



The Yukon Legislative Assembly

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4th Session

25th Legislature

HANSARD

Tuesday, April 10, 1984 — 1:30 p.m.

Speaker: The Honourable Donald Taylor

Yukon Legislative Assembly

SPEAKER — Honourable Donald Taylor, MLA, Watson Lake

DEPUTY SPEAKER — Bill Brewster, MLA, Kluane

CABINET MINISTERS

NAME	CONSTITUENCY	PORTFOLIO
Hon. Chris Pearson	Whitehorse Riverdale North	Government House Leader — responsible for Executive Council Office (including Land Claims Secretariat and Intergovernmental Relations); Public Service Commission; and, Finance.
Hon. Dan Lang	Whitehorse Porter Creek East	Minister responsible for Municipal and Community Affairs; and, Economic Development.
Hon. Howard Tracey	Tatchun	Minister responsible for Renewable Resources; Highways and Transportation; and, Consumer and Corporate Affairs
Hon. Bea Firth	Whitehorse Riverdale South	Minister responsible for Education; Tourism, Recreation and Culture
Hon. Clarke Ashley	Klondike	Minister responsible for Justice; Yukon Liquor Corporation; Yukon Housing Corporation; and, Workers' Compensation Board
Hon. Andy Philipsen	Whitehorse Porter Creek West	Minister responsible for Health and Human Resources; and, Government Services

GOVERNMENT MEMBERS

(Progressive Conservative)

Bill Brewster	Kluane
Al Falle	Hootalinqua
Kathie Nukon	Old Crow

OPPOSITION MEMBERS

(New Democratic Party)

Tony Penikett	Whitehorse West Leader of the Official Opposition
Maurice Byblow	Faro
Margaret Joe	Whitehorse North Centre
Roger Kimmerly	Whitehorse South Centre
Piers McDonald	Mayo
Dave Porter	Campbell

(Independent)

Don Taylor	Watson Lake
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Clerk of the Assembly
Clerk Assistant (Legislative)
Clerk Assistant (Administrative)
Sergeant-at-Arms
Deputy Sergeant-at-Arms
Hansard Administrator

Patrick L. Michael
Missy Follwell
Jane Steele
G.I. Cameron
Frank Ursich
Dave Robertson

Whitehorse, Yukon**Tuesday, April 10, 1984 — 1:30 p.m.**

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

Prayers

DAILY ROUTINE

Mr. Speaker: We will proceed with the Order Paper. Are there any returns or documents for tabling?

TABLING RETURNS AND DOCUMENTS

Hon. Mr. Pearson: I have two documents I would like to table today. They are answers to questions from the leader of the opposition concerning liquor mark-up and regarding the Yukon Public Service Staff Relations Board Report.

Hon. Mrs. Firth: I would like to table the answer to a written question concerning heritage services.

Mr. Speaker: Are there any reports of committees? Petitions?

PETITIONS

Mr. Clerk: Mr. Speaker and hon. members of the Assembly, I have had the honour to review two petitions, being Petition No. 4 and Petition No. 5, Fourth Session of the 25th Legislative Assembly, as presented by the hon. member for Whitehorse South Centre, on April 9th, 1984.

These petitions meet the requirements as to form under the Standing Orders of the Yukon Legislative Assembly.

Introduction of bills

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**Question re: *Mental Health Act***

Mr. Penikett: I have a question for the Minister of Health and Human Resources. Yesterday, several members of the Cabinet seemed to indicate that there had been extensive consultations with the medical profession concerning the amendments to *The Mental Health Act*, now before the House. I am reliably informed that this is not the case. What, if any, formal consultation has there been between the Yukon Medical Association and this government prior to the introduction of Bill No. 15?

Hon. Mr. Philippen: The members whom I met with personally in my office were the psychiatrist presently engaged in practice in Yukon, the head of the Medical Association in Yukon and the vice chairman of the Medical Association.

Mr. Penikett: As to the particulars and the specifics in the measure before us, other than the report prepared some months ago by the resident psychiatrist, what, if any, formal briefs has this government received on the subject matter on the measure we are debating?

Mr. Speaker: Order please, before answering the question, is the hon. member referring to a matter before the house or before a Committee of the House?

Mr. Penikett: I am referring to the proceedings on a matter before the House. In fact, the subject matter of my question is House business.

Mr. Speaker: If it is a matter before the House, I suppose it is quite in order.

Hon. Mr. Philippen: The documents that were studied would obviously have been studied by the Director of Health and I cannot speak for him at this moment about what documents he was using when he put this together.

Mr. Penikett: Since the medical profession in this territory is only now preparing a brief on the subject on the issues before us,

and since there is some concern in the professional community about the efficacy and constitutionality of the provisions such as the review board proposed in the minister's measure, will the minister undertake to delay further consideration of the measure now before us until such time as he has received and considered the brief from the medical profession on this important matter?

Speaker's Ruling

Mr. Speaker: Order please.

I must, once again, intervene from the Chair. It is difficult for the House to know what this matter is before the House. There is a matter similar to the range of questions raised by the hon. member being considered by the Committee of the Whole of this House, and I believe that this House has sent, by second reading, this whole matter to Committee. Perhaps such questions ought properly be dealt with in that Committee.

Mr. Penikett: On the point of order, it is a matter of some urgency before this House concerning representations made in this House and its Committees as to consultations concerning an important measure affecting the professional community and certain constituencies and, rather than the Chair coming to the aid of the minister when he is finding difficulty in these questions, we would appreciate the minister having a response to the informal representation made.

Mr. Speaker: I should also add that the second part of thoughts on this matter is that the hon. member is making representations for withdrawal of something that is not before the House but is, in fact, before a committee of the House. I think all members should consider, in forming their questions, that when the House sits as a House, it is as a House and, when it sits as a committee, it is another place; notwithstanding that these Chambers are used for that purpose.

Perhaps these questions more properly ought to be directed to the committee in which the matter is being discussed. As a matter of fact, it is a question relating to a matter that is on the Order Paper for discussion in Committee, I do believe.

Mr. Penikett: On a point of order.

Mr. Speaker: On a point the order, the hon. leader of the opposition.

Mr. Penikett: On a point of order, my question concerns a brief, which is about to be made before the government and made publicly before this House, on an important issue for us and that has not yet been received. My question concerns whether it is the intention of the minister to forgo further action on this important matter, in this House, until such time as he has received this brief?

Mr. Speaker: Since the matter is before this House and not in committee, I will then allow the question on the matter referred to by the hon. member.

Hon. Mr. Philippen: No.

Question re: *Cyprus Anvil*

Mr. Byblow: I have a matter, before this House and the territory, for the government leader.

The government leader will appreciate the lobbies I am receiving because, no doubt, his government, too, is receiving lobbies to precipitate some decision by Dome Petroleum and Cyprus Anvil. Can the government leader update the House on whether his government has any recent new information respecting the intended sale or possible opening of that mine?

Hon. Mr. Pearson: I have no further official information that I can give to the House from Cyprus Anvil or Dome, other than that the vice-president of Dome and the president of Cyprus Anvil, Mr. Forgues, intends to be in Whitehorse later on this month and has arranged to meet with me at that time.

Also, I heard, unofficially this morning, that Dome or Cyprus Anvil have hired a new mill manager for Faro and, if that can be confirmed, I would respectfully suggest that that is very good news.

Mr. Byblow: The government leader is quite correct about that. In addition, there are a number of other positive features. Is it the policy of this government to maintain a hands-off attitude with respect to encouraging the current owners of the mine to reopen,

regardless of the sale transaction possibly taking place?

Hon. Mr. Pearson: We have talked at length to Dome with respect to its intentions. As I reported to the House the last time I spoke on this matter, it was my reading of Mr. Forgue's presentation to us that Dome does not intend to open the mine. It is actively engaged in the process of trying to sell Cyprus Anvil to another operator.

Mr. Byblow: Yes, the priorities of the mother company have been made clear.

Has the government leader any confirmation of the date when the final CTC report is expected to be handed out?

Hon. Mr. Pearson: I am sure, as the member opposite will recall, that I indicated that we were hopeful that we would have a report by the end of this month. He has heard the same news broadcasts as I have. The CTC has indicated that it is highly likely now that it will not be able to get the report to us until about the 15th of May.

Question re: Mental health

Mr. Kimmerly: Concerning mental health, there is a standing joint committee of the Law Society and the Medical Association to discuss matters of joint interest. Has the minister discussed the proposed amendments presently before us with that body?

Speaker's Ruling

Mr. Speaker: Order please, once again I must ask the hon. member if he is referring to a bill before the House or a matter that has been referred away from the House to a committee of the House?

Mr. Kimmerly: It is a matter before the House and is presently before a committee of the House; the Committee of the Whole. The question was phrased in the past tense, concerning process.

Mr. Speaker: The Chair is having difficulty in this case as well. The hon. member says that this is a matter before the House. There is, to my understanding, a debate scheduled for today in Committee of the Whole. Perhaps that is where the questions being raised by the hon. member should properly be asked.

Mr. Kimmerly: Has the minister discussed the subject of mental health with the standing medical-legal committee?

Hon. Mr. Philipson: I will attempt to get a list of the people who we were in contact with.

Mr. Kimmerly: When the minister was discussing mental health with the three individuals previously named, were those individuals meeting in their capacity as representatives of the Medical Association?

Hon. Mr. Philipson: Those individuals were meeting in their capacity as representatives of the Medical Association and they were there because they were very concerned about an issue that had been brought before us by a member of the law fraternity in town. I think the member for Whitehorse South Centre knows very well of whom I speak.

Mr. Kimmerly: Has the minister discussed the subject of mental health with the Law Society?

Hon. Mr. Philipson: After the concerns were made by the members of the medical profession and the psychiatrist of the necessity and urgency for amendments to our *Mental Health Act* — they were aware that a new act was in the making — the director and the persons named before came to me to tell me of the urgency for the amendments. We then sat down and worked out what amendments would be necessary for the legislation that we are now working under to be effective until such time as the new *Mental Health Act* and *Competency Act* could be drafted.

Question re: Wildlife Advisory Committee minutes

Mr. Porter: I would like to welcome back the Minister of Renewable Resources to the legislature and I hope that he does not attempt to curl around or sweep away some of the questions I have for him today.

Are there any minutes kept of the Wildlife Advisory Committee meetings and are these minutes available to the public.

Hon. Mr. Tracey: No, the Wildlife Advisory Committee sits as

an advisory body to the minister and the minutes are confidential, as is the paper work that they deal with. They deal with matters on a confidential basis. Incidentally, I would like to welcome the member, himself, back to the House.

Mr. Porter: Can the Wildlife Advisory Committee members discuss their deliberations with the media? Are they at liberty to do so?

Hon. Mr. Tracey: No.

Mr. Porter: I understand that the Yukon Visitors Association is a member of the Wildlife Advisory Committee. Have they been attending the meetings of the committee and, if not, why not?

Hon. Mr. Tracey: I do not know if they have or why not, if they have not; but that is not a matter of importance. The Yukon Visitors Association was allotted one membership on the committee, in order to have the tourism input into the committee. If it chooses not to do so, that is their right; exactly the same as the CYI has the opportunity to appoint two members and they have only exercised the right in one case.

Question re: Women's Bureau

Mrs. Joe: I have a question for the minister responsible for the Women's Bureau.

In an April, 1982 ministerial statement, one of the stated responsibilities of the Advisory Council on Women's Issues was to bring before the government and the public matters of interest and concern to women. Since this council has never been active, can I ask the minister who has been delegated that responsibility?

Hon. Mr. Ashley: The Women's Bureau still has the responsibility.

Mrs. Joe: Also, in that same statement, the Women's Bureau announced that it would review all Yukon legislation to ensure that there is no discrimination based on sex. Could the minister tell us if the review is still in progress, or has it been shelved?

Hon. Mr. Ashley: I have advised the members opposite that there was a review done. It was done in light of the *Charter* and that was all that was looked at in that light. We have had amendments in here to the *The Statutory Amendments Act*; the omnibus bill that dealt with five separate statutes, has looked after some of that.

Mrs. Joe: Another stated responsibility of the Women's Council was to propose legislation policies and practices to improve the status of women. Can I ask the minister if he has given that responsibility to another committee?

Hon. Mr. Ashley: The responsibility lies with the Women's Bureau.

Question re: Yukon Recreation Advisory Committee appointments

Mr. McDonald: I have a question for the minister responsible for recreation.

It is obvious to me, upon reading the list of the new Yukon Recreation Advisory Committee appointments, that rural ridings represented by non-government MLAs are not represented except for Faro, which is to be represented by an ex-Tory candidate. Could the minister say why it happens to be that the ridings of Mayo, Campbell and Watson Lake are not represented, while all Conservative-held rural ridings are represented?

Hon. Mrs. Firth: It must be coincidental. Seriously, I never really looked at it from that point of view; however, I appreciate the opposition bringing it to my attention. I am sure it can appreciate that legislatively it was rather restrictive as to whom we had to choose from, and perhaps those ridings did not make any nominations that were as qualified as the nominations of the individuals who were chosen.

Mr. McDonald: To put it generously, it is a tremendous coincidence.

Can the minister give some assurances that these rural ridings of Mayo, Campbell and Watson Lake will be represented in the future? Will representatives from the rural districts be chosen on a rotational basis to ensure that all areas have an opportunity for direct representation?

Hon. Mrs. Firth: Those choices were made very seriously on

the basis of the legislative restrictions. The nominations that came forward representing various ridings were chosen from, and we never really took into account which ridings were represented.

I believe we discussed that in debate last session, and I had given a commitment to the members opposite that if we found that their constituencies were not being represented we would take that into account the next time YRAC members were appointed to see if we could accommodate them so that all the communities in the territory did get some representation.

The representation is based on the community getting representation, not on the MLA from that area.

Mr. McDonald: Perhaps I took it for granted that the communities would be given representation. We were not discussing whether MLAs would be given representation on the committee.

Now that the areas I have mentioned will not have this community representation, what procedures will the new YRAC establish to acquaint itself with applications from locations such as mine?

Hon. Mrs. Firth: Well, that is up to the YRAC. As the member's colleague for Whitehorse North Centre said there were very good individuals on that Committee. I am sure they will take into account the fact that some communities are not represented, and the efforts that they will make to see that applications from those communities are given fair and equal assessment. I am sure, is entirely up to the YRAC Committee. The minister and the government have no involvement in that allotment of funding.

Question re: Pension reform

Mr. Penikett: At my recent party convention, I had some difficulty defining the term "minimal patronage". I do not think I will have trouble doing that again.

I have a question for the government leader concerning the recommendations of the report of the Parliamentary Task Force on Pension Reform. I would like to direct these to him in his capacity as the minister responsible for intergovernmental relations.

The task force recommends the introduction of a requirement for regular comprehensive accounting by the provincial and federal governments, the purposes for which CPP funds were allocated and the benefits, financial and economic, anticipated from these investments. Given this previously stated interest by this government and this assembly in the use of these funds, has the government leader had any opportunity to make representation either to this task force or to the government, subsequent to the publication of this task force on this important question?

Hon. Mr. Pearson: No, we have not made representation to either. However, we still have an abiding interest and a very strong opinion that we should be entitled to borrow those funds, or have access to those funds exactly the same as the provinces do, because that is Yukon money that we are talking about. At the present, only the minister of Indian Affairs and Northern Development has access to those funds.

We have an undertaking from the present government that if the act is opened up, those amendments will be made to allow us access to that money. At the present time, we have not followed it up any further.

Mr. Penikett: Since the task force recommends that when the Canada Pension Plan is opened up for amendment in Section 112, that that section be amended to provide for access by the governments of Yukon and Northwest Territories to capital advances from CPP Investment fund on the same basis that now exists for the provinces, could I ask the government leader if he is considering seizing upon the opportunity presented by the publication of this report to press the case for the changes that he has just articulated?

Hon. Mr. Pearson: We pressed for that just prior to the report being made public. I am confident that the inclusion of the Northwest Territories and Yukon in that particular report was a result of representation that we had made to the government of Canada, just prior to this committee sitting.

Mr. Penikett: The task force also urges provincial and territorial governments, and the federal government, to cooperate in the development and maintenance of national, uniform, regulatory

frameworks for occupational pension plans. Could the government leader report to the House on any kind of consultations and discussions that may have ensued on that important subject?

Hon. Mr. Pearson: We have not been involved in any consultations, yet, at all.

Question re: Tourism boycott

Mr. Byblow: I have a question for the Minister of Tourism.

The mounting tourism boycott by two more international groups, revealed yesterday, raises a most serious threat for the industry locally. What is the minister going to do now to protect our industry from the boycott by the International Fund for Animals and the Fund for Animal Welfare, who, collectively, represent nearly one million members?

Hon. Mrs. Firth: I have already indicated to the member in this legislature, and I have indicated through the media, what the Ministry of Tourism is doing.

Mr. Byblow: Is the minister going to attempt to persuade her colleagues — in particular, the Minister of Renewable Resources — that this government's wildlife program is seriously threatening the current number one industry in Yukon?

Hon. Mrs. Firth: It is easy for the opposition to stand up and say that the renewable resources wildlife management program is threatening the tourism industry. It is easy to stand up and say, "Stop the whole project; stop the whole program". However, the alternatives to that program are that there will be no moose in the territory; that has been indicated to us by the biologists within the renewable resources department.

So, we are responding to those recommendations that have been brought forward to us by the biologists within that department. I would submit that, if there are no moose in the territory, the wilderness association people are also going to get very upset, because the tourists come here to see moose, as well as grizzlies and wolves and other wildlife. The Government of Yukon is exercising its responsibility for responsible management of game and, in that responsible management, we have a predator control program that takes into account all wildlife.

Mr. Byblow: The minister's assertions are highly debatable.

I want to ask a very specific question relating to tourism. Has the minister, or her department, received any information or communication from any travel agencies or tour companies advising of cancelled tours and trips by tourists to Yukon?

Hon. Mrs. Firth: No, we have not. On the contrary, we have received news from travel agencies who, through the media in the United States, have indicated that, even though they may not be in favour of a predator control program, per se, they still feel that, because of their professional ethics, they would not in any way discourage visitors coming to the Yukon Territory.

So, if travel agents have expressed some indication that they are boycotting tourism, they are boycotting it simply in a personal sense and not in a professional sense. They have assured us that they are in no way going to dissuade visitors from coming to the Yukon Territory.

Question re: Mental health

Mr. Kimmerly: The Commissioner of Yukon is, of course, practically involved in all involuntary committals and the Commissioner has expressed an interest and concern in this area. Has the minister consulted with the Commissioner regarding mental health?

Hon. Mr. Philipson: The Commissioner has received a copy of the amendments.

I find this line of questioning very strange, coming from the member for Whitehorse South Centre. The member for Whitehorse South Centre has stated in this House that he is the individual who represented all the cases for the people who were having problems. The members of the medical profession and the psychiatrist came to see me because they had a problem. I now find it a little difficult to understand why the member for Whitehorse South Centre, after delineating the problem, is complaining when we are trying to find solutions?

Mr. Kimmerly: The Social Action Committee of the United Church of Canada in Whitehorse is presently studying exactly these

problems. Will the minister delay taking legislative steps until he consults with that committee?

Hon. Mr. Philipsen: No. The committee is studying the whole act and not the amendments.

Mr. Kimmerly: Will the minister now discuss the subject of mental health with the Law Society of Yukon?

Speaker's Ruling

Mr. Speaker: These questions would appear to be questions making representations and perhaps should be handled by a motion in the House; however, if the minister wishes to answer the question, this is fine. We will allow it on this occasion.

Hon. Mr. Philipsen: I will accept your ruling on the member opposite.

Question re: Fund for Animal Welfare

Mr. Porter: I will try to be a little neater with the Minister of Renewable Resources on this particular question. It was reported in the media yesterday that the Fund for Animals, one of the world's largest animal welfare groups, has asked its 250,000 members to cancel any plans of vacation in Yukon. Is the Minister of Renewable Resources concerned about the possible boycott of other groups as well as the stated boycott of this group? Is he concerned about the effect it will have on the tourism industry for Yukon?

Hon. Mr. Tracey: Certainly, I am concerned about anyone who threatens to boycott the Yukon Territory; however, I have another job to do as the Minister of Renewable Resources for the territory and that is to protect the animal life that we have here, and assure that it is there for future generations and for other interests in the territory than tourists.

Tourists also come to this territory as hunters, for example, who are interested in seeing and using some of that wildlife for their own benefit. There are people who live in this territory who want the moose population for their own personal use for subsistence. I also have the responsibility to make sure it is there for them.

So, although I do have concerns, my concerns are not great. The Fund For Animal Welfare is certainly a very large organization, but there are a great many other organizations that are in support of the government and not out there trying to destroy the tourism industry in Canada for their own personal use.

Mr. Porter: We also understand that the International Fund for Animal Welfare, which represents 500,000 citizens, has sent a letter to the Minister of Renewable Resources asking him to reconsider his predator control program. Failure of the minister to respond positively could result in the IFAW encouraging its 500,000 members to support the Yukon tourism boycott. In view of this boycott effort, which includes presently 250,000 people, many of the prominent American citizens...

Mr. Speaker: The hon. member is making a speech would he complete his question, please.

Mr. Porter: ...representing various sectors of society and could go to possibly a million people...

Mr. Speaker: Order please, the hon. member is now engaging in debate and making a speech. Would the hon. member please ask a question.

Mr. Porter: The question is: is the Minister of Renewable Resources prepared to reconsider his position on predator control and make a decision that would contribute positively to the tourism industry in Yukon and not, as at present, helping to tear down, possibly, that industry?

Hon. Mr. Tracey: I am beginning to wonder who the member across the floor represents; whether he represents Paul Watson, or the International Fund for Animal Welfare; or whether he represents the CYI. He seems to come in here every day representing another position. I would also like to state that the CYI is in favour of the program. I have heard from various people that the member across the floor who raised the question has been in favour of the program. He stated in this House that we need more information. This project is put together to get information for this government in order to have a sensible predator control program in this territory. We cannot operate without information. Unfortunately, some bears and some wolves have to be removed from the territory in order to

provide us with that information. It is not the intention of the government, at this time, to stop that information gathering.

Mr. Porter: I would suggest to the minister that I represent the best interest of Yukoners in this particular question. Waiting for the minister to make the progressive decision on this matter is akin to watching grass grow; if you do not have a time lapse camera, you cannot see it.

My third supplementary question. I would like to direct to the government leader. In view of the fact that the Minister of Renewable Resources has just stated that he refuses to reconsider his naive decisions, as they relate to wildlife matters, and in view of the fact that the minister is stubbornly pursuing singlehandedly to attempt to wreak havoc on the tourism industry, is the government leader, in light of the seriousness of the matter, prepared to ask the member for Tatchun to step down from his ministerial duties as the Minister of Renewable Resources?

Hon. Mr. Pearson: In view of the fact that the Minister of Renewable Resources has the support of the vast majority of people in this territory in respect to the predator control program — the vast majority of the people of the territory — I have absolutely no intention of asking him for his resignation.

Question re: Women's Bureau

Mrs. Joe: I have a question for the minister responsible for the Women's Bureau. According to an April, 1982 ministerial statement, one of the stated responsibilities of the Women's Bureau was to coordinate input into the development of a Yukon plan of action for women and to incorporate it into the national plan of action for women. I would like to ask the minister if a Yukon plan of action for women has been completed and has it been incorporated into the national plan of action?

Hon. Mr. Ashley: The Women's Bureau has worked on part of that. The speech the hon. member opposite is quoting from is a previous government, even.

Mrs. Joe: I am asking the member for things that are happening now.

Another stated responsibility of the Women's Bureau is to develop a resource centre and information dispersal program in Yukon. Has such a resource centre been developed and, if not, when will it be developed?

Hon. Mr. Ashley: The Women's Bureau has amassed a vast amount of material and that is where it is found.

Mrs. Joe: Another responsibility of the Women's Bureau is to work actively with government departments, local employers and unions and then to provide training and equal opportunities of employment to female employees. Could the minister tell us how the Bureau's progress in this area is evaluated and what progress has been made?

Hon. Mr. Ashley: The member opposite is talking more about something that would have to do with another department, the Department of Manpower. The Women's Bureau is always actively looking at ways it can help the women's situation in Yukon.

Question re: Public Service Commission

Mr. McDonald: I have a question for the minister responsible for the Public Service Commission, pertaining to benefit entitlement to various classes of employees. Can the minister say whether permanent part-time employees are entitled to benefit packages supplementing wages and, if so, to what extent is the entitlement?

Hon. Mr. Pearson: I want to say that they are paid to the extent that they are entitled to specific benefits. I am sorry, I cannot answer that question off the top of my head; I will take notice and give the answer to the member.

Mr. McDonald: Maybe the government leader could take notice on these aspects of that same question, as well.

Concern has been expressed to me that it is a policy of the government not to inform permanent part-time employees of their right to receive benefits. I am wondering, personally, whether that is, in fact, the case. Could he also state whether or not it is the case where, if a permanent part-time employee fails to apply in writing and on time for the benefits, whether or not they are no longer entitled to receive them?

Question re: Predator program

Mr. Penikett: My question is supplementary to one of my colleague's questions.

I would like to ask the government leader what evidence the government has of his assertion that the vast majority of Yukoners support the present predator program being undertaken by this government?

Hon. Mr. Pearson: We have heard from, certainly, all of the interest groups, specifically the Fish and Wildlife people and, most importantly, the Council for Yukon Indians and the general public. We have a lot of feedback. There was a public phone-in show yesterday afternoon, I understand, on radio that indicated solid public support for the program.

Mr. Penikett: There was also one a couple of weeks back that indicated rather the opposite. Since the government leader's defense of this program is not biological or economic, but it is popular, when the government is provided with evidence that this is not the case, will the program be ended?

Hon. Mr. Pearson: It is a hypothetical question.

Mr. Speaker: Yes, that is correct.

Mr. Penikett: I am sure the government leader would notice that.

Let me ask a supplementary to the Minister of Tourism. Has the Minister of Tourism considered the possibility of inviting the leaders or the representatives of these various boycott groups to the territory so that she can give them the benefit of her advice on this question and persuade them, if she can, of the government's views on this question?

Hon. Mrs. Firth: I believe the Minister of Renewable Resources is the minister to direct that question to. He is the one who is in touch with the groups who are expressing their desires to boycott tourism.

I, as the Minister of Tourism, am writing letters acknowledging receipt of their letters, which are really requests to me to talk to the Minister of Renewable Resources, so that is how we have decided to handle the communications.

Question re: Legal aid

Mrs. Joe: I have a question for the Minister of Justice.

I understand that a study on legal aid has been completed by his department and I wonder if that study would be made available to the opposition?

Hon. Mr. Ashley: The study that was done on legal aid was actually in preparation for legislation, which is being drafted and is in a consultative process right now.

Mr. Speaker: There being no further questions, we will proceed to Orders of the Day, Government Bills.

GOVERNMENT BILLS**Bill No. 7: Third Reading**

Mr. Clerk: Third Reading, Bill No. 7, standing in the name of the hon. Mr. Tracey.

Hon. Mr. Tracey: I move that Bill No. 7 be now read a third time.

Mr. Speaker: It has been moved by the hon. Minister of Renewable Resources that Bill No. 7 be now read a third time.
Motion agreed to

Mr. Speaker: Are you prepared to adopt the title to the bill?

Hon. Mr. Tracey: I move that Bill No. 7, *Public Utilities Act*, do now pass and the title be as on the Order Paper.

Mr. Speaker: It has been moved by the hon. Minister of Renewable Resources that Bill No. 7 do now pass and the title be as on the Order Paper.

Motion agreed to

Mr. Speaker: I will declare that Bill No. 7 has passed this House.

May I have your further pleasure?

Hon. Mr. Lang: I would move that Mr. Speaker do now leave the Chair and the House resolve into Committee of the Whole.

Mr. Speaker: It has been moved by the hon. Minister of Municipal Affairs that Mr. Speaker do now leave the Chair and that the House resolve into Committee of the Whole.

Motion agreed to

Mr. Speaker leaves the Chair

COMMITTEE OF THE WHOLE

Mr. Chairman: I will now call Committee of the Whole to order. We shall now recess until 2:30. When we return, we will work on Bill No. 15, *An Act to Amend the Mental Health Act*. Following that, we will go to Bill No. 4, *Legal Profession Act*.

Recess

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

Bill No. 15: *An Act to Amend the Mental Health Act* — continued

Mr. Chairman: We are now on *An Act to Amend the Mental Health Act*, page 1, Clause 2(2)(a), "mentally disordered persons".

Hon. Mr. Philippen: Yesterday, at the end of debate, I was asked to explain some areas under subsection (2)(a) and (b) and I will bring that information forward now. It is for the member for Whitehorse South Centre on his inquiry as to whether consideration was given to the alternative wording of the statement "requires treatment, supervision or care and control": the answer is yes.

Other wordings from jurisdictions such as Quebec, Alberta, Nova Scotia and Manitoba were given serious consideration, but the nature of the question requires further response and, for the purpose of clarification, I will provide it. The member opposite seemed to infer, in his question, that more narrow wording would be appropriate in the *Mental Health Act*. We do not think that a narrow wording is desirable; by the way, neither do other jurisdictions that use similar wording in their mental health acts. It is my belief that a more narrow wording would, in fact, be too restrictive a wording and, in the end, would not be in the best interest of individuals requiring treatment and care.

I do not think it is reasonable to separate the individual's condition from the consequences of his action, which has arisen from that condition of mind. Simply put, an individual is disordered if his mental condition and his behaviour might result in harm to himself, to others or to their property. As opposed to the member opposite, we think the definition is quite appropriate. It respects the rights of individuals and allows for appropriate medical intervention, when required.

Mr. Kimmerly: I would like to explain very briefly about a study that was done by a Dr. Monahan. It is about the general issue of the definition of mental illness, which is what we are on at the present time. Briefly, the study involved this process: there were twelve volunteers who went to different mental institutions and asked for admission, or went through a voluntary committal procedure. These were normally stable individuals. Their plan of action was that they were to say to the diagnosing psychiatrist that, "I heard a voice", and were to answer all other questions entirely truthfully.

They were to not repeat the statement "I heard a voice" and they did not elaborate on it. All other questions, except their name and occupation, were answered honestly. What happened is that all twelve were accepted and admitted. All twelve were diagnosed as mentally ill and eventually, as they resided in the hospital, nobody caught on except the patients. The legitimately mentally ill patients recognized there was something wrong about these twelve people. In any event, eventually the people were discharged as schizophrenics in remission, continuing as outpatients. That study is widely reported. I raise it to demonstrate that the definition of mental illness is by no means a complete, or a subtle, or an exact science. Indeed the American Psychiatric Association used to — and I do not know if the practice still exists — categorize various mental illnesses and they decided on the categories by a majority vote at their convention. That is clearly not a scientific method of solving

problems; it is a political method.

18 Given this controversy, or this inability of the best professionals to accurately diagnose and predict in many situations, I am extremely concerned about a very wide definition in the legal sense. In one sense, this definition is an improvement over the existing one in the existing act but, in many other senses, it opens new areas for potential abuse. What it really does is ask psychiatrists and doctors to step out of their medical experience and medical expertise to make social judgments and value judgments and predictions as to the predictability of future behaviour.

Given our present state of knowledge, and it is a state of knowledge in a constant flux, and a very rapid change, especially given our local conditions, which are extremely limited, would it not be a better protection for individuals to make a narrower definition, a definition more capable of scientific description? To say "needing supervision or care and control" is a concept that is certainly not traditional medicine. It is stepping outside of a medical diagnosis and is talking about social conditions and social control and social values. I would submit that it is far more desirable to have a more restrictive definition.

19 *Clause 2 agreed to*

On Title

Title agreed to

Hon. Mr. Philipson: I move that *An Act to Amend the Mental Health Act* be moved out of committee, without amendment.

Motion agreed to

Bill No. 4: Legal Profession Act

Mr. Chairman: We shall now go to Bill No. 4, *Legal Profession Act*.

Hon. Mr. Tracey: Before we carry on where we left off with the *Legal Profession Act*, I would like to have unanimous consent of the members to go back to 26(12). I have an amendment to propose that I will circulate at this time.

20 **Mr. Chairman:** Are you agreed?

Motion agreed to

Amendment proposed

Hon. Mr. Tracey: I move that Bill No. 4, entitled *Legal Profession Act* be amended in clause 26(12), on page 21, by deleting the words, "at least".

The reason for doing this is because of concerns expressed by some members of the legal profession. When we changed the Committee of Inquiry to three members, by leaving the words "at least" in here, there is a possibility that the Chairman of the Discipline Committee could appoint two lay members to the three-man body and that was not our intention. Our intention was to have only one member. There was some concern expressed by some of the lawyers that they would not like to see that happen. That is the reason for this proposed amendment. One lay member will still be required on the Discipline Committee, but it will not be possible to appoint two.

Mr. Kimmerly: This is an amendment that clears up possible confusion.

Amendment agreed to

On Clause 25

Hon. Mr. Tracey: We also stood aside one section. I have had my department review section 25(2). My department has done some extensive investigation in regards to the way that that is written. It has been recommended to me that we do not make the change. I would also like to quote from the Alberta legislation dealing with this section. In section 47(2) in the Alberta legislation, it says, "Any act or conduct of a member or student at law that is (a) incompatible with the best interest of the public or members of the society, or (b) tends to harm the standing of the legal profession generally; is conduct deserving of sanction within the meaning of this part, whether or not that act or conduct is disgraceful or dishonourable, and whether or not that act of conduct relates to the practice of law."

We have fairly well conformed to the existing Alberta legislation in this regard. The recommendation has been made that we do not change it. Therefore, I do not believe that we will be making an amendment to that section.

Mr. Kimmerly: I do not wish to spend a lot more time on the

point. I do make the point that it is all very well to say that it is the same as the Alberta section. That is an accurate statement. I have no dispute with that. The fact remains that it is a very wide definition, or very wide criteria.

These extremely wide criteria exist in many jurisdictions. The old wording in most jurisdictions used to be "disgraceful" or "dishonourable conduct", in a very general sense. That definition is perhaps worse.

21 We do say that, in our view, the wording could be improved and it could be improved by narrowing the principle or the concept of harming the profession generally, and by narrowing the principle or the concept of conduct that does not relate to the practice of law.

The practical experience with this over the years has clearly indicated that there are problems; indeed, not a great many problems, but they certainly do come up from time to time. Generally the profession tends to define its role very conservatively, in the small "c" sense, and the established and older members of the profession tend to control the disciplinary matters, which, in itself, is not bad, but the generally younger, more reform-minded and less established members do have an important point of view to express. I say that that point of view is more likely to be in touch with popular opinion in the community.

In other jurisdictions, there have been special provisions within the Law Society to include younger, less established members in positions of power in the Society and, in some cases, university law students and, in some cases, students of law undergoing their articles.

It is our view that this definition is too wide and it could be improved by narrowing the two principles I have identified: that is, the standing of the profession as opposed to the general public interest and conduct unrelated to the practice of law.

22 **Hon. Mr. Tracey:** As I said, it is not our intention to change this. I would just like to raise before the members of this House a case about one member who did go before discipline, two, three or four years ago, in this territory for actions that were done outside of his practice of law.

Clause 25 agreed to

Mr. Chairman: We may now return to Clause 35.

On Clause 35

Mr. Kimmerly: On Clause 35(1), there was considerable discussion about the definition of "balance of probabilities"; the minister and I spoke privately about this, as well. Does the minister has further information about the better definition of the test that lawyers call the "balance of probabilities test"?

Amendment proposed

Hon. Mr. Tracey: Yes, I was just trying to get my notes together, here.

I would propose an amendment to Clause 35. I move that Bill No. 4, entitled *Legal Profession Act*, be amended in Clause 35(1), at page 26, by substituting the following for Clause 35(1): "(1) In any proceedings under this part the standard of proof shall be on the balance of probabilities and that standard is discharged if the trier of the fact is satisfied of the existence of the fact, to be proven on evidence sufficient to establish that the existence is more probable than its non-existence."

This amendment is based on recommendations by the Law Reform Commission and the wording is consistent with the way the Law Reform Commission recommended dealing with the balance of probabilities.

Mr. Kimmerly: This is a good amendment; it answers the points raised. I wish to give a compliment where compliments are due: obviously, someone was listening. This is a responsible improvement and we support it.

Amendment agreed to

23 There is another problem here. I have been considering the best ways to express it. The law of hearsay is imperfectly understood by the legal profession, so it is perhaps unrealistic to expect non-lawyers to truly understand it.

The point that is necessary to make, I believe, is that probably if we thrash it all out, there is no real difference in principle between the government position and the opposition position. It is my expectation that this clause can be improved, as the previous one

was.

It is my understanding that the principle that the government wishes to enshrine into law is that evidence should be admissible, even though it is hearsay evidence, as long as it is in the best interests of all, or in the public interest, to admit that evidence. We certainly agree with that. Also, it is fitting and proper to allow the trier of the fact, that is, the discipline committee, practically also a court, to listen to all available evidence that is relevant and decide as to its proper weight. That is extremely generally stated and perhaps an over-simplification, but we agree with that as a principle.

The difficulty in the wording here, I believe, is the meaning of the word "always". I believe if the word "always" was changed, we could come up with wording that better expresses the principle that everybody wants.

I know, in *The Children's Act*, the precise section occurred and it was criticized and a change was made from Bill 8 to Bill 19 to say that it is always admissible if relevant. That is a very slight improvement but it does not solve the real problem.

It is my view that the legislative direction should say that hearsay evidence is admissible and opinion evidence is admissible, but it is admissible under the supervision of the court that actually receives it.

That court is entrusted with the discretionary power to weigh the value of the evidence, which is entirely proper, and that is the tradition in these areas. It is a lesser decision, or a lesser discretion, and a discretion easily made, to entrust the same body with the power to decide if the particular evidence should be admitted or not. It is necessary to put a section in to say the trier of the fact is instructed to receive hearsay evidence if it is valid in that particular case to do so. That brings it in keeping with the existing law in this area and the area of family law and administrative law generally.

I would ask that the minister consider the point very seriously and consider removing the word "always" and putting in a qualifier giving the discretion to the trier of the fact to assess the situation for relevance or any other matter. There has already been a change in the wording of this principle in *The Children's Act*, Bill No. 19. I would ask that the same consideration be given and I would ask the clause to stand to receive advice on the point.

As a further argument, I have already stated that it is an uncontroversial statement for me, as a lawyer, to say that there is virtually unanimous opinion within the Law Society as to this principle. It would not be completely unanimous but I know that this principle was discussed by the Law Society and it was at a meeting of more than three-quarters of the resident lawyers in town. There was not a dissenting voice among them. It is a non-controversial statement that I am making.

Hon. Mr. Tracey: I move that this section be stood aside. I have been in contact with my legal advice and they are now looking at this section to see if we should be amending it or if we should leave it the way it is.

Mr. Chairman: Is that just subsection (2)?

Hon. Mr. Tracey: Just 35(2), yes.

Motion agreed to

Clause 35(2) stood aside

On Clause 36 to 45

Mr. Kimmerly: I move that the remainder of Part III clear; that is, to page 33.

Motion agreed to

Clause 36 to 45 deemed read and agreed to

On Clause 46

Clause 46 agreed to

On Clause 47

Clause 47 agreed to

On Clause 48

Clause 48 agreed to

On Clause 49

Clause 49 agreed to

On Clauses 50 to 68

Mr. Kimmerly: I am unaware of anything controversial in the next sections and I would move that the remainder of the clauses, up to and including clause 68 on page 51, clear.

Motion agreed to

Clauses 50 to 68 deemed read and agreed to

On Clause 69

Mr. Kimmerly: I have a question to the minister, concerning the entire division, I suppose, Part 4, Division (5); about fees.

This is a matter of public importance. I have very few questions, but I feel it is my duty to raise the principles in this Chamber. I would ask the minister to explain, under this division, the rationale, generally, for these sections about fees. That is, what are the considerations that the government has in protecting the clients of the legal profession?

Hon. Mr. Tracey: Well, it is the general public who allow the legal profession to run and manage their affairs, without the interference of the general public, subject to the rules and regulations that we bring down in this act. Within this act, the legal profession can set its own rules, as long as they conform to what we have passed here in the House. Now, these contracts of remuneration are very important to the general public; they are the ones that have to pay the lawyer's bill.

Incidentally, all of this section is from the proposed BC Law Society draft act to the Government of British Columbia. These are, almost word for word, out of the proposal that they have made to the Government of British Columbia. It is strictly for the protection of the clients of the lawyers.

Mr. Kimmerly: I would like to raise the issue of the contingent fee. I know, in Ontario, contingent fees are specifically outlawed by the law society as being unprofessional. In most other jurisdictions, I believe, they are allowed. It is obviously a controversial section, although, in western Canada, there appears to be very little controversy about it. In the eastern provinces, there certainly is and, in the United States, it is generally accepted and, in fact, encouraged by some legislation.

The principle here is, obviously, to allow contingent fees, except in certain circumstances. This is in Clause 69(3), specifically, which is about matrimonial actions, divorce actions and actions involving children or incapacitated persons, such as, for example, mentally ill persons.

What is the philosophy of the government, or the policy, to allow contingent fees generally, but to restrict contingent fees in certain peculiar circumstances?

Hon. Mr. Tracey: The reason for this policy being expressed here is because of the high cost nowadays of going to court, or having a civil suit; it is very costly. In a great many instances, it is not proceeded with because of the prohibitive costs. It may cost in the neighbourhood of \$15,000 to \$20,000 to \$30,000 to go through a court case. It is absolutely prohibitive for the member to gamble on having to pay that kind of cost. If he could raise the money, it would be very costly. What this does is allow this person to enter into an agreement with the lawyer for a contingent fee agreement. The lawyer would take a percentage of whatever he recovers in order to proceed with the case. Otherwise, some of these cases would not be proceeded with and that may be detrimental to the general public.

We do not agree that contingent fees should be accepted for matrimonial property and family support acts. On anything to do with divorce, there should be no contingent fees, because we do not feel that someone should be able to go out and say "look, you get me a divorce and you save me all of this, and I will give you X amount of dollars" or whatever. We do not feel that that is right and proper and do not feel that it is right and proper to have a contingent fee when you are dealing with division of property, or with someone who is perhaps not as competent as he should be in order to manage his own affairs.

We have excluded those specifically so that there would be no incentive for lawyers to enter into contingent fees, in those regards. Other than that, we think that contingent fees should be available for the general public in order to have lawyers act on their behalf, where otherwise it would be too costly for them to proceed.

Mr. Penikett: The minister makes mention of matrimonial property kinds of issues, for example. As I understand it, our law is based on Ontario's and I just recently read in the *Globe and Mail* that the Attorney General of that province, Mr. Roy McMurtry, is

contemplating amendments, or has announced in the throne speech of that province, amendments to that law. I would be curious as to whether the minister will be following those amendments, since our law is, in fact, based on theirs?

Hon. Mr. Tracey: That question would have to be given to the Minister of Justice, because he would be dealing with the *Matrimonial Property Act*. I do not know if he is aware of them. I was not aware of any proposed amendments. We are trying to exclude anything in this regard here that would be detrimental to one party in a divorce against another.

Mr. Kimmerly: For the purposes of the public information, would the minister explain what clause 69(5) means?

Hon. Mr. Tracey: Champertous acts are one person entering into agreement where, under ordinary circumstances, he would have no interest in, and would not be participating in. If he is entering that just for the possibility of receiving a share of whatever is coming out of it, that is a champertous act and we are deliberately excluding this so that one lawyer could not enter into a case that he would not ordinarily be involved in, in order to receive a share of the proceeds.

Clause 69 agreed to

On Clause 70

Clause 70 agreed to

On Clause 71

Mr. Kimmerly: Clause 71(2) is an interesting clause. I am going to make a representation on behalf of the clients of the lawyers. As a practising lawyer, I have had direction or instruction from my client that I either do not send a bill, or keep the bill on my file, or specifically not identify the kind of legal service delivered. The reason that the client gives is that it is an intensely private matter and the client does not wish documentation existing in various files or going through the mails concerning a description of the services.

I am in agreement with the probable principle of this section in that lawyers should be under a duty to describe the services performed in reasonable detail. That is obvious and I certainly agree with it.

However, in considering the client's request — and this has occurred, in fact, twice in my professional life — it appeared to me reasonable that the services were certainly of a personal nature and would be extremely sensitive if certain members of the public, or the public generally, found out about them.

Frequently, lawyers' bills are claimed as business expenses for income tax purposes and the bill is necessary as a back-up for the business expense and the client is expressing an intense desire for privacy about the matter. I raise that issue because, under this section, it is my interpretation that even if a client requested that, it is necessary under the law to be reasonably descriptive and to identify the type of services.

I have had requests from clients to know the amount or, perhaps, agree on the amount in advance, but to not describe the services on any documents. I would ask the minister if he would consider accommodating that privacy interest for some clients?

Hon. Mr. Tracey: I just cannot go along with the argument put across by the member across the floor.

The bill between the lawyer and the client is private, under any circumstance. He raised the question of the Internal Revenue wanting to look at the bill. Well, they are bound to keep it silent, as well. They cannot make it public. I do not know how it is going to be made public unless either the lawyer or the client make it public.

The reason for this section here is to protect the interests of the public. If a lawyer wants to sue, for example, the bill has to contain how much the services were and how much he charged for each of the services. Conversely, if the client wants to have a lawyer's bill taxed, it is also there. So, it is protecting both members and I fail to understand how this bill is going to become public unless one of the parties to it makes it public.

Mr. Kimmerly: In individual situations, unpredictable things occasionally occur. There is a requirement that the purpose of each disbursement is identified. If a lawyer hires a private detective, for example, in a matrimonial situation, that purpose should be identified in the bill and the bill may fall into the wrong hands. It

has always been the expressed desires of the clients wishing secrecy — coming to me — that the bill may fall into the wrong hands.

I raise the point as a possible problem. It is certainly something that a lawyer must be aware of, in that if his client is expressing extreme sensitivity about the privacy of the matter, there is here a statutory requirement to at least identify the matter in a bill that is on a piece of paper and is a lasting record, and should the lawyer be keeping a copy of his own bills, there is an increased possibility of the matters falling into the wrong hands.

It is perhaps a small point, because it comes up fairly infrequently but, to the individuals involved, it is a very serious point. I would welcome consideration of an exception, solely at the client's request, perhaps at the client's request in writing, to not identify the purposes of the disbursements and the nature of the services performed.

Another possibility is that it requires an itemization of the fees and clients generally like to agree on an agreed sum if that is possible. That is a very popular way of transacting business. The itemization is sometimes an onerous task.

Hon. Mr. Tracey: I just cannot go along with the argument put forward by the member across the floor. If someone wants to keep his business with his lawyer private, that is between him and his lawyer. If the lawyer is allowing the paperwork to lie around where it can fall into someone else's hands, then he is not performing his duties in a manner that he should be. If it is that important to the client that his paperwork be kept secret, he is going to assure that it is kept secret.

The reason why we say that the fees must be itemized is because, in a great many instances, people go to lawyers nowadays and the lawyer says, "It will be a thousand bucks", or "It will be six hundred bucks". They do not even know what it is for. What we are saying is that the client should be able to look at his bill and be able to say, "Well, I was charged \$250 for X and another \$300 for Y. I do not think that is fair", so he knows what his bill is before he applies to have it taxed.

Conversely, it is the same for the lawyer. If he wants to sue, — and we are also allowing the lawyer the provision to sue — it should be itemized so that the court and the client both know what it is. Quite frankly, I am kind of at a loss here as to why the member across the floor is even raising this. It is only right and proper that you get a bill. If someone walks into my business and asks me for an itemized bill, he gets an itemized bill.

In most cases, you get an itemized bill for your own protection. It is mandatory that you have an itemized bill. In this case, the lawyers have a monopoly on this situation and it is my obligation, as well as the government's, to protect the clients. There might be one client out of 10,000 who wants to have something kept secret. I feel that if that is what he wants, then, between him and his lawyer, they can arrange to make sure that the bill is never seen by anyone else.

Mr. Kimmerly: Just a final comment. Lawyers are aware that their records can be subpoenaed and that it is possible in certain circumstances to get warrants to search a lawyer's offices despite the solicitor-client privilege. In one case that I am aware of, the particular client was not at all worried about inadvertence but was worried about a subpoena of even the lawyer's accounts. It is an interesting point and the ramifications, I would suggest, in a very small number of cases, are very important and may be extremely sensitive. I have raised the issue and it is probably unproductive to repeat the same points.

In an earlier draft, or at some stage, there was a discussion of the principle of requiring lawyer's bills to contain a statement on them, probably on the bottom, possibly in fine print, that it was the client's right to take the bill to be taxed before the court. That seems to me to be a responsible move and a protection for clients. Why is that principle not here in this legislation?

Hon. Mr. Tracey: It was given consideration but I guess we can look at all other bills that we deal with in the course of our living in this country. We do not require on bills from a chartered accountant that his bills can be reviewed; we do not require a storekeeper to have on the bottom of his bill that he can take his account to court. I think anyone who has a disagreement with the

lawyer's bill can certainly find out very quickly what he can do about it. It was felt that it was not necessary to put that on there and what it did imply was that lawyers were out there deliberately trying to overcharge their customers. We do not think they are doing this, and we did not want that implication to be there by having to put that on the bottom of the bill.

Mr. Kimmerly: I have appeared on radio shows and I have described the taxing procedure and I can tell the minister that it was certainly my impression that it is not a widely known procedure. There are certainly people who pay accounts and discover afterwards that they could have taxed them and would have, had they known about it.

It is, perhaps, appropriate to publicize the procedure a little bit. Lawyers' accounts are, perhaps, different from other accounts, especially in the retail trade or in some of the skilled trades like plumbers and electricians. They are different because the public knowledge about the practice of law is, perhaps, less than the public knowledge about other trades. Lawyers are in a privileged position concerning their own rules, and admission in the society. The taxing procedure is a special procedure whereby the courts supervise lawyers' accounts.

It is our view that it should be widely known, and it should not be considered as a suggestion by any kind of innuendo, in any way, that lawyers overcharge, and it would be welcomed by consumers, generally.

Clause 71 agreed to

On Clause 72

Clause 72 agreed to

On Clause 73

Clause 73 agreed to

On Clause 74

11 *Clause 74 agreed to*

On Clause 75

Clause 75 agreed to

On Clause 76

Clause 76 agreed to

On Clause 77

Clause 77 agreed to

On Clause 78

Clause 78 agreed to

Mr. Chairman: At this time we will have a brief recess until 4:00 o'clock.

Recess

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

On Clause 35

Amendment proposed

Hon. Mr. Tracey: I have had distributed a proposed amendment to the *Legal Profession Act*. I would like to go back to section 35. I move that Bill No. 4, entitled the *Legal Profession Act*, be amended in clause 35(2), at page 26, by substituting the following for subclause 2. "(2) In proceedings under this part the following evidence is admissible if relevant: (a) opinion evidence, even where it is relevant to the very question before the Committee of Inquiry or the court. (b) hearsay evidence, but the weight to be given to hearsay evidence shall be judged according to its apparent reliability and the availability of other evidence that would be admissible without relying on this paragraph."

12 **Mr. Kimmerly:** I have received this information a moment ago, which is reasonable because it was probably only written a moment ago. On looking at it, it is my assessment that it probably solves the problem. The major change is that the word "always" is taken out and that is the most important change on reading it. Without consulting authorities and discussing it with other lawyers, it appears to me to be okay. It is a complicated area and I would appreciate a moment or two to digest it, but I will not ask that the bill be held up.

I will certainly say that it is my position — and I have not had an opportunity to discuss it with other members on this side — I would expect it is all right. It is my position that this is a very substantial improvement and it probably solves the problem. On reading it, it is my opinion that I see, initially, no difficulty with it.

13 **Hon. Mr. Tracey:** I would also like to comment that I and my department never received any submission from the Law Society regarding hearsay evidence; it never has made a submission to us that there was any problem with hearsay evidence.

Mr. Kimmerly: I am not calling into question that information, but I will say that I have attended a Law Society meeting, and my memory is not precise, but I was clearly under the impression that the matter was brought to the government by the Law Society.

Perhaps it is a misunderstanding of some sort. In any event, I do say that it is very clear to me that, when the matter was raised in this House, the minister responsibly dealt with it and listened to the concern and corrected the problem, for which we are very grateful. It is, perhaps, an example of why it is desirable, if at all possible, to have an open and public procedure for consultation on these kinds of matters.

14 *Amendment agreed to*

Clause 35 agreed to as amended

Mr. Chairman: We will now proceed with clause 79, where we left off before recess.

On Clause 79

Clause 79 agreed to

On Clause 80

Clause 80 agreed to

On Clause 81

Clause 81 agreed to

On Clause 82

Clause 82 agreed to

On Clause 83

Clause 83 agreed to

On Clause 84

Clause 84 agreed to

On Clause 85

Clause 85 agreed to

On Clause 86

Clause 86 agreed to

15 *On Clause 87*

Clause 87 agreed to

On Clause 88

Clause 88 agreed to

On Clause 89

Clause 89 agreed to

On Clause 90

Clause 90 agreed to

On Clause 91

Clause 91 agreed to

On Clause 92

Clause 92 agreed to

On Clause 93

Clause 93 agreed to

On Clause 94

Clause 94 agreed to

On Clause 95

Clause 95 agreed to

On Clause 96

Clause 96 agreed to

On Clause 97

Clause 97 agreed to

On Clause 98

Clause 98 agreed to

On Clause 99

Clause 99 agreed to

On Clause 100

Clause 100 agreed to

16 *On Clause 101*

Clause 101 agreed to

On Clause 102

Clause 102 agreed to

On Clause 103

Clause 103 agreed to

On Clause 104

Clause 104 agreed to

On Clause 105

Clause 105 agreed to
 On Clause 106
 Clause 106 agreed to
 On Clause 107
 Clause 107 agreed to
 On Clause 108
 Clause 108 agreed to
 On Clause 109
 Clause 109 agreed to
 On Clause 110
 Clause 110 agreed to
 On Clause 111
 Clause 111 agreed to
 On Clause 112

Mr. Kimmerly: Does this mean what I think it means and that it will no longer be necessary to get a business licence?

Hon. Mr. Tracey: No. What it means is that no municipality will be able to issue it. You will be issued your licence by the territorial government.

Clause 112 agreed to
 On Clause 113
 Clause 113 agreed to
 On Clause 114
 Clause 114 agreed to
 On Clause 115
 Clause 115 agreed to
 On Clause 116
 Clause 116 agreed to
 On Clause 117
 Clause 117 agreed to
 On Clause 118
 Clause 118 agreed to
 On Clause 119
 Clause 119 agreed to
 Clause 1 agreed to
 On Title
 Title agreed to

Hon. Mr. Tracey: I move that you report Bill No. 4 out of Committee with amendments

Motion agreed to

Mr. Chairman: I declare Bill No. 4 has passed out of Committee with amendments.

Bill No. 20: An Act to Amend the Dental Profession Act
 On Clause 1

Hon. Mr. Tracey: As it says in the explanatory note, the main changes in this act will allow the dentists to set up professional corporations. They feel that there may be some tax advantages for them to be a professional corporation. I do not disagree with them. We are allowing the lawyers, accountants and doctors to have professional corporations. I do not have any problems with the dentists also having professional corporations, so that is the reason for the bill being here today.

Mr. Kimmerly: The member for Mayo will be very encouraged that there are other professions getting these privileges and maybe one day the electricians and the plumbers and the carpenters and the miners will all get them.

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

Clause 9 agreed to
 On Clause 10
 Clause 10 agreed to
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 Clause 11 agreed to
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 Clause 12 agreed to
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 Clause 13 agreed to
 On Clause 14
 Clause 14 agreed to
 On Clause 15
 Clause 15 agreed to
 On Clause 16
 Clause 16 agreed to
 On Clause 17
 Clause 17 agreed to
 On Clause 18
 Clause 18 agreed to
 On Clause 19
 Clause 19 agreed to
 On Title
 Title agreed to

Hon. Mr. Tracey: Just for the edification of the members across the floor, especially the member for Mayo, an electrician, a plumber, or whatever, can have a corporation any time he wants. Up until today, dentists were restricted from having corporations.

I move that Bill No. 20, *An Act to Amend the Dental Profession Act*, be reported out of committee without amendment.

Motion agreed to

Hon. Mr. Lang: In view of the hour and in view of the fact that we are going to be going on to a major bill, I would move that Mr. Speaker do now resume the Chair.

Mr. Penikett: Could I suggest you might want to report progress on the bills, though, before you do that.

Mr. Chairman: You have heard the motion. Do you agree?

Motion agreed to

Mr. Speaker resumes the Chair

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

May we have a report from the Chairman of Committees?

Mr. Brewster: The Committee of the Whole has considered Bill No. 15, *An Act to Amend the Mental Health Act*, and Bill No. 20, *An Act to Amend the Dental Profession Act*, and directed me to report same without amendment.

Further, the committee has considered Bill No. 4, *Legal Profession Act*, and directed me to report the same with amendment.

Mr. Speaker: You have heard the report of the Chairman of Committees. Are you agreed?

Some hon. members: Agreed.

Mr. Speaker: May I have your further pleasure?

Hon. Mrs. Firth: I move the House do now adjourn.

Mr. Speaker: It has been moved by the hon. Minister of Education that the House do now adjourn.

Motion agreed to

Mr. Speaker: This House now stands adjourned until 1:30 p.m. tomorrow.

The House adjourned at 4:32 p.m.

The following Legislative Returns were tabled April 10, 1984:

84-4-3

Mark-ups in respect to alcoholic beverages (Pearson)

Oral - *Hansard* p. 63

84-4-4

Yukon Public Service Staff Relations Board Annual Report regarding managerial and confidential exclusions (Pearson)

Oral - *Hansard* p. 147

84-4-5

Heritage matters (Firth) W.Q. No. 2