-thirty.

Motion agreed to

Mr. Chairman: I declare a recess until seven-thirty this evening.

The House recessed at 4:45 o'clock.