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HANSARD

Tuesday, December 9, 1986 — 1:30 p.m.

Speaker: The Honourable Sam Johnston

Yukon Legislative Assembly

SPEAKER — Honourable Sam Johnston, MLA, Campbell

DEPUTY SPEAKER — Art Webster, MLA, Klondike

CABINET MINISTERS

NAME	CONSTITUENCY	PORTFOLIO
Hon. Tony Penkett	Whitehorse West	Government Leader. Minister responsible for: Executive Council Office; Finance; Economic Development; Mines and Small Business; Public Service Commission
Hon. Dave Porter	Watson Lake	Government House Leader. Minister responsible for: Tourism; Renewable Resources.
Hon. Roger Kimmerly	Whitehorse South Centre	Minister responsible for: Justice; Government Services.
Hon. Piers McDonald	Mayo	Minister responsible for: Education; Community and Transportation Services.
Hon. Margaret Joe	Whitehorse North Centre	Minister responsible for: Health and Human Resources; Women's Directorate.

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New Democratic Party

Sam Johnston	Campbell
Norma Kassl	Old Crow
Art Webster	Klondike

OPPOSITION MEMBERS

Progressive Conservative

Willard Phelps	Leader of the Official Opposition Hootalinqua
Bill Brewster	Kluane
Bea Firth	Whitehorse Riverdale South
Dan Lang	Whitehorse Porter Creek East
Alan Nordling	Whitehorse Porter Creek West
Doug Phillips	Whitehorse Riverdale North

Liberal

James McLachlan Faro

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Whitehorse, Yukon
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Speaker: I will now call the House to order.
 At this time, we will proceed with Prayers.

Prayers

DAILY ROUTINE

Speaker: We will proceed at this time with the Order Paper.
 Introduction of Visitors?

INTRODUCTION OF VISITORS

Mr. Phillips: It gives me a great deal of pride today to welcome to the House several Yukon residents from Macaulay Lodge. We have here today 23 Yukon residents from Macaulay Lodge who, I might add, represent 795 years in Yukon.

Applause

Mr. Phillips: I would also like to make a special mention, and I take a great deal of pride in welcoming these guests here today as my father is among these very distinguished Yukoners. Let us give a very warm welcome to the residents of Macaulay Lodge who are in the Legislature today.

Applause

Hon. Mrs. Joe: I see in the audience closest to us a man very respected by all Yukon people, a very good friend of all of ours, Mr. Johnny Johns.

Mr. Lang: I would also like to take notice of two visitors we have in the gallery today, very good friends of the Yukon and relatives of Eileen and Alan Fry, I would like to introduce Dulcie Fry from Kelowna and Joan Fry from Vancouver.

Speaker: Are there any Returns of Documents for Tabling?

TABLING RETURNS AND DOCUMENTS

Hon. Mr. McDonald: I have for tabling a report entitled the "Economic Viability of the White Pass and Yukon Railway".

Speaker: Are there any reports of Committees?

Any Petitions?

Introduction of Bills?

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

Are there any Notices of Motion?

Are there any Statements by Ministers?

MINISTERIAL STATEMENTS

Economic Viability of the White Pass and Yukon Railway

Hon. Mr. McDonald: Today I tabled a report commissioned by the Government of Yukon in May, 1986 entitled the "Economic Viability of the White Pass and Yukon Railway".

The government acknowledges the important role that the White Pass and Yukon Railway has played in the economic and social development of the Yukon since the turn of the century. It is concerned, as are many Yukon people, with the cessation of rail operations in October of 1982. In view of the possibility that the railway would be permanently abandoned and no longer available to operate in a tourist and/or freight carrying capacity, we sought engineering expertise with particular speciality in railway operations to carry out a thorough review.

⁰² We believed that such a study was a necessary first step, which would have to be undertaken by any private sector interests seriously considering reactivation of the railway and, as well, to provide the factual base required to assist the government in determining its future relationship with the White Pass and Yukon Railway.

The task that the consultants were asked to carry out was to determine the present economic viability and future prospects of rail passenger and freight service between the Yukon and Skagway,

Alaska. They were asked to examine the costs necessary to resume railway operations, the cost of operating a variety of seasonal tourist passenger operations, and a year round freight operation, and to assess the likely market demand and related expected revenues between now and the year 2000.

The report examines four different seasonal tourist train scenarios, as well as a year round freight hauling operation. Each of these options was carefully costed from both a capital and O&M standpoint. For each situation, the current track condition, the state of facilities and rolling stock and the requirements of the various operations alternatives were taken into account. Revenue estimates were developed on the basis of historical ridership patterns, the probability of passenger interest in various types of train trips at various prices and the likelihood of various levels of possible freight demand. Cost estimates were then compared to revenue probabilities to determine break-even or profit-making potential.

The report finds that, based on certain assumptions of tourism and cruise ship activity, and on the assumption that an agreement can be reached with existing owners, labour union, liability insurers and the cruise ship lines, either of two of the shorter train runs, Skagway to Fraser or Fraser to Carcross, appear to have the potential of economic viability. Year round freight operations, under anticipated mining development and Beaufort oil projections do not currently appear to have a high likelihood of economic viability.

In view of these findings, it is the government's position that the White Pass and Yukon Rail Line offers a challenge and an opportunity to private sector interests to reactivate and operate as a seasonal tourist train. The reactivation of a tourist train would not only have direct economic benefit, but also would help protect for the future the existing right of way. The government is prepared to provide technical advice and to assist private sector interests in acquiring access to existing government programs, both federal and territorial, to explore the practicalities of putting this rail line back into operation. It is our hope that Yukon people will play a significant role in the reactivation of the rail in order to maximize the benefit of any tourist train to the Yukon economy.

Mr. Phelps: I would like to say that I am very pleased that the government has done some work with regard to exploring the feasibility of the future of the White Pass Railway. Being a resident of Carcross, it is an item that is very important to me and also to those who live along the railway because the railway really plays a very significant role in not only the economy — it did when it was active, at least — but in Carcross life in general. A very significant historical railway it is.

I am a little concerned by the statement. I would be concerned if it were determined that the only portion of the railway that could be used would be utilized on a seasonal basis, and then only run from Skagway to Fraser because that certainly would result in possibly a loss of benefits to the Yukon, and in particular Carcross, which does benefit greatly from tourist inflow from the tour boats that dock at Skagway over the course of the summer season.

⁰³ I will be reading the report that has been tabled with a great deal of interest. I am sure that there will be some questions that will be forthcoming in the next few days and weeks.

Mr. McLachlan: I, too, am looking forward to receiving the report and reading the contents of it. I feel that discussions on the viability of the railroad, for many people in the Yukon, are often filled with mixed emotions. Coming from Faro, we well know the situation of the railway as it related to the Cyprus Anvil mining operation there. Yet, we do recognize the historic value of the wonderful railroad.

We must often be faced with the reality that the rail is a dicey financial risk. I am encouraged that the report does suggest the railway would be a viable tourist attraction. I look forward to private industry taking up the challenge of running this most valuable, historic tourist attraction.

Hon. Mr. McDonald: In response to the Member for Hootalinqua's remarks, I can say that it is in Yukoners' best interest that we give the assurance to all persons who may have an interest in the

continued operations of a train, or any rail activity along the White Pass and Yukon Railway, that it is the Government of Yukon's position that we would only support train operations that benefitted the territory, and we would ensure and encourage any private rail operator to make use of not only the train run within the confines of the territory but, also, to take advantage of the significant entrepreneurial ability of many Yukoners to make the railway operate.

We are mindful of those considerations. We have to be equally mindful of the hard dollars and cents of these operations, as were the forebearers who started the railway in the first place. With good, sound economic sense and an indication and vision of where we want to go, I think that we can make this railway run again.

Speaker: This, then, brings us to the Question Period.

QUESTION PERIOD

Question re: Yukon/NWT boundary

Mr. Phelps: Later in the day, we will be debating a motion about the Yukon/Alaska boundary and the extension of that boundary into the Beaufort Sea between Canada and the United States.

I am also very concerned about the other boundary, that between the Northwest Territories and Yukon. On July 18, 1985, I presented a motion of urgent and pressing necessity with respect to the dispute between the NWT and Yukon over the boundary, particularly on the north coast.

Can the Government Leader apprise us of the current status of that situation?

Hon. Mr. Penikett: I apologize, but I am not equipped to give any recent reports. I am well aware that the federal government is fully apprised of our position on this question, as is the Government of the Northwest Territories. We have had taken every informal occasion offered us with federal Ministers to make sure that our view is conveyed, but I cannot indicate to the Member if there has been any recent communication from the federal government on this score. I will check and report back to the Member.

Mr. Phelps: This is an extremely urgent situation concerning all Yukoners, and I would ask the Government Leader if he would be prepared to table any correspondence that the government has had with regard to this matter with the federal government or with the Northwest Territories?

Hon. Mr. Penikett: I will look at either tabling correspondence or report on the communications that we have had with the federal government on this question.

Mr. Phelps: Can the Government Leader advise us as to what the present status of the court case concerning that boundary dispute is; has it been adjourned or has it been withdrawn?

Hon. Mr. Kimmerly: I will check precisely, but it is not proceeding to argument in court in the immediate future; however, I will check precisely and provide an answer in writing, or however the Member wishes it, this week.

Question re: Land claims, overlapping claims

Mr. Phelps: It is indeed opportune that the north Yukon is receiving such publicity at this time, not only here but throughout the country, and I would like to express my concerns again about the overlapping claims being made by the Dene people of Fort McPherson, Aklavik and Arctic Red River into Yukon and I am wondering whether or not we could be advised as to how much of an area the Dene are claiming into Yukon?

Hon. Mr. Penikett: I will have to take that question as notice. I do not have any information on that at my fingertips.

Mr. Phelps: We have heard concerns expressed by the people of Old Crow about this overlap. Can we be advised as to what impact, if any, the Dene of the Northwest Territory's Indian peoples overlapping claim into Yukon is having on the conclusion of negotiating the Old Crow claim?

Hon. Mr. Penikett: I will have to take a question of that kind of specificity in detail as notice.

Mr. Phelps: I look forward to the answers and would ask

whether our government has negotiated, or consulted, with the Dene people of Fort McPherson, Aklavik and Arctic Red River with regard to ascertaining their exact position on their overlapping claim into Yukon?

Hon. Mr. Penikett: As I believe I told the Member yesterday, we have diligently sought to seek solutions to the non-resident claimants interests through discussions, and to this end we have met with the non-resident claimants and will continue to be meeting with them. Through these discussions we do wish to determine if their interests can be realized without adversely affecting the interests of Yukoners and without compelling the non-resident claimants to litigate their interests. We would hope that we can establish if their claim can be settled within the interests of the aboriginal people of the Yukon as well, but, as I indicated yesterday, our ability to deal adequately with this question, in the absence of federal policy, is very slight.

Question re: Curragh Resources, application for overload permit

Mr. McLachlan: My question is for the Minister of Community and Transportation Services. Can the Minister confirm if Curragh Resources has applied for an overload permit of 115 percent on the normal axle loading on the trucks for the movement of concentrates from Faro to Skagway during December 1 to April 1 when the roadbed is solidly frozen?

Hon. Mr. McDonald: I cannot confirm or deny that assertion. I would have to check with the department as to whether or not they have made an application for overload permits beyond that what the bulk commodity agreement allows, but I will check on that for the Member.

Mr. McLachlan: The possible move by Curragh, I believe, was intended to move concentrates from Faro to tidewater at a faster rate during the winter months in order to provide a potential buffer if unable to use the road in April or May. In that regard, I would like to ask the Minister if the department has considered any alternate methods of plowing the road this winter in such a way that the snow buildup on the shoulders of the road is reduced to an absolute minimum? Have you considered any alternative methods?

Hon. Mr. McDonald: I have not been involved in the discussions with the department with respect to the method of snow clearing of the route from Faro and the US/Canada border. Whatever measure the department takes, I am sure, will be sufficient to meet the demands of the travelling public. If there is something specific that the Member is asking for, some technical detail, then perhaps he could submit that to me either verbally or in writing sometime, and I will pursue it with the department.

Mr. McLachlan: We are not at a time, I realize, when the subject of load limits is very much in anyone's mind, but I wanted to ask the Minister if he is aware of any period of time when it was not required to put load limits on the road between Faro and the Canadian border? Has it ever happened before?

Hon. Mr. McDonald: It certainly has happened that load limits have been applied to that particular stretch of road. It comes up every spring when there is spring breakup and the ground thaws and there is some danger to expensive pavement. Historically, prior to the pavement being laid, there was not such a need to put weight restrictions on truck travel because the damage to the road surface was not considered to be inordinate. Now that we have spent tens of millions of dollars to improve the pavement, it has been considered important to do the necessary tests to ensure that the pavement is not damaged.

Question re: Nordenskiold Bridge road

Mr. Brewster: My question is to the Minister of Renewable Resources. A land use permit was issued to the Yukon government to clear a 25-metre-wide road for 13 miles from the Nordenskiold bridge in Carmacks. Were there any public meetings in the Carmacks area before this road project was allowed to proceed?

Hon. Mr. Porter: I do not have the detail with respect to the land use permit that the Member speaks of. It would follow that I would not be able to answer the second question with respect to a public meeting. I would ask the department to prepare information

with respect to the question put and relay that answer to the Member.

Mr. Brewster: We are right back where we were last spring. Since this is the beginning of the trapping season for the two trappers in that area, and the clearing of a roadway can have a negative impact on their traplines, can the Minister advise the House if his department has ever consulted with the two trappers?

Hon. Mr. Porter: Now that he has asked another question, the Member has shed a little light on what he is asking about. He is talking about the Casino Road Trail. Yes, there has been work done by the Department of Community and Transportation Services on that roadway. I suspect that there normally would be consultations with the two trappers. As to whether or not these trappers were indeed consulted about the construction of the roadway, I will check in the specificity of that question.

Mr. Brewster: I could probably give you the answer, but I will not. Would the Minister not agree that this project, being done in the trapping season, is a hardship on the two trappers who are trying to trap in that area and were not consulted?

Hon. Mr. Porter: The question is purely argumentative and representative of the Member's point of view. It does not warrant an equally representative answer.

Question re: Certified nursing assistants

Mrs. Firth: I have a question regarding the certification and registration of certified nursing assistants. There has been an ongoing controversy between the Department of Education and the Department of Consumer and Corporate Affairs regarding licensing and registering of certified nursing assistants. I understand an Order-In-Council was passed legalizing certification for the CNAs, but it abolished the licensing process.

There will be some 76 or so CNAs in the Yukon Territory who will not be able to renew their licenses. Can the Minister tell us what he is proposing to do about that?

Hon. Mr. McDonald: I am not aware of a controversy between the two government departments. The attempt was made in the House, and has been made recently by Orders-In-Council, to ensure that CNAs do have a license that is backed up by legislation. That has been the intent of the changes to legislation and the Orders-In-Council. There is no intent to deny CNAs a license to operate, but merely to give them a certificate that counts. If there is anything further to the question, perhaps the Member could ask through supplementaries, and I will pursue it further.

Mrs. Firth: I know the Minister realizes that certification and registration are two different things. The licensing process that has been abolished does not satisfy the certified nursing assistants' needs. For example, the certification is applicable only to the Yukon Territory and is not transferrable to be licensed outside the territory. It is a concern that there will be quite a number of certified nursing assistants who will not be able to renew their licenses. Perhaps the Minister could tell us what he is doing to address that?

Hon. Mr. McDonald: I am aware of the difference between certification and licensing. As I understand it, it is under dispute as to whether or not licensing is the appropriate procedure for Certified Nursing Assistants — licensing in the sense that you would register a nurse.

My understanding is that the certification process is the appropriate procedure to follow, under the circumstances. A certification process has to be backed up by appropriate legislation. We have done the latter, and I believe certification is now required under the new rules for nursing assistants.

I am not familiar with the details of what the portability to other jurisdictions of that certificate is, but I can check on it for the Member. I will also check on the assumptions that the Member has made in addressing the question to the House.

Mrs. Firth: They are not assumptions that I am making. They are facts and concerns that have been raised with me by the Certified Nursing Assistants.

Could the Minister tell me who was consulted when the decision was made to pass the Order-in-Council, and will he give us a commitment to come back with an answer and a solution?

Hon. Mr. McDonald: First of all, we should check on the assumptions and the facts, as the Member puts them, with respect to the matter. In her question, the Member implies that I would not be able to have an answer on my feet as to whether or not anyone has been consulted, which is the case. I do not have an answer. I will return to the House with something for the Member, as she has requested.

Question re: Service contracts

Mr. Nordling: Last week, I asked for an answer to one of my letters and, also, for copies of several contracts with respect to the Yukon 2000 Conference. I read *Hansard*, and the Minister of Economic Development has agreed that he will provide information for me, that I would receive a reply to my letter and that my questions would be answered.

Today, I would like to ask the Minister when I will receive a reply to my letter and when the questions will be answered?

Hon. Mr. Penikett: As soon as I get the draft reply and can sign it, or if there is information that I can get the particulars on, which I can provide at the appropriate time in oral Question Period. When I have the information, I will give it to him.

Mr. Nordling: The Minister of Education was able to produce contracts with respect to the Commission on Indian Education within a matter of hours. The Minister of Justice produced the printing contract for the human rights booklets within a day or two. Is the Minister having trouble within his department, so that it has taken over three weeks to reply to a simple request?

Hon. Mr. Penikett: No. I can tell the Member for a fact that the people in my department are extremely busy with many important projects. Nonetheless, he will get the information he has requested.

Mr. Nordling: I have the same answer as I had last week. Could the Minister be a little bit more specific, or come back and tell me if "when it is ready" means within days or months or weeks?

Hon. Mr. Penikett: It will be within days.

Question re: Macaulay Lodge, therapist

Mr. Phillips: I have a question for the Minister of Health and Human Resources. For over a year I have been lobbying very strongly for the Minister to hire an Occupational Recreational Therapist for Macaulay Lodge. Can the Minister tell me whether we are proceeding with that very much needed position at Macaulay Lodge?

Hon. Mrs. Joe: The interviews for that position will be on December 15, and we would hope to have somebody in place by January 5, 1987.

Mr. Phillips: I am very, very pleased to hear that they will be going ahead with that position. Will that position be full-time or part-time?

Hon. Mrs. Joe: That position ties in with the Home Care Program and will be half-time at Macaulay Lodge and half-time with other residents who require those services in their homes.

Mr. Phillips: I am very, very pleased to say the least that we are getting a much needed occupational and recreational therapist at the Lodge. I am sure the Members of the Lodge are very pleased to hear the Minister make that announcement today.

I can only encourage the Minister in the strongest terms again that the Occupational Therapist should be stationed at Macaulay Lodge, and we should seriously look at making that person's job to be made full-time at the lodge. I think there is a real need.

Hon. Mrs. Joe: I agree with the Member completely.

Question re: School busing

Mr. Phelps: I have some follow-up questions regarding the Hootalinqua Constituency and one of them will be of interest to Mr. Speaker as well as myself as it has to do with the efforts to have a school bus supplied to service Johnson's Crossing and residents in between that area and Teslin as well as other residents within a decent distance from Teslin.

I have been advised that the school bus will be forthcoming, and on behalf of my constituents I would simply like to ask when?

Hon. Mr. McDonald: As Members know, contracts of that size are tendered and a tendering process has been undertaken and tenders close either today or tomorrow. The plan is to have the bus in place in time for the successful bidder to look at the operation and to have the bus in place for students after the Christmas break.

Question re: Carcross street lighting

Mr. Phelps: The second question has to do with our request for street lights in Carcross between the highway bridge and the restaurant just on the other side of the airport because of all the foot traffic there. My letter was dated November 22, 1985 and I know that the Minister's department has been looking into that. I am wondering if we can have an update on that issue?

Hon. Mr. McDonald: We have determined that the area in question that the Member mentions is approximately 600 feet in length. We are prepared, given the ongoing cost of lighting, to place street lights at the intersections of the Tagish Road and also at the entrance to Carcross. We feel that is a reasonable compromise in the circumstances. As I understand it, there may have been a request for street lighting along the entire length of the highway between those two points, but given the cost of operating lights I think it is reasonable and prudent to put lights in at the intersections in a situation like that, and I am proud to announce that we are going to do that.

Mr. Phelps: I would like to thank the Minister for his efforts in that regard. Could he give us an indication of approximately when the lights might be installed?

Hon. Mr. McDonald: I cannot at the present time, but I will undertake to seek that information from my department. I am sure the weather will be a factor as well as the Christmas break. I am not sure. I will undertake to get the information to the Member quickly.

Response re: Service contracts, Tourism and Renewable Resources

Hon. Mr. Penikett: I have answers to some questions asked by the Member for Riverdale South. The other day the Member asked about some contracts issued by the Department of Tourism and Renewable Resources. I am advised that those departments have issued four service consulting contracts mentioned by the Member. The dollar amounts that she cited were correct. The decisions regarding the contracts entered into with Ms. McPherson were made at the administrative level for administrative reasons. I think it should be said that Ms. McPherson is a well qualified, highly competent, very professional consultant.

Response re: Service contract, Executive Council Office

Hon. Mr. Penikett: In response to the question directed at the Executive Council Office, Nancy McPherson was awarded a service contract by the Executive Council Office on July 21, 1986 for \$4,500 to provide a summary and overview of all Yukon government departments' responses to the 21 volume Nielsen Task Force Report. The contract was awarded because no departmental staff were available for the task, and because Ms. McPherson is an experienced researcher who was familiar with the Nielsen Task Force as a result of reviewing it three months earlier on a contract for the Department of Tourism.

Question re: Registered nurses

Mrs. Firth: I have another question for the Minister of Education regarding certification and registration for the registered nurses. The controversy between the departments of Education and Consumer and Corporate Affairs has also applied to the licensing and registration of the registered nurses in the Yukon.

The licensing and registration is apparently to be done by a clerk within the Department of Consumer and Corporate Affairs. Is the Minister in agreement with this procedure?

Hon. Mr. McDonald: As I understand it, the Department of Consumer and Corporate Affairs and the Department of Justice is responsible for licensing professionals. The Department of Education is not responsible for licensing professions, which implies that once a person is licensed, that person has the right to work in a particular occupation because that person is qualified to work as

determined by the licensing procedures. It monitors the person's performance and the person's skills whereas a certification process, which is the responsibility of the Department of Education, is merely to signify that a person has passed a particular course.

At the present time, the Department of Education's mandate is only to certify. They do the actual training and, after the training is complete, they judge whether or not the person has completed the course work and is competent to a certain point. There is no ongoing monitoring of that person's ability. That is part of the licensing process; it is not the Department of Education's mandate; it is the Department of Justice's mandate.

Mrs. Firth: From that response, although I did not get a yes, I am taking yes as the answer. Since all the provinces have a professional registrar, where RNs become registered, will the Minister reconsider and give a commitment to Yukon nurses that they will be treated the same as other nurses in Canada, and that he will consider that they will also have a professional registrar?

Hon. Mr. McDonald: I have tried to explain that licensing was not the responsibility of the Department of Education. A professional licensing registrar is not the Department of Education's responsibility and, therefore, as Minister, I would hesitate to comment on the matter. I would remind the Member that this, of all the jurisdictions, is the smallest. Whether it is cost effective and prudent to have a registrar for professional people in the Department of Justice, perhaps the Member would like to ask the Minister of Justice.

I will comment on the certification procedures as conducted by the Department of Education.

Mrs. Firth: It is funny that when it is to the advantage of the government "this is the smallest jurisdiction", but when it is not to their advantage, we need things for huge jurisdictions like human rights legislation.

I want to know who was consulted when this decision was made? Were the people who are affected consulted?

Hon. Mr. McDonald: You do not have to be a small province to defend people's rights, but it is sometimes cost effective to maintain services in accordance with the size of the population.

With respect to consultation over licensing of registered nurses, I do not know what the Member is referring to. With respect to the certification procedure for CNAs and the controversy that has taken place over the past couple of decades with respect to nursing assistant certification, my understanding is that the Department of Education has consulted with the Certified Nursing Assistants Association. I am not familiar with the name, but I am sure the Member is more familiar than I am. That consultation has taken place. If the Member wants to know dates, times, who was involved and that sort of detail, she can ask. If she does ask, I will try to seek the information.

Question re: NCPC transfer

Mr. McLachlan: On October 27, the Government Leader's counterpart in the NWT, the hon. Tom Butters, the Minister of Finance, announced that the GNWT would create its own territorial Crown corporation for the generation, transmission and distribution of electrical power. The Government of the Northwest Territories has done its analysis and seen the light differently. In the light of the decision by GNWT to go it on its own, has this not caused the Government of the Yukon to have any reflections on its plan of operation if NCPC assets are transferred to Yukon?

Hon. Mr. Penikett: The short answer is no. If the Member could have been at the press conference last Friday with aforementioned Minister for the Northwest Territories, Mr. McKnight and myself, he would have heard the Minister for the Northwest Territories indicate very clearly that they are just starting their negotiations on NCPC, and they are way behind us. They originally looked at the model we are proposing. The previous Minister responsible then set up a debate by suggesting that there be some competition in the communities about where the head office should be set up. That is something I would not have done, but it got an interesting debate going. They, having started down the same path we were going, reassessed their position and are now talking about a different model, which I understood was going to

contemplate further devolution of the corporation to either aboriginal or community corporations, and that is not the model we are pursuing here.

Mr. McLachlan: What is so radically different about the operation of the Commission's power operations as proposed in Yukon, as the NWT envisions it, that would cause us to want a private utility to operate it and they should be able to do it on their own? I do not understand what the difference appears to be.

Hon. Mr. Penikett: The difference is that we have made a decision that while we want to bring the assets under local control and have the electrical power development, which is an important economic development tool, subject to the policy direction of this government, we also want to achieve some compatibility, some coordination and, if you like, some potential rationalization with the private distributor that operates in this territory. Also, if we can be frank about it, to try to achieve some of the oft-claimed advantages of private sector management.

Mr. McLachlan: Perhaps part of the solution to the entire problem lies in the fact that Yukoners are still not up-to-date on announcements regarding NCPC devolution. Will the Minister have anything to announce this month as a result of ongoing negotiations in Edmonton?

Hon. Mr. Penikett: The minute the two governments have reached an agreement or otherwise, I, or the Minister of Justice, will be standing in the House and making an announcement, if the House is sitting. If the House is not, we will do it in some other forum.

Question re: Skagway/Carcross Road

Mr. Lang: I have a series of information questions to the Minister of Community and Transportation Services.

Last week I asked him just exactly what the situation was in Fraser with respect to the fleet of trucks available primarily for sanding. I recognize that the work crew is undergoing problems presently with the wild fluctuation in temperature that we are having; it really makes their job difficult on an hour-to-hour basis, not just a day-to-day basis. I would ask the Minister if he could update the House on just exactly what the situation is as far as that particular camp is concerned?

Hon. Mr. McDonald: The Member asked last week if there was a sand truck stationed at Fraser, and the answer is indeed that there, apparently is not a sand truck at Fraser. The reason initially for that was the concern that the heavy snowfall in that area would make sanding a futile effort. Also, it is reported that the heavy sand on the roads in mountain conditions such as that does damage to the Oshkosh snowblowers that are used in the Pass.

¹² I have asked the department to check on existing road conditions, and they did determine that the road conditions, as the Member mentioned, were very slick, and that the trucks had to slow down in situations like that.

There was also an indication that there was a sand truck at Fraser, which would be used if the road conditions were to continue to be slick as they were last week. I have asked the department to make use of that sand truck to ensure that the slick conditions are not ongoing in the area that the Member mentioned.

Mr. Lang: I have had numerous complaints from truckers who are utilizing that highway to haul ore. Is it the position of the department now that that sand truck that is available will be utilized in weather like we are having at the present time?

Hon. Mr. McDonald: We will use the sand truck from Carcross on an as-needed basis to put sand on the road in weather conditions such as this when there has not been a heavy snowfall and when there are slick conditions that could cause problems for the truckers.

Mr. Lang: I hate to pursue this, but I want a clear answer. Is the sand truck in Carcross now stationed at Fraser?

Hon. Mr. McDonald: No. The sand truck is stationed at Carcross. It will be used at the stretch on the Carcross border section of the highway on an as-needed basis.

Question re: Service contracts

Mrs. Firth: The Government Leader has provided some in-

formation today regarding the contracts that we asked about last week. Will the Government Leader be providing us with copies of the contracts as the Minister of Tourism and Renewable Resources said they would?

Hon. Mr. Penikett: I am sorry. I neglected to take note of the fact that the Member had asked me for copies of the contracts. I do not see that there will be any problem in doing that.

I have taken, as notice, a number of questions with respect to service contracts as well as the limits and frequency of the summary list. If, upon examination, we decide that the \$5,000 amount that has been the subject of some conversation or some discussion in this House — it is purely arbitrary — of course, we will reassess it, and I will report back to the House at the time we do that.

Mrs. Firth: I did not specifically ask the Minister of Economic Development for the contracts because the former Minister who I had questioned had already given a commitment that the contracts would be provided. If the Government Leader wishes, he can take this as notice that we would like copies of the contracts.

Regarding his recent comment about reassessing the \$5,000 contract limit, could the Government Leader tell us when they will be reassessing that and when we can expect an answer?

¹³ **Hon. Mr. Penikett:** I cannot at this point, but I will provide the House with an answer when we have done it. I hope, given the nature of some of the questions, that the Member will be asking us about contracts from some of her political friends, just so there is fairness on the question.

Mrs. Firth: I am a great advocate of fairness. The contracts of my friends were done in a different manner than the contracts of some of the ones that the Member is mentioning.

We will get into the contract debate later. I would like to get a firmer commitment from the Government Leader, not that I feel that he will not come back to the House with the information. Is it something that has to be discussed in Cabinet and is expected to go to Cabinet within the immediate future, so that we could have an answer to carry on the debate in the Legislature, particularly in the supplementary estimates?

Hon. Mr. Penikett: The Member will understand that I am not going to be encouraging her to establish Cabinet agendas. I will give a commitment to 1986.

Speaker: The time for Question Period has now elapsed. We will now proceed with Orders of the Day.

ORDERS OF THE DAY

Point of Order

Mr. Phillips: Point of order. I rise today on a point of order in reference to comments made by the Minister of Renewable Resources in this House and on the media this morning.

Despite having ruled out of order as unparliamentary language by you, Mr. Speaker, yesterday and, therefore, based on your ruling having to withdraw his scathing remarks about legislative terrorism in this House, the Minister has intentionally ignored the ruling by you, Mr. Speaker, by repeating and expanding upon his comments in the media after your ruling was made.

In my view, the Minister has demonstrated the utmost disrespect and authority for the Speaker. This shows clear contempt of the House and the parliamentary process.

I ask you: is it proper for any Member of this House to simply ignore all the rules and procedure and, may I add, respect of the parliamentary process once they leave these Chambers? I do not believe this is proper. Mr. Speaker, I ask you to rule on this important issue.

Hon. Mr. Kimmerly: On the point of order, I would submit to you that the point is patently ridiculous. The rules about parliamentary language apply here in this Parliament. The language that is used by citizens or politicians or any Member outside of this Chamber are an entirely separate issue, and should be.

Speaker: Order, please. I would like to rule on this now. I do not want this to turn into a debate, as it is a point of order.

I find there is no point of order, as this has taken place outside of the Legislature, but I would like to warn Members, please, when

you are in this House to use parliamentary language so the news media will pick up only that. Please, from here on watch your language when referring to other Members and when you are speaking to different issues.

GOVERNMENT MOTIONS

Motion to Waive Standing Order 27

Hon. Mr. Porter: I would like to request unanimous consent of the House to waive Standing Order 27 with respect to notice in order to deal with Motion 67 standing on the Order Paper.

Speaker: Is there unanimous consent?

Some Members: Agreed.

Unanimous consent granted

Motion No. 67

Speaker: It has been moved by the Government Leader THAT the Speaker forward the following Address to the Prime Minister of Canada:

WHEREAS the Yukon Legislative Assembly has gone on record in support of the 141st Meridian as the offshore boundary between the Yukon and Alaska; and

WHEREAS recent initiatives by the Government of the United States to sell offshore petroleum exploration leases violate this boundary;

THEREFORE BE IT RESOLVED THAT this House urges the Government of Canada to assert Canadian sovereignty in Arctic waters by insisting that the Government of the United States respect the 141st Meridian as the international boundary from the Beaufort Sea coastline to the North Pole.

Hon. Mr. Penikett: Over the past several days, considerable attention has been given to two United States energy development initiatives.

As you are aware, the first concerns a proposal to open the Arctic National Wildlife Refuge to exploitation of oil and gas. This government has expressed its concern over the potential impact on the Porcupine caribou herd habitat by way of a motion standing in the name of the Member for Old Crow and passed by this House following an eloquent intervention by the Leader of the Official Opposition on December 3. As you will recall, this motion called upon the Government of Canada to ensure that an international agreement on caribou be concluded prior to any decision being made with respect to industrial activity within the refuge.

The second initiative concerns the proposed sale of 8.58 million hectares of offshore oil and gas leases in the Beaufort and Chukchi Seas. Our concern with this proposed sale is twofold.

In the first instance, at least two of the proposed lease blocks extend eastward across the 141st Meridian into waters claimed by Canada and forming part of the Yukon offshore. The United States has disputed Canada's claim to this part of the offshore and has stated that its policy is to reserve its rights in all disputed areas. Under this policy, leases can be sold in this territory and development could be approved prior to resolution of the dispute.

Despite repeated requests by the United States to begin negotiations on a number of boundary disputes, and despite the motion passed in this House in May of this year, asking that the Government of Canada assert its sovereign claim to this area, the Minister of External Affairs has, so far, taken no action. In fact, he has expressly stated to his U.S. counterparts that he is not prepared to discuss any of Canada's boundary issues at this time.

There are, no doubt, many mysterious processes in the world of high diplomacy and there are, no doubt, many subterranean passages to the hearts and minds of the powers that be in Ottawa. I must say that for those of us who are plain folk, ordinary citizens, even legislators in a little corner of the world like this, that we find Mr. Clark's attitude and the attitude of the Canadian government curious, given his repeated commendable statements regarding the assertion of Canadian sovereignty in the Arctic. I am therefore calling on this House to allow me to point out to Canada's Minister

of External Affairs the Yukon's economic and environmental interests in the disputed area and to express our opinion that discussions be held immediately to confirm the 141st meridian as the official northern boundary between the two countries.

I should also like to point out that later this week I will be tabling in this House our response to the Report of the Special Joint Committee on Canada's International Relations. This communication to the Minister of External Affairs reaffirms this government's position regarding our offshore boundary. It will further point out that our interest in the offshore should not be bargained away for any U.S. concessions during negotiations on other, more visible, boundary disputes.

I said that our concern with regard to the proposed offshore lease was twofold.

Notwithstanding our obvious interest in the boundary issue, we are also very concerned with the environmental implications of the proposed offshore development in the Beaufort.

The environmental Impact Statement prepared for the Sale 97 lands indicates that there is an 82 percent chance of an oil spill greater than 1,000 barrels occurring during the expected life of the project. The Yukon, therefore, must obviously be concerned with the effect such a spill would have on the sea mammals, fish and birds that do not respect any boundaries and move freely from U.S. to Canadian waters, and that these animals are a resource upon which northern aboriginal people depend.

This government has therefore decided to intervene at public hearings into the EIS scheduled for Anchorage, Alaska later this month. At that time we will make known our concerns regarding the environmental issues and will use the opportunity to again stress our objection to the sale of leases in what we profoundly believe are Canadian waters.

It is our view that the United States has no right whatsoever to issue leases in Canada. I would encourage all Members of this House to support this motion in order that a very clear message can be sent to the Right Hon. Joe Clark and to the Government on this issue, which is of great symbolic, material, economic and environmental significance to the Yukon and to Canada.

Mr. Phelps: I once again am pleased to stand in the House and support what I hope will be a unanimously passed motion, because the jurisdictional problems of the Yukon and the north and indeed in the Beaufort Sea are problems that seem continuous. The fight has to be continuous. They are problems that I have long held are critical to the future of Yukoners and to future generations of Yukoners. I honestly believe that many people do not understand just how beautiful that country is up there and how great the potential resources are, including the Porcupine caribou herd.

Over the course of the sittings that I have partaken in over the last year and a half, I have undertaken to put forward motions about that jurisdictional issue. Back on July 18, 1985, I rose on matter of pressing urgency to put forward a motion vis-a-vis the dispute between the NWT and the Yukon, as to which territory has jurisdiction to the north of the Yukon's coastline. I am pleased to say that at that time the motion, as I am sure this one will be, was passed unanimously.

Then again, in May of 1986, I was pleased to put forward a motion regarding the issue at hand. At that time, once again, the motion was passed unanimously. That motion read:

"THAT it is the opinion of this House that the 141st meridian forms the offshore boundary between the Yukon and the State of Alaska and the Beaufort Sea; and THAT the Government of Yukon should urge the Government of Canada to initiate additional measures to assert Canadian sovereignty in Arctic waters including giving consideration to basing its proposed new Polar Class 8 icebreaker at a deep water port at King Point on Yukon's North coast should such a port be constructed."

In March, 1986 I had the pleasure of appearing before the Special Joint Parliamentary Senate Committee on Canada's International Affairs. At the time of the hearings on March 20, I indicated our concern over this issue and stated that we understand that the United States government has indicated that it is ready to start negotiations with Canada to resolve boundary disputes on the west

coast and that Canada has accepted. It has also been agreed that the boundary between B.C. and Washington State off the Strait of Juan de Fuca and between B.C. and Alaska off the Dickson Entrance will be negotiated first, leaving the Alaska and Yukon boundary on the Beaufort Sea to be negotiated at a future date.

Yukoners are concerned that if this approach is taken the Beaufort boundary could be used as a pawn in order for Canada to achieve a better boundary arrangement off the west coast. Yukoners' fears are not unfounded, as our experience with Canada in negotiating a new Canada—U.S. Salmon Treaty has shown. I went on to state, in no uncertain terms, our position with regard to the issue.

The point is simply that if there is a forgotten place in the world, it is Yukon's north. If there is a place that seems to always play second fiddle, it is our coastline and our resources, at least in the minds of others. So, it is extremely important that we continue to voice our concerns and to unanimously try to ensure that these matters will be resolved in a final way and in a manner that is satisfactory to Yukoners.

I would like to take the opportunity to remind Member of the House of some of the problems that preceded the last 18 months. We had a situation where the COPE claim, which was the claim of Inuit peoples resident in the NWT, which was signed without any participation by the Yukon, despite the fact that the Yukon had been assured that it would be considered in negotiations. The agreement-in-principle was signed in 1978 without any such consultation with the Yukon, and it was a document that gave away not just the Beaufort Sea, but the entire north coast of the Yukon, including Herschel Island. It gave that important land away, back to Canada, to be used as a new kind of park known as a wilderness park.

This government fought tooth and nail, not only to fight its way into the negotiations that took place after that, but to try to ensure that we would not lose the coastline. Finally, six years after that unfortunate incident, success was attained, but that was one battle and not the war. The fight goes on. We are going to have to continue to exercise diligence to ensure that we do not lose land to overlapping claims, to ensure that the jurisdictional dispute between our territory and the NWT is resolved satisfactorily. It is also critical that we make our position completely clear to the Department of External Affairs and to the Government of Canada.

I have no problem, as Leader of the Conservative Party in Yukon and of the Official Opposition, in unanimously supporting this motion and being critical, publicly, whenever Canada is derelict in its duty to Yukon, no matter what party is in power in Ottawa.

It is for those reasons that I now urge the government to be more diligent in constantly updating and reminding the other jurisdictions of our concerns with respect to our heritage — north Yukon — to continue the fight for preservation of the habitat of the Porcupine caribou herd, and to take whatever steps are necessary to try to fight off this latest intrusion into our Beaufort Sea.

Hon. Mr. Porter: I would like to thank the Leader of the Official Opposition for his remarks on this particular motion today, and would like to join him in some of the comments that he has put forward.

Like the Leader of the Official Opposition, I have had the particular pleasure of spending considerable time in the North Slope region of both the NWT and the Yukon. I have worked in the operations of the rigs out in the Beaufort Sea, as well as participated in some of the traditional whaling camps offshore. I have also spent much time flying over the area and, as recently as this summer, have had the opportunity to visit Herschel Island.

There is no question that that part of the Yukon, which very few Canadians and Yukoners know about, is an extremely important part of our territory. Like the Leader of the Official Opposition has pointed out, it is a very beautiful part of the territory. It is a landscape that is very different from the rest of the Yukon. Unlike many parts of southern Yukon, which contains very rugged mountains with huge icefields and other terrain, the mountains in northern Yukon are very gentle, and there is a lot of open tundra flowing into the ocean.

I think that if people were able to have the opportunity to see that

part of the world they would agree with me and the previous speaker that this is an area worth protecting and worth preserving.

On the question of the COPE claim and what has resulted from the COPE claim, clearly now we are at the position as governments to begin looking at the implementation of that claim. As a result of the COPE claim, Canada has reserved a portion of the area in question as a national park. We have the second newest national park in Canada created on the North Slope of the Yukon, called the Northern Yukon National Park. As we stated earlier in debates on the supplementary that is before the House, the Department of Renewable Resources is leading the way in the government for the implementation of those aspects of that claim and we are also working with other governments and the Inuvialuit toward establishing a territorial park on Herschel Island.

So, clearly, Canada, as a country, with the participation of the people of the Yukon, has demonstrated its interest and is moving to protect its interest. We have made very clear statements as to how we feel about that particular area and we have made some very concrete moves of a management nature to reflect the degree of feeling that we have with regard to that part of the world.

With respect to the question of the Porcupine caribou herd and negotiations, last week we passed a motion in this House clearly demonstrating the Yukon's opposition to what was intended by the oil and gas interests to explore that area prior to having a solid agreement of an international nature between Canada and the United States with respect to the Porcupine caribou herd. Things seemed to have happened very quickly last week. We debated the motion in the House one day and the next day our negotiators came back from Seattle with an initialled agreement. I would like to point out for the record, that in fact things did not happen simply in a two-day period. Negotiations with respect to the international agreement have been going on for years. Over a year ago we completed an in-Canada agreement between the Canadian jurisdictions on the Porcupine caribou herd and since that point there has been considerable time spent on trying to bring the Americans to the table and to conclude an agreement. There has been an awful lot of leg work done with respect to speaking to people in rural Alaska and speaking to interests in Anchorage and Juneau, as well as participating in meetings between ourselves, the Canadian government, and the U.S. officials concerned with that particular issue.

At the present point, an agreement has been initialled by the negotiators. The process now calls for the principals to the negotiations to review what has been put forward by the negotiators, and I expect that the Cabinet of Yukon will be reviewing that agreement within the next two to three weeks and will be making its views known.

I am happy to hear that the Government Leader has stated on behalf of our government that we intend to pursue the public process that is accorded to all of those who wish to speak on the issue of the environmental statement issued by the U.S. Department of the Interior. It would be my intention that we give full expression to our position with respect to the caribou agreement. If we should find that the caribou agreement does not afford the resource the necessary protection it deserves, then I would suggest that this government should be in a position to exhaust all avenues to articulate the position of the people of the Yukon. If that means going to Juneau and meeting with the Governor's office or going through to Washington to be able to knock on the doors of Congress to make our views known, then I think that the issue before us and the issue of the protection of the Porcupine caribou herd deserves nothing less than that.

With respect to the long-term view of the initiative that we are concerned with, there is no question that there is legal uncertainty with respect to rights to the offshore Yukon of the Beaufort. We have had cases on the books with respect to initiatives in the eastern part of Canada where legal challenges have been made that question the federal authority on the question of jurisdiction. There have been cases in British Columbia — which are of provincial versus federal interests — in terms of who owns the resources that are contained offshore and who has rights to explore them.

In some cases, there have been negotiated agreements between the federal government and the province concerned. Those agree-

ments have taken the nature of participation in terms of management of the resources and sharing of the revenues that have flown from exploitation of those resources.

There is no question in some people's minds that there are legal arguments on both sides of the issue as to whether or not we, as the Yukon, enjoy legal jurisdiction. Those are questions that are pending in some areas. Those are questions that are being asked and researched and studied by people in the academic field.

I think that we should fight vigorously on this question to keep the door open for the future. Although, at the present time, we do not enjoy provincial status and we do not enjoy jurisdiction over our resources in the Yukon, the day will come when the Yukon will have that opportunity, when we will be able to negotiate our way into Confederation on an equal basis with all of the rest of the provinces in Canada. We should make sure that, when that day arrives, we do enjoy equal opportunity to own the resources and do benefit from the exploitation of those resources.

It would be my position that supporting this motion and supporting Canada's initiative to assert Canadian sovereignty in this area, in the long term, will protect the Yukon's interest to be able to enjoy the day when it does have constitutional, entrenched ownership of those resources, and that those resources are then utilized by the generations yet to come.

This motion is a very important motion, in not only the immediate term, but it is a motion that sets the tone for Yukon's constitutional development for the future as well.

Mr. Nordling: I support the motion of the Government Leader, and I am sure it will receive unanimous support of this House.

This issue is not new to the Legislature. It has been discussed many times before and, most recently, in May of 1986 when, as the Leader of the Official Opposition said, he brought forward a motion in the House, the first part of which was that it is the opinion of this House that the 141st Meridian form the offshore boundary between the Yukon and the State of Alaska in the Beaufort Sea.

The second part of the motion called for Canada to initiate additional measures to assert Canadian sovereignty in Arctic waters. It is important that Canadians do assert sovereignty over Arctic waters, or we stand to lose them.

²¹ It appears that the American plan is to assert its sovereignty by selling oil leases over waters east of the 141st meridian in the hope of obtaining ownership or a further claim to that area. The Americans are arguing that the boundary line should be drawn at right angles to the shoreline where the 141st meridian meets the Beaufort Sea.

If we do not take immediate action, this may become the accepted method of determining that boundary. You can bet that if that stretch of coastline, at the intersection of the 141st meridian and the Beaufort Sea, slanted the other way at a right angle from the coast and gave Canada a huge chunk of the waters north of Alaska, the Americans would have none of it. We must speak up now and play a role to make sure that this huge piece of our offshore territory is not traded off as a concession for east coast or west coast offshore settlements.

There is no question that we will be pushed. If we do not show an interest, we will be taken advantage of by both the federal government and the Americans. I do not advocate breaking protocol or doing anything rash at this point. I understand that the squeaky wheel gets the grease, but let us not start a fight with the big boys right now, not until it is obvious that it is our only option.

We should encourage talks to start immediately, and then insist on being present, even as observers if we are not given direct input, so that the federal negotiating team who will be negotiating on our behalf will at least feel our presence and be aware of our concern while the talks are going on. I strongly support the Government Leader's motion, and by having as many as we have had in the House speak on it, I am sure that he will be able to go to the Government of Canada with a clear mandate from this House.

Hon. Mr. Kimmerly: I was not intending to speak, however, the positions put forward by the Member for Porter Creek West were slightly less forceful than the positions put forward by the

Leader of the Official Opposition and the government. I am rising simply to say that if persons reading the debate note an inconsistency, the position of the government is that we should maintain a forceful position throughout.

²² The Leader of the Official Opposition was closer to the mark.

Mr. McLachlan: I, too, rise in support of the motion of the Government Leader. I was very surprised last week to hear the Minister of Indian and Northern Affairs say only that the issue was provocative. It is far more than provocative. It is extremely dangerous. Part of the problem is that the Prime Minister and the Minister of External Affairs are engaged in a hand-holding exercise with the President of the United States. They are reluctant to abuse the hand that is feeding them.

It is surprising that the Minister of External Affairs, who is also a former Prime Minister of Canada, has not taken any stronger action with the United States.

As soon as the prospect of finding oil or natural gas becomes a possibility, and a dollar can be made off the leases in the sea, it will not be sufficient then to leave the matter for discussion around a boardroom table in Ottawa. The stakes go up too high and too fast. I would urge all Members to follow the actions of the Government Leader and the Leader of the Official Opposition in taking the strong hand, taking the upper route and making sure that the government in Ottawa knows very well our position and our feelings.

Motion No. 67 agreed to

GOVERNMENT BILLS

Bill No. 58: Second Reading

Clerk: Second reading, Bill No. 58, standing in the name of the hon. Mr. McDonald.

Hon. Mr. McDonald: I move that Bill No. 58, entitled *An Act to Amend the Motor Vehicles Act*, be now read a second time.

Speaker: It has been moved by the Minister of Community and Transportation Services that Bill No. 58, entitled *An Act to Amend the Motor Vehicles Act*, be now read a second time.

Hon. Mr. McDonald: I am pleased to introduce today an amendment to the *Motor Vehicles Act* that will require all children under the age of six years to be securely restrained in an approved seating or restraint system while occupying a motor vehicle in use on a public highway.

As Members will recall, the hon. Member for Klondike tabled a motion, Number 4, on April 2, 1986, which was unanimously endorsed by all Members. The motion read as follows: "THAT it is the opinion of this House that amendments to the *Motor Vehicles Act* should be introduced which would make it mandatory for children in a moving motor vehicle to be restrained by a federally approved child restraint system."

Each year, approximately 5,000 children under the age of five years, and altogether 20,000 children between the ages of five and 14 years, are injured or killed in Canada in traffic-related accidents.

Approximately one-half of these victims sustain their injuries as occupants of a motor vehicle. In Canada, traffic accidents represent the leading cause of death in children between the ages of one and 14 years old. In the past, this annual loss was largely regarded as an inevitable consequence of a highly mobile society. This is no longer true today.

It is now widely recognized that occupant restraint systems, either those designed specifically for use by younger children or the seatbelts already provided in the vehicle, afford a means by which the risk of injury or death in a collision can be significantly reduced.

²³ Child restraints systems are not just effective in the event of a vehicle accident. Injuries received by children can occur on sudden stops, swerves or turns, or from the child's movement within the vehicle. A proper restraint system would often prevent these injuries.

Legislation has proven effective in other jurisdictions increasing the overall use of restraint systems, thereby reducing injuries and

deaths in children. In 1985, Transport Canada tells us that provinces with seatbelt legislation show a 63.3 percent usage rate by drivers. The provinces without legislation show a usage of only 24.2 percent. By 1984, 97.9 percent of all vehicles were equipped with seatbelts.

It is the goal of this government to reduce the number of automobile-related injuries and deaths in children, and I therefore present this Bill to the House for consideration. Three new sections will be added to the *Motor Vehicles Act* that will identify who is required to be seated in a restraint seating system, what the penalties for non-compliance to these sections, and allowing for the making of regulations prescribing types of child restraint systems to be used, weights or size of children for different types of restraint seating systems, and exempting certain types of persons or motor vehicles from use of these seat restraint systems.

As I stated before, we are committed to the reduction of injuries and deaths caused by motor vehicle-related accidents, and we believe that if this bill prevents one injury, or one death, then the decision to implement mandatory child seating restraint systems has rewarded us.

To that end, I commend the Bill for the favourable consideration of the Members.

Mrs. Firth: I thank the Minister for his detail, figures and statistics that he has brought forward to the Legislature this afternoon. I have similar statistics, and I will not repeat them. One issue that the Minister did not mention, however, unless I just did not hear it, is that there is a great deal of concern about infants in motor vehicle accidents because infants are invariably thrown from the motor vehicle if they are not restrained. The chances for the infants to survive motor vehicle accidents therefore seem to be very, very slim. I think that is a significant factor, when we are talking about restraining infants in motor vehicles.

I do have some questions I will be pursuing in Committee of the Whole about the regulations. It would be nice if the Minister could provide us with a copy of the regulations; however, if that is not possible, we will be looking forward to some answers about the details.

To give some advance notice, I will be having some questions about the exemptions in the regulations, particularly in regard to taxicabs and rental cars. I will also have some questions about school buses and how they will be addressing that situation.

Some concerns have been expressed to me by parents about the seat restraint devices being available. I knew they were available through the driver safety program. They sell seats and trade them in when the seat has become ineffective because of the growth of the infant and child. I have heard an issue of great concern to many people, and that is the fact that although a lot of people use the child seat restraints, they do not buckle the child in. They simply seat the infant or child in the restraint system and do not attach the buckle. I will be looking forward to some reassurances from the Minister that they are going to be identifying that in the regulations. We do not anticipate any controversy with the debate on this piece of legislation and we will be supporting the measure.

Speaker: Are you prepared for the question?

Are you agreed?

Motion agreed to

Point of Order

Mr. Lang: Since there is no real clear concise area in the procedure to stand up and speak about the order of business, I just want to rise on a point of order to clarify for the public in the fact that I have had quite a number of people call me as far as the order of business once we have been through second reading on the Human Rights Act. I am pleased to report to the House that the House Leaders have come to the understanding that we will be proceeding to the Capital Mains and proceeding in totality there, if possible, and therefore, it leaves more time for individuals or organizations who are interested in some of the other legislation before the House to get to the representatives or other Members of the House for the purpose of letting their views be known.

Hon. Mr. Porter: Speaking to the point of order. With respect

to the question as to the legitimacy of the point of order to raise this kind of business, I would only bring to the attention of the House Leader of the Official Opposition that in the past the normal practice has been to raise these questions as questions during Question Period and be able to get an answer from the side opposite. However, now that we have snuck it in under a point of order we may as well respond to it.

With respect to the discussions at a House Leaders Meeting, it is correct that this morning the House Leaders did review government business and we discussed that it was our intention to discuss the Human Rights Bill that is before the House to conclusion at second reading and once we basically have completed our duties under that Bill, we will then move to Committee of the Whole and the first item of business in Committee of the Whole will be the Capital Mains. We are in agreement that that is the process of business.

Mr. Lang: Cooperation.

Hon. Mr. Porter: I am glad to see it.

Bill No. 99: Second Reading — continued

Clerk: Second reading, Bill No. 99, standing in the name of the hon. Mr. Kimmerly, on the amendment moved by Mr. Brewster, adjourned debate by Mr. Phillips.

Mr. Phillips: I get one more try at this. I rise today in support of the amendment to the motion the Member for Kluane has put on the floor before us.

I will be keeping my remarks brief and would just like to express some general concerns about the principles raised in this motion. The first question I am asked by many people in the Yukon is why such a broad sweeping Bill? It appears to me to be overkill at its height. There are 28,000 people in the Yukon, smaller than most cities in Canada. We are, I think, very famous for our hospitality and tolerance of other people and we can all be proud of it — friendly northerners.

Am I missing something? Has this image disappeared in the North? Is the setting up of a Commission with wide-sweeping powers really necessary to deal with all the perceived problems from the side opposite?

It is amazing. I find it quite amazing that the Commission itself, if it runs out of work under this Bill, can go out and actively create work for itself.

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Another provision that I find rather difficult to accept is with respect to sexual orientation and criminal record. I ask the government and the people of the Yukon, is it the will of the majority, is it the Yukon we all know crying out to have these sections included in Bill No. 99? I think it is just the opposite. Where is the government that consults and listens? Does this government only listen to certain select groups?

In the section for equal pay for work of equal value, I, like the Member for Kluane, believe that all the government is doing now is putting it off from the private sector while they go out and, by the way the Bill is written, spend thousands of dollars of our money to educate us again. Before we proceed with this section, we should take the time to examine all the effects it will have on Yukoners and Yukoners' jobs. This obviously has not been done by the government.

In closing, I am very pleased to hear today that the House Leaders have reached an agreement to delay, for a short period of time, however short it may be, so that we can get responses from our constituents and constituents in other ridings. I ask all of the Members of the House to consider the motion that is put forward by the Member for Kluane.

Mrs. Firth: I rise today to support the amendment that the Member for Kluane has brought forward. Before I get into my comments about the specific points in the amendment, I would like to talk for a minute about an interesting phenomena that we have in the Legislative Assembly. The reason I am doing this has been initiated by some of the comments the Minister of Health and Human Resources made yesterday after we had debated the motion that she brought forward on abolishing the Medicare premiums.

When the Minister got up to speak and close debate, she made

reference to us not representing all the people and that they represented some people, too. This is an interesting phenomenon, the way I see it. I have always felt that the traditional role of the government side of the Legislative Assembly was to represent the majorities, and that the traditional role of the Opposition Members was to represent the minorities. We have a circumstance in the Yukon Territory where when you look at percentages of popular vote that the roles are in fact reversed, and that the Opposition Members are representing the larger portion of the popular vote, and the Members of government are representing the smaller portion.

I do not think that is some huge phenomenon in Canada. I think that probably exists in other places, probably in Saskatchewan, which just recently had an election. I am sure they are experiencing some of the same awkward times or difficulties that we are faced with. ²⁶ The point has to be made that that can cause some conflict in the Legislative Assembly and, particularly, when the ideologies of the governing party and the Opposition party are so far apart in some instances.

The point has to be made that, together, we are really representing all of the people in the Yukon Territory, and not just those who vote. We must, in a sincere and forthright manner, represent those views when we get up and speak in the Legislature. We cannot ignore one segment of the population, or just not take into account their views. When a commitment of consultation is made on behalf of the government, we would only expect that the government would fulfill that commitment and would consult with everyone and would register everybody's concerns, as they were expressed to them.

I listened to the Member for Klondike yesterday. He made an appeal to have a civil and reasonable approach to the debate. I have always felt that, although our emotions may not always be in control, our comments are civilized and that we are reasonable in our approach.

I listened to some of the things that the Member for Klondike said and, although I felt he was absolutely incorrect in some of his comments, — and I will come to that later — I listened to his appeal and his discussion about the emancipation of women. I did not personally think he stressed enough who had caused the suppression in the first place but, then, that is probably because I am a woman.

However, I found the Member's comments very interesting. I found his comparisons somewhat interesting also, about what is happening in other areas of Canada as compared to what is happening here. I want to start my comments first with the question of the Human Rights Commission.

The Member for Klondike said the Commission was designed to enforce legislation, helping to ensure that every individual had an equal and fair opportunity to attain success. I am not saying that that interpretation is exactly wrong but, perhaps, we have a different way of interpreting that and a different way of interpreting the legislation that has been published by the government.

I am also making reference to the explanatory remarks that the government includes in their booklet. I am referring to the booklet "A Guide to the *Human Rights Act*", where the bill and the explanatory notes are provided.

My first concern with the Commission was that I felt it had very broad and undefined powers. Probably the reason for that is the regulations do not accompany the Bill and all of the powers are defined in the regulations as guidelines.

²⁷ It has not been tabled or made public yet, therefore I do not have any idea how strong or reasonable the regulations are going to be, which would reflect on the powers of the Commission.

From the explanatory notes of the Human Rights Commission, for some reason I get the feeling that the government is trying to make this Commission have the appearance of being a part-time Commission, not paid. I do not know. I do not have the regulations and guidelines. When the explanatory notes say that the Human Rights Commissioners will be volunteers, representative of the population, my interpretation of volunteerism is a part-time job that you are not paid for, and that the volunteers will receive payment for the meetings that they attend. That particular issue is clarified.

However, I look at the mandate of the Commission. It is to be accountable to the Legislative Assembly. There are five items, all promoting the principle that every individual is free, promoting the principle of cultural diversity, promoting education and research, promoting the settlement of complaints, what is in the opinion of the Commission, best promotes the objects of the *Human Rights Act*. The Commission is also going to conduct education and research on the principles of pay equity. Therefore, I see some inconsistency because the explanatory notes indicate that the Commission is not going to be full-time, but the activities the Commission is going to do lead me to believe that they will have a very time consuming job.

I have some concerns about the Commission being a proactive Commission. Because of the third party complaints, they can go out and look for human rights violations on their own. It is not a complaint-oriented Commission, and I recognize that the Status of Women are very much against a complaint-oriented Human Rights Commission. That presents another concern to me about the Human Rights Commission. The Member for Klondike dismissed it very lightly as if it was not going to have any sweeping powers. I need to see the regulations to be satisfied that it will not.

We talked about pay equity, and the Member for Klondike said that equal pay for work of equal value has been restricted to the public sector. "Restricted" is a very strong word because it has an end to it, a termination sound to it. It is in the public sector, and it is never going to be in the private sector. I know it is the philosophy of the government Members to have pay equity in the Yukon Territory. The Government Leader has said that, and the Minister of Justice has enforced that position.

There are two points to make. The first point is that I do not think that a lot of people find it reassuring that it is going to be in the public sector. We have had a long term problem in the Yukon Territory that businesses have always found it very difficult to compete with the salary and holiday trends that government sets. I recall the Member for Whitehorse West talking about that also. It was a concern of his that the salary trends that the government set could make life rather difficult for some of the business people. ²⁸ I find it very difficult to accept that the business people in Dawson City, in the riding of Klondike, that the Member represents, are going to be able to compete if equal pay for work of equal value is in the municipal structures in Dawson, and I am sure that the Member for Klondike has had some representation made to him because of the trend that will be set there.

There is no finality to it, as the word "restricted" alludes to because, as I have already said, the Human Rights Commission shall conduct education and research on the principle of equal pay for work of equal value in the private sector. I interpret that only as a delay, that the end result will be that we will have a recommendation from the Commission that pay equity be established in the private sector also. I have some concerns about the concept of equal pay for work of equal value, and I know how the Members in government feel about this and how they stand up and say that it is the end all and the be all and that it is a motherhood issue. They make references to the economy growing on the backs of women and so on, but again I have some difference of analysis of the issue. I do not feel it is a motherhood issue; I feel it is an economic issue.

In so doing, I do not feel that because of that that I am anti-women or that I am wanting to see the economy grow on the backs of women as I believe the Government Leader has said. I do not feel that I am committing treason to the sacred trust to the concept of equality. The difficulty I have is that I do not feel that it is possible to objectively equate the work of a stenographer with that of a maintenance person. Perhaps when the Minister goes into debate, he will satisfy that concern I have, but I have a lot of difficulty with the concept.

The simple aim of comparable worth legislation is to eliminate the so-called pink-collar ghettos, the job categories that traditionally attract women by establishing point systems to evaluate jobs and paying employees according to the scores. That may be fine sentiment, but I think it is a poor method. One of the reasons for that, as I have stated in it being an economic issue, is that the

concept ignores the realities of the marketplace and the laws of supply and demand. I believe Australia, after having pay equity legislation brought in there, found that there was higher female unemployment. It was because employers only had so much money to spend on wages, and if they were forced to pay one section of their operation more without an increase in productivity that the business people soon looked for alternative ways to save money and to save costs.

²⁹ To me that means that high-tech could be used to replace workers, and not just women. I have a lot of concern about the legislation reducing our competitive ability in the job market, not only within Canada, but when you look at the Canadian context and compare it internationally, I think it is very dangerous to interfere with the marketplace and to interfere with those structures at a critical time, not just for the Yukon, but in Canada's economy and their ability to compete on an international level.

I cite an example of the government practicing what they preach. I occasionally make reference to this. I have a copy of the job evaluation studies that are used to compare jobs and the point system and what the job is worth. The Government Leader had a chief of staff who was a woman who made \$45,000, and he now has a new chief of staff — or principal secretary — who is a man. He is making \$52,000 a year. I read the justification for this in the newspaper, and it was because of broad and varied experience that the man had, and that justified him getting \$7,000 more than the woman.

However, when you look at what a job is worth, they do not seem to take into account experience or varied experience or broad experience. All they take into account is knowledge and skills, mental demands and responsibility and working conditions. I do not really think that the knowledge and skills, mental demands, responsibility or working conditions have changed for the conditions and so on that the female employee was working under as opposed to the male employee.

In a non-confrontative way, I point out that there is some inconsistency with what this government is proposing to do and proposing to impose on the private sector at some point, and what they are actually doing. I think it is a valid point to raise.

We all know that equal pay for work of equal value is coming, not only in the public sector but in the private sector.

We talked about sexual orientation. The Member for Klondike offhandedly said on this question that this has been in effect for at least 10 years. That is no defense or argument in favour of it. I have a great deal of concern about this issue. The Member for Klondike also made reference to what had happened in Queen's Park when the Ontario government passed the sexual orientation clause in their human rights legislation. I saw *The Journal* that night and the great parades, revelry, the celebrations.

I do not know if the Member for Klondike wants to see that kind of demonstration in his constituency.

³⁰ I do not want to see it here. I do not want to have our children see it. I have had many parents express to me that they do not want their children to see it.

We set examples, as legislators and elected representatives of the people. That is an education process, if we are Christians and set good examples. I try to do that. I try to be constructive. Whether I am successful or not, only time will tell.

I do not believe that homosexuality is an alternate lifestyle, as some claim. That just does not hold water with me, and I do not believe in that principle. As many parents have expressed to me, and ministers from the ministerial association, I do not want to see this become a norm in society, to be accepted, for children to accept without question.

I think Yukon society is not giving any indication that they are prepared to see it as a norm of society in the Yukon Territory, either. The Minister heard that when he went to the communities and when he had the meeting here in Whitehorse.

I am not going to make any accusations about what the Minister's intentions were when he floated the little interesting comment about that perhaps he would take the sexual orientation clause out, when he tempted the public with that. I do not know what his intentions were. I will try to be kind and a good Christian in my analysis of it.

It did initiate a response from a certain segment of the community. I do not think it was a healthy response in encouraging people to be more tolerant or to be more considerate of each other and more accepting of each other's differences. I think it created a great divisiveness and brought forward an issue that was not really the big issue that the Minister had thought it was.

I feel I have said enough about the particular issues in the motion. I believe I have covered all the points that the Member for Klondike has included. I would ask the Members of the government, particularly the Member for Klondike, to be generous in his comments about our concerns and the issues that we are bringing forward, and the Minister of Health and Human Resources to be generous about the issues and the concerns we are bringing forward on behalf of the people we are representing.

On this side of the Legislature, we feel that we are representing all Yukoners, and we try to keep in touch with as many Yukoners as we can and gain exposure to as many Yukoners as we can. If we are going to have a piece of legislation that Yukoners are going to be able to live harmoniously with, we are all going to have to have some good, constructive debate. The government indicated, through the Minister of Justice, that it is prepared to listen to amendments. It may be that certain amendments will be proposed from this side.

³¹ I ask the Members of the government to listen, to have open minds about it, and to keep in the back of their minds the phenomena we have when it comes to representation and the reversal of the roles of the government and the opposition Members when it comes to the segment of the population that they are representing, percentage-wise. I look forward to some constructive debate when we do in fact move the Bill to Committee of the Whole.

Hon. Mrs. Joe: I will not be long in my comments with regard to this amendment. I am going to speak briefly on what the Member said with regard to a statement I made yesterday about them not representing everyone. I was speaking at that time with regard to a motion and would possibly have challenged them at that time to go back and find out if each and every person they represented here agreed with them opposing the abolition of health care premiums.

With regard to the amendment that is on the floor right now, I find it very difficult to sit here in the Legislature and talk about excluding certain people from the Human Rights Legislation. I have a hard time doing that. I think that the Member for Riverdale South talks about a Christian upbringing and I think most of us have been brought up in that kind of a home, talking about the philosophies of a religion. I was taught that we are all equal and that we should be treated as such, and I think that is one of the reasons we are here today and debating human rights legislation. They talk about excluding certain individuals from this and talk about excluding certain policies that we have — for instance, equal pay for work of equal value — and I cannot see us passing any kind of legislation here in this territory without including that in it because I think it is a very simple basic right that all people have. It not only includes men and women, it is a gender policy.

They talk about excluding those individuals who have criminal records for the protection of other people. I have a hard time dealing with that as well because we have hundreds of people in the Yukon who have criminal records. They may be for minor charges such as impaired driving, they could be for anything. I cannot see legislation excluding those individuals. We have stood up on this side of the House and defended our Bill that is in the House right now and I find it very difficult when every time we turn around there are certain people who Members on the other side of the House want to exclude. They do not want to have them protected from discrimination, and I cannot accept that.

³² **Speaker:** Are you prepared for the question?

Amendment negatived

Speaker: Is there any further debate on the motion for second reading?

Ms. Kassi: Over a year ago, we started with Bill No. 58. To his credit and to the credit of our government, the Minister of Justice

referred the Bill to a Select Committee to travel around the territory and get the views of the Yukon people on human rights issues. I look back to that time with mixed feelings. We received many negative comments, but also many positive ones about human rights. Many of the negative issues were based on unfounded fears and upon a lot of speculation that really has no basis, whatsoever, contrary to statements made by the Minister of Justice to assure people otherwise, and contrary to statements made by other Ministers as well.

I think that, overall, the Select Committee process was worthwhile because it was part of an overall educational process. We listened to the Yukon's people, and they asked for further information and education on human rights issues.

Last spring, this Legislature approved funds for this information and education, and a very good and very thorough and very responsive program was undertaken over the spring, summer and fall that was complemented by the release of a government White paper on human rights policy and legislation. It was followed up by the release of a Green Paper or Options Paper on Implementation of the Human Rights legislation.

Next was a tour by the Minister of Justice to the communities to hear people's views on the White Paper as well as the green paper. In Whitehorse, there were meetings with groups and individuals, and personal conversations as well. I think that all of these events speak to the openness of this government and of the government's willingness to listen and to respond to people's concerns. I think that this new Bill that is before us today shows how much the government has responded to the concerns of people and to the business community on certain issues, as well as on how the legislation would be implemented overall and how the Commission would operate.

I cannot change the ways in which some people think or feel, however I would like to share with them my understanding of human rights. I do not see this Bill as very necessary in my home community. It is a different kind of a place than Whitehorse. In my village, we try to accept people as they are even if we do not like what they do. We still try to work with each other because we are a small community, and we must rely on one another for our survival. The governments, the status and non-status issue, politics have come to us as a people and has at times created chaos and temporary splits; however, our cultural values, our spiritual values and our traditional ties have always pulled us through, values like basic human rights. We believe that we are equal. We share, we care about each other and we support one another, though we sometimes disagree, and we treat our visitors — white people — the same way. Even though they are different, we treat them the same, with respect.

When I was a young person and came out of Old Crow to go to school in Whitehorse, it was like coming to a different world. I came out to school that year with eight others. It was a big struggle for us to deal with this new kind of place, with different people, just as it is today for native people coming out of small communities to Whitehorse, coming from a place where everybody cares for you, and you do not even think of treating anyone differently.

Here, in Whitehorse, my friends, my relatives, myself found that we were treated differently from white people. We were ridiculed because of our language. Until I was eight years old, I could only speak my native tongue. Because of that, I have an accent, an accent that I am proud of right now. Because of our skin colour, because of this accent, we were discriminated against.

From those kinds of ridicules, we became unprideful of who we were, unprideful to be native people, unprideful of our native values. Even among us nine aboriginal people from Old Crow, people treated us differently. I was treated differently because my skin was a little bit lighter. It was not just that we were treated that way by white students, but we also found that some of the teachers, because we were shy and because it was our tradition to not speak up very much, but instead to listen and hear what others have to say, people thought we were stupid.

Because of this discrimination, I began to question myself, and so did my friends. We began to believe we were stupid. Thinking

about these kinds of things makes me sick right now. It took a lot to get over it. A lot of people in the Yukon today are still suffering from the effects of this and are still being discriminated against. Many people who have never experienced this kind of discrimination have no knowledge of what it is like to go through such a thing.

We were ridiculed for who we were. We were shoved in the back and told we were stupid because we did not talk too much. Of those nine students, six of us could not make it. They went back home. They were sent back home.

They have been treated differently just because of their language, their accents, their way of life and because of their skin colour. They were denied a better education.

Many people do not know or will never know what it is like to have those kinds of experiences. Now people will finally have a place to go. If they want they can file a complaint. They do not have to, they can suffer and ignore the discrimination and try to deal with it in their own way, but now they have a choice.

They have a place to go. Before we did not. We will have a Commission that hopefully will do some education and research into racial discrimination and try to help people understand that because we are a bit different from them we do not deserve to be mistreated. I know we will not eliminate discrimination but perhaps we can make it so that there is enough understanding of human rights, of what human rights are and should be, that there will not be any complaints about discrimination.

That will be the true measure of our success, when people do not complain to the Commission that they have been discriminated against for a job because of their politics, their religion or because they had a criminal record in the past. People are denied accommodation or a place to rent or a service in a local store because of something they had done in the past, because of beliefs they hold dearly, whether cultural, political, religious or otherwise.

I feel that with the year we have been discussing human rights we have been creating a lot of awareness in the Yukon's people, including myself. I can draw a parallel to the results of the consultation and public discussion on the Task Force on Family Violence. A lot of women came forward to ask for help in dealing with situations they were in. The awareness is now widespread in the Yukon that there should be human rights and that we should all be able to live in dignity and be treated equally because we are human beings.

A lot of people have shown their true colours of where they stand on this issue during this debate over the past year, whether they are for it or against it. The process has created a lot of hurt feelings, and it has forced me as a person to look back on my own life and to see what has happened to me and my people. I am not saying that all our experiences were completely bad ones, but I am saying we did have bad experiences. We were discriminated against and that was wrong and it was painful. Finally with this Bill, we will have a place to go and get things corrected if we want to.

I think we have to face reality. In the past, few complaints were laid under the *Fair Practices Act* because people did not know that avenue existed and they did not have much faith that anything would come of it if they did. I did not even know that there was such a thing.

With all the discussions about human rights now and with a Commission that has a mandate to do something about these problems people will have the faith and will have a place to go, and I feel there will be complaints laid.

Perhaps I do not agree with some people's politics or some people's religious beliefs, or I might hold something against them because they have a criminal record. I might disagree with their sexual orientation. What I say to myself and what I say to my children when we talk about these things is that you have to accept people for what they are. We do not have to accept what they do as right or proper or as an example to follow. We can only find comfort within our own behaviours and accept those who may do things differently because we are free to think and free to believe what we want to personally. This Bill does not change that one bit.

If I accept those people for what they are, I can try to help them change on a personal basis. We can do those kinds of things. I do

not believe that they should be denied the opportunity to have a job just because of their personal beliefs. We cannot license that sort of discrimination as a government or as a society. That would not be right or just. Nor do I believe that people should be discriminated against when they go to a store, to a restaurant, to school, or that sort of thing, just because of who they are, what they believe or what they have done.

Each individual must be given a chance. No one is perfect. As people, we are free, and this Bill protects the right to disagree, to speak against or for, but in terms of basic services or basic rights, such as a job or a place to stay, we cannot let our disagreements or beliefs stand in the way; in our private lives, yes, but not in jobs or services normally available to the public. That is what this Bill is all about.

The subject of pay equity is something that I believe in quite strongly, and I am glad to see that it is there for people in the public sector. I look forward to us finding a way to implement it in the private sector in situations where wage discrimination exists and should be eliminated. However, it is obvious that we do need more research on this.

If I can turn now briefly to other points, I want to express as well that I hope that some day people in the Yukon will accept aboriginal people for what they are: our cultural values, our traditions, our languages, a people, a part of the land. We believe that. We live that way, and we will hold that forever as a people. Some of us need to continue living our own way as indigenous people. Others want to be part of a larger society, and we should be accepted.

With this, it is my hope that we, as leaders of the people of the Yukon Territory, will work together to build a firm and balanced foundation for our future.

³⁶ I would like to commend the hon. Minister of Justice for the care, the concern and the courage he has shown in fighting for the interests of all people, no matter who they are or what group they belong to or what race.

Mr. Phillips: One of the first questions I have to ask is what is the justification for this sweeping legislation? Where are all the complaints? The Leader of the Official Opposition has likened this Act to trying to kill a fly with a sledgehammer, and I agree with him. Many Yukoners are still shaking their heads and are asking themselves why we need this bill and who asked for it?

I listened very closely to the Member for Old Crow. The Member for Old Crow has some very legitimate concerns. I grew up with many of the people whom the Member for Old Crow is talking about. I have seen a change take place in the Yukon. The Member for Old Crow herself said that a lot of people do not understand that the *Fair Practices Act* was here. The Member said the concerns that would have been addressed were in the *Fair Practices Act*.

If we were at fault anywhere, our fault was that since 1962 we did not enforce that Act, or did not let people know what was in the existing legislation. Maybe that is our fault.

The principles contained in this Bill are some of the most radical contained in any human rights legislation in North America. There are only 28,000 people here in the Yukon. Outsiders coming to Yukon for the first time and reading this Bill must feel that they have come to the wrong place. Can Yukoners be so bad that they require the imposition of such a Bill? Are the problems of discrimination so bad in Yukon that we require the state to step in and set things right?

I, for one, do not believe so. I do not believe that the human rights situation in the Yukon is as bad as the government and the government-sponsored interest groups would have us believe.

Let us find some common ground, some common understandings about human rights that everyone in this House can support. I think every Member in this House agrees that the current human rights legislation in the Yukon needs to be improved. There is an agreement on that score. I think there is general agreement that the dignity, the worth and the rights of all Yukoners must be recognized, protected and promoted in legislation. Yukon human rights legislation must be fair, realistic, responsible and practical. It must work for us by protecting and not challenging our rights and freedoms.

³⁷ We must be proud of this legislation, not embarrassed or offended by it. I do not believe any Member can argue against these principles. Yukon Human Rights Legislation must treat all Yukoners equally and must not give additional or extra rights to any one particular group within the community.

Bill No. 99 does not meet that criteria, but, after listening to Members talk, I believe it is a general principle that we can all agree to. There has to be a process for investigating and settling human rights complaints. Every Member agrees with that. Where we do disagree is over how the process should be implemented. Does Yukon with a small population need a pro-active Human Rights Commission? Is a bureaucratic Human Rights Commission the right alternative to meet Yukon's human rights needs? I think not. There are other, more practical, down to earth, common sense alternatives.

These principles that I have just enunciated may sound familiar. They may sound familiar because they are taken from our position paper on human rights entitled, "Human Rights, A Practical Approach". That is the type of approach Yukoners need and want. We need a made in Yukon solution to Yukon's human rights problems.

Bill No. 99, like its ill-famed predecessor, Bill No. 58, is not the answer. I am absolutely convinced that it will create more problems than it will solve. We have heard many statements issued by groups around the territory, specifically Indian bands in Mayo and Dawson who expressed this very same feeling.

I ask Members to carefully scrutinize Bill No. 99 and to realize what they are doing. The time for sober second thought is now. From all the comments they have heard, I am confident that the Members opposite and the lonesome Liberal in this House are beginning to waiver. They are beginning to appreciate that although they now enjoy a majority in the House, they do not represent the majority position on human rights. There is still time to change their minds, and I urge the Members opposite to do so.

Where have they gone wrong with Bill No. 99? For the edification of the Members opposite and their conscience — the Member for Faro — I will tell them. The inclusion of third-party complaints is in error. Such a provision will only open the door to frivolous or vexatious complaints. This provision allows the Human Rights Commission itself to fuel its own fire. What is the Commission going to do when it has to submit its annual report to the Legislature to justify its existence and its budget, which I might add looks like it may be around \$200,000?

The answer is obvious. The two or three complaints that are reported annually will no longer be sufficient. Such figures may lead the Members of this House to question the need for such an elaborate and expensive Commission and a costly bureaucracy. The first law of the bureaucracy, like Murphy's Laws, will prevail; hang the expense, justify the existence.

I can predict right now that the number of complaints will increase dramatically. Will this increase mean that there is more discrimination in Yukon?

³⁸ Will it mean that Yukoners are growing less tolerant and more prejudicial? The answer is no. The sole reason for this increase will be because of this third party complaint provision and the powers granted to this sweeping Human Rights Commission. As politicians responsible for the public purse, we must seriously scrutinize public expenditures. There can be no blank cheques given to the Human Rights Commission.

The inclusion of sexual orientation and criminal record are also in error. I listened closely today as the Minister of Health and Human Resources talked about the inclusion of criminal charges. I think her excuses are rather feeble. I do not know of any case where someone charged with impaired driving was discriminated against on the basis of his job, unless of course, the job was driving a truck, and then he had difficulties because of the sentence he was given.

The government has no business legislating morality. I, for one, will not condone homosexuality. It is against my beliefs, and it is against the beliefs of a vast majority of Yukoners. Because we believe this way does not give us the right to discriminate against homosexuals. They are still equal before the law and will be protected. Bill No. 99, however, attempts to impose their morality

and their code of conduct on the majority. This is not acceptable.

The Minister of Justice knows full well that the majority of Yukoners are opposed to this inclusion. He knows it because he heard Yukoners in rural communities speak out loudly and clearly against including sexual orientation in the Human Rights Bill. He knows that he would have heard the same message from the citizens of Whitehorse, if he had the courage to hold public meeting in this city. The Minister even admitted this fact to the media and hinted that it might not be included in Bill No. 99.

I suggest that this hint served as a cue to the local minority groups to launch their lobby campaign and pretend to speak for the majority. Members may have noticed the ad in yesterday's *Whitehorse Star* from the committee of concerned Yukon women refuting the claim by one of these interest groups who say they represent the majority. I suggest that there are many other Yukoners out there who have that same feeling.

Who did the government listen to when they decided to include sexual orientation? We know they did not listen to the local church leaders who expressed strong reservations about it. We know they did not listen to rural Yukon, as I have already mentioned. They did not even want to listen to the City of Whitehorse because they did not hold meetings here. They were not interested in the views of the people of the City of Whitehorse. It is clear now that this government never intended to listen. It only listens to its own minority and interest groups and not the majority of Yukoners.

The inclusion of equal pay for work of equal value in the private sector as an area to be studied by the Human Rights Commission is another area. Some Yukoners are under the mistaken belief that the government has backed off on pay equity. There is only a temporary reprieve, a temporary reprieve. The government is intent, as the Member for Old Crow has said, as the Government Leader has said in his statements to government Ministers across Canada, on imposing this concept on the private sector.

» Who is going to do the study? Will it be the Chamber of Commerce, business people or an independent objective third party? No. It is going to be the all-powerful Human Rights Commission. What do they think the Human Rights Commission will find? Do they feel that the Human Rights Commission will rule that the imposition of pay equity on the private sector will cost Yukon businesses a lot of money to implement, in view of the fact that wages can only go up and not down? Will they find that pay equity is another unnecessary intrusion by government into the private sector and an added burden on Yukon businesses that may cost jobs? Will they find that the concept will add to the cost of providing services and may, ultimately, price Yukon out of the market when it comes to things like package tours and tourism? The answers to all these questions are obvious. The answer is no.

The Human Rights Commission will be a pay equity advocate. There will be no objective study. The imposition of equal pay for work of equal value on the private sector has been merely deferred for one year.

I ask the Members opposite to think back to 1982, when Yukon was in the depths of an economic recession. Members may recall that many small businesses were forced into bankruptcy and many more were on the verge of bankruptcy. What would have happened if the government of the day would have imposed pay equity on Yukon businesses? I suggest to you that the answer is obvious. The number of businesses, the number of bankruptcies would have doubled, if not tripled. It would have been the straw that would have broke the camel's back. It would not have created higher pay for a lot of people. It would have created a lot more unemployed people.

Fortunately, Yukon's economic circumstances have improved, but this does not change the negative impact the pay equity concept could have on Yukon business.

I reiterate: what is the justification for this sweeping legislation? Why do we need Bill No. 99? Who wants it? What Yukoners need and want is some practical commonsense human rights legislation. This side has provided an alternative in its position paper, has provided a compromise for the government, has provided that human rights legislation that Yukoners could and would accept. I ask the Members opposite, and the Member to our very far left, to

set aside their partisan politics and carefully consider what this side has put forward. I commend it to them for their consideration.

Hon. Mr. McDonald: I have listened to the debate in the House in the last four or five or six days and the many opportunities that the Members opposite have had to speak on the matter. I actually took notes as to the points that the Members were raising and fully intended that, when I had my opportunity, I was going to speak to every single point. I would have swallowed up an easy 40 minutes responding to the rehetorical political points raised by the Members from the Conservative Party in this Legislature.

« Upon reviewing the notes I realized that the notes characterize the kind of debate that has been waged in the public for the last year and realized that if I were to respond to the points made I would be as guilty as the Members in the Conservative Party in the opposition were in dragging the debate into very, very partisan, unproductive exercises.

Listening to the character of the debate I am encouraged that perhaps what we should be speaking to is the principle of the Bill. The debate that has taken place within the past year certainly spoke more to appearances and to the unfounded fears of the public than it did to the issues at hand. I am sorry for that. I will say once again I think the character of the debate today is rather encouraging and for that reason I am going to respond to the debate today in my remarks and hopefully speak to the principles of the Bill.

I think there is one critical point to discuss first in speaking to this Bill and that is to speak to the whole issue of the role of government in our society. The case has been made — in my view, quite unpersuasively by elements in this society in Yukon — that government is an evil that has to be endured and perhaps reduced at all costs; that government activity, by its very nature, by its definition, is intrusion into the lives of people — an unwarranted intrusion into the lives of people. That is the definition, the character of the proposition being put forward by some people in our community. I entered politics because I felt that in any person's life there is very little opportunity to actually debate and to participate in decisions that affect your life unless you are a powerful person in the community; or a moneyed person in the community; or perhaps if you are a good public speaker and can carry the crowd; you can influence your life or events. The one opportunity that you have in society to influence the majority — their lives — is through the democratic or political expression associated with political decision making in government.

« I do not have, by ideology, a fear of government. I believe that it is the one vehicle in most working people's lives, at least, whereby they can democratically express themselves legitimately on matters that affect their lives. For those people who feel that government is, by nature, an intrusion, that it is an evil, I say to them that it is the only expression of democratic will that most people can ever express in their lives. I am not at all persuaded that government activity, freely debated in the Legislature, very open to public scrutiny, is, by its nature, an evil that has to be reduced or stamped out.

I realize that the character of the debate to date has taken on that colour. It is seen as being government intrusion in people's lives. It is a democratic expression of this society as to what they feel is right and just in matters that affect their lives. I believe, even though I will not be spending a lot of time expressing my position, that the measure before us today, the declaration of human rights, is perhaps the most important expression of how we feel about ourselves.

As a single person and the elected representative of Mayo, Elsa, Keno, Stewart Crossing and points in between who has been thoughtfully trying to pursue the debate between government and Opposition Members, between people in the communities, at public meetings and in the newspapers, I will speak as one who is fully aware of his role as a representative of the people of the Mayo riding.

I cannot really respond to the character of the debate, because I do not think it has been productive. I think that the debate itself has been healthy. The fact that people have expressed themselves and discussed the issues has been very healthy. In Mayo, I attended the

public meeting with the Minister of Justice where there were a number of people sitting around discussing the issues. I sat there listening intently, and I did find the discussion fascinating. The meeting started to wind up, and I was a little surprised that nobody had asked me for my position on human rights.

42 One person asked where I stood. I told him where I stand. I told him what my moral, ethical position was with respect to individual human rights. I told the group what I had to go through to come up with my position and my decision with respect to this Bill and the whole principle of human rights, that I felt that I had to search back into my background, to my upbringing, to the ethical underpinnings of my understanding of society in order to determine where I stood.

I recognized then, and I recognize now, that there are people in our constituency who take differing views on a variety of issues. It will not simply be provisions of this Act, but provision of other Acts, budgetary provisions for a variety of things. It is very difficult at times to come to a decision that reflects not only your own personal feelings about something, but also reflects the views of your constituents, if a consensus exists.

It is difficult to always speak for your constituents. I think we would all be a little dishonest if we always said that we were speaking on behalf of all our constituents. I think we all know that is not the case on practically every measure. What our constituents expect is that we come to our decisions honestly, that we express ourselves in such a way that we know we will be supported by them for being in a straightforward position, that the position we take they can trust generally on a variety of issues. They are not always treated to the length and the depth of the debate as associated with the *Human Rights Act*, and they do trust their representative to speak for them on a variety of issues, even though not everyone has been consulted down to the very last detail. We take measures and we discuss measures here every day that are not communicated in great detail to our constituents.

That is the character of the legislative debate. People elect representatives whom they trust.

I had to ask myself what was the character of the community that I wanted to pass on to my children and to future generations. I guess I answered briefly that what I wanted, more than anything else, was a society that was tolerant, that was charitable, that was civilized. I wanted it to respect the individual rights of people. I wanted it to speak out against discrimination. I wanted it to promote the freedom of thought and speech. I wanted it to provide reasonable limitations to freedoms to respect the character of the community.

After coming up with that position, I really felt that what I had to do was to try to glean from my past what it was that was promoting that particular view of life. The only thing I could come up with, in that search, was a sense of Christian ethics.

43 I do not think it is necessary to say for the record, but I will say it anyway, I do not practice any particular religion. I am not a regular church-goer but, as a boy, I did go to church. I was a choir boy, as a matter of fact, and strangely enough. I bet Members would not believe that now, but I was a bit of an angelic choir boy for a brief period in my life. I did go to church three times every Sunday for four years. I did listen to many, many hundreds of sermons by different ministers. I did sit on cold hard seats in drafty churches for many Sundays for many years. I think, from that experience, I am left with two very distinct memories. One was that the churches always seemed to be cold and drafty and always had hard seats. The second memory was the character of the sermons that stressed charity and tolerance.

Most of the sermons, to be perfectly frank, I did not listen to, I did not pay a lot of attention to. As choir boys, we were more interested in jockeying for position, throwing spitballs, and doing things that would have been frowned upon by the Minister. There were times when the sermons that spoke of charity and tolerance certainly captured my attention. One minister challenged the congregation one Sunday and asked the congregation — which I think was probably in need of some shaking up, and the minister recognized that — why was it that, even though they were coming to church, they were supporting the ethics of charity and tolerance? It was not the fact that they were living in a comfortable society,

going to comfortable churches, or living in a quite countryside, believing in solid, simple values; it was not that necessarily that had captured people into accepting the basic tenets of charity and tolerance. It could not have been. The proposition he put forward was that a brutal society, thousands of years ago, a society that believed in the military ethic, gods that constantly quarrelled and bickered and coveted each other's spouses and did all the evil and nasty things was, essentially, dominated and turned around by Christian ethics.

44 It was not that people anticipated that it was going to be a nice comfortable society to live in, it was not that people anticipated that there were going to be nice warm churches that they could worship in. It was the sense of Christian ethics that captured people's hearts and minds at that period when society and the world was most brutal. The principles of toleration and charity were such that you tolerated more than the people you like and you were charitable to more than the people who would pay you back. You embraced your enemies, you embraced the people who were different. Even though you may not understand or share differences, even though you may not accept differences, you would still be tolerant and that is, I guess, the message that stuck in my mind as a boy going to church.

Some people in Mayo wanted to present the proposition that we should educate ourselves as to tolerance and charity, we should not legislate it. This piece of legislation is an expression, as I point out and as I feel, of how society feels about itself, like the law which outlaws murder. I presumed most people in this room would not ever consider taking another person's life yet we have a law that states we are opposed to it and those people who practice it will not be condoned by this society. It is an expression of our will, a democratic expression by government of our will to speak out against what we find to be wrong behaviour.

So, we are not speaking to those people who will naturally, and in an accepting way, not discriminate, who are charitable and tolerant. We are speaking to those people who maliciously, out of ignorance, or those people who, in a forgetful moment, are prepared to hurt somebody else.

I am of the view that we have to promote education on tolerance. That is what we spend a lot of our time doing, and that is a necessary activity. Certainly, going to church on Sunday mornings is an expression of that education, an expression of the teaching of tolerance and of charity and that is a necessary part of our society and of our development. We must, I believe, take measures to tell those people who would hurt others, who would discriminate against others, that we will not tolerate that and that we will not condone it, and we will discourage it.

45 That is the reason why I do support this piece of legislation and do support the measure contained therein. As an MLA, I contact people every day who are angry or frustrated or who sometimes want to injure others through their anger, who have different religious and political beliefs. There is a wide range of those people in my riding. I believe my riding might even represent the widest possible range of political and religious beliefs that exist anywhere in this country. They expect tolerance and charity from me, and I hope to live up to those expectations.

The principles of this Bill are what they really want me to practice, and therefore these are principles that I should support. A constituent of mine wrote to me last year. This is a person whom I have come to know and respect since the 1982 election. The person wrote to me and said that he feels that every person should not have the right only to equal treatment, but should have the right to just treatment. I believe that that is what this Bill speaks to. I believe that not only are we proposing that people should be tolerated, that we should be charitable towards others, but that we should act in a just way, that we should take action.

There are people who have asked why we need it. I believe that any sensitive person in our community would understand why we need it. There have been rhetorical questions put forward by the Members of the Opposition. The Member for Riverdale North not only asked me a question, but did me the favour of answering the question as well. This Bill does not give special rights to anybody, but it ensures that rights are protected. The provisions in the Bill were widely discussed over the last year in a variety of forums.

There were public meetings, a Select Committee, a good deal of media reporting on the subject, and all of this has come to this point now where we are in a position where we debate the principles of human rights.

I would like to participate in the discussion about the details in Committee. I am sure the Member will have a lot more to say, and I have a lot to say on the specifics.

⁴⁶ In terms of the general principles and in terms of the character of this particular piece of legislation, I would say to Members of this House and to the people of the Mayo riding, that I will stand in support of it.

Mr. Phelps: I am one of the Members on this side who is really speaking for the first time about the Bill during this current debate on second reading. I did rise once during the previous debate to congratulate my good friend from Klouane for assisting the Member for Klondike by ensuring that the principles were dealt with by those Members who chose to speak to them on a specific basis.

I have enjoyed listening to the debate. I appreciated the previous speaker's comments, the Member for Mayo. I feel that what he said was sincere and that he thought long and hard about the Bill and his reasons for taking a position in favour of the Bill, as it stands. I appreciate the way in which he did address the issues and, while I disagree with him in part, I would like the House to know that I did enjoy the previous speech.

We share a lot in this House. I think Yukoners share a lot in terms of ideals, beliefs, charity and tolerance. That is something that has come home to me in a profound way in my life here, and whenever I have looked at attitudes here and how they have changed for the better over the course of my history in Yukon.

I do not think any Member of this Legislature, or any member of the Yukon public, is going to take issue about the sad reality of hardships that have been faced by certain minorities in Yukon and Canada. No one is going to take issue with the points made about the struggle Indian people have had over the course of the past century. Nobody is going to say that that was good, or that the steps that have been taken to try to promote tolerance were wrong. I hope I never hear anyone say that. I have not heard it said by any of the Members here today.

Those hardships were also faced by others. One can only think back, not long ago, to the similar hardships of Chinese people in B.C. They were not allowed to vote, they were not allowed to work in most places, they were not allowed to buy property in most places. They, too, have come a long way. One of the distinct pleasures that I have had in my upbringing and my life has been to practice law with first generation lawyer Chinese people. I think particularly of Buddy Wong, who prosecuted here for many years in the early '70s and is now a judge in B.C.; as well, first generation Indian lawyers.

⁴⁷ They are a credit to their people, by their example, their dedication and by their ongoing work for aboriginal rights, and to themselves. When I listen to what we have heard, I think of how close we are in most of our beliefs. I think too of the high level of tolerance that we have found in the Yukon.

I do not think that anybody will argue that Conservatives have not been in the forefront when it comes to protecting human rights, defending civil rights, and in promoting appropriate legislation in the western world and in Canada. I think back to one person in particular, the Right Honourable John Diefenbaker who, for many many years as a private citizen and lawyer, fought hard to protect the civil rights and the dignity of the underdog, and often against the bureaucrats and against the state. That was a sincere mission, a mission that he lived. There are many people like him who have followed in his footsteps, people from all walks of life and from all political parties.

Let us not forget that in August, 1960, there was proclaimed the first Canadian Bill of Rights, and that stood as a hallmark of the beliefs of Mr. Diefenbaker, but more than that, as a monument to his entire life. The suggestion has been made in the House, I believe by the Minister of Justice, that normally civil rights bills, bills of this nature, are unanimous. There is a certain amount of truth to that because — it is a reflection of my beliefs — people of

good will normally will do the right thing in the right circumstances.

⁴⁸ Unanimity can only be achieved if the bill that is being passed is a good one and a just one. We have seen that breakdown in the very unanimity, recently in Ontario, on a free vote in the Legislature about one of the principles that is causing so much consternation and concern in Yukon.

We have a similar problem here. I want to ponder about the reasons why. I want to go back a bit and look at some of the things that have happened here since this bill was tabled in October, and second reading was debated on October 24, 1985, on the previous Bill to this.

Back then and before, this party and these Members stood for human rights and stood for improving any existing legislation that is on the books. That is a fact. That has been misunderstood by some. It has been misstated by some, perhaps deliberately, perhaps not. Let the record be clear. The first green paper that was tabled in this House was brought forward by Conservative Justice Ministers. It was brought forward so that people could examine the options for upgrading and changing the human rights laws. There is no question about that.

I will take the liberty now to speak briefly from my remarks back on October 24, 1985. It is my position that we have been consistent ever since, but I will get to that in a minute.

I started debate then by saying, "I would like to say at the outset that I have been involved in protecting human rights for much of my professional career. In fact, in the early 1970s, I worked for several groups in town in implementing and looking at the existing law, the *Fair Practices Ordinance*, or Statute, as it is now called. I recognize that there certainly is a need for change and a need for better legislation than presently exists. The predecessor of the hon. Minister of Justice believed that as well". I went on to state, "I watched with some satisfaction the changes in attitudes in Yukon, the general move toward sensitivity, toward the rights of minorities and freedoms of all people. A lot of this has been accomplished through the goodwill of many many people".

Even back then, we stated our concerns. I am disappointed in the Act, generally speaking that we are going to be reviewing. It is my honestly felt position that this is a radical Bill. This is a Bill that is going to raise a lot of fears in a lot of the minds of individual Yukoners. I went on to say, when it happens, you naturally have a reduction of tolerance and goodwill. When that occurs, I do not think it does much good when it is unnecessary.

I have been thinking a lot about where the problem is. Why are we having this debate right now? I think that it was touched upon in the previous speech because there seems to be a fundamental difference between those who are opposed to this particular Bill and those who are supporting it. I believe, as I have said before, that virtually everybody wants a good, enforceable *Human Rights Act* in effect in Yukon.

One of the key and fundamental gulfs here has to do with the present government being comfortable with more government, being comfortable with the state, being comfortable with more bureaucrats, believing in Big Brother. I think that is a genuinely felt belief on that side. There were times that I did not honestly believe it or understand it, but having heard the previous speaker, I honestly can now say that I believe that these people are extremely comfortable with bureaucrats. They are not worried about overzealous inspectors or harm that might be done to the individual.

I do not get the impression, and I do not think this is out of meanness of spirit or anything of the sort, that the side opposite really understands our position and what I think is the position of the majority of the people of the Yukon, but that is a debatable point, unless you get off on a numbers game. I do not think that the people opposite really understand or believe our fear and suspicion of an overly powerful government or our nervousness of overzealous bureaucrats or overzealous Human Rights Commissioners.

⁵⁰ I do not think they share, certainly not as strongly as many of us, a belief in the individual, the rights of the individual and the freedom of the individual. I think that that is where the difference is because we both really do support most of the same principles when

it comes to good human rights legislation.

You see, Diefenbaker spent a lot of his time fighting against the over zealous state, the over zealous bureaucrat when he was a lawyer. I have done that throughout many years in my practice of law, and I have seen the state trample on rights and freedoms. It is a frustrating and helpless feeling that many people have when they really have no place to turn and really cannot afford to pay for an adequate defence, and even if they can, they are stymied by the fact that government and bureaucrats that may be offensive to them can hide behind the lies. I am saying the mills of the gods grind slow; sometimes justice does. I have seen these problems occur in Yukon. We have fought against this kind of thing more times than I care to remember, and we see it now. We see grievances now, and we see situations where individuals simply cannot fight the state and simply have to acquiesce, has to give in.

I do not want to sound like I am taking issue at all with the sincerity of what was expressed by the previous speaker, but we differ hugely in that I do not share that kind of comfort; I do not feel that the government is always right. I know that there are inspectors, higher-ups in the bureaucracy who overstep their bounds. There may not be many, it does not take many, that share the pettiness that was given, in varying degrees, to us all when we first found ourselves on this earth.

⁵¹ That is my basic feeling about what has caused this fractious, ongoing debate. It is reinforced by the very kind of language that was contained in the first Bill that was withdrawn. For a long time after the Bill was withdrawn, I really could not come to grips with how eight good Yukoners could read that thing and bring it forward and not understand or have the foresight to guess there would be such a strong reaction. It puzzled me. I could not understand why it was brought forward in that forum with those powers and that language in the first place. It struck a nerve with me because of my particular background.

There is another aspect to this. We heard the hon. Member who preceded me speaking about charity and tolerance, and speaking about people having the right to equality, and speaking about having the right to justice. These are all fine things to speak about and principles that we all must be deeply committed to, or else we would not be here. There must be some reason we all come to this place and work long hours. I think those beliefs are a basic requirement for anyone to be foolish enough to get into this game at all.

I want to think about the idea of everybody being entitled to justice, and then develop it a bit. What does that mean? What does it mean to me? What does it mean to somebody faced with this Bill? In itself, it is a principle that is a double-edged sword in the context in which it is used.

Let us look at some of the concerns in the bill without getting into the kind of picky debate that will take place in Committee of the Whole, but to speak to some of the principles and give some illustration and contrast our position with the position as I understand it of the side opposite.

⁵² People have talked about sexual orientation. It certainly is one of the features in the Bill that has led to a certain amount of animated debate amongst people of the Yukon. Let us also look at the concept of a shield rather than a sword, because I think that is the phrase that gets at this problem of justice. Is it justice to take a small family business, and I can think of one who spoke hypothetically to us in Stewart Crossing, with his own ethics who hires someone not knowing that the person had any unusual sexual preferences. Once the person is hired, that person suddenly displays in overt ways his or her sexual preference.

This is small family business, a man and his wife part time and children as they are old enough to work in the business, are suddenly confronted with this. What can they do? They cannot fire the person. They cannot make much in the way of remarks about toning down the conduct, not with this Bill. Almost any kind of reaction by that employer will find that person liable to investigation and other processes that come within this Bill. That person in the family presumably worked many years building the business. They spend probably more time in the confines of the business than they do at home. He is faced with this situation.

Is that truly anybody's concept of justice? Should he really have to bite his tongue and carry on working in such an environment? I do not think that that is justice. If there is any kind of imagined discrimination, the employee does not have to bring an action; someone down the street, or some neighbour can do it. In the wording of this Bill, any person can do it, even a Human Rights Commissioner.

⁵³ I guess where we part company is that I have a sincere concern for a person placed in that position. I can understand why that person would be fearful of government in those circumstances. If you look at this Bill and read "the duty to provide for special needs"; it says everybody has a responsibility in law to make reasonable provisions for special needs in employment, accommodations and services. It does not exist where making the provisions would result in making undue hardship and that is intended to soften the effect of it. Undue hardship shall be determined, in effect, by the Human Rights Commissioner or the Board of Adjudication or, I guess, in the first instance, the investigator.

Again, there is a difference in philosophy in where we are coming from when the side opposite can support that approach to a genuine problem, to a problem for which we all have sympathy. I have, in my time, experienced, first hand, problems relating to a physical handicap, and I am sure most people here have friends who are severely handicapped. No one is here to act in any kind of hard nosed or intolerant way about the very real problems handicapped persons must face, but the difference is approach. If you have a business, if you own a building, you have to now, some how or other, convince whoever might come forward, that you really cannot make expensive provisions in terms of structure, elevators, special bathrooms, et cetera in older buildings. The onus is on you to go through all the trouble and effort to show why you cannot do it. There will be a lot of people upset, and the tolerance level will be reduced, in my opinion, because of the numerous kinds of examples that spring to mind when one reads that section.

Contrast that with the position that was taken by our side, by the Opposition, in our published approach to human rights.

⁵⁴ It said, "Human rights legislation can and should, however, acknowledge the particular needs of our citizens by providing accommodation for consideration for special needs people, those citizens who are disadvantaged, disabled or handicapped. Legislation can provide the basis for the development of various programs and policies to assist special needs peoples.

"Such programs and policies may include, for example, providing tax breaks for businesses which alter their premises to make them more accessible to the handicapped, providing education and information programs concerning the special needs and abilities of special needs people, private and public sector co-sponsorship of special needs programs. In addition, special needs people and representatives of the private and public sectors can work together without the necessity of legislation to develop Yukon solutions to problems."

The concern is the same. The approach is vastly different. I could even understand if the legislation spoke to reasonable requirements, or it could be amended to set some and escalate reasonable requirements as new buildings were being built, as government buildings were being built. We are seeing that happen. We have a tolerant society that is doing a lot right now. There is more that can be done, but it just is not happening.

The approach of this side is different from the side opposite. We look at any person being able to lay a complaint. We look at the harassment that the person against whom the complaint is laid might go through. We are concerned about frivolous and vexatious complaints, and we feel that where that happens the person laying the frivolous or vexatious complaint ought to bear the costs, not the government.

We go one step further. We do not feel that third party complaints ought to be allowed at all in this legislation. There are people in every town who will willfully and gleefully pit neighbour against neighbour, employee against employer, individual against government inspector or investigator or other bureaucrat.

I firmly believe that that is the kind of thing we have to avoid if

we are going to enhance human rights in the territory.

We share a lot, even in this Legislature, in terms of belief in the value of the rights of the individual, the dignity of the individual, charity and tolerance.

⁵⁵ When it comes to the power of the state, when it comes to the interference in an individual's life, particularly if it is unnecessary, and only if it is unnecessary, then there is a chasm between us that makes this formalized distance seem very small indeed. We cannot outvote the side opposite, but it is my sincere desire that they will listen, that the side opposite will not use rhetorical argument, good guys/bad guys stuff, that they will look at some of the practical problems that this legislation brings with it. I will be introducing more of these, as the debate proceeds, because the Bill, as it stands, while an improvement over the first one, needs an awful lot of improvement before it is going to be accepted by Yukoners, before it is going to facilitate tolerance and goodwill, before it is going to do anything that is really positive to improve the climate within which we live in the Yukon.

Hon. Mr. Penikett: I can see I am going to have to talk quickly given the time that is left today. Through you, Mr. Speaker, I hope to respond to the Leader of the Official Opposition and some of his remarks.

I think that it is necessary, at the outset, for me to say that Bill No. 99 is a milestone in a very long journey for human rights. I know it pains Members opposite when I cite history. I believe that in an earlier intervention, the Leader of the Official Opposition chastised us, me particularly, for making reference to some of the great conflicts between parties on the right and parties on the left and some of the changes that took place during the Industrial Revolution in Britain, whether they were votes for working people, votes for women or some of those issues. I do not intend to re-survey that ground.

I do want to put on the record certain other historical markers in this very very old debate. It is relevant to a point I want to make about the continuum of this process, this struggle for human rights, which is as old as our civilization. I said I was not going to use European examples. I am not going to go back as far as 1215 to the *Magna Carta*. Perhaps, I will not even go back as far as 1776 with the great American Revolution and the calls of "taxation without representation" even though those are very interesting to the discussions on human rights. Members may not know that even the British House of Commons, which was then regarded as the great fount of democracy, was a body that only represented two percent of the population of the day, and that two percent only included men.

⁵⁶ Let me just mention some of the landmarks on the battle for human rights in this country.

In 1793 there was the first Legislative Assembly motion of Upper Canada banning the introduction of further slaves — not that long ago.

In 1859 the *Upper Canada Act* secured to married women certain separate property rights for the first time, and enabled married women to have, hold and enjoy real property.

In 1875 the *B.C. Voters Act* passed denying the vote to Chinamen and Indians.

In 1895 the *B.C. Provincial Voters Act* amended denying the vote to Japanese.

I was fascinated to hear the Leader of the Official Opposition talk about his knowledge of Chinese people in British Columbia not being able to vote. I would have thought that the Leader of the Official Opposition would have known that in 1910 Yukon Territorial Councillor, George Black, the man who later went on to become the Conservative MP for the Yukon and the Speaker of the House of Commons, introduced Bill No. 9 into the predecessor of this House to amend the *Yukon Elections Act* to provide that no Chinaman or Japanese shall have his name placed on the voters list.

What followed next was a very proud and important moment in Yukon legislative history. The person who was then described as Government Leader, a gentleman by the name of Willard Phelps, opposed this initiative by the great Conservative Leader George Black and had it defeated.

I happen to know how radical an initiative and how courageous a stand that was in 1910 because right up until the 1930's Liberal candidates were attacking candidates of my party in British Columbia because my party's position was that orientals ought to be enfranchised in that province. I could, but I will not, bring in election posters from that pre-Second World War period from British Columbia that would remind us of that horrible episode.

In 1916, to continue our history, Alberta became the first Canadian province to give women the right to vote.

In 1917, the *Federal Elections Act* was amended to separate federal franchise from provincial franchise qualifications, but gender and racial qualifications were retained in the federal act.

In 1918, the *Federal Act* to confer electoral franchises on women was passed by parliament.

In 1931, the *B.C. Employment Relief Act* includes a clause to prevent discrimination on the basis of political affiliation for employment on government relief work projects. That was a first.

⁵⁷ In 1938, the *Federal Elections Act* was updated, but it retained race as a ground for exclusion for voting, and that was not repealed until 1948. In 1945, the *BC Social Assistance Act* is the first law in Canada to prevent discrimination based on race, colour, creed or political affiliation. In 1947, for the first time in Canadian history, a province, Saskatchewan, passed the first comprehensive Bill of Rights in Canada.

In 1951, Ontario passed the *Fair Employment Practices Act*, which includes equal pay regardless of age or sex. Other provinces gradually followed. I want to go to the United States now for a moment in history, because it is an important one and has changed our thinking. The Member for Riverdale North waves me off, dismissing me. He is not interested in history, no matter how painful. As recently as 1955, a black woman named Rosa Parks refused to surrender her seat on a Birmingham, Alabama, bus to a white man. A small act, but it turned out to be a radical, revolutionary act, in terms of its consequences. A decade of civil rights process began in the United States, which came to be led by the Rev. Dr. Martin Luther King, who went on to win a Nobel Prize for his efforts, and was assassinated for his efforts.

As the Leader of the Official Opposition mentioned, in August of 1960, Prime Minister John Diefenbaker introduced the *Canadian Bill of Rights* into Parliament. He mentioned that, but he did not tell us something else, that during that historic speech, he was heckled and obstructed by the Opposition of the day, even to having to stand such interjections as questions about the *Aeronautical Act*, and how it would impact on that. Nobody remembers whatever jerk it was who was asking questions about the *Aeronautical Act*, but they do remember John George Diefenbaker.

In the same decade, as other Members have mentioned, the *Federal Elections Act* was amended to allow Indians to vote. Later, the *Yukon Elections Act* was amended to allow Indians to vote in the same way. They have been here for thousands of years, but not until then were they allowed to vote in our electoral system.

In 1962, the Yukon Indian children were no longer required, by government policy, to attend separate residential schools. In 1963, we had the *Fair Practices Act*, the Act that is regarded as a commendable model by the Members opposite. In 1964, Ontario passed the first Human Rights Code in Canada with a Human Rights Commission — 22 years ago. In 1975, Quebec became the tenth and last province to pass a Human Rights Code. We are debating this 11 years later, this measure that has been called radical and revolutionary.

In 1977, the *Canadian Human Rights Act* is passed. Many years later, we are still at it. The Canadian Human Rights Commission was passed in 1978 and the battle goes on. We had Royal proclamation of the *Charter of Rights* in 1982. In 1983, we had Miss Lovelace of Alberta file a suit to gain Indian status and that led to Bill C-31, which is still before us.

⁵⁸ My point is that our civilization has seen a continuing struggle for human rights, for freedom from tyrants, from lords, from despots, from injustices, neighbour to neighbour. It has always been a debate. When the people who argued for the abolition of slavery — and I have gone back and read some of those debates — and there were people then that were saying it was too radical, it was too soon, it was too new,

it was unjust. And there were people who spoke for the slave owners and there were people who spoke for the slaves. It was the same thing when we talked about child labour laws. There were progressive voices and there were conservative voices. It was the same with the votes for women, the same with votes for working men. The debate goes back and forth, back and forth, as it is here.

Let us be quite obvious, because there have been some allegations about ideology and the Leader of the Official Opposition makes it quite clear. I doubt very much if there were any socialist slave owners. I doubt very much that there were any social democrat slave owners. I am damn sure there were Tory slave owners. What I am saying, to make this point, is yes there are differences in opinion. Yes, there are differences in approach. That is as old as this debate.

We have heard that this Bill goes too far, and we have heard the mention of a number of issues that are, supposedly, controversial. You may remember that the *Fair Practices Act* exempted the Yukon government from its provisions. This sounds amazing in the 1980s, but it did. This Act will not. It is important, when we consider issues like pay equity, affirmative action and questions like that, to understand why a Bill like this cannot. I know what the position of the previous government was with respect to affirmative action for Indian people in the Yukon government, for an example. The position was that they did not count people on the basis of whether they were Indian. On the one hand they were arguing very much for a one-government system in the territory, but they did not know, or did not care to know, how badly represented Indians were in the government, nor were they prepared to take the initiatives that would correct that injustice, and display to Indian people that they had a part to play in the government administration. That was the previous attitude. We have a different position on that, and I do not apologize for it.

We talked about aboriginal rights. I can remember, I am not that old, when it was argued that if we ever settled land claims, if we had aboriginal rights, some people were promising violence. There were people who were saying that if we pushed this it would cause social rifts, it would cause division in society. Well, damn right, if you are oppressed and disadvantaged, you are going to want change, and people who have fought change have always said that it is going to upset people, it is going to create disharmony. Well, I am afraid that change does that. Sometimes justice does that.

We have talked about pay equity. The Member for Riverdale South predicted me perfectly. She said I would say that we do not want to have economic development financed on the backs of underpaid women. Yes, I think that is an injustice, and yes, we want to change it. We have not moved in the private sector because we want to consult with the private sector. We want to consult with women. We want to do research, and we want to empower the Commission to give us the facts so that when we move to implement this in the private sector, we, or some future government, will be able to do so on the basis of a firm foundation of fact.

Perhaps one of the most controversial issues has been the question of gay rights. For a number of years, sexual activity between consenting adults has been legal, but knowing that this was a controversial issue and knowing how sensitive it is, I am amazed at some of the things that have been said. The Member opposite, the Member for Porter Creek East, said that he did not want to see men walking down the street holding hands. That would be horrible. I see women dancing together at dances. It does not upset me. Imagine, with that kind of attitude, there may be people who think that that should be banned too because somehow it sends out bad messages and kids will get the wrong idea.

Can you imagine, given the rhetoric from the other side about public meetings, and knowing that this was a controversial issue and knowing that Members opposite by their remarks are saying that it is quite alright to deny a gay person employment, housing and food, why would any gay person in their right mind stand up at a public meeting and defend the rights? Imagine. Would they do that? Of course not. They would have to be a very, very courageous person indeed, and I do not think that is the case.

There is criticism of the idea that there should be education on this score. I, not so long ago, heard from someone who told me "I

would not want some gear box teaching my daughter". A gear box, I gather, is not a term of endearment for homosexual males. What this person, in the wildest dreams, imagines a homosexual man might be interested in their daughter for, I do not know. It certainly is an example of the kind of education that is needed on these issues.

The Member for Porter Creek West has said that Yukoners are not enlightened enough. In a few more years, they will be ready for this, but they are not now. What shall we do in these situations? Should we always be followers? Should we always be subject to whatever the public whims may be, from poll to poll, from period to period, from month to month, or should we lead on these questions? I would argue that it has been our historical role as legislators everywhere to lead, to lead public opinion, to take on unpopular issues, to champion people who may not even be popular people, who may be oppressed, who may be subjugated, or who may be discriminated against: I think that is our proper role.

It raises the question: whose side are we on? Is it on the side of the discriminated against, or on the side of those who think whatever discrimination exists is acceptable, or those who argue that there is no discrimination? I would say to the Leader of the Official Opposition that, in 1910, looking back now, as Leader of the Conservative Party, would he have been on George Black's side of the issue, or would we have been on Willard Phelps's side of the issue?

I hope I can have the courage and honesty to say I know which side I would have been on and, in a similar situation in 1986, which side I will be on today. The debate is the same old debate. It is the same historic conflict. We have had the suggestion of why we do not have a Yukoners' Bill. What they meant is a Bill that is acceptable to the Opposition. In other words, we should not listen to the people who feel they need this, we should listen to the people who are against it.

The Member for Kluane said this is a law for minorities. In a sense, he is right. In some sense, we are all minorities. Every single one of us is a member of one kind of minority or another. You add up the minorities and you get the majority in society. The majority is not some kind of amorphous homogenous mass. Our majority is a collection of minorities.

We are not here to parrot the prejudices of the last person who talked to us. We are here to exercise judgment. We are here to make choices. We are here to show leadership. We have to decide whether we are going to listen to the gays on the question of gay rights, or the Member for Riverdale South? Are we going to listen to aboriginal people on the question of aboriginal rights, or the Society of Northern Land Research? Are we going to listen to the handicapped people on these questions, or are we going to listen to the Chambers of Commerce?

To say there is no discrimination in society is to shut one's ears to those people. Ask Indians, ask women, ask working women, ask handicapped people, ask ex-cons. The Member for Whitehorse North Centre is perfectly right: there are hundreds of people here in this territory with criminal records. Are we going to deny them jobs on the basis of being busted a couple of times for impaired driving? Of course not, as a purely practical matter.

They say the *Fair Practices Ordinance* is all right. It is not. The *Fair Practices Act* is an Eisenhower-era piece of legislation. It is pre-civil rights. It is pre-women's rights. It is pre-gay rights. It is pre-grey power. It is pre-aboriginal rights. It is out of date. It is a 1956 style piece of legislation, not a 1986 style piece of legislation.

Points have been made about particular problems. I took note of the third party complaints. We will deal with those in Committee. I think we will be willing, if there are sensible suggestions opposite, to consider those. I urge Members to understand where we are in the world in 1986.

I would like to quote for a moment a famous speech by Franklin Delano Roosevelt, 1932, which is known as the Commonwealth Club Speech.

"Government is a relation of give and take, a contract perforce, if we would follow the thinking out of which it grew. Under such contract, rulers were accorded power, and the people consented to that power on consideration that they be accorded certain rights.

The task of statesmanship has always been the definition of these rights in terms of changing and growing social order. New conditions impose new requirements upon government and those who conduct government."

Bill No. 99 is an Act for 1986, not 1886, or 1963. It is time for Bill No. 99. Someone said we do not inherit the earth; we only borrow it from our children. Is it our task to try and improve the rights of our citizens today? I say yes.

Q Is it in the public interest to protect minorities as well as the majority? I say yes. Does the Bill advance freedom and democracy? I say yes it does. Is it fair? Yes. Is it just? Yes. Does it promote equality? Yes.

I want to say that when my granddaughter grows up — maybe she will be a Member of this assembly — and comes to discuss these events with the Opposition Leader's grandson, perhaps — perhaps Willard Phelps the IV or V, or whatever — I hope that my daughter will be as proud of my constructive, positive role in this battle for human rights as I think the Leader of the Opposition should be about the role of his grandfather in 1910.

I think Bill No. 99 stands recommended for all those people who favour human rights, not only in the Yukon, but in Canada and the world.

Speaker: Are you prepared for the question?

Motion agreed to

Speaker: The time being 5:30 it is my duty to adjourn this House. Before adjourning today I would like to point out to Members that the House has debated and carried Motion No. 67 dealing with the Yukon-Alaska offshore boundary. The Chair notes that Motion No. 69 now standing on the Notice Paper deals with substantially the same subject matter. As the House has made a decision on this topic, I would order the Clerk not to place Motion No. 69 on the Order Paper.

I will now adjourn the House until 1:30 p.m. tomorrow.

The House adjourned at 5:30 p.m.

The following Sessional Paper was tabled December 9, 1986:

86-3-78

The Economic Viability of the White Pass and Yukon Railway, October, 1986 (McDonald)