



# The Yukon Legislative Assembly

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Number 22

4th Session

25th Legislature

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## **HANSARD**

Thursday, April 26, 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 Philipson	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  
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Jane Steele  
G.I. Cameron  
Frank Ursich  
Dave Robertson

**01 Whitehorse, Yukon Territory**  
**Thursday, April 26, 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 at this time to the order paper.  
 Are there any returns or documents for tabling?  
 Reports of committees?  
 Petitions?  
 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 oral questions.

#### QUESTION PERIOD

**Question re: Economic development council**

**Mr. Byblow:** I have a question for the Minister of Economic Development.

Many of us were quite pleased, this morning, to hear that the minister and the mayor of Whitehorse were able to find some common ground over the NDP initiative of an economic development council. I would like to ask the minister if he could advise, at this time, who or what special interest groups may be represented on the council? In other words, what is the intended composition of the council?

**Hon. Mr. Lang:** In the press release that went out, there was labour, mining, tourism, and groups such as that that would be contacted for the purpose of sending representatives to the first meeting to formalize the economic council. I should also add that the Council for Yukon Indians was contacted.

**02 Mr. Byblow:** Can the minister say whether or not the parameters of the council will be established by separate legislation? In other words, will the minister be bringing anything into the House respecting guidelines for debate about the council?

**Hon. Mr. Lang:** No, not at the present time. There is a possibility down the road that legislation may be required, but not in the foreseeable future.

**Mr. Byblow:** Will the minister consider a vice-chairmanship of the council from members of the opposition, for example, the leader of the opposition or perhaps the member for Mayo, who the minister knows are very congenial fellows and very interested in working with the minister?

#### Speaker's Ruling

**Mr. Speaker:** The matter is one of representation and not a question.

**Question re: Mental health legislation**

**Mr. Kimmerly:** About the process of consultation for new legislation concerning mental health: will there be a process like a green paper or a White Paper to focus the public input?

**Hon. Mr. Philipsen:** I do not think so.

**Mr. Kimmerly:** Will there be a chance for public input about the government's proposals before firm Cabinet or caucus decisions are made?

**Hon. Mr. Philipsen:** Absolutely. We are probably the most open government that I have had the pleasure of dealing with.

**03 Mr. Kimmerly:** There are obviously a few very central issues on which the government will express its policy. Is there any consideration, or has there been any consideration, to publicize these issues in *Yukon Info*?

**Hon. Mr. Philipsen:** No.

**Question re: Northern Benefits Committee**

**Mr. Porter:** I have a question for the Minister of Economic Development. He has received two today so far. Has the Yukon

government, in conjunction with the Canadian Oil and Gas Lands Administration Department, set up a northern benefits committee under Bill C-48 for Yukon?

**Hon. Mr. Lang:** There have been discussions with the people involved at the federal level. We have indicated that we are prepared to participate, providing that we are assured that our positions, which we will be bringing forward to such a committee, will be listened to. We are very concerned that we may be going to that forum and may be shutting off our access to directly discuss issues with industry. Therefore, we have given our qualified support in that particular area.

**04 Mr. Porter:** In view of the fact that the primary purpose of a northern benefits committee is designed to maximize the benefits of resource development for northerners, what is the government's position with respect to public participation on such a committee?

**Hon. Mr. Lang:** Our position, at the present time, is that it is a concept that has been put forward to us. We believe, at least initially, that it should be government to government, and industry, if necessary. If there is further expansion, then I think we should look at the success of that particular, formalized mechanism before broadening the base that would be involved in such an organization.

**Mr. Porter:** The Government of the Northwest Territories established local development impact zone committees and these are designed to provide for the facilitation of public input on resource projects. Is the Government of Yukon prepared to set up a similar structure in Yukon to enable Yukon communities to have a say in resource development?

**Hon. Mr. Lang:** If there is going to be a major development in close proximity or within a municipality or a community, I am sure that they will have the opportunity of expressing their views on any proposals that have been put forward. I think it would be very unwise of us to start up further committees or councils, at the present time, in view of the initiative that the government is taking on the formalization of an economic council. I see that as a quasi-public forum for the purpose of putting ideas and concepts forward to be able to see whether or not government and industry have the opportunities and the benefits accruing to the people of the territory.

**05 Question re: Correctional Centre disturbance**

**Mrs. Joe:** I have a question for the minister responsible for justice. The director of corrections has confirmed that the correctional centre did have a disturbance, not a riot, as I described it in Question Period yesterday. Can the minister tell us what caused this quiet riot?

**Hon. Mr. Ashley:** There was no riot at the Whitehorse Correctional Centre, and not two of them, as the member opposite said yesterday. There was no riot, period, at the Whitehorse Correctional Centre. There was a disturbance, and that was dealt with. Ten people were disciplined.

**Mrs. Joe:** Can the minister tell us how those 10 inmates involved were disciplined?

**Hon. Mr. Ashley:** The inmates were disciplined through the normal procedures of the disciplinary committee at the centre.

**Mrs. Joe:** Can the minister tell us if any damages occurred as a result of the disturbance?

**Hon. Mr. Ashley:** There definitely was nothing major.

**Question re: Mining task force**

**Mr. McDonald:** I have a question for the minister responsible for Economic Development. The minister has said that the mining task force will primarily look at the problems encountered in the mining industry, and will look for solutions. That is an extremely wide, and somewhat unmanageable, goal. In any case, is the primary goal of the task force to set up a territorial mining department or to solve regulatory problems within various branches of the industry?

**06 Hon. Mr. Lang:** You have to understand that such a body does not have the authority to set up a department of government, in any event. It is primarily set up for the purpose of looking at the problems faced by the mining industry to see how we can use the various tools at our disposal, as government, to assist the mining

industry in being able to either go into production or carry on the work that they are presently doing.

I think that, over time, responsibility will evolve to government. We have to look from the perspective that, down the road, we will be looking at other responsibilities as government is concerned. If I recall correctly, members opposite spoke at great length that there should be more responsibility with this legislature and, in turn, the Government of Yukon Territory so that we can determine our own destiny as opposed to having them determined in Ottawa.

**Mr. McDonald:** The operative word in the minister's statement was responsibility by the legislature rather than by the Cabinet.

The minister did say yesterday that the task force would advise YTG on how it can "assist the mining industry in view of the red tape and the various major problems the miners are having." What are the task force's priorities specifically, and what priority is to be given to the various general problems encountered by the mining industry in acquiring road and power access to mineral resources?

**Hon. Mr. Lang:** That is definitely variable. I would say to you that, right now, as we all know, the placer mining industry is under considerable pressure from the Government of Canada. I have seen a number of forms brought forward to me by individuals that are being requested to be filled out by individual placer miners, and things of this nature, which are really causing some concern to individuals and the industry collectively. These are areas that I think we should be looking at very seriously and making very strong representation to the Government of Canada. If we feel they are not doing what is in the best interests of the general public then we have that responsibility. The forum that I am talking about will allow us to sit down on a rational basis, go through things of this nature and see how we can assist as a government.

**Mr. McDonald:** I think we are going to have to get some sense of what the priorities and terms of reference of this committee actually are. Before that, is it the intention of the government to set up a mining department prior to the transfer of responsibility for resource development to Yukon?

**Hon. Mr. Lang:** It may necessitate the government becoming involved in certain areas, in respect to the resource industry, depending on the outcome of the discussions that we have. I should point out that I am looking forward to the meetings that we are going to convene. I think we want to hear from industry what their priorities are, as opposed to, say, the member for Mayo, in all deference and due respect to him. Once we hear what their priorities are, then we can assess how we can help, and perhaps get things moving in respect to the industry in question.

#### Question re: NCPC court challenge

**Mr. Byblow:** The minister of economic development will have to remember that my colleague from Mayo is a miner.

My question is to the Minister of Consumer and Corporate Affairs. As the minister is aware, the Government of the Northwest Territories recently, and successfully, challenged a planned NCPC rate increase for the territories.

<sup>07</sup> Is the Yukon government planning or prepared to take similar action, that of taking NCPC to court to insist on a full public review of NCPC rate policies, before the rate increases are imposed on Yukon consumers?

**Hon. Mr. Tracey:** The member across the floor has stated an inaccuracy when he said that the NWT took NCPC to court regarding the five percent rate increase. That was not the reason they went to court; the reason they were threatening to take them to court was to find out whether the electrical public utilities board had the right to demand that the rate increases be put before them for a decision.

However, with regard to the five percent increase, NCPC dropped the five percent increase because it had made a significant profit in the NWT, last year, and did not require the five percent increase in order to maintain the healthy balance in its books. Conversely, in the Yukon Territory, NCPC has lost a significant amount of money; we do not have a contingency fund left in NCPC, Yukon Division, and, ultimately, we are going to have to build that contingency fund back up again.

NCPC also had a loss, last year, which requires it to increase its

rates. It is controlled by the federal government at five percent and we see no reason why we should be contesting that, for any reason at all.

**Mr. Byblow:** The minister will agree that the court challenge played a large part in the elimination of the rate increase. In fact, this morning, the Minister of Consumer and Corporate Affairs defended the NCPC rate increase to Yukon consumers. I want to ask him if it is his position that a public review of rate increases in Yukon is neither desirable nor necessary?

**Hon. Mr. Tracey:** The member just made another inaccurate statement. The NWT court case had absolutely nothing to do with NCPC dropping its rates. It dropped its rates because it made a very significant profit last year, millions of dollars, in the NWT; it lost a very large amount in the Yukon Territory. The court case threatened by the NWT government had nothing to do with that.

**Mr. Byblow:** Let me put my third supp this way: is it a policy or is it the policy of this government that this government should speak only for the corporate interests of public utilities and not for the people and the consumers of utilities?

#### Speaker's Ruling

**Mr. Speaker:** I would think the question would be argumentative.

Are there any further questions?

#### Question re: Carcross arsenic source

**Mr. Kimmerly:** I have a question for the Minister of Health, about arsenic in the community of Carcross. This problem has arisen in the past, as we all know. Is there now any information about the source of the arsenic?

**Hon. Mr. Lang:** As far as the source is concerned, it is my information that it is the geographical formation of the land base in the Carcross area.

<sup>08</sup> I should point out that I had quite an extensive meeting with the MLA for Hootalinqua, who is very concerned with respect to the press report that was released yesterday. The Department of Municipal Affairs is responsible for the infrastructure in Carcross and is monitoring the situation very closely. In fact, they will be having a further meeting with the director of health, who is the responsibility of the federal government, to see what actions, if any, should be taken.

Further to that, information has been provided to me that the ultimate quality goal regarding arsenic is .005 milligrams per litre and the maximum acceptable concentration is .05 milligrams per litre. As of the April 13 tests, it is .042.

My understanding is that, from a medical point of view, the present tests indicate that it is still under the acceptable level.

**Mr. Kimmerly:** In the consideration and allocation of land for lots and new subdivisions, is this geographical formation and the arsenic contamination in the water supply considered?

**Hon. Mr. Lang:** This is a question that I put to the department. It should be understood that the country residential subdivisions that we are looking at are a fair distance away from Carcross proper. It is something that should be looked at and I will see that it is.

**Mr. Kimmerly:** Should the continued monitoring indicate a danger level, what alternate means of supplying water are now planned?

**Hon. Mr. Lang:** We have a plan to put in effect for the short term solution. We will install a pump and the necessary hose into the lake, and pump it into the truck with the idea of treating that water with chlorine and deliver it from there.

Further to that, if we find that the levels do rise above what is medically acceptable, we would have to look at putting in the infrastructure for a treatment plant.

#### Question re: Wood bison

**Mr. Porter:** I have a question for the minister responsible for renewable resources. Last year, this government announced that it was planning a joint venture with the Canadian Wildlife Services to transplant wood bison to the Nisling River area of Yukon. What is the status of this program? At one time, we heard that it was delayed. Is it proceeding?

**Hon. Mr. Tracey:** The program is going ahead. We did have some problems, last winter, trying to drill the post holes for the fence to fence the wood bison in. We did not have equipment in there that was capable of doing the job and the equipment that was available would have been too costly. However, we will be putting the posts in this summer and we are hoping to introduce the wood bison this winter.

**Mr. Porter:** Yesterday, the Yukon Fish and Game Association announced that it is proposing to initiate the transportation of grizzly bears from the bear control area to other areas of Yukon. Is this program a tripartite venture, involving this government, the Fish and Game Association and the federal government?

**Hon. Mr. Tracey:** No. I guess you could say it is tripartite in that, if the Canadian Wildlife Federation makes the money available to Fish and Game, it would be tripartite. However, the only involvement of the territorial government would be to take the money and move the bears with it.

**Mr. Porter:** The Fish and Game Association stated that it is working with a prominent Canadian bear biologist. Is the biologist they referred to employed by this government?

**Hon. Mr. Tracey:** I am not aware.

#### Question re: Women's Bureau

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

The minister said, in this House, on April 17th, that the \$10,000 research on battered women was done by a consultant. I would like to ask the minister, again, if it is the policy of this government to check the accuracy of all consultants' reports, prior to final completion?

**Hon. Mr. Ashley:** If, in fact, I said that, I should correct the record, because it was not a consultant, it was a contract employee of the Department of Health and Human Resources who did the wife battering review.

**Mrs. Joe:** The minister has said in this House that once his department has gone through the report, that "...we very well may give it to them.", meaning the Yukon Status of Women. Again, will the minister give a copy of the report to the Yukon Status of Women's Council before the conference in May?

**Mr. Speaker:** The hon. member seems to be making a representation; however, perhaps we will allow the minister to answer.

**Hon. Mr. Ashley:** She is making a representation, but, as I said, this question and answer still stands the same.

**Mrs. Joe:** He told me to look for it in *Hansard* and I could not find it.

Will the minister confirm that his department is independently checking the final report because it does not agree with the Lane Report?

**Hon. Mr. Ashley:** I am sorry, I think I may have missed part of the question. The purpose for the review of this report by the contract employee is so that all departments can go through it and find out what can and cannot be done, and then that will be submitted to Ottawa for inclusion into the overall Canadian government report, which is going in from all provinces and the Canadian jurisdiction for the ministers' meeting in May.

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#### Question re: Agriculture policy

**Mr. McDonald:** I have a question for the Minister of Municipal and Community Affairs. The minister says often enough in the legislature that the government does not wish to tread too quickly into the development of agriculture policy for fear of making mistakes. Recently, the Yukon Livestock and Agricultural Association offered to use its newly expanded base to assist the slow development of an agricultural policy and requested \$10,000 in travel assistance to assist their efforts. Can the minister state the government's position regarding the allocation of this funding for the Yukon Livestock and Agricultural Association?

**Hon. Mr. Lang:** I have corresponded with the president of the association, indicating to him that in this forthcoming year there does not appear to be money set aside for the purposes of financing their organization. We do have \$10,000 voted in the capital mains

for the purposes of making a number of initiatives in the area of agriculture.

For the record, I want to correct the member opposite. I never said that we did not want to go too fast in the area of agriculture. What I said was that we were going to be keeping pace with those people involved in this industry, which is really just beginning in the territory.

**Mr. McDonald:** I will question that at my leisure during estimates.

Does the government feel that the input from rural agricultural associations this year is sufficient? Does it feel that the Department of Agriculture has enough input this year and that it is moving quickly enough to develop an agricultural policy?

#### Speaker's Ruling

**Mr. Speaker:** I would have to rule that question out of order. That is seeking an opinion about government policy, which is contrary to the rules of Question Period.

Does the hon. Member have a new question?

**Mr. McDonald:** I have a supplementary, if I am permitted.

**Mr. Speaker:** I will permit a further supplementary.

**Mr. McDonald:** A letter of February, 1984, in which the funding request is included, states that they look forward with excitement and promise of the soon-to-be-announced policy on agriculture in Yukon by the Government of Yukon. Can the minister state where this elusive policy is, for I, too, am filled with excitement at the prospect of anything coming from the minister?

**Hon. Mr. Lang:** I take exception to the flippant remarks from the member opposite. I recognize, Mr. Speaker, your difficulty in trying to be as fair as you possibly can with both sides of the House.

I would say that we have taken initiatives in respect to the area of agriculture. I have met with the association on a number of occasions. I have indicated to them that I will meet with them later this year to look at various proposals that they might be prepared to put forward.

The one area where we are prepared to cooperate with them is the possibility of a market garden, as well as other initiatives. I think we are doing our best, and I think that with the cooperation of the organization, we will be able to proceed in a very positive manner. I would like to conclude by saying that I take exception to the negative attitudes of the member opposite.

#### Question re: Tourism incentive program

**Mr. Byblow:** We are never flippant.

I have a question for the Minister of Tourism. The minister, this week, re-announced the half million dollar tourism incentive program that was previously outlined in the capital budget last fall.

Without reviewing principles of previous debate, can the minister clearly state that all of the program money will be equally available to all regions and communities of Yukon and that no preferential treatment will be given to the current corridors and destination points policy?

**Hon. Mrs. Firth:** The opposition may not be flippant but they are somewhat sarcastic many times. This was was not a re-announcement of money, it was simply a news release to notify the business people, since the tourism season is upon us, that the money is now available, and to give them some of the guidelines as to what was going to be required for eligibility. For the fourth or fifth time, it is available to all Yukoners.

**Mr. Byblow:** The press release does say the program is a new one, another new one. From what the minister said in her answer to me, that it is money available to all regions of the territory, why then does the opportunity identification portion of the program, which is principally for feasibility monies, call for study projects to be within the current destination points of Carcross, Kluane, Whitehorse and Watson Lake? That is on page 3 of the information booklet she refers to.

**Hon. Mrs. Firth:** The reason we announced that it was a new program was because it was totally Government of Yukon money; there is no federal contribution to this program. The four program

elements are intended to provide the range of funding for feasibility studies. I am not quite sure what the member means about the opportunity identification having to be within particular corridors. If he could be more specific with his question, perhaps I can answer it.

**Mr. Byblow:** The minister is quite capable of reading page 3 of her own document. I do not intend to waste my third supplementary repeating the question. I want to ask the minister, though, who is going to be on the review committee for the applications that will be submitted for distribution of the grant money, and who is going to be making the final decisions?

**Hon. Mrs. Firth:** We will be making the final decisions as a government. I can give the members in opposition some indication of who will not be on the committee; the members in opposition will not be on the committee.

#### Question re: House business

**Mr. Porter:** If we are indeed flippant, I would suggest the government ministers have flipped out.

I have a question for the Minister of Economic Development in his capacity as government House leader. Can the government House leader advise the House as to what the schedule of business will be for next week?

**Hon. Mr. Lang:** I will not respond to the preamble of his question because I would not want to be derogatory to the member for Campbell. I must admit that it is very tempting.

As far as the business of the House is concerned, we intend to continue with *The Children's Act* in Committee and when we have completed the clause-by-clause reading of that particular bill, then it would be our intention to proceed to the budget.

**Mr. Porter:** When will the House be giving second reading to the *Employment Standards Act*?

**Hon. Mr. Lang:** The member opposite will be duly notified.

**Mr. Speaker:** We will now proceed with Orders of the Day, under government bills.

#### GOVERNMENT BILLS

##### Bill No. 25: Third reading

**Mr. Clerk:** Third reading, Bill No. 25, standing in the name of the hon. Mr. Pearson.

**Hon. Mr. Pearson:** I move that Bill No. 25, *Interim Supply Appropriation Act, 1984-85 (No. 2)* be now read a third time.

**Mr. Speaker:** It has been moved by the hon. government leader that Bill No. 25 be now read a third time.

##### Motion agreed to

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

**Hon. Mr. Pearson:** Yes. I move that Bill No. 25 do now pass and that the title be as on the Order Paper.

**Mr. Speaker:** It has been moved by the hon. government leader that Bill No. 25 do now pass and that the title be as on the Order Paper.

##### Motion agreed.

**Mr. Speaker:** I will declare the motion as carried and that Bill No. 25 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 and Community 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 call Committee of the Whole to order. We shall recess until 2:20 and, when we return, we will go on with clause-by-clause debate of *The Children's Act*, Bill No. 19.

#### Recess

**Mr. Chairman:** I will call the Committee of the Whole to order. We shall proceed with Bill No. 19, *The Children's Act*.

#### Bill No. 19: *The Children's Act* — continued

##### On Clause 31 (stood over)

##### Amendment proposed

**Hon. Mr. Philippsen:** I would ask that we go back to page 12. I would move that Bill No. 19, *The Children's Act*, be amended in clause 31(1) at page 12 by substituting the following for paragraph (g): "(g) the affect that awarding custody or care of the child to one party would have on the ability of the other party to have reasonable access to the child."

**Mr. Kimmerly:** This is a good amendment from our point of view. It is a substantial improvement over the existing wording. It is not a change in the intent of the bill, I am sure, but it is a change that clears up a potential problem. We support this amendment.

##### Amendment agreed to

**Hon. Mr. Philippsen:** In section 31(4), I said I would come back with information on that clause and asked for time to discuss it.

The joint custody trend, to which the member for Whitehorse South Centre made reference yesterday, is a relatively recent phenomena in Canada. This section, as presently worded, would permit joint custody. The subsection states that it shall be a rebuttable presumption that the court should award the care of the child to one parent or the other. That is, the care of the child should preferably be the responsibility of one parent. If, however, it can be shown that it is in the best interests of the child to have the care of the child shared by the parents, on a three-day, four-day split, for example, then it is within the power of the court to do that.

I would like to point out that custody consists, as defined in section 29(1), of much more than the care of the child. This section would allow for those other parental rights associated with custody to be shared by parents. I trust this is an adequate explanation of the need for this section, as worded.

##### Clause 31 agreed to as amended

##### On Clause 32 (stood over)

**Hon. Mr. Philippsen:** The next area that I said I would come back to was section 32(5).

We stood this section over yesterday to enable me to give some consideration to the suggestions from the member for Whitehorse South Centre for the inclusion of the phrase, "at reasonable times" after the word "access".

In my view, having the section read, "The entitlement to access at reasonable times to a child", could end up being unnecessarily restrictive. It could then be inferred that a parent with the entitlement to access could not make contact with the child at what could be deemed to be an unreasonable time; for example, late at night, prior to a short notice departure on the part of the parent, when he would otherwise have been having his scheduled access to the child on the following day. It could be construed, then, to prevent access to the child when emergencies dictate access on short notice.

What should not be lost sight of here is that the subsection enables the parent with entitlement the access to visit with and be visited by the child, as well as the right to make enquiries and to be given information as to the health, education and the welfare of the child.

In my estimation, nothing would be gained by adding the phrase, "at reasonable times" after the word "access". Rather, I feel that it might place an unnecessary restriction on the access to the child by the parent not having custody of the child. If the concern is that the child might be harassed, then there are legal mechanisms for curtailing that sort of activity.

**Mr. Kimmerly:** I will make a short comment. It is not a major point and there is some merit in the comments just made. It is certainly my opinion that it would be an improvement, and an improvement for the following reasons. First of all, it would make either no difference or practically no difference to a court, because a

court would assume the reasonableness criteria. It is frequently the case that parents argue over what is reasonable access or what is not, or they simply argue over access. It is a comfort to the parent with custody that he is protected from unreasonable interference. That is a very general thing or a general test. It is frequently the case that a parent who loses custody and wishes access at what is perceived by him or her to be a reasonable time, is perceived by the other party to be an unreasonable time.

<sup>17</sup> In any event, it is not a major point. From my practical experience, the workability of the clause would be improved, especially for laypeople, if there was a reference to reasonable times.

*Clause 32 agreed to as amended*

*On Clause 46 (stood over)*

*Amendment proposed*

**Hon. Mr. Philipsen:** I move that Bill No. 19, entitled *The Children's Act*, be amended in Clause 46(1), at page 19, by substituting "the Deputy Head of Justice shall refer" for "it is the duty of the Deputy Head of Justice to refer", in order to clarify the section, as we discussed, last night, in committee.

**Mr. Kimmerly:** This is a clarification of the wording, essentially, and is uncontroversial.

*Amendment agreed to*

*Clause 46 agreed to as amended*

*On Clause 47 (stood over)*

**Hon. Mr. Philipsen:** I would then ask that committee move to section 47(2)(c). This was a section that I asked to stand over last night.

<sup>18</sup> Subsection (5), which we have already cleared, permits a peace officer to call an assistant. This assistant has, in the past, resulted in social workers assisting police officers in apprehending abducted children. Social workers do not need to be specifically named.

That, I believe, is the section that we have already cleared. It allows what was being asked for in the part that we stood over. I would also point out that "social worker" has a very broad definition and it may be a little cumbersome to state here.

On page 20, 47(2)(c) was stood over. I would now ask that it clears Committee.

*Clause 47 agreed to*

<sup>19</sup> *On Clause 82 (stood over)*

**Hon. Mr. Philipsen:** I would now ask the Committee to move to page 51, section 82, subsection (3) sub (a) and (b). What we did not notice last evening as we were all getting a little tired perhaps, is that what we were looking for in sub (3), we have already cleared in 83(1). I think, if I may, it says: "Where the child is not residing in a home for the purpose of adoption the parent or person entitled to custody who made the agreement under section 82 may terminate the agreement by giving to the Director written notice of the termination."

I think that the point that was being raised in 82(3) is delineated in 83(1).

**Mr. Kimmerly:** I do not disagree. I would reiterate the comment that it may be useful in designing the forms to print on the form that there is a period of 30 days in which there can be a relocation and after 30 days there cannot be.

**Hon. Mr. Philipsen:** I would like to thank the member for Whitehorse South Centre for his advice on this matter. I am sure that we will be looking at it when the forms are reprinted.

*Clause 82 agreed to as amended*

*On Clause 109 (stood over)*

*Amendment proposed*

**Hon. Mr. Philipsen:** I would now ask the Committee to move to page 64. I would move that Bill No. 19, entitled *The Children's Act*, be amended in clause 109(1) at page 64, by substituting "within a reasonable time" for "at the relevant time".

**Mr. Kimmerly:** We support this and it is our view that it gives the director more latitude, if you will, in a place where it is perfectly appropriate that he has latitude, or discretion. It, in our view, gives the director slightly more time in order to find a family of similar cultural background to the relevant child.

*Amendment agreed to*

*Clause 109 agreed to as amended*

<sup>20</sup> **Hon. Mr. Philipsen:** I believe that, now, brings us back to where we left off.

**Mr. Chairman:** Mr. Philipsen, there is Clause 33. Do you still wish that stood over?

**Hon. Mr. Philipsen:** I said, yesterday, that we would stand over Clause 33 until Monday, so that the Council for Yukon Indians had time to look at that recommendation.

**Mr. Chairman:** That is agreeable.

Then we shall go on to page 65, Clause 111(1).

*On Clause 111 — continued*

**Mr. Kimmerly:** I raised questions, in the dying moments of debate last night, about 111(4)(c); this is a good place to refer to them again.

Putting it in its simplest terms, is it contemplated that these contracts are going to be to deliver services to a community or a geographic area, or services to Indian children only?

**Hon. Mr. Philipsen:** The section would deal with any community group or persons who entered into a contract with the director. The area that we are discussing now, section 111(4)(c), is specifically to ensure that whichever group or persons who have contracted a specific area would be remaining within that area and would be dealing only with people with whom they had contracted to deal with within that area, so that we would not get into a problem with an overlap between two conflicting areas, both dealing, or having contracts, with the director, and so that the lines would be specifically drawn as to what area each individual group had the director's powers delegated to it.

**Mr. Kimmerly:** I appreciate that answer, but if you look at (b), which we just cleared, it specifically refers to the area just described. Subsection (c) appears to be getting at a different concept from area.

If the minister's last answer is exhaustive of the reasons for 111(4)(c), what is the reason for it, if 111(4)(b) exists?

<sup>21</sup> **Hon. Mr. Philipsen:** I will try to be a little more specific on section 111(4)(c). This clause indicates that the contract, which permits the delegation of powers of the director under (1), may specify the children over whom the community group may exercise those delegated powers. If I may be permitted to use an example: if the powers of the director were delegated to the Kluane Tribal Brotherhood group that has expressed an interest in having this done, the contract might specify that the powers delegated to them might be limited to children of members of the Burwash Band, or the contract might specify that the delegation of the director's powers was limited in application of children of all families living in the Burwash Landing area.

I would like to stress that the intent of this subclause is to ensure, first of all, that the authority, which is delegated, is done in a controlled manner so as to ensure — particularly as we are venturing into something new — that the community group is not given responsibility greater than that which it is capable of handling. The subclause would also ensure that where there were adjacent community groups that had the powers of the director delegated to them, that conflict over the jurisdiction did not arise.

**Mr. Kimmerly:** That is certainly more descriptive of the particular clause. It raises questions in my mind, and I do not mean to be representing a particular point of view here, but I am extremely interested in a clarification. The working of the section, or the implication of the section, if it were applied to give a contract to a particular group to look after children belonging to a band, for example, or children being band members, there is, in essence a two-tier system: a child welfare system for band members, and a child welfare system for non-band members.

I am interested in the policies of the government under this program. It is certainly defensible, and I certainly understand the statement made that there is an attempt to accommodate the ability of the contractor or, if it is an Indian band, the ability of the band to deliver services. It strikes me that it is consistent with the rest of the act and consistent with the one-government system, publicized by the government in the land claims area, that the group should be delivering services to everybody in a particular area.

<sup>22</sup> For years, and years, non-Indian workers have delivered services to Indians and non-Indians. It is not in any way logically different

for Indian workers to deliver services to Indians and non-Indians. It would appear to be a duplication of services if it is contemplated that the contract is for only one group of children and the breakdown is on a racial criteria. Is it the policy of the government to encourage, wherever feasible or possible, that there will not be racial discrimination implicit in these contracts?

**Hon. Mr. Philipson:** I think it is implicit in anything that this government deals with; there will be no racial discrimination. We are currently discussing this with bands now; the area of the contracts. These areas will be decided by how much of the director's authority the band feels it is capable of accepting. This is being modelled on other jurisdictions where they are actually in the process at the present time, and all of these areas are being looked at to ensure that we gain as much from the knowledge of other people's practical experiences as we possibly can.

**Mr. Kimmerly:** Is it reasonable to ask if there can be expected to be contracts within this calendar year. I am not asking for a commitment, but a statement of policy or goal, or expectation?

**Hon. Mr. Philipson:** It is a possibility, but I also could not give a commitment.

**Mr. Kimmerly:** Is the minister able to tell us about the general state of development of the plan for training of specific individuals who may be contract employees or employees of the contracting body in this area?

**Hon. Mr. Philipson:** The department has in its budget the amount for a training officer, once the program is on stream. We will be training. I believe that is the question that you were asking, in essence.

**Mr. Kimmerly:** I have a statement of notice: In the main estimates, I will be extremely interested in getting what information is available about the nature of the planning for training in this area. Let me say that it is an area that we support wholeheartedly and it is our opinion that the principle of the initiative is excellent. We compliment the government for it.

**Hon. Mr. Philipson:** I thank the member opposite for his remarks. I will try and have that information readily available, at the time.

**Mr. Kimmerly:** I have a question on 111(5); I will raise the same question in (8).

I understand that there is difficulty in establishing just what degree of supervision or control or liability is appropriate. It is a matter of balancing various important and conflicting interests, because, if a contracting body is given extremely wide powers, the director is probably going to insist on a greater degree of training and of "professional competence" before entering into the contract. There is another consideration that, if it is truly a contractual service and not another way of describing what is, essentially, an employer-employee relationship, the degree of supervision is very important.

I would ask for an explanation of the government policy in this area. Is it the policy to specifically state, by statute, that there will be a fairly specific supervision and a wide power of supervision in the director, in order to enable or to, practically speaking, enable more contracts than would otherwise be the case?

**Hon. Mr. Philipson:** Naturally, in this legislation, the director is ultimately responsible for the welfare of the children. They come under him in this legislation.

The intent of the government is to allow a community group, which wishes to take on an area of responsibility, as much independence as possible. We have written these particular sections to enable a community group to be responsible for what it wished to contract.

With responsibility goes accountability. The lack of accountability on one hand would increase the loss of independence for that contract, if the government had to be involved to protect the interests of the government and the people of Yukon to ensure that a community group, a group of individuals or a person would not place the government in a position where it were liable for something that somebody else had contracted to do. That is why this is written in this particular manner.

**Mr. Kimmerly:** There is another major consideration in every case where there is a meeting of two cultures. There is always a

dominant and a submissive culture, in sociological terms. What most often occurs when the members of the submissive culture, in sociological terms, deliver services themselves that were previously delivered by the dominant culture, is that it adopts the bureaucracy, or the hierarchy, and the policies of the dominant culture. The reason for that is that they generally go through an extensive training period in the existing system in academic institutions that indoctrinate the people into the existing prejudices, in sociological terms, of the dominant culture.

<sup>25</sup> The efforts of the cultural group for control over services to their culture is primarily motivated by an effort to get culturally relevant services.

In the training process and the transition process, there is a very real problem concerning allowing culturally relevant services to exist or to adapt to the existing system. The minister will be aware of significant efforts in many associations and in the government to train native people to deliver services primarily to other natives.

All of the programs have drawbacks and, possibly, some advantages. The RCMP do a native constable program and the Department of Justice, territorially, has, in the past, attempted to train jail guards and probation workers, with varying degrees of success.

It is interesting that, within the Council for Yukon Indians, the training programs conducted by the native organization for their own bureaucrats are spotty. I will say that some of them have failed miserably and some of them have been largely successful. It is a very difficult area and an area where educational, science and sociological science is only beginning to be practically useful to us.

I would recommend that the training efforts be very, very carefully scrutinized by members of both cultures. It is important that the trainers probably be a team of people who represent both cultures and that there is some flexibility in the system, in order to accommodate culture interests. At the same time, it is necessary that the professional standards not be lowered, but simply be adapted to culturally relevant information.

<sup>26</sup> That is essentially a comment as opposed to a question.

**Hon. Mr. Philipson:** In answer to the comment and not the question: the members opposite might be interested to know that social service worker students from Thebacha College are now doing their practicum work here. One such student is from Yukon. We will attempt to assist natives in attending Thebacha College and coming back here. I might add further that there is native representation on the board of Thebacha College. Further to that, it may be of interest to members opposite that the director who is presently working in human resources, Mr. Findlater, is also on the board of Thebacha College.

**Mr. Kimmerly:** That is useful information. Just to make a short statement to sum up my point, the point, I believe, can be stated that practical experience has shown us that the most successful cross-cultural training occurs when the trainers are a group of people where both cultures are represented. It is virtually useless to have a trainer of one culture training a group of people in another culture in cross-cultural information or cross-cultural interests. Those efforts have universally been substantial failures in the past. That is an important consideration, in my view.

**Hon. Mr. Philipson:** I have a typo noted. Bill No. 19, entitled *The Children's Act*, in clause 111 subclause 8 at page 66, the word is "omitted" for "ommitted", spelled with two "m's".

**Mr. Chairman:** Can we accept that as a typo?

**Some hon. members:** Agreed.

**Mr. Kimmerly:** On subclause (8), I am aware that there was lack of agreement between the government and the CYI on this particular clause, at one time anyway.

<sup>27</sup> What is the justification for this clause, and what is the concern of the government in putting it in?

**Hon. Mr. Philipson:** The section has been discussed with the Council for Yukon Indians. Since the reason for it has been explained to the Council of Yukon Indians, they have felt that what was being stated here was reasonable.

I have discussed it in general debate, but I will attempt to address the issue again. If we did not state this in this way in the section, the government would be liable if we entered into a contract with a



community group. The government would still be liable for whatever happened with that community group through a third party agreement. If the party you had made your agreement with did something wrong and either left or did not have the funds available to cover the liability that you may be sued for, the government would be placed in a position, if this clause were not written in this way, of insisting that the community group either carry a very large insurance policy or bond itself to a great degree. Failing that, it would have to be directly involved in the administration of the contract on an ongoing basis to ensure that the government would not be placed in a position where the liability could fall directly on the government.

It is the intention of this government to give as much independence to a community group as is possible. The wording here would allow that to happen, and I do not think there is anyone in this House who would disagree that if a community group wishes responsibility, that the accountability should go with it. The Council for Yukon Indians, after discussion on this issue, felt that this clause would give them more independence than having someone sitting over their shoulder at all times. They, indeed, would be happy with the clause as written. As they now function, with individuals who are working with the federal department, they find that they do not have that independence and we feel that this would allow it.

**Mrs. Joe:** I would like some clarification from the minister. Did he say that the department would have to get a large insurance policy or be bonded, or did he say that that would be required of the community groups?

**Hon. Mr. Philipson:** The person taking the contract out would have to ensure that they could satisfy the government that they had taken out a bond or insurance policy, or had a bank account that would show that they were financially responsible for any responsibility that they wish to have under the contract.

I would like to say, at this point, that this also addresses, in the recommendation from the CYI, recommendation no. 24.

**Mrs. Joe:** So, the bands that the minister has been in contact with, with regard to this section that they were concerned about, have already been made aware that this would be required of them; that they get a large insurance policy or that they be bonded? If that information has been relayed to them, I would ask the minister if he might let us know how many different bands were given this information?

**Hon. Mr. Philipson:** I am sorry that the member for Whitehorse North Centre has it backwards. If we did not have this section and we went to a contract only, without this section, then it would require that the bands would have to get a large insurance policies. With this section, that would not be necessary. This is only to protect government.

Now, what we are saying is, if we remove this to protect the government, then the government would have to ask the band, who would have entered into a contract rather than being agreeable to this piece of legislation, that the government would have to, then, prove responsibility.

*Clause 111 agreed to*

*On Clause 112*

**Mrs. Joe:** I had, in general debate, talked a little bit about the diversion committee and its functions, which were explained in this act. I would ask the minister if he has given any consideration to my suggestion that members from the existing diversion committee be part of the diversion council?

**Hon. Mr. Philipson:** Absolutely. I have given consideration to the members of the existing diversion committee.

*Clause 112 agreed to*

*On Clause 113*

*Amendment proposed*

**Hon. Mr. Philipson:** I would move that Bill No. 19, entitled *The Children's Act*, be amended in clause 113(1), at page 67, by substituting "shall" for "may". This is as a direct result of discussions with members of the diversion committee, who we have been discussing this section with.

*Amendment agreed to*

*Amendment proposed*

**Mrs. Joe:** Because of my concern and the concern that has been raised by the diversion council, in the past, I have a proposed amendment to this bill. I would like to move that Bill No. 19, entitled *The Children's Act*, be amended in clause 113, at page 67, by deleting subsection 2 and substituting for it:

"113(2) The Diversion Council shall:

(a) consist of the

(i) the Director and

(ii) not less than five other members appointed for not more than three years at a time by the Commissioner in Executive Council upon recommendation of the Judicial Council; and

(b) have a Chairman and Vice-Chairman appointed from the five other members upon recommendation of the Judicial Council."

<sup>29</sup> The reason for proposing that amendment is because we on this side of the House feel that it is necessary and essential that the diversion council consist of persons who are knowledgeable and experienced in the field of diversion. We feel that that is a necessary requirement.

Also, we feel that the judicial council, who are people already involved with or are knowledgeable about the diversion committee as it exists right now — and also the diversion committees in some of the communities and the tribal councils who act as diversion committees — are very well aware of the people who are involved in those bodies. I think that if we were to change it so that the judicial council recommends the appointments that we would be looking at some very good individuals who would be appointed by the council.

I think it would follow along the same line as the YRAC members who are nominated by existing arts and sports and community groups. It was felt that those were the people who were knowledgeable about the individuals who would be good at that kind of work and should be appointed to those committees. I feel that if the judicial council were to make those recommendations, then it would be very good for the diversion council. We would have a number of individuals on it who could do a very good job without a lot of training, because they certainly have that knowledge and the experience already.

**Hon. Mr. Philipson:** In speaking to the amendment, I would like to explain that it is my understanding that the main functions of the judicial council are: (1) to recommend appointments of judges to the territorial court, and the JPs; and (2) they are to recommend disciplinary action against judges of the territorial court and JPs. The work of the diversion council is a completely different function. It is vital to the success of the diversion council to keep it at arms length from the judiciary. We, on this side, could not be supporting the amendment.

*Amendment defeated*

*Clause 113 agreed to as amended*

*On Clause 114*

<sup>30</sup> *Clause 114 agreed to*

*On Clause 115*

*Amendment proposed*

**Hon. Mr. Philipson:** I move that Bill No. 19, *The Children's Act*, be amended in Clause 115(3) at page 69 by substituting "other person entitled to the care and custody of the child" for "other person having care of the child".

*Amendment agreed to*

*Clause 115 agreed to as amended*

*On Clause 116*

**Hon. Mr. Philipson:** I would like to point out a typo in (6) on page 71. "Municipal" for "numicipal".

**Mr. Chairman:** Is the typo clear?

**Some hon. members:** Clear.

*Clause 116 agreed to*

*On Clause 117*

*Amendment proposed*

**Hon. Mr. Philipson:** I move that Bill No. 19, *The Children's Act*, be amended in Clause 117 at page 71 by substituting the following clause: "117(1) A person who has reasonable grounds to believe that a child may be a child in need of protection may report the information upon which he bases his belief to the director, an agent of the director, or a peace officer."

"(2) No legal action of any kind, including professional disciplinary proceedings, may be taken against a person who reports information under subsection (1) by reason of his doing so reporting, unless the reporting was done maliciously and falsely.

"(3) Any person who maliciously and falsely reports to a peace officer, the director, an agent of the director or to any other person facts from which the inference that a child may be in need of protection may reasonably be drawn commits an offense and is liable on summary conviction to a fine of up to \$5,000 or imprisonment for as long as six months, or both."

**Mr. Kimmerly:** Before actually considering the section, I wonder if the minister can inform us of any relevant information on the issue of what law is likely to get the best reporting from the public?

This is a very controversial area, as everybody knows, and I was extremely interested in what was reported in the media as a test case in Ontario, of a charge against a doctor for failing to report what was probably child abuse that he treated. It raises the issue, of course, that if the public is aware of the section — which is, of course, desirable in order to obtain reporting, whatever wording the section has — that it may be that if a parent abuses a child and the child requires medical attention later, that the parent is afraid to bring the child to medical attention for fear of discovery.

Is there any concrete information or any sociological or scientific information known to the department concerning the real effect of these sections and the law that is most likely to obtain the most reporting by the public of child abuse?

**Hon. Mr. Philipson:** I am not aware of any comparative studies in this field.

**Mr. Kimmerly:** Just as a point of information, it is my opinion that professional associations — being lawyers, doctors, teachers, nurses and whatever — should include as a canon or as a part of their professional ethics that, as professionals, those people should report suspected child abuse. It is one thing to impose a professional duty on a professional to report these kinds of things; it is entirely another to include it in the law.

Is it the intention of the government or has consideration been given to suggesting to the teachers' association, the nurses' association, the law society and the medical association that they consider a professional rule in this area?

**Hon. Mr. Philipson:** It is my understanding that the protocol on child abuse has been discussed with the teachers' association, but I do not believe that we have discussed it with professionals in other areas.

**Mr. Kimmerly:** As a lawyer, I will see what I can do with the law society. It is our view that the amendment is an improvement in the law. It is consistent with the system of law that is contained in the criminal area. It is a very emotional and a very controversial section. This is obviously the third major statement coming from the government on this area. It is our view that this amendment is the best of the three, so far.

*Clause 117 agreed to as amended*

*On Clause 118*

**Mr. Chairman:** In (a), there is a typo. Is it agreed?

**Some hon. members:** Agreed.

**Hon. Mr. Philipson:** I would like to note that 118(1) deals with the CYI recommendation no. 19.

*Clause 118 agreed to*

*On Clause 119*

*Clause 119 agreed to*

*On Clause 120*

**Hon. Mr. Philipson:** Clause 120(1) addresses, in part, the CYI's recommendation no. 11.

*Clause 120 agreed to*

*On Clause 121*

*Amendment proposed*

**Hon. Mr. Philipson:** I would move that Bill No. 19, *The Children's Act*, be amended in clause 121(3) at page 76 by substituting subsection (4) for subsection (2).

*Amendment agreed to*

*Clause 121 agreed to as amended*

*On Clause 122*

*Amendment proposed*

**Hon. Mr. Philipson:** I would move that Bill No. 19, *The Children's Act*, be amended in clause 122(2), at page 78, by substituting "under section 121" for "under subsection 121(1).

*Amendment agreed to*

*Clause 122 agreed to as amended*

*On Clause 123*

*Amendment proposed*

**Hon. Mr. Philipson:** I would move that Bill No. 19, *The Children's Act*, be amended in clause 123(1), at page 78, by substituting "subject to paragraphs 121(1)(b) and (c) and 127(7)(b) and (c)" for "subject to paragraph 121(1)(b)".

*Amendment agreed to*

**Mrs. Joe:** I have a bit of concern in regard to the notice that is given to the concerned parent, in 123(1)(b). It says "...where a child is taken into care, under section 121, the director shall, as soon as possible, give reasonable notice in writing to the concerned parent" or somebody else. I am not sure whether or not that is quite good enough, because I would be a little bit concerned about families who may or may not be available to be notified. There is a possibility that they could be somewhere where people cannot get in touch with them.

I have seen, over the years, notices in the paper asking people to report to human resources with regard to a child welfare matter coming up in court. I often wondered if, in fact, those people did receive those messages or if there was some other way that one could possibly be given that notice, through registered letter or through personal notice, or whatever. I just wondered if the minister would respond with regard to that section?

**Hon. Mr. Philipson:** It is not just notice in the paper, it is notice in writing. I think I would like to assure the member opposite that we have gone to great lengths to notify parents. I even know of one instance where a helicopter was used to go back in behind Ross River and give notice.

**Mrs. Joe:** I understood that they would be given notice in writing. If the member can assure me that they would go so far as to get a helicopter to go to the parents to let them know that something like this is happening, then I could be satisfied. It was just a concern that I did have and a concern that has been voiced to me in the past. A court event happened and I was not aware of it. It has happened, in fact, that those things have occurred in the past. I would not want to see them happen any more.

**Hon. Mr. Philipson:** It is a fact that a helicopter was used to give notice to a family in the Ross River area.

**Mrs. Joe:** I would just like some explanation on clause 123(3), in regard to the "taking a child into care, the director may notify the school which the child attends and any community groups of other persons who the director thinks should be advised of the action." I am just wondering about that because I sort of feel that it is in contradiction to what the member had told us in regard to recommendation one of the CYI, where they had asked that the band administrators be notified each time that a child is taken into care or apprehended. Here it says that they may notify the school and other community groups. I just wondered about that contradiction.

**Hon. Mr. Philipson:** It is not a contradiction. We are trying to enable the child to be able to maintain a reasonable lifestyle, and if the child has been removed from a home and the school or community groups, say the cubs or something like that, are not notified, then the parent in whose care he should not be because he had been taken into care, may be able to go into the schools, say they have an appointment, pick the child up and take the child away, so the child could fall back into a need for protection. It was felt that it is better for the child to be able to carry on a normal lifestyle to the maximum ability possible under this. The schools and people like that should be aware of the situation, so that a child is in a position which is delicate, to say the least, and perhaps not allow an offending person to remove the child.

**Mr. Kimmerly:** My concerns are primarily with (6)(b), but I will raise it here because the concerns could be met by changing the "shall" in the fourth line to "may". It is appropriate to raise it here.

The real concern is with (6)(b), because (6)(a) and (6)(c) are

essentially uncontroversial in my mind, but (6)(b) is not. Because of the "shall" at the beginning (6)(a), this clause removes the existing jurisdiction of the court and it says that where there is reasonable and probable grounds for taking the child into care, the judge shall order that the director has temporary care and custody until the outcome of the proceeding.

In my view, that should be a discretion of the court. Some cases are going to be very simple. If a child is badly battered or is in immediate, or if it is even in probable, danger, the director should keep custody. There will be cases where the child was not taken into care pursuant to a warrant, and the child goes to court here, and there is reasonable and probable grounds, and the child is taken into care, they go to court, and it is found that there is no justification for a court order and the child is returned.

It is not the case that that might occur; that will occur in the future. In my view, that is unnecessary. It certainly should be possible to take the child into care in the interim; however, it should not be mandatory. There should be a discretion, as there exists now. Why cannot the word "shall" in the fourth line be changed to "may"?

<sup>37</sup> **Hon. Mr. Philipsen:** What this section is allowing, in this particular regard, is the director, if the child is placed in the director's care, to place the child with a family member or someone close to the family, other than just placing the child in a group home. So, it allows the director the latitude to keep the child in the family or in the community, in this regard.

**Mr. Kimmerly:** That is accurate, but that is a very incomplete answer; it also does a lot more than that.

I am not arguing with that answer, at all — it is accurate — but the section is far more all-encompassing. The problem is that there may be cases where reasonable and probable grounds do exist for having a hearing into the matter. It is appropriate to have a hearing, but it may be, in the best interests of the child, that the child remain home until the situation is resolved by the court.

In fact, I would say that there will occur cases where it is in the best interests of the child, where the child is immediately taken into the temporary care and custody of the director, and it will occur where it is in the best interests of the child to stay home. Probably, there will occur cases where the director and the court would both readily agree that it is better that the child stay home. It would be a problem, because this section must be complied with.

I really have no problem with (a) and (c) being mandatory on the court, but there is a significant problem with (b). Frankly, it is obvious that the court would accomplish (a) and (c), and (b) is the only matter requiring an exercise of discretion in each individual case.

**Hon. Mr. Philipsen:** I think we have to take this in its entirety. In the first instance, where the member for Whitehorse South Centre is saying that a child should remain in the care of the family, that we have already covered under subsection 120(1).

<sup>38</sup> I have stated on many occasions that this is one of the exciting parts of this act here, "Where the director or agent has reasonable and probable grounds to believe and does believe that a child might be in need of protection he may, instead of taking the child into care or a place of safety by notice in writing served upon the concerned parent or other person entitled to the care or custody of the child, require such a parent or person to appear or bring the child named in the notice before the judge at a place named in the notice and at a time not earlier than five days after or no later than one month after the date of the service of the notice to be determined." So, that area is covered.

The other part of this that we should be looking at here is that we are dealing with section 123. The first statement is: "Subject to paragraph 121(1)(b), where a child is taken into care under section 121 the Director shall...". This has been thought out and we have looked at the possibility of leaving the child in the care of the parents. This is directing what shall be done if the child cannot be left in the care of the parents. I do not see any problem with it written the way it is, with that specifically spelled out in this legislation.

**Mr. Kimmerly:** On section 123(8) I have a question. This is an interesting concept about the 48 hours. I understand the intent of the

section, but this is an area where the jurisdiction of the court is altered and the director is given more power than is the case now.

It appears to me that it is appropriate to direct the court that, where a child is to be returned, that the question of when the return should occur and what arrangements are in the best interests of the child could then be very easily discussed by the court, and the court, which is at that time in possession of all of the facts, could determine the question. I would ask why is it not the policy that the question be put to the court and not to the director within these guidelines?

<sup>39</sup> The 48 hours was a new area of this legislation. It is one area that is being addressed because of the CYI. Although it is not a recommendation, it is one of the reasons for putting this in here.

The reason for the statement "as the return may be reasonably be done" is that there will be times when the child may need to travel in order to effect the return of the child.

Also, it is placed in there to allow for a separation from the recent temporary environment and a return to the environment that he is used to, to allow for time for the child to go home and pack up his clothes. Possibly there are other children in the family he may be staying with and it would be a chance to say goodbye. Everybody we discussed this with, the communities and the CYI, felt this was a reasonable clause to have here. As long as the cap of 48 hours was on there, everybody was happy with it.

**Mr. Kimmerly:** It depends on the way it is explained, I am sure. It is certainly reasonable to address the problem about the separation or the change being done in such a manner that suits the best interests of the child. It is certainly reasonable to allow a period to say goodbye or to prepare the child for the move. Nobody is disagreeing with that concept.

We are simply questioning why the power is taken away from the court and given to the director. I fully recognize that there have been cases in the past where a court order is made for the return of the child and it has occurred forthwith, without an opportunity to make a sensible or a timely transition, but that is an oversight of the people administering those particular cases in the past, and is not the fault of the courts or anything like that.

<sup>40</sup> It is certainly appropriate, in some cases, that the return of the child occurs forthwith and I would assume that the director would accommodate that, in appropriate cases. It appears to me to be wrong to take the jurisdiction away from the court, which is the deciding body in the dispute, and to give the jurisdiction to one of the parties before the court. In this case, it would always be the party who "lost" and it is not the best arrangement, in my view.

*Clause 123 agreed to as amended*

**Mr. Chairman:** We shall now recess for 15 minutes and, when we return, Mr. Falle will be in the chair until 5:30. I have a very important meeting with some minor hockey players for dinner.

*Recess*

<sup>41</sup> **Mr. Deputy Chairman:** I will call the Committee to order.

*On Clause 124*

*Clause 124 agreed to*

*On Clause 125*

**Mr. Kimmerly:** I would be interested to know if this is, in the opinion of the minister, a change in existing law, or not.

**Hon. Mr. Philipsen:** That is difficult for me to answer, but I can give what I have for justification for it. This permits cessation of the application by the director in cases where, with the consent of a parent and the consent of the director, a new resource has been identified for the child that is acceptable and does not require further court action, which can be traumatic for everyone, and the alternate care and custody by the state being required from that point onward.

An example of this is where the whereabouts of a second parent is unknown at the time of taking a child into care, but a subsequent search has revealed that his presence is somewhere in Yukon or elsewhere, and he is willing to care for the child and is deemed capable of doing so adequately. A grandparent who, earlier, was not prepared to care for the child may have made arrangements or changed his mind in order that he can then do so, with the consent

of the parents and the director, thereby meaning that the child may no longer be a child in need of protection and state intervention.

**Mr. Kimmerly:** That is accurate, but there is a lot more to it. It would also involve the case where the director went to court and got a temporary order and further court action was scheduled and the director abandoned the case. This is a power similar to what is given to Crown attorneys in criminal cases. It essentially removes the general superintendence, if you will, or the general supervision of the court, over a case in which the court has already made a judicial order. It puts it in the hands of the director. It is thus an example of where the law, as it is now exercised, is changed and the director acquires more power.

It is probably not the worst example. I would recommend to the minister, and the deputy minister, as he is here, that where that occurs, and it will occur in the future, that the judge who made the original order be notified of the change. Those things have not occurred in the past. I may say that I have been in that position before, where I was a judge and I made an order and expected something to occur, and it never occurred. In looking into it, it was perfectly justifiable, there was no problem; it was just that nobody thought to tell the judge. There was no reason to tell the judge, except that if judges are aware of these kinds of things it eases their minds.

<sup>41</sup> That makes them more kindly disposed to the actors who appear before the court.

**Hon. Mr. Philipson:** I thank the member opposite for his thoughts on this matter and I assure him that it has been noted.

*Clause 125 agreed to*  
*On Clause 126*

**Mr. Kimmerly:** In 126(1)(a), the issue is raised of the child advocate. I understand there is to be an amendment later on, I believe, about child advocates.

I am particularly interested in the meaning of the wording under (a). It says here "the director is a representative of the child", not "the director is the representative of the child". What is the reason for that wording?

<sup>42</sup> **Hon. Mr. Philipson:** I do not believe that this is the area where we were looking at the amendment that I think the member opposite is looking for.

**Mr. Kimmerly:** I understand that. I would ask for an answer to the question, though. The wording is peculiar; what is the reason for the wording, "the director is a representative of the child"?

**Hon. Mr. Philipson:** This makes it clear that the director is there to represent the child's interests, unless a child representative is appointed under later provisions of the act. It also makes it clear that the judge has jurisdiction to decide to deal with the case, even if some technical requirement of service is not being complied with. This would enable the judge to make interim orders to allow the technical irregularities to be solved.

**Mr. Kimmerly:** Clause 126(a) can clear, but I have a question about (b).

In the minister's last answer, he obviously gave a justification for (b), and the justification is accurate as far as it goes, but (b) means a lot more than that.

<sup>43</sup> Now, if the words in the second line, "and shall hear and determine", were removed, the justification given previously would not be altered and it would closely describe the existing law. However, with the phrase "shall hear and determine", that is directional and it directs the court to hear the case, regardless of the presence of various people, which is now within the discretion of the court.

This may be an oversight and I would ask if it is or not. Is it the policy of the government that this clause should be a direction to the courts, removing a substantial jurisdiction from the court?

**Hon. Mr. Philipson:** No, that is not why this was written in this manner. The reason it was written in this manner was that if a person decided that, in order to stall a court proceeding by not showing up, and did not show up, then this would not leave the child in limbo because of the actions of another person.

<sup>44</sup> I would recommend that subclause (b) stand over to receive further legal interpretation on this point. If the intention is to plug a loophole and to not allow a person to delay the proceedings by not

showing up, it is only necessary to give the court jurisdiction to proceed on the merits regardless of the presence of a person who has a right to be there. To direct the court to proceed, even if a person is not there, is an entirely different matter. It probably inadvertently directs the court to continue. The court has no jurisdiction.

For example, if there is no indication of any delay previously, and if there is information that a party who has a right to be there is in a car accident on the way to court, to take an obvious case, and gets word to the court that he was in an accident; in this case the judge is directed to proceed. That is obviously not in the best interests of justice or the best interests of the child. I would ask for a serious consideration of that technicality.

**Hon. Mr. Philipson:** In the interests of clarity in this legislation, I have no problem with standing that 126(1)(b) over.

*Clause 126 stood over*

*On Clause 127*

*Clause 127 agreed to*

*On Clause 128*

*Amendment Proposed*

**Hon. Mr. Philipson:** I would move that Bill No. 19, entitled *The Children's Act*, be amended in clause 128(1)(a) at page 81, by substituting "section 120" for "section 123".

<sup>45</sup> *Amendment agreed to*

**Mr. Kimmerly:** I am confused. It is my impression that 128(1)(a), as amended, is carried.

I have a question about 128(1)(c).

**Mr. Deputy Chairman:** I did carry the entire section 128(1), but if you want to go to 128(1)(c), go ahead.

**Mr. Kimmerly:** On 128(1)(c), the power is to make a permanent committal order. I have no objection with the power existing to make a permanent committal order. The only question is, which court should be allowed to make it?

Under the definition of "judge" in this part, it includes a territorial court judge and a justice of the peace. In the past, justices of the peace have made permanent orders in Yukon; indeed, many of them are still in effect. It is fairly recent, probably only six or seven years ago, that justices of the peace stopped making permanent orders and now, as a matter of practice, as a matter of court directive, but not as a matter of law; it is only territorial court judges who make permanent orders.

I am aware of a proposed amendment to the inherent jurisdiction section, which is 183, and that is relevant, of course. This matter was discussed in general debate at some length. It bothers me that the power here is continued for justices of the peace. I fully support, in general, the initiatives in the territory concerning justices of the peace and I mean absolutely no slight to them individually or collectively, but it is clearly, now, a matter of court directive that permanent wardships occur only with lawyers, if the parties want them, in the territorial court.

<sup>46</sup> Because of the considerations about inherent jurisdiction and the nature of the territorial court being a statutory court and the Supreme Court being a, if you will, constitutional court, as the court is set up by the *Yukon Act*, exactly as this legislature is, and because it has inherent jurisdiction, it may be that it is most appropriate that permanent orders be made only by the Supreme Court here. That is, essentially, the case in Alberta, and Mr. Justice Cavanagh, in his report, defends the present Alberta system of doing permanent orders only in a court with inherent jurisdiction.

I would ask for a justification of the policy of allowing permanent orders to be made, firstly, in the territorial court and, secondly, by justices of the peace.

**Hon. Mr. Philipson:** On the matter of the justices of the peace in the definition of judge, judge means any judge in the territorial court of Yukon or justices of the peace designated by the Commissioner in Executive Council as having authority to deal with the class of case involved. So, it is not just any justice of the peace.

The question of levels of court, I am afraid, will have to be dealt with by someone other than myself, as I, obviously, have not had a background in this area. I would ask if I could either defer to my colleague or the government leader for some direction in this.

**Mr. Kimmerly:** It may be most efficient to simply stand the

clause over and consider a statement about that particular issue.

**Hon. Mr. Phillipsen:** It is my understanding that territorial court has been treated as family court in the Yukon Territory. To the best of my knowledge, we intend to continue to do it in that manner.

**Mr. Kimmerly:** In section 106, the definition of judge includes a JP who is designated to do these cases. Does that mean a JP3, or something else?

**Hon. Mr. Ashley:** That would mean JP3 in their designations. They are not listed here, naturally, but they are listed under the *Judicial Council Act*, as to what designations they have.

**Mr. Kimmerly:** Practically speaking, there is a JP3 in Watson Lake, Mary McCullough, I believe. Is that accurate?

**Hon. Mr. Ashley:** Yes, there is one there now, and there are either six others that either are appointed or will be appointed very shortly.

**Mr. Kimmerly:** Well, for those seven people, and they are presumably around the territory in various communities, they would be empowered to make permanent orders? Is that, then, not accurate?

**Hon. Mr. Ashley:** Yes, they have been trained specially. They have a lot more training. They have gone through a number of more courses than the other JPs have. They have been upgraded so that they can handle the child case matters.

**Mr. Kimmerly:** I know these individuals, and I am one of the people who was doing the training — not the only one, by any means at all, but I am well aware of the training that occurs because I participated in it — and I talk with individuals about it. I have serious concerns about several issues and it is not only about the particular level of training. These people are not trained as lawyers; they are not trained to the level of territorial court judges, at least. In the courts outside of Whitehorse, it is impractical and, practically speaking, impossible to obtain lawyers in the justice of the peace court for the parties. It is clear that even in the justice of the peace court it is not contemplated that serious matters like permanent wardships involving lawyers on either side are routinely dealt with by a judge who is not legally trained. I have serious concerns about that possibility. Is it the policy, or is it the intention, that these seven people or their successors will be doing permanent wardships?

**Hon. Mr. Ashley:** The chief territorial court judge is the one who actually designates the duties of JPs, and when they become JP1s, JP2s and JP3s. The chief territorial court judge is the one who decides if they have enough training, or not. I believe that we have to leave this in here so that it can be done this way. If he feels that that person has enough capability and understanding to do it, he will do it in conjunction with the judge. That is how it worked in the past and that is how I foresee it working in the future.

**Mr. Kimmerly:** That, indeed, is the existing law. The existing law makes no categorization of JPs and I know the directive of the chief territorial judge, because it is actually in writing and is public, is that permanent wardships are done in the territorial court. It is a matter of a court directive to all of the other judges and JPs. I am aware of that.

In view of the provisions of section 183 about inherent jurisdiction, I would ask the minister responsible for *The Children's Act* if it is not more appropriate that permanent wardship hearings be done by a court with inherent jurisdiction?

**Hon. Mr. Phillipsen:** The act speaks very specifically to wardships. It is not our feeling, on this side, that it needs to be addressed by inherent jurisdiction.

**Mrs. Joe:** I am very aware of the directive that the territorial court judge has given to the JP Council in regard to the duties of the JPs. The *Child Welfare Act* allows JPs this, because there is no other law that tells them that they cannot do certain things. It is only a directive.

The old *Child Welfare Act* allows them to do exactly the same thing that the territorial court judge does. I cannot see anywhere where this would change that. If a judge is defined as being a JP or a Supreme Court Judge, or a territorial court judge, then those duties are all the same. I do not think that even though there is a directive out that specifies certain duties for JP1s, JP2s and JP3s,

that that will not prevent a JP 3 from hearing a permanent court order. I do not believe that that should be allowed to happen in this territory; that a permanent court order or care should be heard by a JP without that training.

<sup>51</sup> They may be trained, but they are not trained as well as a territorial court judge is. I think that we have to be very specific. I think we cannot allow that to happen, because it has happened in the past and, even though the department may say we are looking at these very carefully, we make sure that those things do not happen. I think that we have to be very sure. I think we have to have it, somewhere in this act, that JP3s, who are family court judges, cannot hear permanent court orders.

**Hon. Mr. Ashley:** This act is not the place for that. It would be done under the *Territorial Court Act*, and directives that would be handled by the chief judge to the JPs and to the letters that give the JPs their designations of 1, 2 and 3. It would be done through that and, if they overstep those bounds, there would then, under the *Territorial Court Act*, be proceedings against that JP or judge, or whatever the case was. That is how it is dealt with; that is where it is dealt with and that is why it could not happen unless it was agreed, by the territorial court judge, that it should happen.

**Mr. Kimmerly:** The Minister of Justice is wrong. The act, here, clearly sets out which court adoptions occur in, which court custody proceedings occur in and which courts the wardship proceedings occur in. The jurisdiction is clearly here, in this act, to establish it. This act cannot affect the court directives or the levels of JPs, that is clearly for the *Territorial Court Act* or the act governing JPs.

It is clearly appropriate, in this act, to specify which court these various proceedings occur in and the act clearly does that. In section 106, it defines the court, and the court for wardships is, as a matter of policy, the territorial court. The existing practice, I know, is that temporary and permanent wardships are done in the territorial court.

It used to be the case that permanent wardships were frequently done in the JP court, but that is no longer the case; not as a matter of law, but as a matter of practice.

<sup>52</sup> A part of the problem, and the tension I spoke about earlier between the director and the judges, or the minister's department and the territorial court, is that the court has been asked to do work that requires an inherent jurisdiction. Permanent wardships are, as everybody knows, a change in status, and are extremely important in their result and are intensely emotional proceedings in the court. The proper safeguards to everybody must be afforded.

Part of the problem is that the case law has developed partially but not exclusively from courts with inherent jurisdiction. If the territorial courts, which do not as a matter of law have inherent jurisdiction, follow the body of the case law already established, it implies a jurisdiction that they do not have. That would be solved by either giving the territorial court inherent jurisdiction for permanent wardships, or putting permanent wardships into a court with inherent jurisdiction.

I would submit very strongly that it sounds like a very technical area and it sounds like it has little practical importance, but that is deceptive. It has great practical importance and is probably the source of a lot of attention that is not desired by either side; that is, by the courts or by the director.

**Hon. Mr. Phillipsen:** I would ask that you stand over section 128, subsection (1)(c).

*Clause 128 stood over*

*On Clause 129*

<sup>53</sup> *Clause 129 agreed to*

*On Clause 130*

**Mr. Kimmerly:** I think I agree with this. It is a slight change in the existing law and probably a desirable one. I would ask why the periods of one year and 15 months in (b) were chosen? Is there an identifiable reason, or is it simply a figure picked out as a matter of compromise or balancing?

**Hon. Mr. Phillipsen:** It was a figure picked out by the age of the child at the time; as to the amount of time the child had been alive. The period of 12 months for a two-year old person is half his life, and the longer the child has been alive, the longer the period of

time.

**Mr. Kimmerly:** I was expecting an answer to do with the bonding requirements of the child, especially young children. Is there any particular reason to say that the bonding requirements of younger children require a shorter time period?

**Hon. Mr. Philipson:** I will try to explain this section at greater length. These sections ensure that the cases are dealt with in a timely way, and that adjournments to suit the director or the parents do not prejudice the child.

Moderate evidence in the behavioural sciences makes it clear that, for young children, it is essential that they may be quickly returned to their original family, or, if they have to be removed from that family and placed with a new family, it be done as soon as possible so that the bonding may occur.

For older children who have already bonded to their parents, longer adjournments or temporary arrangements need not harm the child. For younger children, delay in establishing or re-establishing a consistent and predictable pattern of care is highly detrimental to their proper development and future relationship abilities.

*Clause 130 agreed to*

*On Clause 131*

*Clause 131 agreed to*

*On Clause 132*

**Mr. Kimmerly:** I have no real concern with paragraphs (a) to (j), under this general section and I would say that this section, or the principle of the section, is an improvement on the existing law. It is not found in the existing act and it is a better direction to judges. Even though the words are all very general, it is extremely helpful and is a direction, in practical terms, to the making of a judicial decision.

The comments I have are that, in my view, there are a couple of subsections missing. One of them was identified in general debate, and is the cultural background of the child or the cultural influences of the child.

The effect on the child of removal or the possibility of removal from existing cultural influences is clearly an issue that should be addressed here, in my view. I would ask if consideration was given to a subsection identifying a consideration of the cultural background of the child?

**Hon. Mr. Philipson:** I believe that (j), the emotional and physical needs — and I believe the emotional — would cover what the member opposite is asking for: cultural influences would be an emotional need.

**Mr. Kimmerly:** I disagree. It would be related, but the intent here is to identify various issues that a judge must consider. For example, (g), considering the risks of remaining with a concerned parent, is a legitimate test. There could be a section about the risks of being removed from the child's cultural heritage or the possibility of removal. That is more all-encompassing than emotional wellbeing of the child.

It would certainly comfort Indian people to see a recognition of cultural heritage here. I would recommend that it would be an improvement in the section. I can state that it has become, in recent years, the law under existing case law and would not be a change in the existing law. It would direct the courts' mind to the policy of the bill that is already stated in other sections. Sections 107 to 109 direct the minister and the director to consider culturally significant things, but the effect of those sections is not to direct the court to do the same thing. If the court were directed to do the same thing, it would be more consistent. It is consistent with existing law and would certainly be a comfort to the native community and would better accommodate some of the recommendations. It would in no way be discriminatory, as it would simply identify an existing cultural heritage, which all of us have, and direct a consideration of those very important matters.

**Hon. Mr. Philipson:** There are two issues that I would like to raise; (g) does not only say "risks"; it also says "merits". I think that should be stated. I do not think that any judge would have any problem reading (d), which says: "the effect upon the child of any disruption of the child's sense of continuity." It would seem to me that that would address that issue.

I see the member opposite is shaking his head. That would

indicate that what I have said is not going to satisfy him and rather than discuss this at any greater length, I would ask that it be stood over and we will carry on, and I will come back to it.

*Clause 132 stood over*

<sup>56</sup> *On Clause 133*

*Clause 133 agreed to*

*On Clause 134*

**Mr. Kimmerly:** Of course, this is an issue that was discussed in general debate, specifically about the rights of a fetus, or the protection the bill offers to a fetus or an unborn person.

I have considered the general debate at some length, and if one reads the dictionary, the definition of a person, in my view, includes a fetus. In the *Oxford Dictionary*, it is very, very clear that one of the definitions given definitely includes a person who is not yet born, but is capable of life.

We did not address the issue in section 106, in the definition of a fetus, and of a child, and in the general debate we really left unanswered, in any clear way, the way this legislature is going to recognize its jurisdiction to protect a fetus.

There is an effort to say that protection of a fetus, aside from this section, is a federal jurisdiction and is covered under the abortion section of the *Criminal Code*. In my view, it is appropriate to clearly say, and to clearly recognize that what the bill is doing here is recognizing a protection of the interests of a fetus, or a potentially born child. We are not saying that in order to be difficult or to be critical. It is necessary, I believe, and it is important and emotionally important to a substantial number of people, to deal with these issues completely.

<sup>57</sup> The policy of the bill, in my opinion, is incompletely stated and it leaves loose ends. In one sense, there is a recognition of the need to protect the fetus and then the issue is simply left dangling. The definition of a fetus, or the definition of a child, is left to the courts. In my view, that is an abrogation of our responsibility here.

What we should do with sections like this is recognize that we are clearly talking about a fetus as a person and to define what we mean by a fetus and to clearly specify what protections we are going to give. I am sorry that the bill is incomplete in that way.

I will raise another issue. I have been lobbied as a legislator — as I know the minister has, as I received a copy of a letter addressed to him, or it may have been the previous minister considering Bill 8 — by a women's group who objected to this section on the grounds that it discriminated against women and interfered with a woman's right of control over her own body, even if she is pregnant.

Now, there is clearly a very difficult policy decision to make. It is difficult to politicians because it is impossible to please everybody and politicians like to position themselves on issues that attract support to them and to not emphasize the issues that have a practical effect on them of acquiring enemies. That goes for politicians on our side, as well as the other side; on any side.

<sup>58</sup> It is my view that the feminist interest, often called the pro-choice interest, has considerable merit. It is also my view that the pro-life interest, or the interest in considering the rights of the fetus, has considerable merit. The two of them must meet and difficult policy decisions must be made.

It is a service to everyone to define the policy as clearly as is possible. It would be better if a child was defined as being a person from the time it is born alive until the age of majority, and a fetus is defined as a person from the time of conception to the time of either death or birth.

It is clearly the policy here, in this section, that the rights of a fetus are paramount over the rights of a pregnant woman to control her own body. On this section, I personally agree with that. I think it is a good concept and I support this. It is a very emotional issue with many people, obviously. I would ask that, perhaps on Monday, as time is short, if the government would not consider a clearer statement as opposed to entering into the issue and leaving the public dangling concerning the policy in *The Children's Act* as to protection of the fetus within the jurisdiction of the legislature. That is, not considering criminal matters involving abortion, but all of the other incidents of the rights of a fetus in the sense of civil rights or the protection of children or fetuses.

<sup>59</sup> **Hon. Mr. Philipson:** I have a couple of quick words before I

would ask that we report progress.

In this legislation, we are not dealing with abortion. Fetus is defined in the dictionary. Any person who seeks or has an abortion outside the ground of a therapeutic abortion is completely in contradiction of the *Criminal Code of Canada*. We have stated that we will abide by the *Criminal Code of Canada*. A pregnant woman who goes for a therapeutic abortion does not make the decision on whether or not she will have the abortion; it will be made by a committee.

This legislation deals with an unborn child, whom we expect to be born, and an educational manner to ensure that the child is born with the same right to a normal life as any other child.

I move that you now report progress on Bill No. 19, *The Children's Act*.

*Motion agreed to*

**Hon. Mr. Lang:** I move that Mr. Speaker do now resume the Chair.

*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 Committee?

**Mr. Falle:** Committee of the Whole has considered Bill No. 19, *The Children's Act*, and directed me to report progress on same.

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

**Some hon. members:** Agreed.

**Mr. Speaker:** May I have your further pleasure?

**Hon. Mr. Lang:** I move that we do now adjourn.

**Mr. Speaker:** It has been moved by the hon. Minister of Municipal and Community Affairs that the House do now adjourn.

*Motion agreed to*

**Mr. Speaker:** This House now stands adjourned until 1:30 p.m. Monday next.

*The House adjourned at 5:30 p.m.*

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes the need for transparency and accountability in financial reporting.

2. The second part of the document outlines the various methods and techniques used to collect and analyze data. It includes a detailed description of the experimental procedures and the statistical tools employed.

3. The third part of the document presents the results of the study, showing the trends and patterns observed in the data. It includes several tables and graphs to illustrate the findings.

4. The fourth part of the document discusses the implications of the results and provides recommendations for future research. It highlights the areas that need further exploration and the potential applications of the findings.

5. The final part of the document is a conclusion that summarizes the key points of the study and reiterates the importance of the research.