



The Yukon Legislative Assembly

Number 27

3rd Session

25th Legislature

HANSARD

Monday, October 24, 1983 — 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, Heritage and Cultural Resources
Hon. Clarke Ashley	Klondike	Minister responsible for Justice; Yukon Liquor Corporation; Yukon Housing Corporation; and, Workers' Compensation Board
Hon. Andy Phillipsen	Whitehorse Porter Creek West	Minister responsible for Health and Human Resources; and, Government Services

GOVERNMENT MEMBERS

(Progressive Conservative)

Al Falle	Hootalinqua
Bill Brewster	Kluane
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 Serfeant-at-Arms
Hansard Administrator

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

Whitehorse, Yukon
Monday, October 24, 1983 — 1:30 p.m.

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

Prayers

INTRODUCTION OF PAGES

Mr. Speaker: Before proceeding to the Order Paper this afternoon, it gives me a great deal of pleasure to introduce two pages, from the St. Elias Community School, who will be serving the assembly at this Session. They are Rosemarie Kushniruk and Marlene Smith. I would invite them to attend the House at this time.

Applause

DAILY ROUTINE

Mr. Speaker: Are there any returns or documents for tabling?
 Reports of committees?
 Are there any petitions?
 Introduction of bills?
 Notices of motion for the production of papers?
 Notices of motion?

NOTICES OF MOTION

Hon. Mr. Philipsen: I move that this House supports the initiatives of the Iditarod Citizens Committee in its efforts to assist Yukoner, Larry "Cowboy" Smith, in his bid to be the first Canadian to win the Iditarod Dogsled Race.

Mr. Speaker: Are there any other notices of motion?
 Are there any ministerial statements?
 This then brings us to the Question Period.

QUESTION PERIOD

Question re: Government advertising

Mr. Penikett: I have a question to the government leader. Last year, in his appearance before the Public Accounts Committee, the then Director of the Public Affairs Bureau who is now, of course, the Cabinet press secretary, indicated to the committee that he was preparing guidelines for the uses of government advertising. This is in connection with the public discussion then about political propaganda and the limits and margins of that. Will the Cabinet press secretary, in his new capacity, be continuing to develop these guidelines and, if so, when can we expect to see them?

Hon. Mr. Pearson: I am not certain exactly where those guidelines are. I will follow up and get an answer for the leader of the opposition to that question.

Mr. Penikett: I notice that government photographers are now routinely providing glossy photographs of Conservative MLAs to the local newspapers. What justification does the government leader have, especially in time of restraint, for this expenditure of public funds to promote, in essence, politicians on his side of the House?

Hon. Mr. Pearson: No. That is not true. It is not routinely done. In fact, the newspapers request that they get the opportunity to take pictures, at least of members from this side. I do not know whether they request the opportunity to take pictures of members of the other side, or not. The newspapers actually make those requests to us.

Mr. Penikett: The government leader seems to be indicating that the photographs appearing in local newspapers of the ministers from Porter Creek, for example, labelled "Yukon Government Photographs", pictures of ministers, in their constituencies and at work are, in fact, not government photographs, but newspaper photographs?

Hon. Mr. Pearson: No, I might have misunderstood. I thought that the leader of the opposition was suggesting that government

photographers routinely pass out pictures of MLAs and Cabinet ministers and that does not happen.

It is a function of government, because we are open government and we want to get information to people. We have an Information Branch that has photographers in it. If they happen to go along with the minister on what is considered to be, by the media, a newsworthy project and they happen to take a picture of a minister performing his functions — by all means, we are most happy to make that kind of information available to the media and, therefore, to the public of the territory.

Question re: Yukon Hydro

Mr. Byblow: My question is to the government leader, also, on an old topic.

During the last election, which is now about a year and a half ago, the government announced plans to purchase a portion of Yukon Hydro. Can the government leader advise whether this tentative exercise in socialism, that is, acquisition for public ownership, has been completed at all?

Hon. Mr. Lang: To refresh the member's memory, short as it may be, the principle was the question of a joint venture for the purpose of generation of power. We are presently still negotiating the agreement. I am hopeful that we can come to some conclusion prior to Christmas.

Mr. Byblow: Is it the intention of the minister to announce any details of the acquisition and representation on the respective board of directors prior to total acquisition?

Hon. Mr. Lang: No, it would be my intention, once we have concluded the negotiations, to announce to those who wish the information the various details of the agreement.

Mr. Byblow: Last spring, I asked the minister a written question on the details of the acquisition respecting the board representations, and various other matters relating to this peculiar arrangement. Does the minister intend to respond to that written question on the Order Paper?

Hon. Mr. Lang: Yes I do, similar to the vein that I answered his second supplementary question.

Question re: Child welfare services

Mr. Kimmerly: Concerning the general issue of contracting out child welfare services by Indian bands, I would ask the responsible minister if this proposition is acceptable in principle and would proposals made by Indian bands be seriously investigated by the government?

Hon. Mr. Philipsen: Yes.

Mr. Kimmerly: Is it the policy of the government to promote the initiation of these proposals from Indian bands or simply to be receptive to them?

Hon. Mr. Philipsen: We are receptive to any suggestion that comes from the Council for Yukon Indians, and I believe we are very open in the matter that the member for Whitehorse South Centre is raising at this moment.

Mr. Kimmerly: Is it the policy of the government that these proposals are acceptable in principle for delivery of child welfare services on a community wide basis or only for Indian persons?

Hon. Mr. Philipsen: I think the only way I can answer this question for the member opposite would be to tell him that, with regard to anyone who is qualified to do the type of job that he is suggesting that he would like to contract out, we would be very happy to hear from them, be they native or non-native, be they community group or Indian band. We wish to keep this type of endeavour within our Yukon boundaries and within our communities if at all possible.

Question re: First native students conference

Mrs. Joe: I have a question for the Minister of Education. As the minister is aware, the Yukon's first native students conference is being held in early November. I believe the minister herself is speaking at it. Has the minister been made aware of its lack of funding to cover the costs of the conference?

Hon. Mrs. Firth: I have been made aware of the conference and I have already given to those people — I believe the young man's name is Ron Lukes, who is coordinating the conference —

\$1,000 from the Government of Yukon. As to other lacks of funding, maybe the member for Whitehorse North Centre could be more specific.

Mrs. Joe: Since this government has had a very recent appeal for additional funding, does it intend to make a further financial assistance available?

Hon. Mrs. Firth: I was speaking, this morning, to Mr. Lukes, at which time he told me that he appreciated the funding that we had given and that he was going to be approaching the Secretary of State for more funding. However, I did not give him a commitment for any more funding.

Question re: Elsa pool

Mr. McDonald: I have a question for the Minister of Municipal and Community Affairs.

Last week, the minister demonstrated the government's incredible largess by offering technical expertise in the reconstruction of the Elsa pool. Shortly thereafter, the experts travelled to Elsa to confirm that yes, indeed, there was a problem with the Elsa pool but indicated that the government was not prepared to offer further assistance or advice on the actual reconstruction. Can the minister state which version of government policy is correct?

Hon. Mr. Lang: What he indicated in his preamble is not totally correct. We did have an individual who is knowledgeable in the area, as far as swimming pools are concerned, travel with departmental officials up to Elsa to have a look at the situation, to do a review of the present situation and see whether renovating the present site was at all possible and, thereby, saving expenditures for everybody concerned. They came to the conclusion that it was not. Therefore, they had various other discussions with the interested parties in the community of Elsa. Since that time, I have talked to the recreation director and I have indicated to her that we are prepared to provide the plans that we are putting together for the construction of the Pelly Crossing swimming pool, which are worth about \$15,000. This would allow them to proceed, with their engineering costs being taken up by the Government of the Yukon Territory. She seemed to be quite satisfied with that.

The other point that should be made, in view of the application that was initially put forward, is that the dollars that they had for that particular facility was far less than what it would have taken to construct the facility that they had in mind. I think that that was one aspect that was discussed by the expert who went up to take a look at what they were proposing, in principle. Therefore, I think we are going to be able to provide an alternative, from an engineering point of view, which will allow them to get their particular construction off the ground.

Mr. McDonald: Will the minister admit that, by sending people to Elsa to confirm what the people in Elsa already knew and had communicated to the minister, it was a waste of money and, because the design which the minister mentioned is already produced, the offer of pool drawings as a result is insufficient assistance for this community?

Hon. Mr. Lang: I am amazed at the member opposite's lack of ability to listen to what is being said to him. I indicated to him there was a reason for the individual to go up to look at the present site; to see whether or not it could be accommodated or further renovations impossible. That was out of the question. Also they have come to the conclusion that they cannot build it on the present site because of the concrete that apparently is there, and it would take a great deal of financial commitment to put the site back into a situation where it could become a pool.

Further to that, the idea was for the so-called expert, if I could refer to him as such, to look over the preliminary proposal that had been put forward and talk to the people there about their plans for the future. I think it was beneficial from the point of view that what they had proposed was not going to be able to be done within the amount of dollars they were talking about. I think that, also, he should listen: we are drawing up preliminary plans within the department. Once they are ready, we will provide the community of Elsa with those preliminary plans so that they can get on with their plans of what they would like to do.

Mr. McDonald: I believe the minister has also shown a marked

inability to listen to the question. As Elsa is a hillside town, and as the community does not have the engineering expertise in site preparation, will the minister reconsider and supply the necessary technical expertise for site preparation and for advice on construction?

Hon. Mr. Lang: My understanding was that that was one of the commitments that the community organization was going to undertake in conjunction with the mine. It would seem kind of ridiculous for me to send up to a community such as Elsa the necessary drilling expertise when you actually have it on site in the community itself. I would submit to you, I think we are making a substantial contribution — in the neighbourhood of \$15,000, or equivalent — with respect to the engineering design of the proposed structure. Therefore, I think we are going our country mile and I just wish the member opposite would stand up and acknowledge that, as opposed to continually criticizing the government. I am sure that if I gave the member opposite a brand new Lincoln, he would still complain if I had not filled it up with gas.

Question re: Shooting ban on Dempster

Mr. Penikett: I think he meant a country kilometre.

To the Minister of Renewable Resources. Can the minister say if the eight kilometre shooting ban is still in effect on the Dempster Highway Corridor?

Hon. Mr. Tracey: Yes.

Mr. Penikett: Given that some confusion is apparently being caused hunters right now on this score, can the minister explain why no mention of this 1979 regulation is printed in the 1983-84 hunting regulations synopsis published by his department?

Hon. Mr. Tracey: No, I cannot. Perhaps it was an oversight.

Mr. Penikett: I thank the minister for his remarkably frank answer. Given that the regulation is not published in the hunting synopsis and, given that hunters do not routinely search the area development ordinance regulations for shooting bans, can the minister say if there are signs posted at both ends of the Dempster Highway advising hunters of the regulation and, if there are not now, will there be?

Hon. Mr. Tracey: I am not sure whether there are or not. I will certainly have it investigated and perhaps have them put up.

Question re: Information centres

Mr. Byblow: I have a question I will direct to the minister responsible for tourism. It is on the subject of information centres.

During this past summer, a number of centres lacked information handouts, brochures and literature on tourist facilities elsewhere and throughout the Yukon. I believe this was brought to the minister's attention. Has she acted on this deficiency in preparation for next year's season; that is, to have available packages of information on locations throughout the Yukon at each information centre?

Hon. Mrs. Firth: They are called visitor reception centres. The member for Faro is inaccurate in his summation that it was an inadequacy. We are looking at compiling all our information about Yukon into some pamphlets that can be in all of the visitor reception centres. We are doing that in conjunction with the Yukon Visitors Association. I can reassure the member for Faro that everything is under control in that area.

Mr. Byblow: I am certainly pleased to hear that and so will a number of tourists next year.

A previous lobby from this side, as well as from various operators throughout the Yukon, dealt with making Yukon maps available free of charge to the general public. I understand that the minister has advised some circles that this, in fact, is going to be taking place sometime in the near future. Could the minister confirm that, please?

Hon. Mrs. Firth: I find the member for Faro just as comical as he was last session. I believe, in the last session, the Minister of Tourism was asked maybe one or two questions relating to tourism and about tourism. For him to stand up now and say that the opposition, in fact, lobbied me for maps is really quite outrageous.

This government made a commitment that we would provide maps and, in times of economic restraint, tourists were being charged for the maps. Upon the advice of the Yukon Visitors

Association, indicating to the minister that it would be nice if we could have free maps available again. I went to my Cabinet colleagues and they agreed whole-heartedly. It was this government that made the decision.

Mr. Byblow: I think the minister said that maps are going to be free next year, but I am not sure. I will have to check *Hansard*.

Could the minister advise, then, whether or not she has made a decision, as well, on the possibility of putting a tourism hospitality course into Yukon College for, possibly, this winter season?

Hon. Mrs. Firth: We are looking at some courses for Yukon College with regard to tourism. We are not going to be calling it a tourism hospitality course, specifically, but we are looking at certain options.

Question re: "Cross-cultural Strategies"

Mr. Kimmerly: My question is to the Minister of Education.

I corresponded with the minister about the CYI publication, "Cross-cultural Strategies" and the instructions about that to new teachers in Yukon. Is there now a new policy instructing new teachers to read the work?

Hon. Mrs. Firth: It has always been the policy of this government that new teachers would read "Cross-cultural Strategies". In years past, when there were a lot of new teachers coming to Yukon, we had an orientation program that was provided for those teachers. However, in the last two or three years — even possibly longer, we have not been hiring a lot of teachers outside of Yukon and the ones who we have been hiring within are familiar with Yukon.

As far as the "Cross-cultural Strategies" handbook is concerned, the principals do encourage all teachers in the school to read the book and be familiar with it.

Mr. Kimmerly: As, this year, there is a new improved edition of the book, has that fact been communicated to existing teachers?

Hon. Mrs. Firth: As far as I am aware, it has. I am trying to remember if I have seen the new revised edition and I cannot seem to recall immediately. If a new edition has been made available, I am sure that would have been communicated.

Mr. Kimmerly: In a more general vein, are there any proposed initiatives concerning Yukon College to train Yukoners for teaching jobs?

Hon. Mrs. Firth: No.

Question re: "Recreation in the Future"

Mrs. Joe: I have a question for the minister responsible for recreation.

The minister stated, during the last Session, that she would be looking at the green paper on recreation, in the future. Could she tell us if it is the intention of this government to table this paper during this Session?

Hon. Mrs. Firth: There is a strong possibility, yes.

Mrs. Joe: Thanks for the very good answer.

Could the minister tell us if any final decision has been made on the restructuring of YRAC, based on recommendations by the green paper committee?

Hon. Mrs. Firth: The decision regarding that will be made by this House.

Question re: Agricultural lands

Mr. McDonald: Two incredible non-answers.

I have a question for the Minister of Agriculture. It is common practice for agricultural lands in the country to be identified and protected for the healthy maintenance of an agricultural community. Can the minister say what progress has been made to identify agricultural lands and what planning has taken place within agricultural regions to ensure that farmers may receive economically viable plots?

Hon. Mr. Lang: There has been a great deal of consultation with the government of Canada about the knowledge that they have through past reports over the past two decades. I am confident that once we get into the area of land use planning, that this is one area that will be looked at for the purpose of setting lands such as that aside. But, at the same time, the land that is being disposed of by

the territorial government is being examined by a soil pedologist as well as the agronomist which we now have on staff on a contractual position. Therefore, it would seem to me that we are doing everything we possibly can to ensure that the land that is being applied for does have agricultural potential.

Mr. McDonald: I wonder if I can ask a question that will not elicit the entire government's policy on agriculture. In the land use planning process, what priority will be given to the identification and protection of agricultural lands?

Hon. Mr. Lang: That has yet to be established with respect to land use planning throughout the territory. As you know, we brought forward a bill to the House, which I understand the members opposite opposed, at least to some degree. Agricultural land, or the potential of agricultural land, will be one area that will be given consideration as areas are examined.

Mr. McDonald: The minister is correct. We did oppose, to a certain extent, the empty piece of fluff that he introduced into the House last November. Can the minister state specifically what progress has been made in developing policy protecting agricultural land already dispersed by the government?

Hon. Mr. Lang: First of all, it should be pointed out — and I know the member has trouble remembering what happened yesterday, let alone last session — that I was not the sponsoring minister of the bill that he speaks of; it was my colleague the Minister of Renewable Resources. I should point out that, as far as land that is being disposed of is concerned, up to a maximum of 160 acres are provided for any individual who applies as long as the land is going to be utilized for the purpose of agriculture. Along with that, certain pieces are set aside in close conjunction to the land that is being made available so that there is a possibility of expansion.

Also, I did have the opportunity to go to Alaska and many of the Alaskans in this particular area indicated to us that they felt that the policy we had adopted was a very good one to ensure that the land that was being set aside or allocated for the purpose of agriculture was going to be utilized, and also for providing for expansion when it was necessary. I am sure the member heard the same comment from the members for Alaska and I am sure that he will have no problem commending this side of the House when his due time comes.

Question re: Land claims

Mr. Penikett: That last one may be the longest sentence ever spoken in this House!

I have a question for the government leader on the subject of land claims. A federal native claims policy called, apparently, "in fairness", says a person can enroll in only one claim in Canada and that Yukon residents claiming rights outside Yukon are to be dealt with on the same basis as non-residents. Could I ask the government leader if, in fact, his government supports that federal policy?

Hon. Mr. Pearson: With respect to supporting federal policies, what has transpired is that we have dealt with native claims with respect to the Yukon land claim and the policy that we have been supporting is quite explicit. Yukoners are entitled to claim land in Yukon under a land claims settlement. If there are aboriginal peoples from outside of Yukon who wish to make any aboriginal claims in the territory, then those claims have to be made upon what is going to be termed "Indian land" in our settlement.

Mr. Penikett: I thank the government leader for his answer.

I understand that, on the same question, the Council for Yukon Indians wants the federal overlap policy changed to allow for more flexibility for those people eligible for more than one claim. Could I ask what the Government of Yukon's position is in this respect?

Hon. Mr. Pearson: We have always been quite adamant that people are entitled to be eligible to one claim. We are opposed to the concept used in the COPE claim, whereby members of the COPE claim had actually been eligible for an aboriginal land claims settlement in Alaska and then, all of a sudden, were eligible for an aboriginal land claims settlement in Yukon and the Northwest Territories. It just does not seem to follow very much reason, to this side of the house.

Mr. Penikett: The government leader has anticipated my next

question well. In view of the negotiations on the North Slope involving Gulf, COPE and other parties, is it still the position of the Government of Yukon that non-resident natives have no right to claim access to land in Yukon and that YTG does not support giving special rights, such as hunting, beyond what is granted in the Yukon claim?

Hon. Mr. Pearson: Yes, our policy has always been — and as far as I know, will remain — that we are prepared to grant concessions to our northern neighbours who live in the Northwest Territories who have claimed some sort of a right in respect to hunting, use of land, and so on. The actual ownership of land we have always said, and are continuing to say, is going to go to Yukoners and no one else.

Question re: Cyprus Anvil housing purchase

Mr. Byblow: My question is also for the government leader.

About a year ago this government announced its intention to purchase \$1,200,000 worth of housing from Cyprus Anvil as a substitute for the apartment block and other public and staff housing that had been shelved earlier. Does this offer of housing purchase from the mine by this government still stand?

Hon. Mr. Pearson: Yes, it still stands. If the mine goes back into full operation and we are required to provide housing for staff there, the offer still stands. I must say, though, while I am on my feet, that I have had indications from the company that they have re-thought their position with respect to this housing, and it would seem likely that when they do go back into operation they will have use for all of the housing that they presently have in the community.

Mr. Byblow: Perhaps I could direct this to the minister responsible for housing.

In that the mine management has indicated its position — that it does not have any houses for sale — what alternatives does this government have for providing adequate housing to that community when the mine does re-open fully?

Hon. Mr. Pearson: We will be assessing that situation at the appropriate time.

Mr. Byblow: In that the government has sold a number of housing units belonging to the government in Faro over this past year, and therefore the demand will be much greater and quite severe when the need does arise, what assurance can the minister responsible for housing give me that this government will be able to respond quickly enough to the demand, should it come, possibly sooner than a year from now?

Speaker's ruling

Mr. Speaker: The question would appear to be quite hypothetical; however, I will permit a reply.

Hon. Mr. Pearson: It certainly is hypothetical but I would like to answer it because I would like to say that if the mine gives us sufficient notice so that we can react, then we shall. I think it would be irresponsible for us to do anything at the present, and prior to having some definitive word from the mining company.

Now it does not go without saying that I agree with the member's scenario: that because we have sold some housing, we are going to need more. That does not follow at all. In fact, that housing is there and it is available to government employees now.

Question re: Child welfare

Mr. Kimmerly: I have a question about child welfare services, again.

Are there statistics kept in any way of the incidents of an alcohol abuse problem in child welfare caseloads?

Hon. Mr. Philipson: I am not aware of specific numbers, but I am sure that they must keep some of those statistics.

Mr. Kimmerly: Is the minister aware, or is he able to say, if statistics on alcohol abuse problems are kept in relation to the social assistance caseload?

Hon. Mr. Philipson: I believe the answer to that would be that the social assistance loads would be defined as to which are alcohol and which are other types of assistance needed.

Mr. Kimmerly: Is the minister aware of any documentation or any research conducted in the department with a view to isolating local conditions in the rural Yukon, concerning the local nature of alcohol abuse problems?

Hon. Mr. Philipson: I am not sure of the answer to that, but if the member opposite would be more specific I would be more than happy to bring him an answer back.

Question re: Kwanlin Dun Band

Mrs. Joe: I have a question for the government leader.

Could the government leader tell us if, as a result of land claims negotiations or other negotiations between government and the City of Whitehorse and the Kwanlin Dun Band, some local government agreement has been reached with respect to the form of administration that will govern the relocated Kwanlin Dun Band?

Hon. Mr. Pearson: I am sorry, I cannot say right now. I do know that there are discussions going on, particularly between the local band and the City of Whitehorse, with respect to relocation.

Mrs. Joe: Could the government leader tell us what the position is of this government with respect to what form of local government they will permit or favour in a relocated Kwanlin Dun Band?

Hon. Mr. Pearson: Oh, once again, we have been very specific. We anticipate that it is going to be a one-government system in this territory and the general laws of application are going to apply to everyone, equally.

Mrs. Joe: Could the government leader tell us whether, in fact, agreement on this question has any bearing in the Whitehorse North and South block land transfers?

Hon. Mr. Pearson: Not to my knowledge.

Question re: Containment of livestock

Mr. McDonald: I have a question for the Minister of Agriculture, warning him that mentioning existence of a soil padologist will not answer this question.

As the minister knows, the issue regarding the containment of livestock in Yukon is a continuing irritant to highway travellers. One very short-term solution to this problem is the provision of light-reflecting collars for free ranging livestock. Can the minister say what progress he has made in the distribution of these collars?

Hon. Mr. Tracey: I have the privilege of looking after the collars for livestock. I have been presented with one collar that they were requesting that the government supply. I talked with some of the people from the agricultural association and I suggested to them that they should go back and come back with a couple of different designs for collars, and that I would be quite receptive to helping them develop a program where they could use it. In fact, we may even help them somewhat in supplying the collars. But it is not the government's responsibility, nor should it be the government's responsibility, to supply horse owners or cattle owners with reflective collars.

Mr. McDonald: For the purposes of experimenting with policy, can the minister state that if any collars have been distributed, where they have been distributed, and what the results of the distribution were?

Speaker's ruling

Mr. Speaker: That type of question would probably require a lengthy reply. I would ask the minister to be brief.

Hon. Mr. Tracey: No, there were no collars distributed. As I said, I was willing to help the agricultural association with perhaps developing a couple of dozen collars for them to try out and see which were the best, but it is not the government's position that we should be either manufacturing or distributing them. It is the responsibility of the livestock owners to supply them.

Mr. McDonald: Getting off the extremely important issue of horse collars, can the minister tell the House what specific progress the government has made developing a long-range policy on livestock containment?

Hon. Mr. Tracey: The member across the floor knows full well that we do not have the land in this territory to make available to livestock owners and until we do — until we have land turned

over to us that we can make available to them — there is very little we can do about livestock containment. We cannot ask a person to contain his livestock if we cannot supply land for him to do so.

Mr. Speaker: There being no further questions, we will proceed to the Order Paper under Government Bills.

GOVERNMENT BILLS

Bill No. 14: Second Reading

Mr. Clerk: Bill No. 14 standing in the name of the hon. Mr. Pearson.

Hon. Mr. Pearson: I move that Bill Number 14, entitled *Financial Administration Act*, be now read a second time.

Mr. Speaker: It has been moved by the hon. government leader that Bill Number 14 be now read a second time.

Hon. Mr. Pearson: The essential purposes of this bill are to provide a more modern system of financial management and organization for the Government of Yukon. The existing legislation is very old, difficult to understand and, in many instances, is inappropriate for day-to-day operations. The current act is also no longer in keeping with the present stage of our constitutional evolution.

As you will notice in going through the bill in detail, responsibility for financial matters lies entirely in the hands of either the commissioner or the treasurer. In a number of cases, the treasurer has statutory responsibilities which are greater than those of ministers. Obviously, this is no longer appropriate. Over the past few years we have devoted a great deal of time and attention to the accomplishment of responsible government whereby elected ministers, rather than appointing officials, are responsible for government policy. The time has come for the legislation governing financial administration to reflect the realities of the modern world.

The most significant step in this direction is the introduction of the concept of a management board. This board will consist of three Cabinet ministers who, in the normal course of events, will be the same members of the legislature who make up the advisory committee on finance required by the *Yukon Act*.

The management board idea is not new. Although referred to in some provinces as a treasury board, its organization and powers are essentially the same in every jurisdiction in Canada, including the federal government and the Northwest Territories. The management board will be a committee of Cabinet established by law, as it is in the provinces. And, as such, will have a wide range of authority over management procedures and systems as well as financial matters and the direction of the public service.

¹³ With respect to this latter point, the new *Financial Administration Act* will have the effect of modifying the *Public Service Commission Act*, under which the Commissioner is charged with the responsibility for the management and direction of the Public Service. It is important to note, however, that the exclusive authority of the Public Service Commissioner to recruit and make appointments to the Public Service are not affected.

As will be evident from my earlier remarks, the new act makes provision for the role of the Minister of Finance and modifies the powers of the Treasurer accordingly. In future, the powers of the Treasurer will be limited to those that are essential for operational purposes and will be subject to the direction and supervision of the Minister of Finance and the Management Board.

Before dealing with the internal auditor under the new legislation, I should explain a fundamental difference that exists between our legislation and the legislation of a province. As hon. members are aware, the constitutional instrument under which Yukon is established is the *Yukon Act*. Under that Act, there are a number of financial provisions which Yukon legislation cannot alter although, in a number of cases, they have been repeated or elaborated upon in the new Act for the information and convenience of those responsible for financial administration.

Let me give you some examples. If we were a province, there would be a provision in our legislation, rather than in a federal act, for the Yukon Consolidated Revenue Fund. Authority to establish bank accounts would be an act of the Yukon Legislature. Instead, it

is limited to the Commissioner under the *Yukon Act*.

Similarly, because the external audit function is required by the *Yukon Act* to be performed by the Auditor General of Canada, that aspect of our financial administration is not dealt with in Yukon legislation. The federal act is silent, however, on the function of internal audit and it appears advantageous for us to provide for the appointment of the internal auditor and his powers in the new *Financial Administration Act*.

Many of the basic operational requirements of the act remain the same as in the existing piece of legislation, with a wide variety of detailed changes to correct anomalies, eliminate archaic wording and, generally, to clarify the manner in which government finances are to be handled. Special attention has been given to trust monies which, under the present act, are dealt with in a very limited way. It is essential, in our view, that the responsibility and management of monies which do not belong to the government should be subject to clear, precise rules that leave no room for doubt.

The provision for special warrants in the legislation is standard across the country but, under our existing act, the authority to make emergency expenditures is very general and, in fact, is employed to process what we call "appropriation adjustment" whenever it appears necessary to make any expenditures where we do not have sufficient money in an appropriation act.

The sections on special warrants in the new act define more precisely the procedures to be followed and the timing of special warrants in relation to sittings of the legislature. This should considerably clarify the relationship between government and the legislature in cases where there is insufficient spending authority to meet emergency situations.

On other matters relating to expenditure, the various requirements in connection with contracts, certification, requisitions for payment and hold-backs are essentially the same as in the old act, with new, clearer wording for the benefit of those responsible for administering the act.

Similarly, the provisions which deal with authority to invest, loan and borrow have been approved, wherever possible, and the scope of government investment opportunities has been broadened and clarified. The sections dealing with public property have been developed more fully in order to eliminate the ambiguity which presently surrounds current procedures dealing with acquisition, custody and control.

The bill also spells out more clearly the government's position in relation to recovery action from employees, where there has been loss or damage to public property as a result of negligence. As you know, recovery is permitted, at the present time, where there is loss or damage to government property as a result of negligence on the part of an employee, but this does not cover cases where there is damage to private property or where a member of the public is injured or killed.

Hon. members may wish to take a careful look at the sections in the new act which deal with revolving funds. Existing legislation is seriously deficient, partly because several funds have been established and operated in the past on the basis of appropriation acts which expire at the end of each year and partly because the authorities to establish such funds have been provided for in regulation, rather than in an act approved by the legislature.

The purpose of the sections in the new *Financial Administration Act* are to provide a clear, continuing statutory basis for the establishment and operation of revolving funds, with authorized expenditure levels which will be sufficient to meet operating requirements.

The \$3,000,000 level of authority for the Road Equipment Replacement Fund remains unchanged, but the Central Stores Fund is increased from \$600,000 to \$750,000 in order to accommodate the stores inventory of the Department of Renewable Resources. At the moment, this is not part of Central Stores operated by the Department of Government Services. The garage parts and fuel inventory fund has been increased from \$650,000 to \$800,000 to make it possible for the Department of Highways and Transportation to hold larger inventories of parts.

¹⁴ This is necessary because local suppliers have been unable to maintain traditional inventory levels as a result of the recession and

the high cost involved. In order to avoid major delays in obtaining parts, it is necessary for Highways and Transportation to buy and hold these parts themselves.

I would also like to point out that it is our intention, with one exception, to have the legislative authority for all revolving funds contained in the *Financial Administration Act*. The exception is the Government Employee Housing Plan, which makes provision for a revolving fund. It is our view that the authority for this fund should remain part of that act, rather than be incorporated in the *Financial Administration Act*, so that the operation of the fund and the terms and conditions of the plan will remain in the same piece of legislation.

I should mention in passing that a separate piece of legislation will be introduced to deal with the level of expenditure authority in that fund, which is no longer sufficient to meet requirements. The Land Acquisition Fund is being repealed because it has never been capitalized and serves no useful purpose that cannot be performed equally as well in an appropriation act.

In the present legislation there is no provision for guarantees or indemnities. While this is not a matter which arises very often, it is, nevertheless, a serious defect. It is our view that any guarantee or indemnity which would obligate the government to make payment under certain circumstances should require the authorization of the legislature. You will notice that this requirement has been explicitly stated in the new act.

In addition to the new *Financial Administration Act* itself, there are a number of consequential amendments, most of which deal with the effect of the new act on the legislation establishing the Liquor Corporation, the Yukon Housing Corporation and the Workers' Compensation Board. It is the government's intention that these three corporations should continue to handle their own affairs at arm's length from the main operations of government wherever possible. It is also our intention that their employees should be governed by the same rules that apply to other government employees with respect to the handling and disposition of monies passing through their hands. This safeguard is not only necessary, in our view, for the protection of the employees concerned, but also for the members of the general public whom they serve.

These amendments will also make it possible for specialists in the Department of Finance to make investments on behalf of the Workers' Compensation Board, the Housing Corporation and the Public Administrator. The consequential amendments will also strengthen and clarify the legislation dealing with the handling of trust monies by the Public Administrator and the courts and make uniform the authority of the Auditor General in relation to all three of the corporations.

I am pleased to introduce this important bill. I and my colleagues look upon it as a major step in the direction of bringing our legislation into line with contemporary constitutional reality. I would commend it to the attention of all hon. members. I stand ready to answer questions as they arise.

Mr. Penikett: I appreciate the opportunity to join the government leader in this debate on Bill 14. It is, as he has said, a very important bill. It replaces old law, which is much amended and, as he indicated, quite frayed at the edges. It is, within the limits defined by the *Yukon Act*, a modern provincial financial administration act. It creates a management board which, by adopting the members from the Financial Advisory Committee, assumes many of the powers held in law by the Commissioner and the Treasurer. It provides the basis for some increased centralizing of commitment control and, at the same time, the capacity for the decentralization of purchasing and disbursement is possible under this bill. In that sense it is a modern financial administration act.

The management board has a mandate in this law to evaluate the economy, efficiency and effectiveness of government programs. That is a very important inclusion in the bill because it flows logically from this, that if the management board has this mandate, so too has the Internal Auditor and then logically, the Auditor-General, in evaluating the activities of the government. This is, in the jargon of accountants, known as a comprehensive audit mandate.

¹⁵ The section of the bill dealing with the reports of the public

accounts, is a very clear, legal framework. I think it expands a little bit on the terms used in the *Yukon Act* and, even though it does not specifically provide for compatibility between the accounts and the estimates, I understand that the treasurer and indeed the financial administration of this government has no objection to that objective and that, in fact, this bill is consistent with its pursuit.

I want to say that it is gratifying that the internal audit mandate is quite clear in the bill. The act, as the government leader has indicated, is quite straightforward. It is an adequate and model guide for the financial officers in the territory and I think it will serve the territory well. I do not know if it will have to serve as long as the old one, but for the time being at least I think it will be a good law.

The government leader made special mention of the special warrants section in the bill and I am, I guess, one of those who have had some concern in the past about the use of special warrants, or the potential use of special warrants, and I think, as the government leader said, the limits suggested in this bill are in fact consistent, I think, with British Columbia's, but with most provinces, anyway.

The one thing I would like to say about the special warrants is that I hope, if we have an occasion in this House where it has been adjourned for some time and there is a need for the issue of many special warrants, that they will as a matter of routine be gazetted even though that is not something provided for in the bill. It is something that may not need to be specified in law, but I hope there will be, through the government leader, when we get into committee, some undertaking on that score.

The section on grants and contributions I think, as the government leader says, clears up some old problems and I understand there was a potential problem where the federal operating grants at some point did need to be voted by this House, technically, in order to be spent, but that is a problem which will now be clearly dealt with in this law.

The section on certificates of performance I think is improved and I think is much needed. The problem that we have discussed many times in this House of delegation of authority and clear delineation of delegation of authority, I understand, will be substantially resolved with this legislation and there will be a clear separation between certifying power and purchasing.

I have a small problem I want to address when we get into committee, with the investment section, which the government leader mentioned. Not to seem quibbling, but it is a small one for me, in that it seems to discourage, in its language, investment in the Yukon Territory by the Government of Yukon, particularly by the use of the word province in one section. I would make a passing comment that that shows less faith in the place than perhaps the commissioner at one time who approved mortgages in Porter Creek.

The government leader also mentions revolving funds. The problem of fund accounting is not one that is unique to this area; in fact, there are some people when I was on city council who used to be concerned about the number of funds that the treasurer of that city operated that seemed to be beyond the control of council. But that is the issue, in fact, the accountability of revolving funds to the legislature; how does the legislature keep control of expenditures if there are, in fact, public servants who can operate revolving funds? It seems to me that that issue at least is substantially dealt with in the bill and I am glad of that. I do not know how many years we have discussed in the past the road equipment replacement account but it seems to me that we seemed to be discussing it forever, for many years anyway.

I am very interested as well in the public property sections of the bill. The government leader made mention of this. I am quite interested because it occurs to me that it may be a break with the existing conventions — or some existing conventions as they are in this area — and I would like to ask some questions about that when we get into committee.

I am pleased, I suppose, to see that the potential recovery of losses through misconduct is provided for and, while I noticed the government leader referred to employees there, under the definition of the bill a public official, of course, includes Cabinet ministers, and so there is at least that possibility, too, and that is a good thing.

¹⁶ It has to be for misconduct, I understand, before a claim can be

made.

I must say, in response to the government leader's comments about the closing sections of the bill, that I was, at first, quite bothered by the number of amendments to other acts. At the end of this bill, I notice that the *Health Care Insurance Plan Act*, the *Optometry Act*, the *Day Care Act*, the *Parks Act*, the *Student Financial Assistance Act*, the *Liquor Act*, the *Housing Corporation Act*, and others, are all amended, but, having read them, these amendments seem to generally involve removing sections from the financial administration law, where they do not belong, and adding them to the acts where they do belong. I think that is okay.

I suppose, by doing it this way, there is certainly the possibility that this may be seen as an invitation to some members to introduce other amendments to these other pieces of legislation at the same time — an opportunity that some people may not want to miss. I do not speak for myself, of course, but maybe other members.

One final comment on this bill: I understand the bill has been in the works for months, perhaps even longer. It is not, in any sense, a partisan measure. It is not, in any customary sense, a controversial proposal, but it is a substantial administrative initiative. It is, in my view, exactly the kind of measure for which passage can be expedited by the kind of excellent departmental briefing that was given us the other day. I say that such a briefing was given us for the first time, in my experience in this House, and I think it was well done and I appreciate that.

However, I want to say this in response to the government House leader, since he has expressed concern about the problem of having legislation that we can take into committee early in a Session, that, in my humble opinion, in this kind of a bill there was really no reason for this kind of bill or a draft of this kind of bill to be denied or be held back from members of the House, if it was available, in advance of a sitting. It seems to me this is exactly the kind of measure that the old practice, that used to operate in the good old days — I guess before what we used to call "party politics", even though they had party politics then — where members had drafts in advance of the Session, could operate.

It seems to me that if bills like this, if they were given to members in advance of the Session, could expedite things considerably and, in fact, would — and I make this as a point, too — increase the prospect of them being able to read it and understand it and get to know it. That is not just to assist in the debate, but I think it is also a good thing for all members to have an opportunity to get acquainted with legislation like this, since it is so central to the business of the government of the territory.

Having said that, I want to say that it is, in our view, a good bill and we will be supporting it at second reading.

Motion agreed to

Bill Number 16: Third Reading

Mr. Clerk: Third reading, Bill Number 16, standing in the name of the hon. Mr. Tracey.

Hon. Mr. Tracey: I move that *An Act to Amend the Society of Management Accountants Act* be now read a third time.

Mr. Speaker: It has been moved by the hon. Minister of Renewable Resources that Bill Number 16 be now read a third time.

Motion agreed to

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

Hon. Mr. Tracey: I move that Bill Number 16 do now pass and that the title be as on the order paper.

Mr. Speaker: It has been moved by the hon. Minister of Renewable Resources that Bill Number 16 do now pass and that the title be as on the order paper.

Motion agreed to

Mr. Speaker: I will declare that the motion has carried and that Bill Number 16 has passed this House.

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Bill Number 18: Third reading

Mr. Clerk: Third reading, Bill Number 18, standing in the name of the hon. Mr. Tracey.

Hon. Mr. Tracey: I move that Bill Number 18, *An Act to Amend the Yukon River Basin Study Agreement Act*, be now read a third time.

Mr. Speaker: It has been moved by the hon. Minister of Renewable Resources that Bill Number 18 be now read a third time.

Motion agreed to

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

Hon. Mr. Tracey: I move that Bill Number 18, *An Act to Amend the Yukon River Basin Study Agreement Act*, do now pass and the title be as on the Order Paper.

Mr. Speaker: It has been moved by the hon. Minister of Renewable Resources that Bill Number 18 do now pass and that the title be as on the order paper.

Motion agreed to

Mr. Speaker: I will declare the motion has carried and that Bill Number 18 has passed this House.

Bill Number 21: Third reading

Mr. Clerk: Third reading, Bill Number 21, standing in the name of the hon. Mr. Pearson.

Hon. Mr. Pearson: I move that Bill Number 21, entitled *An Act to Amend the Legislative Assembly Act*, be now read a third time.

Mr. Speaker: It has been moved by the hon. government leader that Bill Number 21 be now read a third time.

Motion agreed to

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

Hon. Mr. Pearson: I move that Bill Number 21 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 Number 21 do now pass and that the title be as on the order paper.

Motion agreed to

Mr. Speaker: I will declare the motion has carried and that Bill Number 21 has passed this House.

Bill Number 20: Third reading.

Mr. Clerk: Third reading, Bill Number 20, standing in the name of the hon. Mr. Tracey.

Hon. Mr. Tracey: I move that Bill Number 20, *Certified General Accountants Act*, be now read a third time.

Mr. Speaker: It has been moved by the hon. Minister of Renewable Resources that Bill Number 20 be now read a third time.

Motion agreed to

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

Hon. Mr. Tracey: I move that Bill Number 20 do now pass and that the title be as on the Order Paper.

Mr. Speaker: It has been moved by the hon. Minister of Renewable Resources that Bill Number 20 do now pass and that the title be as on the order paper.

Motion agreed to

Mr. Speaker: I will declare the motion as carried and that Bill Number 20 has now passed this House. May I have your further pleasure?

Hon. Mr. Lang: I move that Mr. Speaker do now leave the chair and that 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: At this time I will declare a slight recess.

Recess

Mr. Chairman: I will call committee to order.

Bill No. 19: Access to Information Act

Mr. Penikett: Unless the minister has some thoughtful and profound response to the interventions from this side, we are quite prepared to go on to the clause-by-clause reading of it.

*On Clause 2**Amendment proposed*

Mr. Kimmerly: With respect to Clause 2(1), I would propose an amendment to Bill Number 19, *Access to Information Act*, by amending Clause 2(1), at page 1 by adding before the definition "public business" the following: "private business includes any item, collection or grouping of information about an individual which contains the individual's name or any other identifying particular assigned to that individual, including but not limited to information regarding an individual's education, property, financial transactions, medical history, criminal history or employment history."

In speaking to the amendment, the definition was lifted out of Bill Number 101, on the Order Paper, as will be obvious to all members. The purpose is to clearly define and clearly identify the principle that private business is also available to individuals but not necessarily other individuals who are not individually concerned. Bill Number 19 is confusing, I would submit, in several particulars, and they were identified in general debate, but, in Clause 3(1), the purpose of the bill is defined and the word "information" is used, which is clearly defined in the definition section.

A more particular section is Clause 4 and it does not use the word "information"; it uses the words "public business" which, of course, is different from "information".

Clause 8 also, in several of the sections, deals with "private business". The intent of the amendment is to define private business and to clarify, especially in the lay person's mind or the public's mind, that private business is also available. I will also put a comment on the record that this amendment goes along with another amendment which I have provided to the minister including a new clause, 4(2), which clearly gives an individual access to his or her own private business, and it uses the term "private business", and that term ought to be defined. The definition of private business is necessary because of a subsequent amendment, which will be introduced, and the definition of public business standing by itself is potentially confusing without a definition of "private business".

Hon. Mrs. Firth: I think I have been stressing this, that everything that is undertaken by this government is included under the definition of public business. Therefore, I think the definition really is unnecessary. The only dealings we have with private business is in section 8(b) where we refer to another person having access to an individual's information as outlined in that section. I think it must be stressed that this act will respect a person's right to his own information and will deny access to someone else seeking personal information on another individual.

Section 8 does not really exclude a person from getting information on himself. Therefore, I would submit that the amendment is unnecessary.

Mr. Kimmerly: The responder used the phrase, "section 8 does not preclude a private individual getting information about themselves", and that of course is accurate and a true statement. The purpose of the amendment is to make it clear and to be a stronger position, actually giving a person a right to private business, subject of course to all of the exclusions which would operate in any event. The amendment, I would suggest, clarifies a right and goes further than the position of the government as stated. The stated position is: information about private business is not precluded. However, it is obviously the purpose of the act, and it was the stated purpose last week, to actually enshrine in legislation a right to private business as well as public business and this amendment better achieves it.

Hon. Mrs. Firth: I really think to include private business as a separate title or to add on to it, as the member suggests, does make it more confusing. The principal of this bill is access to information, and that is to public business. I think it states, quite clearly, public business means any activity or function carried on or performed by a department. Everything undertaken by the government is included in the definition of public business.

This is not an act to give people access to private information. However, in the exclusions we indicate that if people want

information regarding their own private business, then that information will be available to them. I think it is more appropriate that it be in the exclusions as opposed to being a separate definition.

Mr. Penikett: The minister may well be right, as a technical point, that dealings between an individual and their government may be, for the purposes of her definition, public business. There is a very good reason why in the definition sections of many such laws there is a definition called private business. If you, in fact, look at them, including the federal law, it is quite clear.

I submit the reason is that the ordinary citizen does make a distinction between public business and personal business or private business. The ordinary citizen does make a distinction between debate in this House or a law of general application or some piece of information which may be statistical or general in nature, or some other activity of the government which is general in nature, and a personal or private communication between themselves and the government. It is for that reason that I submit that the definition section of the bill really ought to have such a reference to private business.

Understand this, we are not talking about, at this point by adding it, changing anything in substance anywhere else in the bill, necessarily. My colleague has, in fact, referred to an consequent amendment. Even if we did not deal with that consequent amendment, it is quite clear that if you had "private business" in the definition section of the bill, it would make clear to the ordinary citizen reading such a law that they would have access to such information about themselves. I think this is an important point. If you look at the experience with the US act and with the federal act, by far the largest volume of requests entertained about information has to do with information about people themselves; from individuals and for information the government has about themselves. It may be a source of regret to some, but the modern governments have an awful lot of information about individuals that may be a very reasonable concern by those individuals. Some of that information may not be accurate. Access to it is important at least to verify the accuracy. That is why, in fact, in many jurisdictions in the world citizens now have right of access to information held by credit bureaus, for example, to be able to verify that such information is accurate.

I submit that the minister's argument that because Clause 8 does not specifically preclude it — in fact, what Clause 8 says is that because Clause 8 does not preclude it — it is allowed. That is now clear to the ordinary person. What Clause 8 will say is that there is no right to information under this act where access to it or its release would reveal information concerning another person's identity etc. That is quite clear. I accept that.

It says I cannot ask for information or I have no right of access to information about another citizen. It does not make the affirmative point which is that I have right of access to information about myself.

All I am suggesting to the minister is that that right, which she admits is allowed under the bill, would be more clear if, in fact, there were in the definition section — without suggesting amending a substantial clause — a definition which says that next to "public business" was also "private business", as the word and the term is understood by the ordinary citizen.

Hon. Mrs. Firth: I understand what the member is saying and I appreciate his comments. However, the act deals with public business which is government business and, from the way in which people have asked me for information, I really do not share the member's concern that people will have some question as to whether information about themselves will be available. That information will be available and I think they will see that in Section 8. I think the concern that they will have more would be as to whether that information about themselves would be available to the general public. That is the concern that people have; that once they have a record or a file with the government, that someone else can go and get that information.

What we are saying, and the fear that we are alleviating by not defining private business and making it more confusing and saying to people, "private business is here", I think they would interpret it immediately that, maybe, someone who should not have access to their private business may have access to it. So, all we are doing is

alleviating the fear that they may not be able to get information about themselves and we are doing that in section 8, where we say that information is excluded to the third party about an individual. However, that individual still has access to that information about himself.

Mr. Kimmerly: I listened with interest to the speculation about the public concern just raised. I do not agree with those statements, but I am going to leave it for the time being.

I am personally confused as to what the government policy is, regarding private business or the public business as defined under this act, which may pertain only to one information and be of a private nature. Is it the intention of the government that there is a right, under this bill, for an individual to obtain his or her own private information? Or is it the intention only to cover it under Clause 8(1)(b) or (c)? I would ask that question as to the policy of the government that they are intending to express in this bill. Is access to information of a private nature given out of grace or out of right? Which is it?

Hon. Mrs. Firth: The intention of this bill is not to say, "here public, you have access to information regarding your private business". The intention of this bill is to say that the public has access to information regarding public business, which is government business; everything undertaken by this government included in the term "public business". However, Mr. Smith, if you wish to have information about yourself, that will be available because, under Clause 8, there is an exclusion there that says that no one else will be able to go and ask for information about you. However, if you wish that information about yourself, that is not excluded in our Clause 8 as a particular item".

No. Mrs. Firth: All information is available.

Mr. Kimmerly: I understand very well the statement just made but I am not sure that it is abundantly and simply clear for lay people. I would ask the minister to tell me if I am right or not when I rephrase it. The bill clearly gives a right of information to public business, subject to various exclusions, and they are in clause 8. There is no right of information to an individual's private business. The minister says it will be available and it is available under the same policies which exist now and the bill does not either give a right or take away a right.

Hon. Mrs. Firth: It definitely does not take away a right. Public business, the information about the government, is not listed in the exclusion. Therefore it is available.

Mr. Penikett: Let me put it very simply: do I have a right or not to have information held by the government about myself?

Hon. Mrs. Firth: Yes, you do.

Mr. Kimmerly: Would the minister point out to us under which sections that right is included.

Hon. Mrs. Firth: That right is included because it is not listed in the exclusions. It would be in the exclusions, section 4, "every person shall have access to information relating to the public business of the Government of Yukon", and it is not listed in the exclusions.

Hon. Mr. Pearson: I do not think it can possibly be written any clearer than it is here. Public business means all the business of the territory, according to definition. Section 4 says that every person subject to this act has access to information with respect to all of the business of this territory. The exceptions are listed in section 8. That really means what it says. Public business, in fact, is any business that this government has.

Mr. Penikett: Just perhaps to close discussion on the point — I am not disputing the assertion made by the government leader right now — my point is simply that it might be more clear had in fact you had, in the definition section, a private business clause. That is all. I will leave it at that.

*Amendment defeated
Clause 2 agreed to
On Clause 3*

Mr. Kimmerly: I will introduce the amendment that I have previously provided. I would move that Bill 19, *Access to Information Act*, be amended in clause 3(1) at page 1 by deleting all the words following "only to" and adding the following: "those exclusions contained in section 8".

Speaking to the amendment, the purpose of the amendment is to bring the wording of this section into conformity with clause 10(2). It is clear that clause 8 and clause 10 are far more specifically worded than clause 3 is, and this would clarify the intent of the act in some measure.

Hon. Mrs. Firth: I think this section is a statement of fundamental principle and I do not really think it can be altered. The exceptions to the section are outlined clearly and concisely in Clause 8 and I think an amendment of this kind would make the act more restrictive; probably restricting, in the final analysis, what the judge may or may not rule on.

Mr. Penikett: That is exactly the point. The minister has said at least 20 times now that the restrictions are all contained in Clause 8. What we are asking for is that that be made clear in the object clause because, if it is not, it seems to me, to speak to exactly the point made by the minister, you could have tremendous confusion about your right of appeal.

It seems to me that if you are not specific in Clause 3 that the exclusions referred to, the limited exceptions contained in Clause 8, and necessary exceptions for the effective operation of departments in the public interest. Let me make two points: one, that means you can appeal on other grounds, other than Clause 8 and 10(2) but, worse still — and there is another infamous here; not infamous, I get carried away with my rhetoric sometimes, as occasionally happens on the other side — let me make this modest, reasonable point: I would have great fear, then, about the use of 13(c), because 13(c) allows for any loyal public servant, perhaps, who occasionally may do drafting of procedures and regulations here, which might further impede access — "might", I do not say "would", but "might".

Some hon. Member: (Inaudible)

Mr. Penikett: Well, no. It might be subject to appeal but, unfortunately, what they might be, under Clause 3, deemed to be "limited exceptions necessary for the effective operation of the departments in the public business", which might be that you would have exceptions beyond Clause 8. You would have exceptions added by the mandarins, rather than by the legislature.

Hon. Mrs. Firth: I cannot agree. I think it is quite clear and I want to reiterate that it is a statement of fundamental principle and that it cannot be altered and that the exceptions to this clause are outlined very clearly and concisely in Clause 8.

Mr. Kimmerly: We understand perfectly that the minister is saying, "This is a statement of fundamental principle", and they are not going to change it and the amendment is going to be defeated. We understand that.

The purpose of these proceedings, it appears to me at this stage, is that some argument, however feeble, is given for the government's position. No argument has yet been given. What is the argument for this fundamental position?

Hon. Mrs. Firth: I have said before that the amendment would make the act more restrictive and that the exceptions to this clause are outlined clearly and concisely in Clause 8.

Mr. Penikett: With respect, the minister is talking absolute nonsense. We are talking about something being specific, which is limited; in other words, narrowing the restrictions. She is talking about leaving in a clause "necessary for the effective operation of departments in the public interest", which is as wide as blazes — much wider than is Clause 8. But worse, I fail to see what possible principle is contained in the words "necessary for the effective operation of departments in the public interest". What principle is contained in that phrase?

Hon. Mrs. Firth: The public interest has to be taken into account.

Mr. Kimmerly: The minister is obviously simply making a bold assertion and there is no rational or argumentation for it offered to the House. The assertion is wrong and I would like to explain why it is wrong rather than repeat the explanation as to why it is wrong.

The wording of Clause 3(1) is not restrictive. It widens the possibility for restrictions immeasurably. Taken in conjunction with Clause 13(1)(c) and also the appeal sections in Clause 12, this clause will enable future and additional restrictions to be made. The

amendment would close that gap and make it absolutely clear that the only exclusions contained in the bill are in Clause 8. Under this wording, there exists a serious possibility of further restrictions not now included in Clause 8. The minister has not disagreed with that analysis. She has simply ignored it and sidestepped it. If no rationale or argument is made we will continue to say, as we are saying, that no explanation or argumentation, however feeble, was given at the committee stage and the government is pushing through a clause without any stated argumentation for it.

Hon. Mr. Pearson: More threats. My goodness, the number of threats. It seems that the member for Whitehorse South Centre has had a number of set speeches that he was going to make with respect to this legislation, and he is going to make them, no matter what happens. That is how he is doing it, with his threats. If we do not do this, he is going to do that, or he is going to continue doing something else.

We, as the government, on this side of the House, feel a definite responsibility to the public of this territory and to the public interest of this territory. Any legislation that we put forward is going to have that clause in it; that the public interest must be protected. That is the prime requirement for us being here. That is why we are elected.

It is not someone on this side, nor someone on that side, who deems what is in the public interest. I agree with the leader of the opposition, by the way, that yes, as a result of this section there can be further exemptions, there can be further restrictions, but they have to be deemed to be in the public interest. If anyone has an argument about that, they can go to the Supreme Court judge. He is going to be the final arbitrator as to what is in the public interest and what is not. For the protection of the public we have to have that clause there.

The reason that it is not in Clause 8 is because we wanted to make Clause 8 very specific. Each clause in Clause 8 is specific. This clause is not specific. It is, as the leader of the opposition said, one that is all-encompassing. It is also very, very necessary.

Mr. Penikett: It seems to me the government is really trying to have it both ways. What we have is a bill which is called "access to information" which, in clause 8, contains a very large number of exemptive categories —

Hon. Mr. Pearson: Count them and compare them to other legislation... (inaudible)

Mr. Penikett: I have counted them and I have compared them. Some of which we have argued about already but we will argue about further. They already severely limit the public's access to information, in specifics. I refer the government leader, since he just talked about the principle in clause 3, to the fact that the principle in clause 3 says, "information in records or departments and to subject that right" — this is the right of access — "only to specific" — "specific", the word is "specific" — "and limited exceptions". Now, "specific and limited exceptions" in this act are contained in clause 8. I already have a problem in that they are not very specific in some cases — they are very broad — and they are not very limited in some cases — they are very broad — but in addition to that, we now have a clause which says somebody — the Cabinet, the minister, somebody — may invoke another clause, clause 3, which says "I do not believe you should have this information because I do not think it is in the public interest". I do not know whether the archivist is going to make that decision. Presumably not. Presumably that section is going to be invoked by a minister at the first stage of appeal. Under the act right now, and this gets to another clause, the minister does not even have to give reasons for his refusal.

Hon. Mr. Pearson: Yes.

Mr. Penikett: The government leader says, "yes", but I can point you to a section where in fact he does not. He may give partial reasons. If he grants part of the information but not the rest, he may in fact, as the act is now worded, I suggest, not have to give reasons for the part that he denies. If invoked, the archivist does, but not the minister, not the minister.

The government leader is objecting. What we have now is closing so many of the accesses to information. The minister does not have to give reasons on appeal, and then a judge is supposed to sit in

chambers, without any due process, and make a decision based on something vague such as, "what is in the public interest", without any arguments, without any reasons, and without any rationale. It seems to me the section must be specific and say that specific and limited exceptions should be spelled out. What we have is clause 8 that spells them out and another section that says, "we may add any other things that we think of later". It is not an acceptable way to draft an access to information law, because the purpose of such a bill becomes a further restriction of information, not improved access.

Hon. Mr. Pearson: I would challenge the leader of the opposition to show me any public information act in Canada — any one — that does not have this kind of provision in it, because it would be completely irresponsible not to have it. There is absolutely no way that we can perceive the amount of public information that we are going to have, and who might ask for it. If there is something that is deemed to be in the public interest, that it be kept confidential, we must have the capability of doing that. And no matter how the leader of the opposition reads this legislation — I do not care how many times he reads it or how he reads it — if he tries to tell the public of this territory that they do not have the right to an explanation of why they did not get the information, then he is misleading the people in the territory because that is not true. The legislation is very specific. There will be information given, or there will be reasons given to anyone who is refused information.

Mr. Penikett: The government leader should not accuse me of misleading the House.

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

Mr. Penikett: Then he is doing exactly the same thing. The fact of the matter is that it does not say that a Cabinet minister has to give reasons.

Hon. Mrs. Firth: We are not talking about Cabinet ministers.

Mr. Penikett: Let me make this point: the archivist is not going to go around saying, "Well, this information may embarrass the government; therefore, it is not in the public interest to use it". What was Richard Nixon and Watergate all about? He was a president trying to invoke executive privilege by saying it was not in the public's interest for him to release these tapes, or whatever it was that he was trying to keep secret. That was the argument he used: executive privilege. It was not in the public interest. Now, that nation had to go through hell in order to get that information.

The fact of the matter is, is that it says quite clearly here — that is what is wrong with the clause — that the public interest might be invoked, a very vague, broad category. Later on in the bill — and I ask the government leader to read it — it does not say that a Cabinet minister has to give any reason. All it says is, "public interest".

Now, the public interest can be that a Cabinet minister says, "This information is embarrassing to me. I do not think it is in the public interest to release it".

Hon. Mr. Pearson: No, I said — and I was very specific and I want the member to read *Hansard* tomorrow — it was the public who were going to get the reasons. It is not this House that is going to get the reasons. They do not get the reasons from the minister, they get them from the archivist.

I have been a member of the public in this territory, like you have, like the leader of the opposition has, and I am absolutely convinced that the best thing that we can do for the public of this territory is to put this piece of legislation in place, using the one window concept. That means that everybody in the territory knows, number one, who they go to to get information; and, number two, either they get the information from that person — not from someone else, but from that person — or they get their reasons why they are not getting the information from that person.

How that information is conveyed to the archivist is entirely an administrative matter. It has absolutely nothing to do with the leader of the opposition or the general public. What we are saying in this legislation is that the general public is going to be advised. Either they are going to get the information that they request or they are going to get the reason why they are not getting it, and that reason is always appealable, always.

President Nixon's decision that he was not going to release his

tapes because they were not in the nation's interest. I submit to you, were not appealable to a court like this legislation is. It is fear tactics that the member is raising when he says that. This is not what this legislation is about, at all. It is straightforward, it is short, it is concise.

The last thing that I want is to see legislation here comparable to what the federal government has because it does not work. Everybody knows it does not work and it is costing hundreds of thousands of dollars to administer. I am not going to put the taxpayers of this territory through that kind of an expense.

Hon. Mr. Tracey: I think it should be fairly obvious to members across the floor, if they looked at Clause 12, all the way from (1) to (4), that anyone who feels that they have been mistreated can appeal to a judge and the judge will get the information.

The only exclusion the judge can make under Clause 12(4) is Clause 8. So, if the judge feels that there is a reason that this information should be released, he is going to require that it be released. I do not know what problem the members across the floor have. The people have the courts to back them up.

I suggest that he is throwing a red herring out here by bringing President Nixon into this because there is absolutely no way that you could use executive privilege in this bill.

²⁷ **Mr. Penikett:** I would be pleased to hear from Mr. Tracey further on this because one of the things I am going to ask him about later is the court procedure, which does not even seem to allow for advocates, which is an interesting process.

I want to be specific about this and I do not want this debate to descend into the pit of passions, and I hope the government leader will take the point I am making seriously. It seems to me that the broad catch-all right to deny information which is not a specifically limited exception but is a general exception, where it is not in the public interest, and just in the case of English language alone I would object to 3(1) because to deny information on any grounds not deemed to be in the public interest is a general exception, not a specific and limited one — could the government leader give me, in an effort to reassure me that this would not be widely abused, a general example, even a hypothetical one, where the public interest might be invoked, which is not already excluded under Clause 8, which excludes most things.

Hon. Mr. Pearson: If I had one, it would have been in Clause 8. It would have then been a specific. What I am trying to tell the leader of the opposition, respectfully, is that this kind of a section has to be here because I am positive there will be something someday that will come up. This section will have to be invoked. I hope it does not. I hope I am long gone when it does. But I suspect that someday it will happen. I also suspect, when it does happen, the minister that invokes this section, because it will be a minister who will have to invoke it, will do it cognizant of the fact that he is going to have to go to court to defend his decision. It just stands to reason that that would happen.

Mr. Kimmerly: I signaled a desire to speak after Mr. Tracey spoke. Mr. Tracey made a statement which was wrong and the government leader has, in the general sense, made a contradictory statement which in fact is right, in my opinion. The wrong statement is that Mr. Tracey said the only way a judge would deny information is under Clause 8. That is inaccurate. There can be further restrictions in the "public interest" and pursuant to Clause 13(1)(c) and any regulations under that. The government leader appears to recognize that, on the present wording, all of the exclusions are not in Clause 8. There can be further exclusions.

Mr. Tracey: I would like to correct the member across the floor. I was not wrong. The only exclusions that the judge can use to absolutely exclude it is Clause 8. Now, he can make a value judgment on Clause 3. He has to make that judgment. The only absolute exclusions that he has is Clause 8 and that is the point that I made.

Mr. Chairman: Shall the amendment to Clause 3(1) carry?

Amendment defeated

Clause 3 agreed to

On Clause 4

²⁸ *Amendment proposed*

Mr. Kimmerly: I would introduce, for the record, the amendment already circulated that Bill Number 19, *Access to Information Act*, be amended in Clause 4, page 1, by adding the following: "4(2) Subject to this act, every person shall have access to information relating to his private business".

In speaking to the amendment, I have already identified the need for this clarification. It is obvious that the government majority is going to vote it down. The arguments were previously substantially made in section 2.

Hon. Mrs. Firth: This clause is simply saying that anyone can apply for access; that there are no restrictions regarding a person's status and that they do not have to give reasons. On the amendment, again, regarding "private business", I will say again that the act does not restrict the right of an individual to request information about himself.

Amendment defeated

Clause 4 agreed to

On Clause 5

Clause 5 agreed to

On Clause 6

Amendment proposed

Mr. Kimmerly: In Clause 6(2), I would move an amendment that Bill 19, entitled *Access to Information Act*, be amended in Clause 6(2), at page 2, by adding after the word "denied" the words "but reasons for denial must nevertheless be given".

In speaking to this amendment, the amendment closes a loophole in the act, and the loophole is that if a request is denied it is clear that reasons must be given. However, if 30 days go by with no action, the request is deemed to be denied. We have no real problem with that, in that the purpose of it is obviously to trigger the appeal process and that the citizen need not wait forever, or for a non-fixed period.

If an irresponsible official — there are not any, but there could be in the future, of course — wished to deny a request and not give reasons, the procedure would be very simple. It would be simply to wait 30 days and do nothing. In this amendment, that loophole is covered and it requires the reasons to nevertheless be given.

²⁹ **Hon. Mrs. Firth:** We will set that section aside for now.

Mr. Kimmerly: On the question of Clause 6(2), I understand there might be a government amendment also, clarifying what is probably a typographical error. I have prepared an amendment but I will not introduce it unless it is not clarified.

Hon. Mrs. Firth: The government will be introducing an amendment for that typo.

Clause 6 stood aside

On Clause 7

Clause 7 agreed to

On Clause 8

Mr. Kimmerly: In Clause 8(1)(a), I wonder what the purpose of this exclusion is, and I would ask for an explanation of why it is there?

Hon. Mrs. Firth: Clause 8(1)(a) includes things like vital statistics records, adoption records and health care files.

Mr. Kimmerly: In Clause 8(1)(c), I understand the purpose for the general amendment. I would ask why the wording is not specific to cover confidential information given by another government. There is, of course, a lot of information transferred around among governments that is not confidential in any way at all, and I would ask why confidential information is not part of the clause. I would suggest that it might be very clear and very specific if it actually said any information which another government requested, not be released or made confidential.

³⁰ **Hon. Mrs. Firth:** We are referring to things like interprovincial briefing papers and we are referring to the confidentiality or the content of that information that was used by another government.

Mr. Penikett: I would ask the minister to respond to my colleague's point about other information. Once again, the minister has used a specific where the offending clause is most general.

There is all sorts of information that I expect this government gets from Alberta, from BC, from Ottawa — I suspect you get tons of it from Ottawa. What this clause again says is that it would violate the confidentiality of information that was given by another government when that information may not have been confidential.

I want to be clear. Is the minister giving an undertaking that general information from the government is not all of a sudden caught up in this net, that we are talking about only information which is, in fact, classed by the disseminator as confidential.

Hon. Mrs. Firth: That is what the clause says; that it would not violate the confidentiality according to that government of the information that they had given to us, depending on what that government considers confidential.

Amendment proposed

Mr. Kimmerly: With respect to Clause 8(1)(d), I would move an amendment that Bill Number 19, entitled *Access to Information Act*, be amended at Clause 8, at page 3, by deleting subsection (d). Perhaps I would ask the leader of the opposition to explain the amendment.

Mr. Penikett: This could be a fascinating debate on Clause 8(1)(d). Perhaps the minister could explain the reason for the clause and then we could explain why we do not like it?

Hon. Mrs. Firth: The concern we have here is with regard to information that is supplied regarding individuals or corporations who make applications to the government. For example, people who would apply under our grant systems, under the Canada-Yukon Tourism Agreement, and there was some information that they gave us in their application which they considered confidential, we would prefer that that be listed in the exclusions.

Mr. Kimmerly: I would ask the minister to give us any examples of any information that would be included in (d) and not included in (b). It would seem to me that (d) is a repeat of (b), but is more widely worded. I would ask for any explanation of that. After including (b), why is it necessary to have (d)?

Hon. Mr. Tracey: I think I could answer that. It says there "is consistently treated as confidential by that person". Now, if that person said that this is information that I do not want made public, then that would be information you would not make public under this section.

Mr. Penikett: Fascinating stuff. I would just like to put a question to the minister, or make a general observation.

I understand what Mr. Tracey is saying. My concern about it is this: if you have information which is routinely held by the government, which comes from a private source, but which the government by some other statute has deemed itself having a right of access to, I would be very concerned that some private party could decide that the government would not disseminate information which has been traditionally theirs. Let me give you an example. We have an employer here, a significant employer, who decides that his number of employees that he has shall be kept confidential because that is always the way he has treated it. I would expect there are all sorts of ways in which this government has records of the number of employees — medicare records, workers' compensation, some other tax things that you may have a record of. You publish all sorts of information about numbers of people employed in the construction industry and all sorts of other information. It seems to me it would be ludicrous if you might have, as a category, the number of people employed in oil and gas in Yukon. You might have a category in your ERPU accounts which makes it quite clear the limited number of people that are employed that way, but there may only, in fact, be one employer. It would be ludicrous for that one employer in that case to say, for whatever reason, that they wanted that information treated confidential. It seems to me it is perhaps not a major concern, but it is a concern of mine that somehow someone who was giving information to the government, which is the government's by right or by tax law, or whatever, could then decide that they did not want that information disseminated or used by the government for any public purpose.

Hon. Mrs. Firth: I appreciate what the leader of the opposition is saying. However, we are talking about the confidentiality that is expressed on behalf of an individual who is entering into some agreement or making some application to government. If that information that the leader of the opposition is talking about, gas and oil and so on, is wanted by a third party, and if it is available within the public service and they apply, they can receive that information. However, if the individual indicates to us that this is

information that he considers confidential, then I think the government has an obligation to respect that confidentiality.

Mr. Penikett: I do not know whether that is satisfactory or not. This may come as a surprise to the minister, but I was on a committee of this House once. We had a senior official of this government refuse to tell us how many employees he had. So it is not impossible that these things can happen. He claimed he did not know, if fact, which was even more alarming.

I just want to record my concern that some third party is, in fact, able under this law to decide what is confidential and what is not, even in cases where the information may be normally public information.

Mr. Chairman: If you will all be silent for a minute, I will read the amendment out and we will go from there.

Amendment defeated

Amendment proposed

Mr. Kimmerly: I move that Bill 19, entitled *Access to Information Act*, be amended in Clause 8, at page 3, by deleting subsection (e).

In speaking to the amendment, I would use an example: if the government were to publish the average food basket costs of various stores in the territory, that information would clearly come under this section in that some people, namely the people charging the higher prices, may suffer economically. The argument for including it is very similar to the argument in subsection (d) and I would suggest that it is totally unnecessary and, in some cases, unduly restrictive in that it would possibly preclude a proper function of our government which governments have exercised legitimately in the past.

Hon. Mrs. Firth: I cannot agree with the member. The clause has been included to take care of things like tenders. There are a lot of people who apply through tenders to the government but the only one that is public is the person who was successful with that tender. Also, I want to point out that in order to protect people, the competitive positions or their financial positions, this clause is necessary.

Mr. Kimmerly: The argument was raised that it protects tenders. Why does the wording not say tenders? Is there anything else, aside from tenders, on the government's mind and can any example be given?

Hon. Mr. Lang: I could give one right off the top of my head, and that would be a proposal. If the government went out for proposals to various organizations and the proposal is turned down, perhaps the business would never want it to become public and it is no business of the general public.

Amendment defeated

Amendment proposed

Mr. Kimmerly: I would move an amendment that Bill Number 19, *Access to Information Act*, be amended in Clause 8(1)(g), at page 3, by inserting between the word "proposed" and the word "legislation", the word "budget".

In briefly speaking to the amendment, it is quite clear that, on budget bills, secrecy is desirable, and not only desirable but required by a fairly ancient tradition. Indeed, ministers of finance responsible for any leak would resign.

The situation concerning other legislation or regulations, of course, is entirely different and it is reasonable, from a public policy point of view, that citizens should know and, I say, have a right to know the proposals for legislation or regulations proposed by the government. Specific confidential matters can easily be covered by Cabinet documents and the like as to the formation of policy, but if the government has arrived at a policy and is proposing legislation, I would submit that there should be a right to know for every citizen.

Hon. Mrs. Firth: All I have to say is that I do not know of any government that reveals its proposed legislation or makes that information public. When you have good government, like we do here in Yukon, the government, of course, when they are anticipating new legislation, do consult the people and do put out policy papers to get some input.

I would have to disagree with this amendment — that we are specific and — and say that we not would accept that amendment.

Mr. Penikett: I am somewhat amazed at the minister. It is only the most closed and uptight government in the world that would vote against this amendment. We are quite prepared to concede the importance of budget secrecy, even though I note that the Conservative government of Ontario is now talking about opening up the budget process. Here the minister is saying that she is quite prepared to let some people see some drafts of some legislation, on a selective, closed and some kind of special privileged basis, but the right of the public to know that some kind of legislation is being prepared or that the government is considering bringing in a law about speed limits for dog teams, or something or other, is somehow not something that the public has a right to know. That is clearly a very closed government and I cannot see why there would be any need to have a clause that is so restrictive as is proposed in (g) here, without amending it and making it more specific in terms of budget legislation.

An awful lot of debate in this House, an awful lot of communication between citizens and members of the Cabinet, an awful lot of communication between citizens and members of the legislature, and an awful lot of communication between ordinary people has to do with whether the government may be bringing in a law about one thing or another. It seems to me ludicrous that you would want to exclude or deny the public the right to know that, except in the case of specific budget legislation.

Hon. Mr. Pearson: I do not know where the members opposite have been for the last number of years, but I know that they are very cognizant of the rule in legislatures all over this country that in fact it is a courtesy to the opposition that they at least — they at least — find out what the legislation proposed by a government is when the public does. At the very least they find it out when the public does, if not before. It does not say that the public is not going to find out what the legislation is, because it is made public; it is not legislation if it is not made public. We are simply talking about a question of timing. I believe very strongly, as a legislator, that the opposition in fact does have the right to know what that legislation is at the same time as the public does, if they do not find out before.

Mr. Penikett: The public here is in fact, in this territory, quite open. I would say more open than the government. Let me say that whatever the government leader may know about the courtesies, it is often the case that we are the last people to see legislation. There are many times when I can run into citizens in the street who know all sorts of things, who have been involved in all sorts of discussions about what the government is going to be doing to legislation, and we, in fact, are the last people often to hear about it. There is a tradition which the government leader will know, that in many cases important statements of public policy are customarily often made first to the legislature and then to the public. That is a practice that is not observed here. What we are talking about here is, in fact, not the text of the bill — which, if you wanted to be picky about it, is often what we see perhaps as soon as the public do or perhaps a little while after the reporters — in this clause, the substance of legislation.

Now, the substance may be that we are going to in fact amend speed limits or do something or other like that. It is in fact often public knowledge that the government is going to do such things; in fact, they make a statement about them, outside the House. It seems to me to say that the public has no right to know that is in fact to severely restrict information and to do so unnecessarily.

Mr. Kimmerly: I would like to add my voice to this particular issue and I take issue with the government leader's objection to the statements just made by the leader of the opposition. It possibly did not appear on the record, but the statements were being made that it is very often the case that citizens are aware of legislation before members of the House, and the government leader was objecting, saying it is not so. Well, I am aware of a specific example and it is the lawyers' act or the *Legal Professions Act*, and in that case a draft of legislation was given to lawyers on a trust condition — that is a secrecy condition — that it not be discussed with other people. It is entirely appropriate that on pieces of legislation like that lawyers be consulted, but also other people may be consulted. On the *Accountants Act* recently passed, it was announced by the

minister that consultation occurred with accountants and they are in agreement with this act. That is another example of the same kind of a process. It is clearly not wrong that those groups be consulted and that their concerns be listened to.

³⁵ In a major act, like Bill 22, various segments of the business community, should be consulted, I submit, such as accountants and lawyers and whatever.

However, on those bills, I say there should also be a right for other citizens, as well, to have the same right of input into the formation of government policy before the government takes a public position. We all know that for any government, once a public position is taken, it is extremely difficult to achieve a change. It is far simpler to achieve a change before the position is actually clearly stated and made public.

The right of access to the information at the earlier stages is extremely important. I will say it is crucial and I reiterate the comments already made. It is an extremely closed government that operates in that way and if the government leader states other governments operate in that way, that that is not a defense. To say that other people are also following a bad, undemocratic practise; it is not a defense, it is a symptom of a closed government.

Hon. Mr. Tracey: I am really surprised at the member across the floor. First of all, if he reads it, it says that there is no right to information under this act that would disclose proposed legislation. It is the government's right. If we want to go and get public input on a lawyer's act, for example, it is all right to do so, but we were elected to make laws here, and we try to make fair laws. In order to do that, we go out and we get some information. We pass some information to the public and we try to get some feedback from certain groups. We tried to do that with the lawyers and now, after the member talks that way, I am wondering if it is really beneficial that we do those kinds of thing because sometimes I question where the members across the floor are coming from.

Certainly, we try to get public feedback, but that does not mean that the public can demand that right, that everyone should have that feedback and know, for example, that we are proposing a bill two years from now and we are working on it now. That is what the members across the floor would like to know.

We go to the general public on almost every bill for some type of consultation. In a great many instances, it is not legislation, it is only proposed legislation and that is exactly what this deals with. We might never bring that legislation in but, certainly, for the members across the floor to demand that right, I am really surprised.

Mr. Penikett: I am afraid I am going to have to disappoint the minister. He is really talking nonsense. Let me straighten him out on one thing. The Cabinet does not make laws. This is nonsense I have heard from another minister opposite there, who suggests that somehow the Cabinet proposes legislation and the legislature disposes of it.

It is a very important thing, a very important distinction, because every other legislature in the British Commonwealth allows public access to the legislature. The legislators get the public access, not just the Cabinet.

The minister talks about public feedback. He talks about certain groups and that is exactly the problem. Certain groups get access; the public does not. The public does not. Certain groups do; certain limited, chosen groups, not the public. Not the public in general, nor the public's representatives on this side of the House. You talk about open government. We had the spectacle here of the Council for Yukon Indians denied the opportunity to talk to the House about land claims. We had the access here of not allowing select committees so the public could have some access to all members of the legislature about a bill like that. That is what public access is.

And select committees, for which we were given a pay raise on the basis of select committees being created.

Now, the point I want to make here is that we are not talking about the specific text of the legislation. That is not what the clause says. The clause says the substance. The substance can be a simple principle that is in the bill and the minister says the public does not have any right to that access. Well, I wonder who does he think he is working for? He is not working for his own glory, he is working

for the public. That is who we are elected here to serve, that is who has right. He has no right to deny it to them.

The principle about to be enshrined in this bill is that the public has a right to the information that they pay for. They get it if the minister chooses, when the minister chooses, if he decides that it is appropriate.

* *Amendment defeated*

Mr. Chairman: I think we should now maybe break for a fifteen minute recess.

Recess

Mr. Chairman: I will call committee back to order.

Mr. Penikett: I have an amendment to propose here, but before I propose the amendment — in fact, the amendment form is proposed in Mr. Kimmerly's name — I want to say a couple of words. In a sense, I have already spoken about this clause a number of times in general debate. My concern is the one which is general and has been expressed before about the power of the executive to deny access to the public to information. We have, this afternoon, clarified further powers that the executive will enjoy by virtue of section 3. Under 8(1)(h) there is the problem, as I read the clause, that there would be no right of access of the public to information which would disclose the existence or the content of communications to, between or from members of the executive council. As I read that, not only information that flows to and from the minister's office but information that discloses the existence of information flowing to and from the minister's office. There would be no right of access to it. I have previously said to the minister that my fear on that score would be it would allow a minister, simply by channelling the information through them or putting their signature on documents relating to this information — putting signature on memos relating to certain information — to essentially deny the public access to the information. The minister at the time — perhaps it was the government leader — said that they would in fact go back and take a look at this clause and see if it said what it meant or if in fact it meant what I thought it said. And I would appreciate, before I call or move our amendment of this clause, some statement from the minister indicating the results of her reflection and consideration of the problems that we have raised with regard to this item.

Hon. Mrs. Firth: I am not sure if I have seen the amendment or not.

Mr. Penikett: We have not moved the amendment yet and I was hoping, before we moved the amendment, that the minister might do what she indicated she would do earlier; to take a look at the clause in the light of the concerns that we had raised about it, and see if she in fact has a response. I would ask the minister that we are not debating our amendment at this point but in fact ask her if she is in fact ready with a response to the concerns that we had previously expressed about this clause.

Hon. Mrs. Firth: I was only asking if I had seen any proposed amendment, and I have seen the proposed amendment, and they wanted the section deleted. I did undertake to do some research regarding this and I was of the impression that the particular word that the leader of the opposition and his colleague found offensive was the word "communications", because they thought it was too all-encompassing. However, when I did the research, I found that this is not an uncommon clause in most of the other jurisdictions that have this legislation. However, they refer to communications as opinions or recommendations, documents, records, such terminology; and, in consultation with the draftsmen, we found that the use of the word communications covered these as opposed to listing, say, eight or nine sections like the Quebec legislation did. The federal government has seven sections as well. So we preferred to choose the option, as New Brunswick or Nova Scotia had, which says the same thing. However, we preferred to use the term "communications" as opposed to "opinions" or "recommendations".

For example, in New Brunswick legislation it states it would disclose opinions or recommendations by public servants for a

minister or executive council. We wanted to keep ours as simple and concise as we could, so we have chosen to use the term "communications" and to employ that clause.

Mr. Kimmerly: Why would the phrase "confidential communications" be unacceptable to Mrs. Firth?

Hon. Mrs. Firth: I cannot really see the reasoning for "confidential communications". Could the member elaborate further, please?

Mr. Kimmerly: It is a fairly simple reasoning. Communications, of course, covers absolutely everything, verbal and written, magnetic or wave form. Any kind of a communication. For example, if somebody communicated a news story, or the existence of a news story to an Executive Council member, it is covered, but it is clearly not confidential because it is in the public domain already. Confidential communication refers to the concept of confidentiality as it is referred to in 8(b), (c) and (d), for example. It is not very difficult, even for members on this side, to appreciate there may be some good reasons for maintaining confidentiality about legitimately confidential matters. The wording here, I suggest, is not simple. It is extremely general and it covers in fact everything. The intention should be to cover only confidential things.

Hon. Mrs. Firth: I think what we are saying in this clause, though, indicates that the communications to, between or from members of the Executive Council are considered confidential and therefore they are not available to public access.

Mr. Penikett: Just let me say, and I will be very short and to the point, if you say that, as opposed to Cabinet documents or other excluded categories, you are making nonsense of the whole bill, because what you are saying is that everything that goes to and from the ministers is closed and confidential which contains, I suppose, a very large percentage of all the valid and public information which this government has anything to do with. You are not having a principle here which is, in fact, the right of public access to information. What you are having is the right of Cabinet ministers to decide what the public information shall be and what it shall not be, which is an entirely opposite principle.

Hon. Mrs. Firth: However, I asked the member opposite in debate last week what particular information he is concerned about that a minister is going to say is confidential and should not be. Perhaps the option of New Brunswick's is used, such as communications by public servants for a minister or the Executive Member. I am not quite sure which information the member is insinuating would become confidential.

Mr. Penikett: I am not insinuating anything. I am saying it right out. What the minister is allowing is that she is not excluding Cabinet documents, she is excluding everything that comes across any minister's desk, to or from a minister, and the public has no right of information to it, even if it is the most banal, obvious, open public information. It is the minister who gets to decide whether the public ever knows that, not this law, not the public, not the citizens, not the legislature. It is a ministerial prerogative; it is executive privilege. It is not public access to information.

Hon. Mrs. Firth: I am indicating to the leader of the opposition that this is not inconsistent with what other jurisdictions have. I believe they agreed with me last week, in the debate, that there was some consideration for things that were going to the minister to be kept confidential or to be kept as privileged information for that minister.

I am not in favour of excluding the whole section, as the amendment is proposing. I know we are not discussing the amendment right now, but I am prepared to look at some form of amendment to the wording, if that is what the members are finding offensive.

Mr. Penikett: I accept the minister's undertaking and, if she will agree to stand the clause for that purpose, we will not even move our amendment at this point.

Let me be quite clear to the minister what we are talking about. We do not have objection to those Cabinet documents she is talking about — those opinions, the advice, things that are normally called Cabinet documents — being excluded. The problem I have had with subsection (h) from the beginning is that it includes not just those

things, but everything going to and from a minister. In fact, not only does it include everything going to and from a minister, but also information that might disclose the fact that there was something going to and from a minister. That is the deep problem I have with subsection (h). If the minister is offering to stand the clause and bring back her own amendment, I am sure my colleagues would accept that undertaking.

Hon. Mrs. Firth: I have asked the leader of the opposition if he could give me an example. I am having a little bit of difficulty understanding exactly what kind of information that may come across the minister's desk that that minister would say is not accessible and the member would feel should be public knowledge.

Mr. Penikett: I gave the minister examples in previous discussion, but I will give her some more now. I could write the minister a letter. It could be a public request for some information about whether she was going to bring in a bill to do something or other. The fact that that goes to the minister's office means that if I die the next day or somebody else wants to have some information about whether I wrote to the minister or not, it is automatically excluded. There is no right of access to that because it goes to the minister.

The minister receives a draft copy — she will not receive this — but let us say she receives from her officials some public information about tourism statistics during the year, and her deputy minister writes a memo saying, "Here, Mr. Minister, this is going to be published shortly; here are the tourism statistics". The fact of the matter is that since that has gone to the minister the public has no right of access to that information now. The fact of the matter is that if the minister then decided that she did not want to release that information for the time being because she deemed it, for some reason — perhaps public interest — she would decide, it does not matter. The fact that it has gone to the minister means that I cannot, as a citizen, now apply for that information; it has gone across the minister's desk. That is what the clause says.

Hon. Mrs. Firth: That is not what that clause says. I am not quite sure how I can explain it to the member. We are referring to Cabinet information, such as files of correspondence from the deputy ministers. We are talking about communications that go between, to and from members of the Executive Council; we are not talking about communications that come from an outside party.

Mr. Penikett: I do not want to quibble about this forever, but it does not say "to and from members of the Executive Council". It says "to or from" in the clause.

Hon. Mrs. Firth: It says "to, between or from".

Mr. Penikett: In other words, "to, between or from". In other words, that is any communication to the minister, from the minister or between ministers. That includes an awful lot of stuff. It includes far more stuff than, in fact, just simply the Cabinet documents, the confidentiality of which we grant.

Mr. Kimmely: As another example, when the considerations are being given I would suggest the wording "confidential communication", which I have already done. In argument, the argument was used that other provinces have it. It is absolutely clear that some provinces do not have it, and it is a symptom of a fundamental attitude to open government. It was used as an example earlier that, in Sweden, there is not only not an exclusion concerning the premier or the government leader; in fact, all the correspondence is tabled and it is legislated to be public and in the public domain. And the government goes on and on. It seems to be a legislative scheme which can work. It is a symptom of an attitude to either open or closed government and if this stays in, it is clearly a symptom of closed government.

Hon. Mrs. Firth: I still am having some difficulty understanding the point my hon. colleagues are trying to make. I am totally confused now as to what exactly their concern is. I think I have made the point before that the examples the leader of the opposition is using, such as tourism statistics and so on, that information is available within the public service, that that information is available within the department. People within the department who are going to be giving the information out do not always know whether that information has gone across the minister's desk. Just because it has been presented to the minister does not mean that that information

is confidential. A person could have written for a request for tourism statistics, the minister could have seen it and may not have seen it yet, and the archivist will make the decision with the deputy minister of that department as to whether that information will be given out or not. I get the feeling that the leader of the opposition, for some reason, seems to think that only information that comes across the minister's desk, the minister has a stamp and automatically puts confidential on it; on everything that comes across the desk. Well, that is not so, and that information is within the public service.

Mr. Penikett: I do not know whether the minister is deliberately missing the point or whether it is just that she is tired. The minister said just now that just because it goes across the minister's desk does not mean it is confidential. I beg to differ. That is what this clause says. The clause says, if it goes across the minister's desk the public has no right to information under this act where access to it or its release would disclose the existence of content and communications. You could not fault that. The minister talks about tourism statistics; she does not like that example. The fact of the matter is that if I write the minister a letter asking her some question — and that is a communication to the minister — if she had a clause here which spelled out specifically the Cabinet documents she is talking about — the memorandum for the deputy ministers, the confidential advice, the policy analysis, or whatever it is that is — we could accept that, but this refers to not just those things but all communications to and from the minister. It is an awful lot of stuff, I suspect. That is the problem we have.

Hon. Mrs. Firth: That was what I thought was distressing the members in opposition and that they would like it to be more specific, such as opinions or recommendations by public servants. However, I looked up the definitions of the word "document" which is what I believe the member had in his bill and that, too, is open to that kind of interpretation; it is official papers or records. The deputy minister who is sending the record or so on can refer to that as a communication as well. All we did, instead of being specific and using a term like "documents, records, opinions, recommendations", was use the term "communications".

If the member finds that totally unacceptable, I am saying we can look at maybe changing the terminology. However, I just want to point out to him that documents, records, opinions, etc. can all be interpreted as communications.

Mr. Penikett: I would be quite happy to accept that undertaking from the minister. She has to understand that the word is not just a problem with "communications". Even if you changed that to "communications" or "documents", the fact of the matter is that now it does not specify to and from the public service, or within the closed shop of the Executive Council office. The way this clause is now, it talks about communications that can come from far and wide. It is not just that confidential privileged communication which goes on between a ministry and its senior officials. It does not spell that out. In fact, it is much more broad.

Perhaps it would be the most useful way if the minister would agree to stand the clause, we will not move our amendment. In fact, we could then look at the minister's amendment, which she, in fact, brought back, if that is agreeable.

Hon. Mr. Pearson: Before the clause is stood over, I raised an issue with the opposition the last day that we discussed this bill in general debate with respect to this specific clause. I raised the issue of a person in the general public who writes a letter to a minister and they make it clear, that that letter is absolutely nobody's business. Not only is the letter nobody's business, but it is nobody's business that they wrote the letter. We have to be able to cover that up, as well.

Mr. Penikett: Could I suggest that both clauses (b) and (c) do cover that possibility already

Hon. Mrs. Firth: Perhaps I will stand over (h) and now I think I understand what the member's concern is. We will take a look at perhaps rewording or changing the terminology.

Mr. Speaker: Is it agreeable to the House that we standover 8(1)(h)?

*Motion agreed to
Amendment proposed*

Mr. Kimmerly: I move that Bill 19, entitled *Access to Information Act*, be amended in Clause 8(1)(j), page 3 by deleting the words "legal opinions or advice given to a person or department, or".

The purpose of the amendment is clearly to allow privileged communications between a solicitor and client but not to deny a right of access to legal opinions or to advice. I fully recognize there may be some legal opinions or advice that should be covered but it is clear in my mind that there certainly are some that should not be covered and legal opinions or advice certainly is a very wide category of communication. If it were in its nature about a private matter, it would be covered under the other sections in any event. The wide language is totally unnecessary in this particular exclusion.

Hon. Mrs. Firth: I cannot agree with the amendment. The government gets certain legal opinions and sometimes they get many legal opinions and, very often, we will choose the one that we find most applicable to the situation. I think, really, all the member is wanting to know here is if we are following our legal opinions or not. So, we cannot support the amendment.

Mr. Kimmerly: That is not all I want to know. That is a misinterpretation of the purpose of the amendment.

The fact that several opinions may exist or not is totally irrelevant. If the subject of the opinion is confidential or is privileged, however many are obtained, of course, would all be covered. The fact of one or more than one is totally irrelevant and does not answer the point. The point is, in some cases, legal opinions may be about strictly public matters not of a confidential nature and there should be a right of access to them.

Hon. Mrs. Firth: I cannot think of any specific incident of what the member speaks. I just feel that the amendment is inappropriate.

Amendment defeated

Mr. Penikett: I would appreciate a brief explanation from the minister, with regard to Clause 8(1)(j), as to what she has in mind with the inclusion of this subsection.

Hon. Mrs. Firth: The inclusion of this clause is to cover investigation reports and Correctional Institute files. You had it in your bill.

Mr. Penikett: I would like to make a comment on Clause 8(1)(l), just before you go whizzing by it.

Presumably Clause 8(1)(l), if I understand it correctly — and perhaps the minister could clear me — this would be in a case where someone, for example an architect or an engineer, perhaps drew up the plans for a swimming pool. If someone were to give away those plans for nothing to someone else, they would not be allowed to do this, under this clause. Is that correct?

Hon. Mr. Lang: We would have to take it case-by-case.

Mr. Penikett: But it is clearly a case of intellectual property, which you could not expropriate.

Hon. Mr. Lang: I do not know if one would compare Mr. Penikett's book, if he were to write one, as opposed to an architectural plan, but I would say it would be totally subjective. It would depend on the observer, as well as the interpretation.

Hon. Mrs. Firth: Do you really want an explanation?

Clause 8 stood over

On Clause 9

Clause 9 agreed to

On Clause 10

Mr. Kimmerly: I would ask the minister to give us an explanation as to what the situation would be in her interpretation if a request were partially denied as opposed to completely denied.

Hon. Mrs. Firth: It is the same. I was not quite what sure what the members meant by a request being partially denied. What he is saying is that if he asks for a whole file and for part of the file he is given access and the other part he is not, this simply outlines how a person will be notified regarding that denial and it ensures that the person whose request is denied is given sufficient information with which to pursue his appeal.

Mr. Penikett: I just want to get an absolute assurance from the minister on this point. If I ask for a file which, for the sake of argument, consists of ten pages, and I am granted nine of them; if

in fact that one page is denied there will be given reasons for the denial of the one? I know what we say in debate does not matter in the court; it only matters what is in the bill, and it is not in the bill.

Hon. Mrs. Firth: It is in the bill, because that would be considered a denial and a reason would have to be given.

Mr. Penikett: Shall we take the minister's word for it?

Amendment proposed

Mr. Kimmerly: I move that Bill 19, entitled *Access to Information Act*, be amended in clause 10(2) at page 4 by adding after the word "denied" the words "or partially denied". In speaking to it, it is clear that this amendment is not in any way inconsistent with government policy because the minister claims that 10(2) unamended means the same as 10(2) if it is amended. I would reiterate the comment that the debate that occurs here is irrelevant in a court of law when a court interprets the section. If, in accordance with section 9, already cleared, a request is partially denied and partially accepted it certainly could be argued that that is not a denial and that it is accepted, at least partially. This would clear up any possible confusion and it would add only three simple words to the bill. I would suggest that it avoids a confusion and makes it abundantly clear.

Hon. Mrs. Firth: I find the term "partially denied" confusing. That term is confusing. We are talking about information that is either being denied or is being given access to, and I think clause 9 covers it. If the record contains some information that can be disclosed it will be disclosed. If the rest of the information cannot be disclosed it can be considered a denial and an appropriate response will be given for such. If the individual is not satisfied with that, he still has his two levels of appeal to go through.

Mr. Kimmerly: The minister will forgive me if I am not satisfied. The situation is even more complex in that there is nowhere in the bill a clear statement that if there is a denial or a partial denial and a partial acceptance pursuant to Clause 9 that it must even be disclosed that some information was kept out. Now, it may be that some information is kept out on a judgment call by the archivist, such as it is irrelevant to the request or something like that. A citizen would not even be aware of the existence of additional information not received. In the case where the request is denied in part and accepted in part it is unclear as to the disclosure of that fact and as to whether or not reasons must be given. I would suggest that the words partially denied or, if it is wished, some other phrase referring to Clause 9 were added, it would substantially clarify this legislation and avoid potential problems.

Hon. Mr. Tracey: All I can say is information is information. If you deny some information, you have denied information and you have to give a reason for it. You cannot separate one little piece of information and say it is partially denied because you have still denied information.

Mr. Kimmerly: That adds absolutely nothing to the debate. I would suggest still that there is confusion here and there is a possibility that on a partial denial and a partial acceptance the intent of the legislation as stated would not be carried out and I would ask for a serious consideration of adding either the words "partially denied" or "denied in part", in accordance with Clause 9, or some other phrase which would clarify the problem.

Hon. Mrs. Firth: We are talking about two things: we are talking about information that is given, that people have access to, or information that has been denied. If someone comes and makes a request for a file and some information is given to them, but particular information that they have asked for is denied, the archivist has to notify them of that denial. They have to have written reasons for the denial and a description of, as (b) goes on, the right procedure for the appeal. If a person is asking for some particular information and they do not get that information, that is a denial and the archivist has to give a written reason why.

Amendment defeated

Clause 10 agreed to

Mr. Chairman: As it is 5:30, we will now recess until 7:30.

Recess

Mr. Chairman: Committee will come to order.

On Clause 11

Mr. Chairman: You will notice, third line down in (1), the word "with" should be "within fifteen days".

Amendment proposed

Mr. Kimmerly: On Clause 11(4), I would like to move an amendment and it is the same substantive amendment as notice was given for subsection (5), but it is more appropriately here. The amendment is: I move that Bill No. 19, *Access to Information Act* be amended in Clause 11(4), at page 5, by adding after the words "the denial" the following: "and shall give reasons for the decision".

¹² In speaking to the amendment, it is absolutely clear, and it is uncontroversial, that the archivist will give reasons for making a decision. For the same reasons it is appropriate that the Executive Council member, when making a variance or an overruling of any kind, of the archivist's decision, that reasons should be given. I would caution that the paper circulated is not a precise draft of the amendment as moved. Perhaps an additional photocopy ought to be made. The principle is absolutely clear that, if an Executive Council member makes a decision under the act, reasons are to be included in the decision.

Hon. Mrs. Firth: The archivist is going to state a reason for denial and when an appeal is made to the Executive Council member, they are either going to uphold that reason for denial or they are not. It does not seem to make sense to me that the minister would give an explanation of why the archivist was overruled. I do not think the applicant would be interested in that either. I cannot agree with that amendment.

¹³ **Mr. Penikett:** Ah, but it is very pertinent.

The archivist might, being a cautious person — and that is in character with archivists — deny the entire request on any number of the grounds under Clause 8 or the new grounds that we discovered today under Clause 3; although I do not know how he would do that, but he might. Let us use that example; the archivist might deny the thing on the grounds under Clause 8. The minister might grant the appeal for part of the document, but deny the rest under Clause 3.

Now, the minister has previously said that someone can appeal that. However, I do not know of any court that could grant an appeal or even consider an appeal if there were no reasons given, especially since, as I understand the court process, it is not clear that the minister and the applicant would both appear before the judge to make their case. I assume the tribunal that is contemplated in Clause 12, the next clause, is one where the judge examines part of the information that would be necessary, if I were a judge, for the reason for the denial.

It may be that, since the clause clearly talks about the Executive Council member upholding, varying or over-ruling the denial, in cases where the Executive Council member varies the order, it seems to me, they must give reasons, but that is not clear in the bill. Or, at least, they really ought to give reasons if they are varying the archivists order. It is not clear here that the Executive Council member has to give reasons. If they do not have to give reasons, it seems to me that complicates the possibility of an appeal to the courts considerably.

Hon. Mrs. Firth: In Clause 11(4), it outlines, really, only the timeframe that is available to the minister in which he has to conduct the review. In Clause 5, it states that if he overrules or varies the denial, he shall issue appropriate instructions. I do not see why there should be any further instruction to the minister, or directive to the minister, as to what he or she is to do.

¹⁴ **Mr. Penikett:** Let me make this point: let us take document A. It has two parts, one and two. I apply to see document A. The archivist says, "No, we are denying you the right to see document A under some ground under section 8". Let us say the archivist, being cautious, says I cannot see either. The minister then comes along and says, "Oh, no. You can see part one but you cannot see part two. In fact, I want to vary the archivist's order to say that you cannot see part two because it is not in the public interest — clause 3". The minister invokes clause 3. Unless the minister has to give reasons for that in some substance beyond just instructions to the

archivist — which is what they do presumably — and are going to overrule the archivist and say, "Yes, the citizen can have this information; I think there is no reason why they cannot have it" — those kinds of instructions to the archivist are very clear because they say to the archivist, "No, you are being too cautious. Here, have this information". Those are the instructions to the archivist. They are very clear. However, what is not clear is if the minister varies the denial and varies the grounds of the denial, or gives instructions to the archivist, but we do not know — nor is it made clear here — that those reasons have to be communicated to the applicant.

Hon. Mrs. Firth: I think that the minister has to be able to pursue the investigation on his own. I think he has to be allowed to draw his own conclusions. I am sure he is going to communicate those conclusions to the individual, particularly when the archivist has already written a letter stating reasons for denial. For us to state in legislation exactly what the minister has to do is inappropriate, I think.

Mr. Penikett: There is a very long tradition in parliaments that it is always best to state what the minister ought to do in law, otherwise you may find that one minister may decide to behave perfectly properly according to the commitments made. Unfortunately, the incumbent minister is not making commitments just for herself. She is making commitments for all future ministers. The public probably would prefer to have those commitments enshrined in law rather than just on the minister's personal oath.

It seems to me that we are dealing with not a matter of high principle, again, but a matter of suggesting that it would be better if it were clear in the bill that the minister has to give a reason for denying information. If the minister is just endorsing the archivist thing, then there is obviously no need for that. If the minister is overruling the archivist and issuing instructions to the archivist to make the information available, there is no need for that.

However, there is a case — admittedly, there is probably a small category of cases — where the minister may vary the denial order, and in that case especially — and there may be others that my friend can think of, where written reasons would be useful, especially if the case goes to appeal — I do not understand why — if the minister does not give reasons where they have denied information, perhaps vary the archivist's denial — if that is not in writing how the judge can judge the case.

¹⁵ **Hon. Mrs. Firth:** The judge does have other information to judge the case by. Because the minister probably does not want it to proceed to another level of appeal, he or she is going to state those reasons. This is not the last straw; there still is another method of appeal. I really do not think that we have to define that. I think it is up to the minister to state the reasons for denial or otherwise. There is another step in the appeal process if the individual is not satisfied with the answer.

Mr. Penikett: The only problem is the old problem of dealing with an appeal or going to court if you do not know what you are being charged with or if you have been denied something or you have lost your case, and you do not know on what grounds. I just do not understand — the minister is not a lawyer, nor am I, — how, if we were going before a judge and I am saying to the judge, gee that mean old minister will not give me this document, or will only give me half of it and will not give me the other half; the first question the judge would ask is why will the minister not give it to you. I say I do not know, they will not tell me. Now if the judge were to call the minister before him or her, I would guess the first question they would put to the minister is what the reason is. My guess is, if I were to make a convincing case for the judge that that reason were wrong, or badly argued or ill-thought out, I would have to know what the reason is in the first place in order to make my case.

Mr. Kimmerly: I would like a clarification because the position that is being taken on the government side is that the statements are made that the minister will give reasons. However, it is absolutely clear in the legislation that there is no requirement to give reasons unless this amendment or a similar kind of amendment is accepted.

Is it the government policy that the minister need not give

reasons?

Hon. Mrs. Firth: No, that is not the government policy.

Mr. Kimmerly: What objection then, is there to a requirement that the minister give reasons?

Hon. Mrs. Firth: I would like to stand Clause 11(4) over, please.

Clause 11 stood over

On Clause 12

Mr. Kimmerly: I have two amendments to Clause 12(2). First of all, before introducing them, I would ask for an explanation as to what kind of court proceeding is contemplated? It is an extremely unusual provision that there is a court proceeding and it be conducted without the presence of any person. That is extremely puzzling to me.

I have absolutely no problem with understanding the import of the words, in that I understand the practical effect of the wording. It is really quite clear. I do not understand what the procedure on the appeal would be in this case and I do not understand the necessity for this kind of provision.

We are not arguing with the proposition that the confidentiality of the information ought to be preserved pending a decision. That principle, of course, is an obvious one and a sound one and we are not arguing with that.

⁶⁷ However, how it could be called a court proceeding in any way, how the rules of natural justice could be applied if you are not entitled to be there and make your case, completely escapes me, and I would ask for an explanation as to what is contemplated here.

Hon. Mrs. Firth: The judge is going to be examining all of the contested records and he has to do so, I think, confidentially. This protects the government in cases where the appeal is denied. In other words, the judge cannot make information public as part of his judicial proceeding and it makes sure that our records are protected.

Mr. Penikett: Before the judge gets into this, I want to just ask a layman's sort of question. I have access to information. The archivist said that I cannot have any of it. I appealed to the minister. The minister, being a jolly good person, says I can have some of it. I still think I ought to be able to get all of it, so I appeal to the judge.

It seems to me most judges are not simply going to take a letter from me; there has got to be some sort of advocacy process. I have to be able to appear before the judge and make my case or have a lawyer go and appear before the judge and make my case. Presumably, there will be a law officer for the Crown or the minister herself or himself would go and do the same thing.

As I understand those procedures, at least without revealing the contents, there would be some kind of procedure, normally, where I could either cross-examine the government's witness or my lawyer could cross-examine the government's witness. That is not clear here.

The shaking of heads opposite seems to indicate that, while I can make my representation and the government can make their representations, then the judge will decide, so the judge is going to have to do any cross-examining, if there is any to be done.

Hon. Mrs. Firth: The judge will do the cross-examining. He is the person who has access to all the information, but he must keep that information confidential.

I do not understand the concerns because, in Bill 101, I believe it was, the NDP had identified this same clause. Now they seem to be expressing some concerns about it.

Mr. Kimmerly: The response is made only in connection with revealing the confidentiality of the information. It is quite clear that we are not asking for that; obviously, it would defeat the purpose of appeals at all.

The unduly restrictive phraseology requires some justification. Why is it not adequate to simply say the confidentiality of the information shall be preserved, pending the decision? What is wrong with that?

Hon. Mrs. Firth: This proposed amendment would essentially destroy the protection that we have in the act. The information is deemed to be confidential and the government has a duty to ensure that it remains so until the judge gives a ruling. The statement is

assurance to the private businessman and the individual that, until the judge rules, it remains confidential.

⁶⁸ **Mr. Kimmerly:** To correct false information, this wording is nowhere in Bill 101.

Amendment proposed

Mr. Kimmerly: I would move that Bill 19, entitled *Access to Information Act*, be amended in Clause 12(2) at page 5 by deleting the words "but that inspection shall be conducted without the presence of any person".

Amendment defeated

Amendment proposed

Mr. Kimmerly: On Clause 12(3), I would move an amendment that Bill 19, entitled *Access to Information Act*, be amended in Clause 12, at page 5, by adding "(3) on the appeal, the Supreme Court shall conduct an enquiry in accordance with the rules of natural justice"; and, by renumbering the existing (3) as (4).

Before arguing for it, I would ask the minister what possible objection there could be to this?

The appeal is possibly a new kind of appeal in that the appellant is trying to achieve something and he is not aware of the exact nature of the information. Further, it is entirely possible under the existing sections that no reasons were given for the denial or variance by the minister. He is not entitled to the information prior to the argument on the appeal.

⁶⁹ Consequently, it is a different kind of a judicial hearing. It may be the concept on the other side that the rules of natural justice not be applied. If it is, they should say so. If it is the concept or policy that the rules of natural justice should be applied, this would add nothing new. In any event, it would make it clear, and it would establish clearly that the person going to court is going to be dealt with in a procedurally fair way within the confines of the other sections of the act. It would ensure a right to counsel; it would ensure a right to know the case against them without revealing the information. The information could, and would, be confidential. It would ensure a proper argument in the presence of a judge by both sides and a right of appeal, of course.

Those rules are well established and are uncontroversial in a democratic and free society and it makes it abundantly clear that the appeal is a real appeal and the judicial process is properly carried out.

Hon. Mrs. Firth: I hope all of that does not imply that the member for Whitehorse South Centre has a lack of faith in the courts.

Really, the amendment is unnecessary. Clause 12(1) states "by means of a petition". I think this triggers legal procedures governed by rules of court and common law, thus it is unnecessary to add this amendment.

Mr. Kimmerly: I would agree that given the constitutional common law, that judges and courts would apply the rules anyway. However, in this particular case, because of the particular prohibition restrictions on judicial discretion, it would make it abundantly clear, and I would ask what possible objection could there be to making it clear. It is a simple amendment guaranteeing a common law; constitutional principle in statute law. What is the possible objection to it?

⁷⁰ **Hon. Mrs. Firth:** As I have said, it is an unnecessary amendment, because 12(1) states "by means of a petition". It triggers legal procedures governed by the rules of court and common law. It is not necessary.

Mr. Kimmerly: The minister is wrong in her assertion.

Amendment defeated

Amendment proposed

Mr. Kimmerly: I move that Bill Number 19, entitled *Access to Information Act*, be amended in Clause 12, at page 5, by deleting Clause 12(4). In argument I say this clause is totally unnecessary.

Hon. Mrs. Firth: I could see why the member would want this clause removed. This clause simply says that the judge cannot provide access to any information protected under Clause 8. It ensures that he cannot make a decision independent of Clause 8. In other words, the judge cannot make up his own access to information laws. The legislature makes the legislation and the judge simply gives rulings on the legislation, he does not make

them up.

Mr. Kimmerly: Almost everything, in fact, anything — I would say anything and everything, it could be argued — comes within Clause 8. Obviously, the argument in a court would be does Clause 8 apply or not? The wordings of the exclusions in Clause 8 are so very general that there could be something under which the information, technically, is covered by the general wording of Clause 8, but the particular information is not covered by the obvious intent of Clause 8.

If this were allowed, it would be virtually impossible to reverse a decision in a court at all. It would be virtually an empty provision, in that almost everything comes within Clause 8. Obviously, the argument would be, does it or does it not?

¹¹ The sections are so general, it is a virtually empty provision.

Hon. Mrs. Firth: I think that this kind of an amendment would detract from the clarity of the act and possibly create some ambiguity in the minds of the public. All it does is ensure that the judge is consistent with the direction that the legislation is giving.

Mr. Penikett: I beg to differ.

If the minister were really concerned about clarifying a position in the act, instead of having section 8 in Clause 12(4), she would have section 8 in 3(1), but it is not.

It seems to me that what this does is simply invite the claimant to go to court and argue about whether something is in section 8 or not. What you have now is a broad section.

Perhaps we could not have interventions from the gallery, Mr. Chairman.

Section 8 is so broad to...

Some Hon. Member: Can we not blow our nose?

Mr. Penikett: That is allowed. It sounded like a derisive snort such as we are accustomed to hearing from the member for Porter Creek East even when he has not listened to the speech.

Section 8, as we have pointed out so many times before, is so broad the way it is presently worded as to include almost any and all kinds of information of any possible kind that anyone would ever possibly want from the government, to be excluded in any case. What that would mean is that when you are going before the judge, the only thing you get to argue is whether it is under section 8 or not.

As this clause says, "if under section 8 there is no right to be requesting information, the Supreme Court Judge cannot order the archivist to grant the request". In other words, basically, if it is something that falls under the parameters of section 8, then it is not even debatable, so the only case you have to make when you go before the judge is whether 8 covers it or not. Since, at the moment, 8 seems to cover just about everything, you have a real problem.

Hon. Mr. Tracey: I am surprised the member across the floor is saying that we should include section 3 in here as well, because section 3 is the one that allows the judge to make a judgment on it. Section 8 is excluded.

Mr. Penikett: Point of order, Mr. Chairman. I did not say that. I said that if you are going to have section 8 in 12(4), you should have it in 3(1). I did not say you should have 3(1) in 12.

Amendment defeated

Clause 12 agreed to

On Clause 13

Mr. Kimmerly: Members opposite are obviously reacting to our reasonable attitude of allowing the section about fees to go by without even any questions. We are simply assuming that the fees would be reasonable fees.

¹² *Amendment proposed*

However, Clause 13(1)(c) is an entirely different thing. It basically means that if other procedures are required in the future, it is not necessary to come back to the legislature. It is simply necessary to make regulations about them. The amendment I would propose is: I move that Bill 19, entitled *Access to Information Act*, be amended in Clause 13, on page 6, by adding after 13(1)(a) the word "and"; deleting after 13(1)(b) the word "and"; and deleting 13(1)(c).

In speaking to the amendment, it is extremely bad legislative practice to allow such procedures as are not established by an act to be enshrined in legislation. When it is found in the future that the

act is deficient in some way, there will simply be a regulation adding another provision to the act and the authority will be quoted as 13(1)(c). It is extremely widely worded and I submit it is contrary to the rules of good legislative drafting and, indeed, good regulation making. I am extremely interested in any explanation for this very wide power.

Hon. Mrs. Firth: If this amendment is to suggest that the hon. member feels the government will make regulations that are inconsistent with the act, I think that is highly improper and it is inconsistent with the fundamental principals of law. It is not the government's intention to put bureaucratic procedures into the legislation and, therefore, I think the amendment is unnecessary.

Mr. Kimmerly: Let me give an example. We argued about Clause 3(1). It is entirely possible under this section to pass regulations defining what the public interest is and further particularizing it not inconsistent with the bill but adding to it, adding procedures to establish the public interest. This regulation-making power appears to grant that power. The response is not a response to the problem identified.

¹³ **Hon. Mrs. Firth:** All it is saying is that regulations are being developed concerning the approval mechanisms within the government. I still do not think the amendment is necessary.

Hon. Mr. Tracey: It also says "prescribing procedures". It does not say that you can amend the act in any way; all it describes is procedures on how the act can be implemented.

Mr. Penikett: Having heard the umpteenth report of the Statutory Instruments Committee the other day, I am surprised the minister can even say such a thing.

Amendment defeated

Clause 13 agreed to

Amendment proposed

Mr. Kimmerly: I would move that Bill Number 19, *Access to Information Act*, be amended at page 6, by adding after Clause 13 the following new clause: "14(1) Nothing in this act shall be deemed to abrogate, abridge or infringe any of the privileges, immunities and powers held, enjoyed or exercised by a member of the Legislative Assembly" and renumbering existing Clause 14 to Clause 15.

Mr. Penikett: I want to speak to this — gosh, it is a really good amendment. It is a really darn good amendment and it may be necessary, having heard what we have heard here the last couple of days. Especially given the alarming information we have heard with respect to Clause 1 and the unresolved situation with respect to Clause 8, the scope of the access to information could, as the government leader indicated the other day, be narrowed rather than broadened. Now, this would be a very serious concern to me, but I think all of us would recognize that, as legislators, we have a responsibility to protect the ancient rights and privileges enjoyed by bodies like this and, by oversight or by omission, we would not want to act in any way as to unconsciously limit, narrow or restrict the rights and privileges and powers that democratic legislators and parliaments in the British tradition spent 1,000 years winning.

It would be a terrible thing if we were to pass a bill that consciously or unconsciously restricted these ancient rights and privileges. Therefore, I submit it is necessary that we include in this bill a clause or provision such as this to make it quite clear that, no matter how restrictive access to information is or will be under Bill Number 19, the ancient rights and privileges of members of the legislature to ask for, and for the legislature to obtain, information cannot be done away by the statute.

I think that we have to make sure that the possibility that the legislature should some day order the government to provide information that might not be available to the public under this bill must be protected and maintained. I am sure all freedom and democracy-loving members of this legislature will want to support this amendment.

Hon. Mrs. Firth: I am a democracy-loving person, but I do not really feel that because we are MLAs that we should have any special privileges and any special access to information that the public does not have.

If the amendment is to assure that the Legislative Assembly will still properly function, then it is unnecessary. The act is not

intended to limit, and does not have the effect of limiting, this Assembly or its committees.

Mr. Penikett: I gather that we will have to depend on the ancient set of constitutional traditions — what is it, Bill No. 1 — in order to protect us in this case.

Mr. Chairman: Shall the amendment adding a new Clause 14 be carried?

Mr. Penikett: Division, Mr. Chairman.

Mr. Chairman: All those in favour of the amendment, please rise.

All those against, please rise.

There are five nay and five yea.

I will vote against the amendment. The reason for that is to maintain the bill in its existing form.

Amendment defeated

On Clause 14

Clause 14 agreed to

Mr. Chairman: Are you prepared to go back to the ones we have stood over?

We should stop now for a short recess.

Recess

Mr. Chairman: I will call committee back to order.

We will go back to page 2 of Bill No. 19, clause 6(2)

Mr. Chairman: The amendment reads: "that Bill No. 19, *Access to Information Act*, be amended in Clause 6(2) at page 2, adding after the word 'denied', the words 'but reasons for denial must nevertheless be given'".

Hon. Mrs. Firth: I would like to propose an amendment that Bill No. 19, entitled *Access to Information Act*, be amended in Clause 6(2) at page 2 by amending the word "subsections" in line 3 and substituting therefor the word "subsection"; by deleting the words "and for" in line 3; and by adding after the word "denial" in line 4, the following: "and shall give the reasons for the decision".

Mr. Kimmerly: This is an acceptable amendment. In fact, it is a good amendment and I would withdraw my amendment proposal.

Mr. Penikett: The issue is whether the Committee consents to withdraw.

Mr. Chairman: Does the Committee agree to withdraw?

Some Members: Agreed.

Mr. Chairman: The member's amendment is withdrawn.

Hon. Mrs. Firth: I would have to indicate a further amendment for a typing error in the word "denial", which should be "denied" in line 4.

Mr. Penikett: It is not necessary. The minister has not introduced her amendment yet. She can read the correction as she reads the amendment.

Hon. Mrs. Firth: I move that Bill Number 19, entitled *Access to Information Act*, be amended in Clause 6(2), at page 2, by amending the word "subsections" in line 3 and substituting therefor the word "subsection"; by deleting the words "and (4)" in line 3; and, by adding after the word "denied" in line 4 the following: "and shall give the reasons for the decision".

Mr. Kimmerly: Before we go too fast, I am reading the amended section as it would read and I do not think it makes sense. It does not say who will give the reasons and within which timeframe. It appears to say that the request shall be deemed to have been denied and shall give the reasons for the decision. It is not an English sentence, I believe. Perhaps further consideration is in order.

Mr. Penikett: Could I suggest that the most expeditious way of dealing with this would be if we took a one minute recess and allowed the minister to take a look at the wording.

Mr. Chairman: Agreed.

Recess

Mr. Chairman: I will call committee back to order.

Hon. Mrs. Firth: I would like to propose a rewording to the amendment and I would move that Bill Number 19, entitled *Access*

to Information Act, be amended in Clause 6(2), at page 2, by amending the word "subsections" in line 3 and substituting therefor the word "subsection"; by deleting the words "and (4)" in line 3; and by adding after the word "denied" in line 4 the following, "and the reasons for the denial shall be provided".

Mr. Chairman: Is there any discussion?

Amendment agreed to

Clause 6 agreed to as amended

Amendment proposed

Hon. Mrs. Firth: I move that Bill Number 19, entitled *Access to Information Act*, be amended in Clause 8(1)(h), at page 3, by deleting the word "communications" in the second line and inserting "opinions or recommendations communicated"; and inserting in the third line after the word "Council": "on matters relating to the formulation of government policy and the making of government decisions".

Mr. Penikett: Obviously, we have just seen this and we have spent a long time talking about this clause. This may not be the perfect solution to the problem, to the one we proposed, but it does seem perfectly clear that it is an improvement.

I wonder if the minister might give, if she would, in a few words, a perfect little statement about why this is the answer to the problem that we identified.

Hon. Mrs. Firth: You know how mothers feel about their children. This is my child and, of course, I feel this is my perfect little child.

The deletion of the word "communications" — I believe the leader of the opposition had expressed much concern about that particular word being too broad — we have inserted, "opinions or recommendations communicated".

The other concern expressed was the fact that anything that came across a minister's desk could become highly confidential information. So, we tried to identify that concern by using the words "on matters relating to the formulation of government policy or the making of government decisions". We thought that would address the concerns of the leader of the opposition.

Mr. Kimmerly: On an example, "recommendations communicated", of course, immediately puts me in mind of advisory bodies or advisory boards. I would like to ask a clarification question because it has wide-ranging implications that will be immediately seen by many.

If an advisory board makes a recommendation to the minister, my interpretation is that that recommendation would be covered by this new amendment. So, for example, if the advisory boards proposed, under the land claims agreements, or any of the existing advisory boards made a recommendation, and somebody asked what recommendation was made, I am assuming that this exclusion would cover it. Is the minister able to tell me that that is inaccurate?

Hon. Mrs. Firth: It would depend on whether the recommendation dealt with government policy, or proposed government policy.

Mr. Kimmerly: If it did, and most recommendations, of course, would. Let me phrase the question this way: if the Wildlife Advisory Board made a recommendation concerning changing the policy in a particular game management zone, it is my interpretation that that is a recommendation. It is clearly a government policy the way these zones are managed and that would be covered. Is the minister able to say that that analysis is wrong?

Hon. Mrs. Firth: If an advisory committee gives a recommendation to the government, and the government then makes policy through that recommendation, I think that is confidential and the recommendations of an advisory council to a minister would be considered matters relating to the formulation of government policy and the making of government decisions.

Mr. Kimmerly: I would ask a practical question in view of that response, which obviously is the right one. What safeguard is there for these advisory bodies if their recommendations never become public? In fact, under this bill, the content of the recommendations could be suppressed or kept confidential. What safeguard at all is there for the influence or power of those advisory bodies?

Hon. Mrs. Firth: I want to make a couple of things clear. First of all, they are in an advisory capacity to government, so they are

not setting policy. They are merely advising the government as to policy. It depends whether or not the government wishes to take that advice, and whether the government or minister wishes to constantly suppress that advisory committee. I am sure the minister is going to be politically astute enough and politically aware to know that if he is constantly suppressing an advisory committee and things are not going in their favour, that committee is going to go back to their representation and I am sure the democratic process will take care of the problem if one arises.

Mr. Kimmerly: The problem is that those recommendations communicated will be exclusions under this act, and this act will deny a right of information about specifically those proposals, which appears to me to be a substantial area where the government is operating as a closed government as opposed to an open one.

Hon. Mrs. Firth: By just the mere fact that the government does have advisory committees, the recommendations that we would receive from them would be no different than recommendations and opinions that were communicated by deputy ministers' memos or administrative personnel who were making some opinions or recommendations regarding government policy and the making of government decisions.

18 Amendment agreed to

Clause 8 agreed to as amended

Amendment proposed

Mr. Chairman: It has been moved that Bill 19, entitled *Access to Information Act*, be amended in Clause 11(4), by adding after the words "the denial" the following: "and shall give reasons for the decision".

Amendment agreed to

Clause 11 agreed to as amended

On Clause 1

Hon. Mrs. Firth: I would move that you report Bill No. 19, as amended.

Amendment proposed

Mr. Penikett: In Clause 1, in the spirit of the debate that we have been having this evening, perhaps I could move that Bill Number 19, entitled *Access to Information Act*, be amended in Clause 1, at page 1, by deleting the words "access to" and substituting for them the words "absence of".

Hon. Mrs. Firth: I think that is out of order.

Mr. Chairman: I rather think it is out of order, too, personally.

Mr. Kimmerly: On a point of order, are there any reasons for your ruling that it is out of order?

Hon. Mr. Tracey: Because it makes a mockery of the bill.

Mr. Penikett: You are giving an opinion on the bill and an opinion on the judgment of the bill, which I do not think you are entitled to do as the chairman.

Amendment defeated

Clause 1 agreed to

On Title

Title agreed to

Hon. Mrs. Firth: I would move that you report Bill No. 19 as amended.

Motion agreed to

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

Motion agreed to

Mr. Speaker resumes the Chair

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

Mr. Brewster: The Committee of the Whole has considered Bill Number 19, *Access to Information Act*, and directed me to report the same with amendments.

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

Some Members: Agreed.

Mr. Speaker: May I have your further pleasure?

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

Mr. Speaker: It has been moved by the hon. Minister of

Education that the House do now adjourn.

Motion agreed to

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

The House adjourned at 9:16 p.m.

