



The Yukon Legislative Assembly

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HANSARD

Tuesday, January 6, 1987 — 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 Penikett	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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01 Whitehorse, Yukon
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Speaker: I will now call the House to order. At this time we will begin with prayers.

Prayers

INTRODUCTION OF PAGES

Speaker: At this time I would like to inform the House that due to school examinations, the pages from F.H. Collins who were attending the House will no longer be able to serve the Assembly. It is my pleasure to inform the Members that in their place, Linda Glanville, Janet Arntzen, Brian Clarke, Crystal Falkenberg and Carolyn Pollock from the Porter Creek Junior Secondary School will be attending the House for the rest of the Session. At this time I would ask you to welcome Carolyn Pollock who will be serving the House with Brian Hanulik.

DAILY ROUTINE

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

INTRODUCTION OF VISITORS

Hon. Mr. Porter: I would like to call to the attention of the Members of the House the presence of a constituent of my constituency, Mr. John A. MacDonald.

Speaker: Are there any Returns or Documents for Tabling?

02 TABLING RETURNS AND DOCUMENTS

Hon. Mr. McDonald: I have four Legislative Returns for tabling with reference to the following: The Follow-up Charts, Employment Status, Payment of Participants in the Education Act Working Groups and two returns relating to matters outstanding from the Capital Mains and dated December 16.

Hon. Mr. Porter: I have for tabling a statement by the Government of the Yukon in response to the Department of Interior's draft Arctic National Wildlife Refuge Alaska Coastal Plain Resources Act.

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

Yukon Government Presentations to U.S. Department of Interior Hearings on the future of the Arctic National Wildlife Refuge, Coastal Plain

Hon. Mr. Porter: Mr. Speaker, I am pleased to announce today that I have taken steps to ensure that the Yukon government, as well as several major interest groups, are making comprehensive presentations to the United States Government, opposing their proposal to open up the heart of the Porcupine caribou herd calving grounds to oil and gas development in Alaska. These presentations represent the actions we are taking to implement the unanimous motion of this House several weeks ago.

Yesterday in Anchorage, officials of the Department of Renewable Resources spoke to a number of very serious omissions in the draft environmental impact statement. The Department of Interior is proposing to open up a vast area on the Northern side of the Arctic National Wildlife Refuge to oil and gas leases; without first

consulting Canada; without considering the transboundary effects on Canada; and without looking at the total cumulative effects of all the developments on the caribou, polar bears, snow geese and musk oxen.

A presentation was also made by the Council for Yukon Indians and additional interventions are being made tonight in the village of Katovik, Alaska by the Porcupine Caribou Management Board and the Band Council of Old Crow. On Friday of this week my Deputy Minister and a representative from the Executive Council Office will make a further intervention in Washington, D.C.

03 Further to these initiatives, the federal government hopes to present its position on the issues to the United States Department of Interior at a meeting in Ottawa to be held on January 23. The Yukon government will also be represented at that meeting.

It is a little ironic and very disturbing that the US government is proposing to reduce protection for the wildlife of the Arctic Coastal Plain after years of urging Canada to do a better job of protecting resources on our side of the border. Now, we have a national park and a special management mechanism in place and have, in effect, caught up with the U.S. They seem to be headed in the opposite direction.

It is even more disturbing that they would write an impact statement that only makes passing reference to the effects in Canada when, in fact, several important subsistence species are involved and most of the negative socio-economic effects would be experienced in Canada generally and by Old Crow in particular.

The Yukon government is deeply concerned about moves toward oil and gas drilling in Alaska that could have unfortunate and unnecessary long-term effects on the ability of the Old Crow people to harvest the Porcupine caribou herd, as they have traditionally harvested the herd for generations.

In light of these circumstances, we have instructed our officials to make very strong statements on behalf of our government and in the interests of the people of Old Crow and the people of the Yukon in the north. Copies of the statements that were made in Anchorage have been tabled before the Legislature.

Mr. Phelps: I would like to take this opportunity to say that I am, and our side is, very pleased to see these significant steps being taken by our government on behalf of the Old Crow people, the indigenous people of Yukon, all Yukoners and all Canadians.

Several weeks ago, during debate of the motion pertaining to this issue, I said that the protection of our north, our sovereignty, our environment, our people, requires constant vigilance by the Government of Yukon. I am very pleased to see that the government is in constant vigilance in that respect.

04 I want all groups, including this government, to know that this side supports them. In particular, we support the Old Crow Band Council and the people of Old Crow in their efforts to dissuade the powers that be from doing anything precipitous with regard to the environment on the Alaskan North Slope.

We hope that the government will make known to the people in the United States the unanimous feelings of the Members of this Legislature as expressed in debate of Ms. Kassi's motion on the subject.

Mr. McLachlan: I would highly endorse the actions of the Minister and his department. However, I have a concern about the method of presenting our position to the United States Department of the Interior. My concern is that we could greatly improve the impact of our position if we were to be accompanied by a representative of the federal government sooner rather than later when we meet with them this Friday.

It is essential that the U.S. government is made to recognize our opposition to this type of development on the Arctic National Wildlife Refuge coastal plain. In the past, the U.S. government would appear to respond only to powerful lobbying by those groups that oppose such a move. If we hope to persuade the Alaskan government of this most delicate refuge, we must use all of the government clout available. This government must insist that the federal government take a very active role in supporting our position on this matter immediately.

Speaker: This then brings us to the Question Period. Are there any questions?

QUESTION PERIOD

Question re: Land claims, overlap policy

Mr. Phelps: I do have a question of the Government Leader. It pertains to the issue of overlap and to the Kaska Dena lawsuit that was launched last month. It pertains also to the press release made by the government a week or so ago to the effect that the Yukon government will intervene in the Kaska Dena Council's lawsuit, over 10,000 square kilometres of Southeastern Yukon, but only if it becomes necessary to protect Yukon interests.

In view of the relief being prayed for by the plaintiffs in the action, and in particularly in view of paragraph C of the Statement of Claim claiming a declaration that the claim of the Kaska Dena for compensation for lands comprising the territory required for purposes of the settlement must be settled before any further alienation by way of Crown Grants, leases, licenses, permits or other alienations to third parties occur. In view of that claim made by the plaintiff, how can this government possibly stand by and think it is not necessary to intervene right now?

Hon. Mr. Penikett: I thank the Member for the question although I am sure he will know it is, of course, out of order to ask questions in this House on a matter that is before the Courts. Of course, it would not be proper for me as Leader of the Government to respond to the substance of the issues before the Courts. It is quite clearly in our rules. I cannot remember the rule number, but I am sure the Clerk's table could provide it to the Member opposite.

The allegation or assertion that we are standing by is entirely misstated and wrongheaded. Through our contacts with legal representatives of the Kaska Dena, and in discussions with the federal government and the Council for Yukon Indians, we are seeking to establish exactly what it is the Kaska Dena are seeking, what it is they are seeking to obtain from the court case. We are determined that, should there be any question about Yukon's interests being at stake, we will intervene.

Let me make this perfectly clear: I understand the action is against the federal government. It arises from the failure of the federal government to take a position on overlap claims, something we are still hoping they will do with respect to the Yukon-specific mandate later this month. I gather they are seeking a declaration from the court that there is an obligation on the part of the federal government to negotiate with them.

Mr. Phelps: This is not as simple as the Government Leader would have us believe. The whole action is based on the seeking of a declaration that the claim of the Kaska Dena be settled before any further alienation of lands to any third party takes place; presumably, that means Yukon Indian people as well.

Further, the declaration states that any further alienation of Crown lands to third parties will be invalid unless preceded by a settlement.

In view of that, how can the Government Leader possibly stand by and take the position that it is not in the interest of most Yukoners for them to be involved in this case?

Surely they have a duty to protect all Yukoners at this time.

Hon. Mr. Penikett: Of course we are protecting the interests of all Yukoners. We will protect the interests of all Yukoners. The matter is not a new one. The Kaska Dena made their statement of claim a long time ago. We will be studying the matter and responding as we think is in the best public interest of the Yukon Territory.

I am not a lawyer, and I am not going to enter into a legal or quasi-legal debate on the floor of this House as to the merits of the case or argue the matter as if the Speaker were a judge and we were contending members of the bar. We are studying the question. We are consulting with the applicants and with the federal government. We are consulting with the Council for Yukon Indians. Yes, we will be taking very clear action to protect the Yukon Territory as we have been, and as we clearly will be intending to do.

Mr. Phelps: Can the Government Leader tell us how the government can protect the interests of people of the Yukon without interfering given the relief sought, a declaration that there be no further land alienated to third parties including Indian people in the Yukon from the very content of the Statement of Claim?

Hon. Mr. Penikett: Once again, the Member is trying to argue the case before this court. This is not the chamber in which the matter will be heard. We will be protecting the Yukon's interests. These claims existed when the Member was the Land Claims Negotiator. His model of dealing with the matter was rejected by everyone concerned. We have to have a new federal policy in order to be able to deal with the overlap question.

Because there was no federal policy, the Kaska Dena have now chosen to go to court to try and force the federal government to the negotiating table. They have taken the federal government to court. We recognize that they have taken this step. We are aware of the possible consequences of it, and we are doing everything we reasonably can to protect the Yukon's interests.

Question re: Land claims, overlap policy

f33Mr. Phelps: Then why will this government not intervene now in this case that was recently launched?

Hon. Mr. Penikett: We have said that we will intervene if we judge that prudent. We will be taking that advice. We are studying the question now. We are consulting with the various parties on the matter, and we will be taking our decisions and doing what we think is appropriate to protect the Yukon's interest. I am not going to get into a debate about legal tactics on the floor of this House, because I am not competent to do that.

Mr. Phelps: A very simple message is conveyed in the prayer for relief of the court documents. It is very clear. If they win the case, that means there will be a declaration that no governments can alienate lands further to third parties including Indian people of the Yukon. That is there in black and white, and it is very easy to read.

That declaration is an important one. Why will the Government Leader not instruct his officials to intervene at this point in time?

Hon. Mr. Penikett: The Member is becoming quite tiresome. He is making a legal argument here. He is not stating a fact, he is making an interpretation upon certain facts, which I am told is not correct. Again, I am not a lawyer and am not going to argue law with him because it would not be a fair fight. We can argue about fish, meat or bread and potatoes and we will have a reasonable spat, but I am not going to try to pretend to be a backroom lawyer here.

We are studying the application. We are talking to the party. We are attempting to establish their interest. We understand that what they are trying to do is to attain a declaration that will say to the federal government that it has to negotiate with this group. We understand that the land freeze, such as has been suggested by the Member opposite, is not what has been proposed but we are attempting to clarify those things, and we will be taking every action we can to protect Yukon's interests, you can be assured of that.

Mr. Phelps: How can the Government Leader possibly say that they are acting in the best interest of all Yukoners if they refuse to take action and intervene and be present during the court hearings? This is Yukon Territory, Yukon land that is under dispute. I think that the Government Leader has to advise the people of Yukon. How on earth does he expect the government to protect the interests of Yukoners if it does not intervene? I do not understand it.

Hon. Mr. Penikett: I know the Member opposite loves to pick fights with people, and loves to get into shadow boxing. Before we make a decision to go into court, before we actually go before the courts, before we decide to formally intervene, we will know what everybody else's positions are, know what the facts are, study the situation and then proceed on the basis of protecting Yukon's interests. That is what we have been doing and that is what we will continue to do, and all the wind from the Member opposite is not going to change that situation. That is what we have been doing, that is what we are doing and that is what we will continue to do.

Question re: Watson lake sawmill production

Mr. McLachlan: I have a question for the Minister for

Economic Development. Is my understanding of the situation correct in that production from the Watson Lake Forest Products Saw Mill has been sold previously into the United States market, in the State of Alaska, and it is our intention to do so again. If this is correct, will that product now be subject to a 15 percent export tax on the finished product from January 8, 1987, tomorrow, were there any production to be shipped to Alaska?

Hon. Mr. Penikett: I think there were at least three questions there, and I will try to deal with them as I remember them.

Yes, the product has been sold in Alaska before. Yes, there is a market potential there in the future and, yes, it will be subject to the tax which has just been imposed.

Mr. McLachlan: As opposed to the situation in the provinces, is it also then correct to assume that no portion of the 15 percent export tax will accrue to this territory and that it will all be picked up by the federal government because we have no control over the territory's lumbering industry?

Hon. Mr. Penikett: As I understand the situation, the federal government has committed itself to return to the provinces the revenue obtained under this tax for the benefit of those producing jurisdictions, and it will be our intention to obtain or seek from the federal government the same kind of consideration with respect to this territory. In other words, if there are stumpage fees or taxes collected from the Yukon Territory, we will seek to have that money returned to the Yukon Territory.

Mr. McLachlan: Is the Minister confident that the price of the products sold into the State of Alaska will still be competitive with that state's lumbering industry, even with the 15 percent export tax added?

Hon. Mr. Penikett: Yes, we believe it will. I must confess that we will have to do much more detailed work before we know what the impact of this thing will be in the markets. There are other factors, such as exchange rates and other market forces at work that can change that situation from time to time.

If the Member would like a detailed answer on that, I will be pleased to return to the House at some point when I can with that information.

Question re: Land claims, overlap policy

Mr. Phelps: Back to the Kaska Dena case and the lawsuit filed in the federal Court of Canada in December, could the Government Leader tell the Assembly if he has had occasion to read the Statement of Claim that has been filed?

Hon. Mr. Penikett: No, I am not a lawyer. I asked the Department of Justice and our land claims negotiator to read it.

Mr. Phelps: Can the Government Leader advise whether he met with Tom Berger prior to his document being entered in court, when Mr. Berger was in the Yukon a month or two ago?

Hon. Mr. Penikett: Tom Berger came by to make a courtesy call some months ago but not in connection with this matter. I can advise that our officials have been in communication with him or his law firm since the matter was filed.

Mr. Phelps: I would be very interested in reading any assurances in writing that were given by the lawyer for the Kaska Dena to this government. Would the Government Leader make any such correspondence available to us by tabling it in the House?

Hon. Mr. Penikett: I do not know that there is any correspondence. To my knowledge, at this point, there has been principally oral communication. I do understand there have been some public statements made by lawyers for that firm that have been reported in the media. They have not been communicated to us in written form.

Question re: Land claims, overlap policy

Mr. Phelps: If this government is going to sit back and twiddle its thumbs and fiddle while Rome burns, on the advice or communications with a lawyer for one of the parties, can the Government Leader advise us whether or not he is going to be satisfied with verbal assurances, or whether he is going to be insisting on something in writing?

Hon. Mr. Penikett: We are not sitting back. We are not twiddling our thumbs. We are not going to be satisfied with verbal assurances.

Mr. Phelps: In the event that this court case does move ahead, would the Government Leader not agree that we should be there to examine the validity of the claim of an outside group on Yukon lands? Should we not be there to probe and cross-examine with our lawyers to see how valid the claim is?

Hon. Mr. Penikett: That may well be the way to proceed. When we make the decision to do what we are going to do, I will advise the House. Not being a lawyer, I am going to be consulting with our negotiator, Justice officials and my Cabinet colleagues about how we proceed with this matter. When we have concluded our decisions on how to proceed, at the end of our dialogue with the lawyers for the litigants and the federal government and the Council for Yukon Indians, we will be making our position more clear than it has been to now.

We will intervene if necessary to protect Yukon's interests. That is the strongest statement I can make on the subject at this point. I appreciate the legal advice from the Member opposite, though Question Period is not the normal occasion nor the normal forum for obtaining that kind of advice.

Mr. Phelps: Would the Government Leader not agree that this government ought to intervene and have lawyers present to cross examine witnesses to ascertain the issue of the number of beneficiaries who might be entitled to a claim within the Yukon who do not live here and have it?

Hon. Mr. Penikett: That may well be good advice. Of course, questions that make representation are also out of order in Question Period. Unlike the Member opposite, I do not see lawyers as a magic solution to every problem. I would have preferred that we never had litigation on this matter. That is why we pursued the matter of discussion and negotiation as the preferred option.

We now unfortunately have the matter taken before the court. The federal government is being taken to court by a claimant group, and that is a reality we have to deal with. We will be dealing with that reality in a way that is designed to protect the best interests of the people of the Yukon Territory, and will protect the integrity of the land claims negotiations that are going on here that are vitally important to all people in the territory.

Question re: Land claims, overlap policy

Mr. Phelps: In the press release, the government said that it would intervene but only if it became necessary. What else has to happen in order for it to become necessary? I would like the Government Leader to answer that question.

Hon. Mr. Penikett: I have already answered that question. We will be establishing what it is, in precise terms, that the applicants are seeking. We are going to be trying to establish what the likely response of the federal government is going to be. We are going to want to establish, for our own knowledge and benefit, what the position of the Council for Yukon Indians is, whether they are going to be intervening, and how. We will be taking counsel at that point and making our decision.

Mr. Phelps: Am I to take it that there really is no answer, that the government simply has not even thought about this problem yet?

Hon. Mr. Penikett: No. The Member is quite wrong. He persists in misconstruing what I am saying, and in fact is not listening to what I am saying. We are going to protect the interests of the Yukon Territory. We are going to be taking careful advice and considering very carefully how we proceed and how best to protect the interests of the people of the Yukon.

Mr. Phelps: Can the Government Leader tell us how the government is going to protect the interests of all Yukoners by not intervening? How is the government going to do that?

Hon. Mr. Penikett: The question is argumentative.

Question re: Land claims, overlap policy

Mr. Phelps: I do not believe that the question is argumentative at all. I would like to know how, by sitting on their duff and playing politics, the Government Leader intends to protect the interests of all of us who live in the Yukon. I would like an answer to that. By sitting back and not doing anything, how is he protecting us?

Hon. Mr. Penikett: The only person playing politics is the

Leader of the Official Opposition, and he well knows it. We have made it very clear that we will intervene if we deem it necessary. We well may deem it necessary, and we are taking that question under advisement. We will be examining it very carefully. We will be consulting with the other parties. At this moment we are not doing nothing. When we make a decision to act, we will be making an announcement. If the House is sitting, as I am almost certain it will be, I will be advising the House of our decision.

Mr. Phelps: What I would like to know is what combination of factual facts will lead them to the conclusion that they do not have to intervene? That is what I would like to know.

Hon. Mr. Penikett: The question is hypothetical and therefore out of order.

Mr. Phelps: They have not intervened yet. They say they might intervene. They will intervene if it becomes necessary. Does that mean that all things being equal they will not intervene, because it is not necessary now. Is that what they are saying?

Hon. Mr. Penikett: The question is also argumentative. We do not have to make a decision on this matter this afternoon. We are going to be making our decisions carefully. We are not going to be drawing to an inside straight or making any kind of dramatic move just for its political benefit or publicity benefit. This is a very serious matter, a very important matter. We are going to be dealing with it and considering it with the seriousness and the importance that it deserves.

Question re: Land claims, overlap policy

Mr. Phelps: We are in a situation in Yukon with all kinds of overlapping claims. They are coming at us from BC, from at least three groups. They are coming at us from numerous communities in the Northwest Territories, and an action such as this, seeking the relief that this action is praying for in the Statement of Claim, has got to scare the pants off anybody who might be interested in investing in the Yukon in natural resources.

My question of the Government Leader is: when does he intend to read the Statement of Claim so that he can get an appreciation for the flavour of the relief action?

Hon. Mr. Penikett: As the member also included a preamble, which had nothing to do with the object of his question, I will respond to his preamble first.

First of all, the situation is that we have been subject to outside claims for years and years, as the Member opposite well knows. The solution of the former government — the Phelps solution, which he continues to promote in this House — is, of course, one that was rejected by the CYI and rejected by the Kaska Dena, rejected by the AIP, and it failed in respect to the COPE Claim. It is not a model that, except as an object lesson, we can be absolutely dependent upon. We have discussed that in the past. The matter is now before the courts. We will be getting the best legal advice we can on how we proceed. I am going to be taking careful political counsel on how we proceed and notwithstanding the fear-mongering generated by the Member opposite, which is something we have seen before, we will be calmly, coolly, rationally and effectively dealing with this question in a way that is designed to protect Yukon's interests.

Mr. Phelps: I wonder if the Government Leader might just be nicknamed "Flipflop", in view of the various responses to emergency situations such as this. I recall, very clearly, the first time there was a motion put before this House about the COPE Claim numerous years ago, and he and his party voted against it. Then, the second time they flipflopped and voted for it. I remember that, and that was an overlapping claim and we did win that case. We won that claim, partly because of the overlap policy.

When is this Government Leader going to stand up and be counted and assure the people of the Yukon that he is there to protect their interest, because his witty remarks just are not enough.

Hon. Mr. Penikett: The Leader of the Official Opposition's remarks are not even witty, and they certainly are not enough at all.

We do have to concede that he is an expert on flipflops and the COPE Claim. He was the one who fought against giving political rights to non-residents and then signed an agreement that gave exactly those rights.

Of course, the history of the COPE negotiations and the COPE settlement is in our minds as we deal with this question and the precedent has been established in the documents signed by the Leader of the Official Opposition. They are part of the body of decisions that obviously affect us here, and we will be dealing with that as we proceed on this matter.

All the fear-mongering about the impact on developments, and all the racial fears that the Member opposite is quite clearly trying to generate, are not going to change the resolve of this government to deal with the matter intelligently, rationally and effectively, and we are going to be making our decisions on how we are going to proceed in court based on legal advice we have retained, not that which we have received gratuitously from the Leader of the Official Opposition.

Mr. Phelps: From the learned Government Leader's last answer, I take it that the government is going to intervene. He talked about the method of proceeding in court, and not about whether or not to muster up the courage to get involved.

Am I correct in believing he meant what he said when he implied that they are going to intervene?

Hon. Mr. Penikett: It is not necessary for us to screw up the courage to do the right thing on behalf of the people of the Yukon Territory or on behalf of this matter. We will be making our decisions on this matter not after brawling with the Member opposite down here on the floor of the House, but after we have been properly briefed on the facts and properly briefed on the interests and aims of the parties and after we have very carefully considered both legal and political advice. That is how we will be deciding the matter. When we decide the matter, I will be advising the House.

Question re: Land claims, overlap policy

Mr. Phelps: In the same press release, it stated that it is our current understanding that the Kaska Dena Council, in their court action, do not intend to interfere with the Yukon land claims or with any third party interest in Yukon.

Would the Government Leader advise this House how he came to that understanding, in view of the clear message given by the documents filed in court?

Hon. Mr. Penikett: I believe our understanding was based on statements made by the principals to the action.

Mr. Phelps: Would the Government Leader not agree that if the relief that is sought — namely a declaration — that there be no further alienation of land, if that is obtained from court, would he not agree that whatever was said by the spokespeople for the Kaska Dena Council could not be correct?

Hon. Mr. Penikett: Once again, I am being asked for a legal opinion, which is not only out of order, it is not required of a Government Leader to give a legal opinion, nor is it required even of a Minister of Justice. I am not competent to give legal opinions. I appreciate that the Member opposite would like my advice on this matter. Frankly, my legal advice would not be worth a nickel.

It is an interesting question he has put. It is being considered by our officials in the Department of Justice and the Land Claims Secretariat at this moment. When this government has made a decision about how we are going to proceed in this matter, I will be advising the House. We have had about a dozen out-of-order questions. I am being asked about a matter before the courts continually by a lawyer who ought to know better.

I know that we are being very liberal in the application of the rules. That is fine, Mr. Speaker.

Speaker: Point of order to the Leader of the Official Opposition.

Point of Order

Mr. Phelps: I resent all the innuendos coming from the Government Leader, who should know better. We are not, by this line of questioning, dealing with the merits of the exact claim of the Kaska Dena. We are speaking about the issue of the relief claimed and whether or not this government is going to intervene. That is quite different.

Surely, the Government Leader knows better than that.

Hon. Mr. Kimmerly: On the point of order. The questions are specifically about whether it is the intention of the government to intervene in a lawsuit. That is clearly a question about a matter before the courts. It could not be anything more simple.

Mr. Lang: On the point of order, we are asking whether or not the government is prepared to make a policy decision on behalf of the people of the territory to intervene in court proceedings that are going to affect 10,000 square kilometres of the Yukon Territory. I resent these innuendos that we are fear-mongering, that we are raising the doubts of people in the territory in the general proceedings of this House.

This is a very important question for the people of the territory. We have asked numerous times if this government has a policy on overlap. They have said no. Now we are in court, and I resent the misuse of the rules of this House. He is going on in a diatribe and is trying to utilize the Speaker to the best of his ability. He knows he was misusing the rules.

Speaker: Order please. The Chair would like to take this point of order under advisement.

Question re: Watson Lake Forest Products

Mr. McLachlan: Is the Minister of Economic Development aware of any other destinations other than the State of Alaska where the product is shipped? Is Alaska the only US destination?

Hon. Mr. Penikett: As far as I know, I think there is no possible economy in shipping it to the lower 48 states. Alaska is the most attractive, unless for some reason there is a market in some place like Hawaii, and I would be surprised if there is.

Mr. McLachlan: The \$500,000 that the government has authorized so far may be only a small drop in the bucket to getting productions going again. We have recently seen the BC Development Corporation approve a \$21 million loan in Fort Nelson simply to allow a mill to remain competitive.

How much does the government intend to spend on repair and maintenance of this operation to the point of getting it to produce lumber again? We have acquired it. How much is the next step?

Hon. Mr. Penikett: I believe that question may require a written answer. I did table some information in the House, including the consultant's report, which provided information on the maximum likely cost of refurbishing the plant. I also made clear — and if I did not, I will now — that we do not contemplate that that entire plan of refurbishing will be done right away. According to some decisions that the managers will make as to the most attractive and immediate markets, a schedule of refurbishing the plant will be adopted that will put it in a condition to meet those market demands first. There will be a capital program that will be developed by the managers.

Mr. McLachlan: Does the Government Leader have any further update that he can advise the House on as to when the resumption of production could be expected to commence from that plant. Has there been anything since we left three weeks ago.

Hon. Mr. Penikett: I am sorry. I do not think I can give the Member today much more current information. I will be pleased to take the question as notice and come back to the Member with some precise information as it becomes available.

Question re: Commission on Indian Education and Training

Mrs. Firth: With respect to the joint Commission on Indian Education and Training, have the new commissioners and chairperson been chosen and, if so, who are they?

Hon. Mr. McDonald: Yes. This morning Mary Jane Jim and I met with three new commissioners for the Commission. They are Mary Jane Joe, Nelson Ireland and Benjie Clethero. The chairperson designation will be determined after the three commissioners sit down and discuss with each other the responsibilities of the Chair and the commissioners and make a recommendation as to who they feel should best sit as the chairperson.

Mrs. Firth: I understand from the comments in the newspaper by the Minister of Education that the report will be going to CYI for last minute changes. Does the Minister not agree that this takes away completely from the independence of the Commission?

Hon. Mr. McDonald: I think it is fairly clear from the terms of

reference now approved — and I will provide the Member with a copy — that the Commission will be expected to come and discuss their recommendations with the Board of Chiefs and to hear the Board of Chiefs' comments on the recommendations, as they would a significant interest group in the hearings on Indian education prior to the report being submitted to the Council for Yukon Indians and the Government of Yukon.

There is no obligation on the commissioners to change or in any way alter the recommendations on the basis of what they hear from the Chiefs. That is a significant group of people who have a prime interest in Indian education and they would want to be consulted, and they have that guarantee.

Mrs. Firth: There is a difference between consultation and having the ability to make last-minute changes. The article very clearly stated that there would be an opportunity for last-minute changes to the recommendations and that CYI could present their argument. If the recommendations were not applicable or unacceptable, there could be changes made. The Minister is saying something different now.

Why is CYI seeing the report before anyone else? Can they make changes if they are not in agreement with some of the recommendations that are going to be presented?

Hon. Mr. McDonald: It is fairly obvious that any media article is not an authorized statement of government policy. Therefore, I would not vouch for whether or not it was complete or accurate. Most of the reporting on the Commission has been accurate. In this case, perhaps the whole story has not been told.

With respect to the distinction between consultation and a power to make changes, in this case the Board of Directors, the Chiefs, who are different from the Council for Yukon Indians executive, which is proposed to be given, will have the opportunity to speak to the commissioners about their recommendations at a critical point in their deliberations.

There is no obligation on the commissioners to act on the statements made by the Chiefs. The Chiefs make their arguments, present their case, and if the Commission deems that to be so, then I am sure the changes will be made, but that will be up to the Commission.

Question re: Territorial officials in Watson Lake

Mr. Phillips: I have a question to the Minister of Government Services. On October 29, 1986 I wrote to the Minister asking if the Minister gave serious consideration to establishing a territorial agent in Watson Lake to handle license sales and other government business, and also that the Department of Justice consider establishing a small court registrars office in that community, the second largest court docket in the territory. The Minister responded by saying that these matters were well in hand. I am now asking the Minister, in view of the opening of Watson Lake Forest Products and the increase of activity in Watson Lake and this government's policy of decentralization, will it now consider establishing those offices in Watson Lake?

Hon. Mr. Kimmerly: The short answer is: yes. In order not to take up a lot of time, I will indicate that we can debate the costs and the implication of those measures in the Justice estimates. The Territorial Agent, of course, is relevant in the Liquor Corporation vote.

Mr. Phillips: I guess then the short question is: when?

Hon. Mr. Kimmerly: It is my information that the establishment of the Court office — I am not particularly clear about what registry functions the Member is referring to — capability is well in hand. It is something that is in the process of implementation at the moment.

Mr. Phillips: I would be pleased to discuss with the Minister what we are talking about when we talk about a small court docket in Watson Lake.

My final supplementary is to the Minister of Transportation Services. On October 28, 1986 I also wrote to the Minister of Transportation Services and asked him to consider the relocation of a Highways Superintendent East Office to Watson Lake. We have the North Office in northern Yukon, and we feel that it should be possible to put the person in charge of the highways in the Watson

Lake area in Watson Lake. Is the government now considering decentralizing by putting that superintendent in Watson Lake?

Hon. Mr. McDonald: The matter has and is being considered by the Department. It is being worked on now for the purposes of determining whether it is a possible solution to provide better service to the southeastern portion of the Yukon, and also to determine whether or not it makes functionally administrative sense to do that. As well, we must weigh and balance the effect on the economy of Watson Lake of having one more person reside in that community.

The decision will have to be made finally and ultimately in the budgeting process, which has not been completed, not even by me, for this year's coming O&M Budget, and I will certainly be making any presentations of that nature to Members when the time comes.

¹⁶ **Speaker:** The time for Question Period has now elapsed. We will now proceed with the Orders of the Day.

ORDERS OF THE DAY

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

Speaker: It has been moved by the hon. Government House Leader that the Speaker do now leave the Chair and the House resolve into Committee of the Whole.

Motion agreed to

Speaker leaves the Chair

COMMITTEE OF THE WHOLE

Chairman: Committee of the Whole will now come to order. We will recess for 15 minutes.

Recess

¹⁷ **Chairman:** Committee of the Whole will now come to order.

Bill No. 40 — Gas Burning Devices Act

Hon. Mr. McDonald: I believe it has been some time since we last visited the question of a *Gas Burning Devices Act*. In the second reading speech, I indicated what the government was prepared to do with respect to the regulation and inspection of gas burning devices.

Following that speech, the Member for Kluane stood and raised some concerns with respect to the Act. I have had the department analyze those concerns. For Members' information and clarification, we have put together a comparative analysis of the three major Acts, the proposed *Gas Burning Devices Act*, *Electrical Protection Act*, *Boiler and Pressure Vessels Act* and *Building Standards Act*, in order for Members to compare the provisions in each to show how the provisions compare from Act to Act, and also to illustrate what exceptions would be encompassed within the regulations to meet some of the concerns expressed by the Member for Kluane.

Not all the exemptions are shown in the list, but the regulation-making powers that are not on the list are specifically stated within the Act.

In any case, it is very easy to read and does give Members a bird's-eye view of what it is that we are doing. I would hope it would indicate to Members that what we are doing is hardly unique to the Yukon Territory.

¹⁸ It is certainly not unique to most of the other jurisdictions in the country; in 10 of the 11 other jurisdictions.

Probably what is more important is what happens in this jurisdiction. Members will note that it is essentially identical to the *Electrical Protection Act* that has been in force for some time. The *Boiler and Pressure Vessels Act* is more stringent because the costs to public safety are much more severe in the event of poor installation and handling practices. The *Building Standards Act* is the least onerous, as it deals with subject matter that of the four is of the least concern to public safety, but certainly important.

If Members would like to peruse that very briefly, we can

proceed with general discussion.

Mr. Lang: Could the Minister enlighten all Members of the House by explaining the real need for the legislation?

Hon. Mr. McDonald: It would be my pleasure to enlighten Members. There have been concerns expressed by the industry and by various groups that the regulation-making powers under the *Fire Prevention Act* are not sufficient to protect the safety of the public. We have all heard, in recent history, of serious and tragic accidents that have occurred because of improper installation and handling of propane gas. It is our intention to anticipate those concerns and not to be in a position where the Members of this Legislature have to react to a situation where a tragedy has occurred and someone is deceased as a result of the improper installation and handling of gas.

This is an explosive fluid, and I think that all Members who have any acquaintance with the news will understand and recognize that quite often this explosive material, handled improperly, creates real human tragedies that we would like to reduce in the Yukon.

¹⁹ The existing Acts that have attempted to deal with the situation have come far short of the mark. Very reputable members of the industry have indicated very serious concern over dangerous installations that they have observed, not only in their own work but even after having been inspected under provisions in the previous Acts by the Inspection Branch. Clearly, these representations are requesting more stringent control over installations and service work. The Association of Yukon Communities has indicated also that they see more use being made of gas-burning devices in their communities and see the pitfalls of the present Acts and the inability of the Inspection Services to remedy highly volatile and potentially dangerous situations. Essentially, for those purposes we feel that the Act is desirable and we are eager to anticipate and preempt tragedies rather than react to them after the fact.

We do know that more and more use is being made of gas-burning devices in the Yukon. It is certainly on the increase. The economy of scale has indicated that more use should be made of gas appliances as the price of gas would dictate. We feel that this is very timely indeed.

With respect to the general provisions of the Act, the Member for Kluane indicated that he felt the provisions of the Act were far too stringent, and I hope to be able to alleviate those concerns by indicating to him, through the exemptions that we have already identified in the Act and in the hand-out that I have given the Member with respect to the installation of gas devices through the regulations, and also to indicate that the *Gas Burning Devices Act* is essentially, in character, the same as Acts already in force in the territory, recognizing, of course, that gas-burning devices that you do use are very volatile. It is a volatile liquid. I draw Members' attention to the house fire in Mayo this Christmas holiday.

The Member for Porter Creek says correctly that it would have been exempted under this Act, but it certainly provides an indication of what kind of tragedy can occur if situations are not controlled.

²⁰ We feel the Act is necessary and the provisions in it are warranted.

Mr. Brewster: To start with, the minute I see any legislation in here where we give the power to an inspector where they turn around and break the lock on your house to go in after they get a court order, because you might be away on a holiday, makes me very resentful of government completely. We are supposed to be in one of the last free countries of the world, and we have to do these things. That people in government can think this way completely upsets me to the point where it is disgusting.

If you had shown us these regulations to start with, we probably would not have been so upset. There is no question that people get hurt with propane, and there is no question that people get hurt with other things. A lot of people get hurt with drunken drivers. We have not legislated them all off of the highways; they are still running around. Accidents do happen, and there is no way that accidents cannot happen. I see the Minister frowning. Sure, people get hurt once in a while in gas, but how many gas explosions have they had in the Yukon over the years to put in a piece of legislation like this where the police can break into your house with a court order to check.

It also says in here the inspector has the power to turn off the fuel. Say you were away in the winter and they decided they did not like what you did in your house. Are they going to turn it off and freeze your house up? Oh, no, you are going to say they will use common sense. Sometimes there is no common sense in law. It just does not exist.

I noticed in here where you say "miners and trappers". It is a good thing you did make them exempt, because if you did not make them exempt, what they would do would be to go down the highway with their propane connected in the trailers. That is five times as dangerous. They are not going to go around looking for someone to simply put up another brass button to hook up the propane again. At least with the regulations, you are taking a little bit of this out.

You said that there were exemptions shown in the Act. I am not very smart at reading, but I do not see any exemptions there. It is another way of tying up people. That is what government wants, though. The more government gets control, the happier government is.

As we go on line-by-line, there are a number of places there I will debate what is going on. As I said, the thing that really bothers me is when they turn around and start getting warrants to go into people's private houses and bust locks. This is the freedom we have. Then we turn around and pass a human rights bill where you have a little bit of rights. Yeah, we have them all right, but the government is just taking them all away. The government does not seem to be able to be stopped anywhere. They can bust locks, they can do what they want, but the rest of us know we have to watch what we say. We cannot say this and we cannot say that.

The government can do what it wants. Government is getting stronger and stronger. There are more and more people hired into government. Now we have another whole bureaucracy being hired to do this. Do not tell me there is not, because there is. What amazes me is that a lot of this can be done by the building inspectors. If you build a home, building inspectors are there. They check all these things. I am amazed that we need someone else to do it. They have been doing quite a good job. They come in and check your furnace, your propane tanks, everything. All of a sudden, we have a whole new bureaucracy to come in and look after these things again.

²¹ **Mr. Lang:** I have a couple of other observations prior to the Minister responding.

I do have some concerns. Yes, the Minister has done a good job in bringing forward the comparison with the other Acts. I have not had a chance to review the *Building Standards Act* in total, but I did go through the *Electrical Protections Act*. I am very concerned with the wording of this particular piece of legislation, vis-a-vis the concerns raised by the Member for Kluane, for a home or a private business to be entered under the auspices of the JP with no requirement for the JP to state a time, place and all the various things that are being requested under the *Electrical Protections Act*.

I can speak from the point of view of the *Electrical Protection Act* because I recall the debate on it. There was a lot of care taken in respect to the ability for government to go into any dwelling, including that of businesses. It was very clearly spelled out to the point that there was very little debate in this House on those sections that were normally very contentious: the ability to break a lock, the ability of the government to impose itself into someone's dwelling.

When we get into the line-by-line debate, I hope that the Minister is going to be open enough to put those sections aside and perhaps take the wording from the *Electrical Protections Act*, which gives protection, as much as can be written in the English language, to the individual as opposed to the state.

Prior to getting further into the debate on specifics, we talked about accidents and various other things. There was an inference from the side opposite that if we ask any questions on this bill before us, we are obviously for accidents and the side opposite is opposed to accidents. I recognize the intent of the legislation. I think we all do. Where we are going is of concern to this side. I would ask the Minister, who is obviously very conversant on this, where the actual regulations are for this piece of legislation. Does

he have them written and, if so, could he table them in the House?

Hon. Mr. McDonald: The answer to the very last question is no; therefore I cannot. I have indicated to Members the intentions of the regulations-making section in the handout.

I will go through the Member for Kluane's concerns, and then I will speak to the issue that the Member for Porter Creek East mentioned with respect to putting sections aside.

The Member for Kluane mentioned the whole issue of government control moving in on the little guy, warrant in hand, and essentially doing serious damage to the whole institution of individual freedom. That is clearly not the intention of this Act, neither is it the intention of the *Electrical Protection Act* or the *Boiler Pressure Vessels Act*. The intention of these Acts is to protect the public from very, very unsafe conditions. Not everybody is conversant in the installation of propane devices. Sometimes they hire out the installing of it to ensure that the device is put in in a safe manner.

²² If the device blows up, they might have some retribution in the courts to come back on the installer. But, they might also come back to the government and say that the government had an opportunity to prevent this kind of thing from happening. They can say that the government chose, as a matter of policy, not to take it in full knowledge of the consequences.

I would think that all Members would see, from that perspective, that preventative measures like this are not only prudent but desirable. There is an implication, too, that the securing of a warrant by the government is essentially a *fait accompli*. It is guaranteed. If the government asks the independent judiciary for a warrant, they automatically get it as a matter of course.

That is an insult to the independent judiciary, and I would not want to promote that view. They do have to show just cause in seeking a warrant in the interests of public safety. I am not a lawyer, and I stand to be corrected by the lawyers in these Chamber. If the inspector lies to a justice of the peace in order to get a search warrant for personal purposes or for purposes that would be considered trivial or mean-spirited, there would be some recourse against that inspector. I imagine there would also be political recourse. The intent is merely to protect the public from dangerous situations.

The Member made a general comment, and I understand his view on the matter of legislation. Legislation means regulation of peoples' lives. I am sure that all Members feel that unwarranted regulation is not desirable. We are not proposing to implement unwarranted regulation on the gas fitting industry. We propose this legislation in response to the gas fitting industry who have expressed concern about dangerous installations that they have witnessed. No one wants to see an accident, especially the people who are conversant with that field of work.

We have legislated drunken drivers off the roads. We have legislated them from being drunk on the road and from drinking and driving on the road. We have been through that debate, and that, too, is a reasonable restriction on people's lives when they may cause harm to others.

²³ There is certainly the potential to cause others serious harm. There is the question of timeliness of the legislation; how many accidents have there been? Clearly, for me as Minister, it would make the case much easier if I could say well everybody knows that person who was killed in an explosion and it could have been prevented if the proper inspections services had been instituted. I do not know of anybody who has been killed in an explosion in the Yukon. I know of people who have been killed in explosions in this country, but I do not want to be in a position in the Legislature where I have to say that I know somebody who was killed in an explosion and it could have been prevented if only we had acted sooner. I would like to see and encourage Members to act now, if the provisions are reasonable.

The Member made the comment about common sense, and clearly there is always a measure of common sense that has to be taken by all government persons acting in the public interest. Certainly, in building inspections, generally, that has to be the case. That is something that is an issue for common sense. If they do not, they will be dealt with by the government, by the

Legislature. I think, on the record, that common sense generally has been shown.

I have been an MLA for some time and I have had a few complaints expressed to me by some persons — not especially in building inspections but perhaps more in the assessments area — on the common sense shown by government inspectors or taxation assessors. In those cases I think in the past, when I was an opposition MLA, I communicated the concerns to the government department and usually — I do not remember an explanation that was considered unwarranted or unusual — the response was satisfactory. Clearly they do have to show common sense and any Minister has to ensure that the public service working for the public shows common sense.

I think it is unfair to say that the more government control there is the happier the government is. I do not think that is true at all. I would like to say for the record that this Act is not a reflection of that either. Certainly this Act is not going to require more bureaucracy. There is a Plumbing Inspector now who is capable of doing the necessary work under this Act and that is as far as we are prepared to go unless the whole territory moves dramatically to gas-burning devices and propane fuel systems for heat and cooking, et cetera, beyond our wildest expectations. Right now we feel that even with the modest increases we can anticipate for the next year and the significant increases that we have seen in the past, we can handle the situation with the staff already with the government.

I will remind Members that the building inspectors inspect buildings for which there is a building permit. We do not foresee that the only situations for which there might be a gas installation would be when there is a formal building permit. That is as honest an expression as I can make in response to the Member for Kluane's remarks.

With respect to the *Electrical Protection Act*, when we get to the line items, if the Member has specific proposals to make and makes a good case, we can agree to put sections aside and study the proposals that he makes. We will wait to see what the Member has to say when the time comes.

Mr. Lang: When the Minister refers to gas burning devices, what type of devices is he referring to, just so he can clarify to all Members of the House what we are dealing with?

Hon. Mr. McDonald: They include general appliances, house piping, vents, general gas installations and the piping associated with that. The Members will note that subsection 2 includes those that it would not cover. That is more relevant in answering the Member's question.

Mr. Lang: I do not think that that is the case. The Minister made the statement that there was more and more use of gas burning devices in the territory. Could he give us exactly what type of devices are being utilized more so than they have been in the past, and what for, and why?

Hon. Mr. McDonald: I believe I mentioned in my second reading speech that we are not talking about more and more gas burning devices of a different sort. Some new and different gas burning devices are coming onstream. They are more of the same generic sort that are being used for heating purposes, et cetera.

A month ago, I said two years ago a significant increase in the number of propane installations was made in several Yukon communities as a result of conversion from oil heating by Health and Welfare Canada in all of their facilities. Other federal departments were considering similar conversions, although reduced oil prices may slow this process down.

Heating devices are perceived to be on the increase.

Mr. Lang: I am just harkening to the words of the Minister. He said that it was on the increase. Is this why the legislation is being brought forward? Is it because we have a number of conversions, four, five or eight, from forced air heat to propane heat? Is this what we are dealing with?

Hon. Mr. McDonald: That is a contributing factor for bringing this legislation forward. Even if there were no more installations of any kind, and even if some government was to lose its mind and suggest that all new propane devices should be outlawed, there would still be recognition that other Acts are not doing the job in controlling the repair of existing fixtures, et cetera. The examples

of dangerous installations recognized by people in the industry would still not be resolved because we do not have the ability to resolve those situations under the current Acts.

Mr. Lang: Is this piece of legislation going to be administered, according to the Minister, by an individual already employed by the government, and that there is not going to be a burgeoning bureaucracy? We will get into that in a minute. If that is the case, have these installations that have been put in been inspected by the gas plumbing inspector?

Hon. Mr. McDonald: I am not sure if they have been or not. I will check it for the Member.

The Member is correct, there is someone on staff who is competent to be an inspector. That person will be expected to do the work. There is no expectation whatsoever under existing circumstances that new inspectors will be required.

Mr. Lang: Is the Minister informing the House that he did not ask his department if those installations had gone through an inspection process and had passed the inspection? Is he telling us that those inspections were put in, there could be fault, yet there was no inspection of the installations?

Hon. Mr. McDonald: When it is considered relevant to the *Fire Protection Act* or the *Building Inspections Act* that an inspection of the gas burning device should take place, an inspection is done. I do not know if that encompasses all situations. I will check on that matter if the Member feels that it is critically important.

Mr. Lang: I think it is important in the context of what we are dealing with here. I understand the need for legislation such as this when we are dealing with, I would presume in good part, natural gas. I would assume this legislation applies to the utilization of natural gas. That is not in the cards here at the present time, unfortunately, and it would appear to be somewhat down the road if it every does occur. I would have thought that the Minister would have asked his department what process is undertaken now in reviewing the installations that took place. I can think of one major installation for the purpose of changing from a system of heat that was costly that then went to propane. That was one of the airport hangars. I would assume that that had been inspected. If the Minister can find out if that was inspected and it met the codes as they saw it, I would like to hear about it. I would like to know because I think it is important in the context of what we are dealing with here, because the Minister has indicated to us that we are exempting houses, dwellings, homes for the purposes of this particular Act. Perhaps the Minister could find that for us during coffee break.

I want to go to another element of the Bill and want to go further into the question of gas-burning devices that I do not believe I got a full answer to. Are we talking strictly about propane heat or is there another area we are talking about — because I do not have the expertise — as some other area of construction that we should be knowledgeable of in passing this legislation? What other areas of gas-burning devices are we talking about? I believe it to be relevant.

Hon. Mr. McDonald: I do not understand the intent of the Member's question.

Mr. Lang: I look at the definition and the way the legislation is written. We talk about house piping. Does house piping apply to other installations other than strictly that of a home, and if so to what extent? Is that strictly propane? We talked about vents and gas installation. I know of two gases, natural gas and propane. Are those the only two types of gas utilization that we are envisioning in this legislation?

Hon. Mr. McDonald: We are envisioning natural gas appliances and the use of propane gas. There may have been a misapprehension that all homes are going to be exempt from this Act. The provision here is that there will be exemption to home owners who work on gas systems themselves. There will still have to be a permit, but they have the ability to work on the gas system themselves. House piping is the piping that is expected to deliver the gas to appliances and where that installation is done by an agent or even by a qualified gas fitter, there has to be a permit to do the work itself. There will be an inspection of the work to ensure that it

is done safely. We are not intending to essentially leave all homes of the territory unprotected under this Act. What we are intending to do through the exemptions is to ensure that there is a sense of reasonableness to the extent to which this should be applied with our mind on the safety provisions.

²⁷ **Mr. Lang:** I resent very much the inference that comes from this side that this side is not concerned about safety because we are questioning the way the Bill is written. I think we all share that concern. We have all been Members on one side or the other, when legislation for the protection of the public has been brought forward. It is a question of how you draw up the legislation and how it is going to be implemented.

I am at a loss when I hear the Minister come back and says it is a question of being reasonable. What has happened to date? Have they not been inspected under the Building Code under the auspices of the building department, whether it be city or here, with respect to installation of propane, which I understood was inspected by our building department when it was first installed?

What further is required for the purposes of inspecting this type of installation? I do not understand, if I go for a building permit, why I have to go for another permit for the purposes of meeting all the government regulations. That is why people get mad at government. We, as legislators, should not become so "comfortable" with government that we believe it is going to be administered in every which way that we believe is in the best interests. That is not the case. Sometimes, these things go to court, and there has to be a redress, some accountability somewhere down the road, as far as the legislation is concerned, with respect to the government and the government actions.

The Minister envisages, when he builds his own home in Elsa, and he starts the installation of his gas burning device, that he will be required to have a permit when it is all finished. Is that correct?

Hon. Mr. McDonald: That is correct. Let me just remind the Member of one thing. When a person applies for a building permit to construct a home, he also gets the electrical inspector and others to view and approve the installation of wiring, et cetera, in that home. That is considered to be generally acceptable in our community. I would not hesitate to expect that that would be the case by our building inspection branch.

With respect to the installation of an appliance, if I wanted to convert my home in Elsa from steam heat to propane gas, that would not necessarily require a building permit and, therefore, the building inspector would not have any reason at all, or authority, to come into my house and inspect the installation of the appliance, or to fix the appliance.

What happens if the appliance is going to be fixed and the only thing the government has to depend upon is a requirement that there has to be a building permit supplied? You do not require a building permit to fix a gas stove or a gas installation of any kind. Therefore, that is a whole area that the government cannot touch, in the interests of public safety.

²⁸ That is one of the reasons why we are proceeding in this direction. It has not escaped Members' attention that what we are talking about here is ensuring that the people who do the installations have the knowledge and the wherewithal to do the work, that they have been certified.

If we were to propose that we do not move to trade certification, as it exists under the *Electrical Protection Act*, we would have to move heavily to get the same results into the area of enforcement. That is something that we would like to avoid, if possible. There has to be some measure of enforcement, but it is not the preferable route. We would like there to be a trust relationship with the people who are actually performing the work, otherwise we would have to rip everything apart in order to do the inspection. That is the reason why it is desirable to move to trade certification.

There are other things about this Act that we are proposing. That is the way the legislation has been written. That is what we think is desirable. If we shirk on the trade certification side, we would have to go more heavily into enforcement. That is a tradeoff that we want to make. We want to balance those two. It was a judgement call. Perhaps the Member will disagree with it, but I feel firmly that in order for the public to feel properly safe when private companies

and individuals do installations, this Act be applied.

As one Legislator, I think it would be irresponsible of me not to take that view. I will be taking that view when the time comes. If Members feel differently about the balance between trade certification and inspection and would not want the inspections or trade certification at all, or perhaps open season, they are free to express it.

I think that the balance being created is not only reasonable, but is essentially the same as other Acts that this Legislation has already passed before. I do not have answers to all questions. If a Member has a concern about a gas installation at the airport, I would have to check on that.

Mr. Brewster: It seems that every time we question something, it is felt that we are against it. I have a little problem there. The Minister knows what I think about regulation. He thinks I know nothing about it, but that is alright. That is his opinion. Under exemptions, there are no outfitters' camps, there are no summer cottages, there are no construction camps. I presume that those are included under Miners, Trappers Cabins to be exempt, but why is that not put down?

The Minister wonders why we ask these questions. If I do not see something in front of me, how do I know. I cannot read the Minister's mind. He seems to think that he can read mine, but I cannot read his.

²⁹ Trust you, yes.

You made a mention about building inspectors having common sense. Yes, I agree. It is certainly true. There is an awful difference between four years ago and now because of old bald-headed people like me who investigated and screamed every time someone had their rights trampled on. Now, we are all getting along well. We are even quite friendly with each other. Even inspectors will sit down and have coffee with you and laugh and joke where they never used to four years ago. That took some old bald-head like me to get a little common sense into some of these things. I am not going to be around forever to keep common sense in here, therefore, I am trying to get it in here before I go.

Hon. Mr. McDonald: You do not have to be old and bald-headed to take the same position as the Member might do with respect to common sense for building inspection or assessment services. From my own experience, I can tell him, in the opinion of a constituent or my own opinion, common sense has not been shown. The doors have been rattled. I am sure that all contributes, as well, to the general sentiment that old bald-headed people create a climate that is more reasonable for a democratic system.

I am not suggesting for a second that it can be inferred that the Members are against it because of the questions they are asking. If the Members ask a question, and I do not have the details in front of me, I will provide it to the Members. When the Members state that they are against it, I will take notice of the fact that they state that they are against it. That is a clear expression of their position.

Questions are reasonable. If Members state they are against it, that is reasonable. They should not take umbrage of the fact that I am stating that they are stating that they are against the provisions of the Act. I am just stating myself. I am trying to get an understanding of how Members feel about the general provisions of the Act, because we are in general debate.

Mr. Phillips: I understand the Minister's concern for protection and the need for an Act like this, but I have to echo the concerns of my colleagues, where they, too, feel there is a bit of overkill here with respect to the warrants and the investigation procedures. We are getting a little heavy-handed. The description we are getting in Acts such as this and other bills such as the Human Rights Bill, seems that we must be pretty wicked and devious people to have all this heavy legislation brought down on us.

Following up from the Member for Klwane, on exemptions, the Minister never really answered his question. What about outfitters? Outfitters have various camps and cabins in the bush. They are involved in stuff like this. There are various people now who have fishing camps and fishing lodges with gas burning devices in there. Will people who are involved in wilderness lodges have to apply for a permit and then have to either fly the inspector in, or will the government pick up the cost of flying an inspector in to inspect a

propane stove in a camp 100 miles from nowhere?

These are questions that people would like to know the answers to.

Hon. Mr. McDonald: The character of miners and trappers cabins would be essentially the same for some other similar activity. I could have the department brainstorm to come up with a full list of exemptions. I hope I could give the Members a character of the kind of exemptions by putting down miners and trappers cabins. Clearly they want a full list. The reason it is put into regulations is that any new situations that come up that are of a similar character we can exempt as well.

Mr. Lang: Could he outline for the Members of the House the exemptions put into place for the provinces of Alberta or British Columbia? Obviously he has had time to look at their exemptions.

Hon. Mr. McDonald: I do not have British Columbia's or Alberta's legislation in front of me. If I were to have it all here I would have to have a bank of people behind me all providing me with this information. If the Members feel it is critical, I will try to get back with it. I understand we are going to be reviewing the issue of the warrants and if the Members make their case, we will certainly delay the passage so I can get that information back. The Members have that kind of information. If the Members seek a certain kind of information that they feel is critical to the question because they are making a point and have not done the homework themselves, please let me know, and I will ask the department to get that work done.

Mr. Lang: I recall the second reading debate. In closing the debate I believe the Minister indicated that he was following regulations closely resembling those of Alberta or British Columbia, and what I do not understand is that if the statement was made to that extent, obviously I would have thought there would have been some examination of those regulations. That is why we were hoping to have regulations tabled here so we would have an idea of exactly how those laws, which are just as important as this legislation before us as far as the cause and effect — and the Minister of Justice will agree with me on this as far as a court of law is concerned — will affect the guy on the street. Are the regulations going to be following Alberta or British Columbia as he said in his statement a month-and-a-half ago?

Hon. Mr. McDonald: I have no way of verifying whether or not I made that statement. I do not recall making that statement. I have already indicated to the Members that I provided the section at the bottom to help clarify the matter for Members, that this would give Members some kind of understanding of the kinds of provisions that would be encompassed within the regulations. Like so many other bills that have been passed in this House in my experience since 1982, regulations have not been provided with the legislation. Sometimes the intention has been verbally stated by Members. I know I have asked in the past and have not received, personally, that information, when I was in the opposition, because that information was yet forthcoming. I got speeches on how it would be *Gazetted* and how it would be out there for public presentation and if I had any comments on it that it would all be forthcoming in due course and the requisite deliberations would all be passed, it had nothing to do with the general intent of the Act, let us pass the general intent of the Act and then deal with the regulations later. I have been through it all. I have been through it all.

What I am doing here is something that is not altogether common, but which does state where the government intends to go generally with the regulations, in response primarily for the Member for Kluane's concerns as he stated in the second reading speech about giving advance notice.

³⁰ I thank him for that. That is the way the system has to work. The Members want to know about the British Columbia acts and regulations. I can see if the information can be provided by the department. I am sure it is as relevant today as it was a month ago when the Act was tabled. I will see if the requests have been made and if the Members opposite have been denied access to the information that the department had because that information should be made public to anyone seeking it.

Mr. Lang: That is not the point of the question. The Minister

stated that the regulations, in answer to a question by the Member for Kluane, would follow Alberta's or British Columbia's. I assumed that he had read the regulations. We will check and see.

Could the Minister tell me how many people in the territory are presently certified as gas fitters that would be required by this legislation?

Hon. Mr. McDonald: There is nobody certified under Yukon regulations. The course has not been given by Yukon College. It is proposed that the course be held this spring or next fall, either part time or full time, depending on what people want. Exemptions will be allowed for people to phase in over a period of years. There will also be exemptions for handymen in emergency situations, as the Act states. That is the issue as I see it.

Mr. Lang: How many people in the territory could become certified under this legislation if it is passed? Who would meet the certification required under the Act if the legislation was passed today? Are there one, two, twenty or forty people? The legislation makes it unlawful for anyone else to deal with this type of gas burning device unless he meets these requirements.

Hon. Mr. McDonald: There is no certification program currently because the Trades Advisory Committee has not yet met to determine the terms and guidelines of the course. Therefore, there is no way of proving who would pass a Yukon certification test. There is no sure method of proving that because no one has taken the course yet. There is a suspicion that people involved in the industry would pass the test. The test itself is being worked out with the industry. If the Members are asking me who would pass the test, the test has not been created yet.

The character of the test is being worked out with the industry, so it can hardly be said that the test will be devised so that there would be trick questions that people could not answer, and therefore they would not pass. There will be every effort made to ensure that people can take whatever certification is required.

³² With respect to the courses themselves, we would expect there would be part time or full time courses, depending on what people want, in the spring or fall, provided by Yukon College. Exemptions are proposed for handymen in communities in emergency situations. They may not all want to get certification for an industry that they may only deal with in emergency situations, as is so often the case.

Mr. Lang: Could I have an answer to my question? I did not ask about the exam. I did not ask whether there were trick questions in the exam. I did not ask how you were going to put the exam together.

I asked how many people actually working in the industry would meet the certification required under this Act presently, so that we can carry on living our lives without people doing things unlawfully? I can think of two individuals that I know of who would meet the certification if they were similar to BC or Alberta. I may be off base, but assuming we are going to have British Columbia and Alberta as a guideline, we must have an idea of how many people in the territory are actually working as tradesmen in this area.

Has the Minister asked the department that question? How many people actually in the field now would meet certification and be able to work under this Act with very little problem?

Hon. Mr. McDonald: Firstly, the Member has it absolutely stuck in his mind that we are going to follow the Alberta and BC regulations. I do not know whether that will be the case. That has yet to be determined.

Secondly, I indicated to Members that it is impossible to conclusively determine how many people would pass the test, because the test has not been created. There is a suspicion by the department and by the industry that most professionals in the industry would pass the test. The test is being created, in part, with the cooperation of the industry. There is only the intent to act in a safe manner. There is not the intent to provide a test that is so onerous that only a few elite can pass.

I do not have the terms of that test, because it has not been written. It will be written with the Trades Advisory Committee, which is representative of the industry as a whole. When that test is written, we will know with certainty the exact numbers of people

who would pass the test on their first try. There is a suspicion now that most of the professionals in the industry would pass the test.

Mr. Lang: For my clarification, since you have not inquired to find out how many people are working in the industry and would meet certification in Alberta and BC, in order for an individual to become a qualified gasfitter — I have to refer to BC and Alberta as those are the adjacent provinces that have legislation in place and requirements to meet that legislation — how long is the course that that individual would be required to take?

³³ **Hon. Mr. McDonald:** At the present time it is anticipated to be approximately an eight-week part time course.

Mr. Lang: Is that somebody who has served a three or four year journeyman and already has a journeyman's ticket or is a journeyman ticket required to go into the course? Could Dan Lang off the street decide he is going to be a gasfitter and within eight weeks he would be recognized as a gasfitter?

Hon. Mr. McDonald: Like other trades, there would be a period that would be determined jointly with the Trades Advisory Committee; however, as so often occurs in situations like this, people who have been in the industry for a considerable time, and people who are generally perceived to be operating in the industry, have the right to write the test and most people choose to take a certification course to upgrade themselves before taking the test. We anticipate the course would be part time for eight weeks, if I remember correctly. That aspect of apprenticeship regulations and certification would not be any different.

Mr. Lang: Could he check for a young person who wants to be a gasfitter? He is just getting into the workforce with no experience. I think we should know what type of apprenticeship is required in order to get into this type of work. Quite frankly, with this piece of legislation, there may be very few people who can or will be qualified to work under it. That has been expressed to me. If we get into a situation where we have only three or four people who have the necessary credentials in order to take the eight-week course, what have we done? That is one of the questions that has been raised to me privately by an individual who happens to be a contractor, and I guess, every once in awhile, runs across this type of work that is required in the overall building of a facility. I want to register that as a concern because what are we doing passing the legislation prior to putting on the courses and seeing just exactly how many people we are dealing with who are going to be qualified to work under this Act? The other concern that we have is the question of how we are going to service the rural communities.

The Minister has said we have one gas/plumbing inspector who is going to inspect all the problems in Beaver Creek and all the problems in Watson Lake. I want to say at the outset that I think that the present complement of staff you have within the department do a good job overall and try to do their best. At the same time, personnel can change and then we are into a situation that can be totally different than what we faced today and that is why I do not accept the Minister's words, "Trust me."

With respect to the legislation and the question of the rural communities, I believe there should be a clause in the Act similar to the *Electrical Protection Act* that gives an allowance primarily to the rural communities so they can get into construction and do various things.

I would have thought that the Minister would have looked at Section 14 of the *Electrical Protections Act*, which states specifically, "notwithstanding subsections 2 and 3 where the applicant for permit satisfies the Chief Inspector

"(c) that there is no contractor or qualified journeyman available to do the work", which goes back to my question of how many people are actually in the field who are qualified to do the work or maybe not even be available to do the work upon request, and

"(b) that the reason of distance of the premises from a place where there is a contractor or qualified journeyman, the expense of doing the work would be unacceptable, the Chief Inspector may issue a permit."

I do not understand why that section is not included in the Act before us.

³⁴ It would negate a lot of our concerns on this side with respect to the actual administration giving flexibility to the administration for

the situation in Beaver Creek, where they are then not breaking the law. At the same time, in this particular case, the department is fully cognizant and aware of what is going on.

Along with section 14, I think section 4 is very clear with respect to the question of the powers of the inspector and how it relates to a justice of the peace. If you brought a piece of paper before me referring to the *Electrical Protection Act*, comparing that to the *Gas Burning Devices Act*, except for the type of work that we are referring to here, why were the sections not used out of section 4 of the *Electrical Protection Act* and section 8(4) for the purposes of qualification to meet a lot of the concerns that were expressed over the second reading debate when we first discussed it?

Has the Minister looked at the *Electrical Protection Act*, in view of the concerns that we have raised?

Hon. Mr. McDonald: Firstly, I would not anticipate that the takeup on a course would be particularly great if people were operating on speculation that perhaps a Gas Burning Devices Act might be coming forward sometime in the future. We would not be able to get any clear indication on the number of persons who would be wishing to take the course prior to the clear intent of the government that they were proceeding with the Act.

There will be an apprenticeship period. It is currently being discussed with the Advisory Board. I believe it is now three years for people who are coming clean and new into the business. As I suggested before, the people who have been in the industry for some time would be allowed to take the test, because they have the requisite experience. They would be permitted to take the test, as are people who come in from other jurisdictions who have not put in time in an apprenticeship program.

As well, quite often people who have been in an industry for a considerable period of time — a handyman — has been allowed to take a carpentry test, if it is considered appropriate. That would be the case here, as well.

With respect to rural communities, the same sheet of paper the Member mentions refers to the exemption of handymen in rural communities. The intention is to put the provision in the regulations. We do recognize that all communities have to be serviced and have to do repairs and work that is required on an emergency basis. Handymen are, quite often, the only people around who are even moderately competent to do the work.

If there is a need for putting on the course outside of Whitehorse, we will look into that as well, from an Education perspective. There is no intention to make the course or the people who work in this industry elite, a group that cannot be broken into by others. The idea is to provide for the safe installation and repair of gas burning devices.

³⁵ It is not in anybody's interest to make it difficult to gain certification if they can do the work.

Mr. Lang: The Minister stated that "There is a desire, of course, to enact regulations similar to those proposed in every other jurisdiction, except for Prince Edward Island, all of whom have rural areas and all of whom try to apply those regulations sensibly in order to protect the public from shoddy practices". I got the impression that the Minister was up on the regulations in the various jurisdictions to be able to say that this is how it would affect the rural communities.

My problem with respect to the actual writing of the legislation is that it is so wide open and broad regarding the power of the inspector. When we refer to other pieces of legislation, I recall the debate that took place regarding the *Electrical Protection Act* to curtail and ensure that the authority that was been invested within the administration was used judiciously. In 4(4) of the *Electrical Protection Act*, it says, "...where an inspector shows a justice of the peace that he has reasonable cause to believe and does believe that an electrical installation in a dwelling is a hazard to the occupants of the dwelling or to the public generally...", there is a redress by the individuals who own that facility. If there is a court case, the government has to prove that there was a public hazard.

The present Act is so broad and open that there is very little redress for the individual who is being brought before the courts to say that he has been wrongly treated by the government. That is possible. There was a case where the City of Whitehorse had a

building inspector some time ago who was not a very popular fellow. Some of the things that he forced people to do were really questionable. Someone read the National Building Code as the Bible, and no common sense prevailed. They went by the letter of the building code, and the expense to contractors, to individuals building homes, was not funny. Therefore, it is important that we draw up legislation accordingly. Otherwise, we will have a "trust me" situation.

How many contractors in the territory would go for such a license? We are dealing with four or five dwellings that have been converted, which the Minister referred to. Are we just dealing with the one propane company in town? What is the reason for the requirements for a licensed contractor being covered in the legislation?

Hon. Mr. McDonald: Anybody who installs gas devices of one kind or another could seek a license to do such work. There were over 300 inspections carried out last year, which gives us some indication of the number of inspections that would take place in a given year for gas devices. Another would be associated under the *Fire Prevention Act* or *Building Inspection Act*, where that was appropriate. It does not cover all situations, but it covers the ones that could be covered under the other two Acts. Where there is a building inspection where someone is building a new house and has obtained a building permit, the inspector may then go in and inspect the premises. That would count as an inspection if the person was installing a gas burning device.

I have known of inspectors, not just in the Building Inspection Branch or the Assessment and Taxation Branch, but people who are in the public trust, who have to do a certain job, and they act in such a manner that is bull-headed, insensitive and causes great hardship on individuals. Sometimes, there is not even legislation that governs their activities. Sometimes it is simply the *Appropriation Act* in this Legislature that provides for their salary, and they are given general direction.

Nevertheless, it is necessary in our system, so that we do not define every last activity, every last step of every single civil servant, that some discretion is given — the discretion to be fair — and to understand that, in some circumstances, a person has tried his or her best to meet the requirements but has not been able to make it, and there has to be some discretion by the inspector to allow for another chance, if that is warranted. That is part of the system, too.

Those times when inspectors, or any civil servant, arouses the ire of bald-headed old people or young Turks — you name it — then that has to be brought to the public's attention and the government's attention, and they have to act upon it. That is not what we want our civil servants to do. It is not what we want our Building Inspection Branch to do.

We want the Building Inspection Branch to protect public safety. This whole Act is one element of that.

Mr. Lang: I understand the principle behind the need to get the necessary qualifications. You still have not answered my question on the need to be a licensed contractor. Is it because there are going to be separate contracts issued for the purposes of this kind of installation, i.e., propane, because this is what we are dealing with? If so, will it then be required of me, as a general contractor, to get another license in order to bid on that government job, in order to meet the requirements of the law, as opposed to the situation where if I would be the general contractor, I would bid that building that had propane heat and I would hire, as part of my responsibilities, the journeyman required to do that type of installation?

I do not understand the need for licensed contractors. I understand it under the *Electrical Protection Act*, because you have people specifically in the business of contracting and bidding contracts in that area.

³⁷ I do not understand the need for a "licensed contractor".

Hon. Mr. McDonald: When a person becomes certified, that person gets a license to operate as a journeyman. The Department of Education is only responsible for setting up the course, and the person passes the test. This Act provides that person with a license to do the work. If that person is someone who has been in the industry for a while and wants to go on his own, and if that person

passes the course and is qualified to do the work, that person can do the work as well as a major company that might come here with oodles of qualified people.

It is the same thing as what was thought to be the case with certified nursing assistants. The Department of Education provided the certification, but what they wanted was a licensing that would give them the authority to practice once they had the certification. The certification was only the course, and the license was the authority to operate.

Mr. Lang: There are two different parts to the Bill. There is a gas fitters license that is separate. That is the journeyman's ticket. Why is it necessary to have a contractor's license for a person to engage in business as a contractor? Why is that necessary? I do not understand the requirement under section 14, as opposed to section 13 on licensing. I understand the journeyman requirement. Why does a contractor require a license under this Act?

Chairman: Before we take a recess, I understand that we will be returning to Bill No. 7, *First Appropriation Act*. Is that correct?

Mr. Lang: My understanding is that we will continue with Bill No. 40.

Chairman: We will recess for 20 minutes.

Recess

³⁸ **Chairman:** Committee of the Whole will now come to order. We will continue with general debate.

Hon. Mr. McDonald: Just before the break the Member for Porter Creek East asked why licenses were required for contractors. Essentially the answer is that the contractor obtains permits if he is going to engage in a building project and it is going to require the installation of a gas-burning device of some kind. The contractor is not, himself, a gasfitter and cannot do the work, but he can, if he is licensed, still obtain a permit, so long as he has a gasfitter do the work, but he does not have to have a gasfitter come in to seek the permit. He, as a contractor, can seek the permit. This is essentially the same as under the *Electrical Protection Act* where a general contractor may not be a certified electrician, but he may employ electricians in order to get the necessary permits in order to do the construction work. He would be licensed to obtain the permits and could undertake the work as long as he had the electrician do the work. That is the reason for the licensing.

Mr. Lang: Are you saying to me that if I am a contractor, and if I have a contract of any kind whether it be government or private sector, that I cannot go and get the permits necessary unless I am a licensed contractor, as long as I have a journeyman working for me?

Hon. Mr. McDonald: Like the *Electrical Protection Act*, if you were a general contractor and you want to engage in work that requires a certified journeyman to do it, or a person licensed to do it, you need to be licensed in order to get the necessary permits, otherwise you require the journeyman to come in and get those permits for you. This allows the contractor to get the permits for himself. He can hire whomever he wants to do the work and does not depend on that individual journeyman to seek the permits for him.

Mr. Lang: If we refer to subsection 14 of the *Electrical Protection Act*, which is the accompanying legislation, it is pretty clear that you must have a qualified journeyman on staff or you lose your license. It is clearly delineated in this particular section of that Act. Is that the intent that is going to be incorporated into regulations?

Is it going to be required that I have a qualified journeyman in order to be a licensed contractor under the *Gas Burning Devices Act*?

³⁹ **Hon. Mr. McDonald:** At this time, my understanding is that it is not required, but you would have to have a qualified gasfitter do the work.

Mr. Lang: I understand the *Electrical Protection Act*, and I am trying to think of the major reason for that particular section requiring licensed contractors. If I recall correctly, it was in part due to the specialized area of work that was involved. I do not

understand the requirement for somebody else who is building getting another license to do this kind of work. I could understand, maybe, to some extent, where a license is required to sell this type of merchandise to ensure that they are selling bonafide CSA approved parts and all that kind of thing. I do not understand a general contractor requiring another license.

Maybe the Minister would have a look at that to differentiate between the two, the sale of CSA approved parts and that there were some recognition within government who was involved in the sale of this kind of merchandise, as opposed to the actual contractor who is bidding on jobs and having to go for another \$50 permit.

Hon. Mr. McDonald: Essentially, the contractors would not be able to obtain or retain a license to do gas work unless they are qualified or they employ a gasfitter to do the work. Contractors not regularly doing that work would normally subcontract the gasfitting to a licensed company, who would do the work, or a gasfitter.

Mr. Lang: There is the point, "or a gasfitter". I may find it, as a contractor, to my benefit to hire a gasfitter and go about and do my work, as opposed to subcontracting that particular element of the work out because it is of such a small magnitude, as far as the total job is concerned.

Is there going to be a requirement of a bond for the purposes of a gasfitter under the regulations?

Hon. Mr. McDonald: Not under these regulations. There will probably be a requirement for a general bond for the overall construction work if it was a government contract, but no more than what has been suggested already, no more than what I have said would be the case.

Mr. Lang: I still have no answer on why it is required for a license for the specific area of a licensed contractor. When you refer to the *Electrical Protection Act*, there is the requirement for a bond under subsection 14 for you, as a contractor, whether you be a qualified journeyman or otherwise. For the purpose of contracting, you are required to have a bond. Now we are saying, in reference to this legislation, which is fairly similar in intent, that a bond is not required.

I do not have a problem with no requirement for a bond. I have a problem with the requirements of a person having to go and get another license. If I am a licensed contractor, does that mean I do not have to go for any permits?

⁴⁰ What does it do for me? Does it expedite the work?

Hon. Mr. McDonald: As a licensed contractor, the person would be able to get permits without having a gasfitter in his employ. For example, if the gasfitter is in Mayo and the contractor wants to bid on a project, wants to get the building inspected and wants to get the necessary permits. The contractor goes to the Building Inspection Branch, as a matter of course, to seek the permits. The contractor may not be a certified gasfitter, but he will still seek a gasfitter's permit. Because he is licenced under this Act, he could get the permit without being qualified to do the work himself. A gasfitter will be required to do the work, however.

Mr. Lang: I do not understand this. If I am not a licenced contractor, but I want to get a permit for propane installation, am I not eligible to get a permit?

Hon. Mr. McDonald: If the Member is not licenced under this Act, but wants a permit to do work, and if there is no gasfitter who can get the licence, he cannot get a permit.

Mr. Lang: If I pay the Minister's office \$50, I can get a license and then the permits. Is that correct?

Hon. Mr. McDonald: Under no circumstances would the payment to my office get you anything. That would not be appropriate. I have not received such an offer in the past, and I would not expect to receive any offers of that sort from a reputable contractor. If the building inspector recognizes that the person is a contractor who is going to be doing work, is going to be hiring people to do the work, is a licensed reputable contractor, then the contractor can get a permit and does not need a gasfitter on his staff to get that permit. The permits can be obtained on the basis of his license.

⁴¹ **Mr. Lang:** I still do not understand this, and I retract the \$50 offer to begin with. I recognize that the Minister was looking at it in the context of reading it tomorrow in the *Hansard*. It is still beyond

me to understand how the department is going to determine whether a man should be licensed? I have a contractor's license. It is Lang Penikett Construction. We are into all sorts of general contracting. Do I just walk in and because the department knows me they are going to license me if I pay them whatever amount is prescribed by regulations? Perhaps you could tell me how much a permit is going to cost?

Hon. Mr. McDonald: I do not know what the permits are going to cost, or the license, for that matter. It will be a nominal administration fee, I am sure. With respect to obtaining a license, I do not have the specific requirements at my fingertips. The Member professes some knowledge of the *Electrical Protection Act* and this is the same provision that is in the *Electrical Protection Act*. If the intent is the same I will find out what specific qualifications a person requires to obtain a license under this Act and the *Electrical Protection Act*.

Mr. Lang: I just directed the Minister. He does not have to go any further than me. Section 14(1) to (5) clearly undertakes what a contractor's license is and how you are qualified for it and what you have to do to be qualified and how you maintain being qualified. So it is not the same as the *Electrical Protection Act* because obviously you just strictly have a need for a licensed contractor and there is no criteria of how you go about getting this license, how you maintain this license, or the real reason for it. I guess I will leave this item because it will be at the end of the legislation and maybe we are going to have a chance to read it further.

In the provisions to be encompassed within the regulations, in the paper provided by the Minister in lieu of regulations, they have talked about the temporary licensing up to two years for individuals currently working in the trade. Now that we have had a break, does he have any idea of how many people are actually working in this area of concern? Are we talking 20, 40 or 200 people, in rough numbers because, if we are going to grandfather them, obviously there has been some concern from the department's point of view with respect to ensuring that there are people out there who can continue to work. What are we dealing with as far as people are concerned? Does he have any idea now?

Hon. Mr. McDonald: I have not had a chance to check what the percentage average upwards of being 40 would be, but there is a suspicion that through consultations with the industry, upwards of 40 would be qualified to pass the test.

I can tell the Member that with respect to the *Electrical Protection Act* and this particular Act, the qualifications, I am told, would be the same under the *Electrical Protection Act* as this one. Under Section 14(2) it talks about prescribed qualifications and the qualifications would be the same in the *Electrical Protections Act* as in the regulations. I need some chance to respond to some other items referred to before the break.

⁴² No bonding requirements are being proposed for this Act.

With respect to the issue of exemptions, the idea behind this Act is that homeowners can get permits, if a person is prepared to do the work himself. That place could be anyplace that that person resides — an outfitter, miner, trapper, you name it. Where the person does the work himself, he does not need to be certified. Those people who do work on homes for a business would have to seek the necessary permits to do the work and be qualified to do the work.

There was a question about the issuance of warrants and the determination of what it would take for an inspector to inspect a site. The provisions are as follows: that under normal circumstances the inspector would, first of all, talk to the people involved and try to seek some concurrence and explain why they wanted to inspect a certain appliance, or gas burning device. If that was unsuccessful, they would follow with a letter that explains the situation, and would indicate that they wished to enter the premises to inspect a device.

If that was unsuccessful, they would tell the people involved that they would be seeking a warrant, if they had cause, which is the same for the *Electrical Protection Act*, and then proceed further as proposed in the legislation.

The powers of the inspector are shown in section 9(2). I remember the Member's words that the inspector has to have reasonable and probable grounds to believe that there is, in any

place, an appliance, et cetera, and that is taken from the *Gas Burning Devices Act* itself. The inspector does have to have probable grounds to believe and does believe that something is the case.

There was some concern about the number of installations in the past. It has been rather significant in recent years. With Health and Welfare Canada, there were the four hospitals — Mayo, Faro, Watson Lake and Whitehorse — which moved to propane and caused the communities some concern.

The Act deals with natural gas and propane regulations. As Members have already noted, there is not much use of natural gas here presently.

The Member asked a question about the character of the course. The course is being developed by a professor from NAIT in Alberta in close consultation with the Trades Advisory Committee.

Mr. Lang: I understand that the Minister is going to look at the reason for licensed contractor to verify the real need and to see if it has to be broken down into a couple of categories. I take it that that area will be set aside when we get towards the end of the Act.

I do not have specific amendments for the legislation, but I do see a number of areas that could correspond with that of the *Electrical Protection Act* that could meet everybody's aspirations to ensure that the legislation protects the right of the individual to the maximum. I am hoping that the Minister will be prepared to stand those aside, take some time and see if he can bring forward some amendments because we do not have a battery of lawyers working for us.

I am now prepared to go into the Act, unless some of my colleagues have questions. I have some questions on the technical aspects of the clauses.

Chairman: Are you prepared for general debate?

On Clause 1

Mr. Lang: There is a need in many rural communities, specifically by the lodges, for propane to be used. Access is not there on a day to day basis. Does the word "alter" mean that a permit is required if a propane tank is being moved from one side of the lodge to the other?

I recognize that this legislation is very mundane. It is not exciting like human rights are, but it is very important because as it is going to directly affect people in cost and ability to function. I am concerned about how it is written to meet all concerns. Does "to alter", which means to repair, mean that the moving of propane tanks in a lodge requires a permit?

Hon. Mr. McDonald: Under the Act, or in the regulations, emergencies would be provided for in exemptions. If the people were going to move and change substantially their system, repairing or altering to the extent the Member refers to, which may be moving the propane tanks from one side of the lodge to the other, it would be a substantial change in the operations, and would require changes in the piping and that sort of thing as well. It would be a significant event and would be as significant as the original installation itself. It would be as much covered under this Act as if it were a new installation.

With respect to repairs for emergency purposes, we have considered that and that you do not have qualified people around you all the time. Sometimes it is quite difficult to seek them at certain times of the year, and almost at any time if you are physically at a great distance from where the nearest one lives. In those circumstances, emergency work can be done where a certified tradesman or contractor is not otherwise available. The provision can be granted after the fact.

Mr. Lang: I will discuss later the question with respect to an emergency. I think in the *Electrical Protection Act* there is a section that would cover that and give the government the necessary knowledge of what is going on. I am referring to the rural communities, and I will point that out.

Mr. Lang: On the definition of "appliance", I am thinking specifically of my own experience in construction. With this legislation, will it now be required to get a permit if we are putting in gaslights with propane in a small construction trailer? Under appliance it means a device that utilizes gas to produce light, heat or power. Let us assume that we are using the propane for the

purposes of light. Will it now be required to get in touch with the government and get a permit so that we can put this type of installation in?

Hon. Mr. McDonald: My understanding is that it is yes, unless it is a domicile and would be covered under a homeowner doing his own work.

Mr. Lang: Will it then be required to have a journeyman install that, as opposed to what is normal practice in mining camps, small contractors, where they put their own copper piping in and put their own light fixtures in. It is not very complicated. I think most people in this room could do it. Will it then be required to have a qualified journeyman to put this in?

Hon. Mr. McDonald: My understanding would be that, yes, it would be. I stand to be corrected. I will certainly check into it, but my understanding is that if it is not your own home then you would be required to proceed the way you proceed for other appliances.

Mr. Lang: Does the Minister feel that it is justified to call in somebody over and above the staff you already have to do that kind of work? Or perhaps we should be looking at delineating the size or diameter of the project to exclude it from this kind of requirement? Perhaps the Minister has some comments on it. Neither one of us has the expertise, but it seems, from my knowledge and background of construction, I have seen it happen where we have just gone ahead and put it in. I am sure the Chairman has seen that in the Dawson City area with all the small trailers outside of the community working in the placer fields. I would like to hear the Minister's comment on that.

Hon. Mr. McDonald: I will check with the Department. I am not at all an expert in this area but I will certainly check with the department with respect to the item the Member mentions. If the Member is talking about a situation that could cause harm to people by others who simply, through ignorance, do not know what they are doing and is considered a significant safety hazard, then I would think that the use of this Act would be applicable in situations such as that. Clearly it is not the desire to provide onerous regulations. At the same time, unsafe practices that could endanger life, no matter how small we think they are, is a large situation, not a small situation at all. I will check with the department, but if it is life-threatening or considered dangerous, then certainly it will be covered under this Act.

Mr. Lang: I harken back to our comments earlier. We recognize why the Bill is here. If you want to get right down to it, if you want to make it a perfect world, why are we allowing people who are not qualified to put their own installation into their own home? If they have five kids they will endanger five kids. The thing we are trying to find is some common ground, common understanding, as opposed to putting in a major installation in a hangar up at the airport, or a revision in a major institution such as a hospital. I am dealing with a very real situation where two small contractors, two guys who are contracting, build a trailer and want to put in some propane lights, and all of a sudden we are looking at a major deal with the government going for permits, talking about journeymen coming in — many of them are not available — and everything else, and I am talking about the realities of the world we live in. I recognize that the Minister would like to make it a perfect world, but it just is not out there. I am saying these are very real problems that this type of legislation, unless written in a different manner, is going to create. What is going to happen is that they are going to be installed and nobody is going to say anything to anybody. Then, if something happens you can take someone to court. That is my observation, and I would appreciate him checking into areas of that kind. I do not know whether you exempt by diameter or by the size of the job, or whatever, but it just seems to me that some thinking maybe could provide some semblance of direction to us here from the expertise that the Minister has on staff.

Hon. Mr. McDonald: For the umpteenth time, I will check into it. If a contractor sets up a trailer to live in, that is no different from a miner's cabin. I am telling you what I know already about the Act. If a small contractor, a miner, a trapper or an outfitter is going to reside in a cabin, he/she is exempted. If work is done on your own residence and not for pay, the person is exempted from the provisions of the Act.

Mr. Lang: I am looking forward to the response.

On Clause 2

Clause 2 agreed to

On Clause 3

Clause 3 agreed to

On Clause 4

Clause 4 agreed to

On Clause 5

Mr. Phillips: The dealer is a person who maintains a business for the sale of appliances. Does that mean only appliances, or will he/she be selling gasfittings, house piping, vents and that kind of thing? Is the dealer under that category as well?

Hon. Mr. McDonald: The word "appliance" is covered under the general definition. The dealer would be wholesaler or retailer of appliances and related equipment including gas itself.

Mr. Lang: Will a dealer be required to have a license? If so, could the Minister refer me to the section that says a license is required?

Hon. Mr. McDonald: I do not believe so, but I will check on that.

Mr. Lang: The intent of the legislation then is not to require a license of someone who is selling the necessary equipment that is CSA approved for meeting this Act. If I am running a hardware shop in Porter Creek, there would be no requirement for that information for fitting. Is that correct?

Hon. Mr. McDonald: The appliances have to be certified by a recognized Canadian testing laboratory. The appliances have to be approved.

Mr. Lang: What is the purpose of defining the dealer in the interpretation section of the Bill if there is not going to be any requirement for him or her to do certain things?

Hon. Mr. McDonald: It mentions the word "dealer". I presume that people might want to know what a dealer is. For example, on the next page, it mentions a dealer. It says, "Except as otherwise provided by the regulations, no dealer shall sell or offer for sale any appliance that does not bear the approval seal of a prescribed testing agency or association."

It does mention the word "dealer", and they wanted to explain it.

Mr. Lang: What is manufactured gas? Are we talking about Exxon or neon or something?

Hon. Mr. McDonald: I presume it would be a gas that has been processed in some way. It could be processed from other materials other than seeking it strictly from the ground — coal, for example. Many gases are manufactured.

Mr. Lang: I just want to inform the Government Leader there is a section for petroleum gas. I assume that that would be the area that coal would come under. It is processed from it.

Does this have effect on neon signs and things like that. We are talking about manufactured gas. Are these people going to have to be licensed who are putting these signs up?

Would this have to apply with respect to dealing with that kind of gas?

Hon. Mr. McDonald: No, it does not.

Mr. Lang: With respect to the definition of "gas fitter", we are now getting back to qualifications, and this is what we are dealing with here. Do I take it that this Act will not come into force for two years, in view of the fact that under the information, as scanty as it is, the Minister has said temporary licenses will be issued for up to two years for individuals currently working the trade but not meeting trade qualifications. Does that mean then the Act will not come into force?

Hon. Mr. McDonald: It does not mean that.

If the member reads, "Temporary licensing for up to two years for individuals currently working in the trade but not meeting these qualifications", it provides for people to continue working in a trade, and be given such time as it takes to take the test and become certified or licensed. That is the grandfathering that is provided here.

Mr. Lang: It means that you are not enforcing the requirements of the Act for up to two years from the date in effect that the Act comes in for those people working in the field. My question on the licensing is: is it the intent of the government to recognize the gas

fitter licenses from British Columbia and Alberta as sufficient to meet the requirements of our Yukon legislation?

Hon. Mr. McDonald: Firstly, let me make it straight, we will be proclaiming the Act in order for provisions to be enforceable with respect to inspections and everything else. The regulations will state essentially that temporary licensing of up to two years for people who have not yet met the qualifications will still be allowable. So the Act will still be proclaimed but only after the Trades Advisory Committee and Education has established the test. The test has to come first. I would hope that that would be completed by the end of this month. I suspect it will be completed then.

Normally, under such situations, unless there is an agreement between jurisdictions to recognize someone else's certification, and usually it is a red seal designation, then we would accept that. They would have to accept ours in order for us to participate in the red seal certification and we would hope ultimately to be able to. I am not sure if a gas fitter trade is now one of the few trades that can have an interprovincial seal. If it is, we would certainly ultimately want to shoot for an interprovincial seal in this trade as well.

Mr. Lang: Has there been no discussion with Alberta and British Columbia that there would be a recognition of the qualifications met by those provinces?

Hon. Mr. McDonald: The interprovincial seal is not a bilateral or trilateral arrangement with BC and Alberta. It is a nationwide agreement with all jurisdictions. We have been trying, with all trades that do have interprovincial seal designation, to participate in that designation. If someone comes up with a BC ticket, we would accept that only after the person wrote the test here. That is the way it has always been done in all the trades.

Mr. Phillips: If I was currently working as a gasfitter in the Yukon, I would be unlicensed because there is no licensing procedure. Would I have a two year period from the time this Act was signed to either take the course and pass it? I could still do all the work that is required. Would I have two years of grace to take the course, write the test and pass it?

Hon. Mr. McDonald: That is correct.

Mr. Lang: I do not understand the reason why we would require someone who had met the qualifications in BC and Alberta, the adjoining jurisdictions, and has a certified and recognized journeyman's ticket to write that exam. As long as they meet the qualifications that we have put into our regulations, three years of apprenticeship, so many hours of academic work, why would we make them go through the exercise of an exam? That may cause a contractor major problems because there is no one available here to do the work, and it is against the law for those licensed journeymen to function here.

If that is not the case, then there should be some section in the law that would give temporary licensing so they could work until they can write the exam. That could be another alternative. The government seems to get so involved in these things. It is the same as saying that my grade 12 is not going to be recognized in Manitoba.

Can the Minister take that under advisement and see whether or not there could be at least something put into legislation that will permit for that situation arising. We can all laugh at that here, but it is very important to somebody who has a contract and has to get it finished.

Hon. Mr. McDonald: It is common practice in the territory. I can look into it. I will look into anything the Member wants me to look into, as long as I have time. My time is your time for as long as this Session lasts.

With respect to the designation, generally, journeyman tradesman in this territory, whether it is carpenter, welder, electrician, anyone who requires journeyman status, has to meet Yukon's laws, as Yukoners see fit. I have been involved in trades for some time. I know a lot of people in the trades. I know that that has always been the case, while I have been here.

There are a variety of reasons for that. We provide certification based on certain standards. We prescribe those standards. Those standards are not varied from jurisdiction to jurisdiction, according to what we feel is necessary for our conditions. Those standards are

set jointly through trades advisory committees and the Department of Education with respect to certification.

We set our own rules for our own people. We set our rules for ourselves. We do not automatically recognize anyone who comes in from another jurisdiction who carries papers from that other jurisdiction. We have no way of verifying them until we have an agreement with those other jurisdictions. That is why the jurisdictions are seeking to reach those agreements through the provincial red seal designation.

⁵¹ That is the method by which we can then recognize those certificates as being valid for our purposes according to rules we want to set for ourselves.

Mr. Lang: I did not need a lecture on the interprovincial seal program. I fully understand it. Could I ask this? Does the gasfitters category have an interprovincial seal?

Hon. Mr. McDonald: That is something I will check on, but I can assure the Members that if there is not we will be seeking to design a course and program that would meet the qualifications without any questions at all.

Mr. McLachlan: I wonder if the Minister could advise how difficult the exam or test would be? Does he anticipate it to be a simple three-hour exam; is it something that could be done easily? We are talking about contractors coming in from the Province of British Columbia who cannot start a major job. The Kelly Douglas Warehouse has a gas-fired heating system and they cannot start that until they get approval from the Government of the Yukon. How long will it hold them up to pass the certification test to go on the job?

Hon. Mr. McDonald: All the tests, in my experience, are less than a day. I think they vary. If the person can prove experience and can pass the test, then they can get their journeyman certification. The other aspect of journeyman certification, of course, is that you have to prove that you worked with a journeyman generally speaking. In most instances that is the basic minimum qualification for any interprovincial seal.

Mr. Lang: Just to go a little further because it is important. Is it in the provinces a requirement that you have all these qualifications or write this test if, say, you are a tradesman from BC going into Alberta? In other words Alberta will not recognize BC qualifications, and at the same time you do not know if it is interprovincial or not.

Hon. Mr. McDonald: If there is not an interprovincial seal for any trade in this country and there is one person with a journeyman ticket from one jurisdiction goes into another jurisdiction with that journeyman ticket, they still have to write the journeyman tests for the other jurisdiction provided they qualify, provided they follow other qualifications associated with that journeyman ticket which includes experience. Now in most jurisdictions you are required to work with other journeyman as an apprentice in order to meet your experience qualifications.

⁵² In Alberta, I believe you have to work with three journeymen in order to seek the experience. In our jurisdiction, we have an agreement from other provinces in our discussions with them in seeking agreement on their acceptance of our experience factors that one journeyman per apprentice is acceptable to them. It is the best we can do for any trade. We have tried to work it so that the person would only have to work with the journeyman part of the time, for example, only maybe two of the four years, but that has been vetoed by other jurisdictions. I have tried personally to make the qualifications a little more lax, given the difficulty of finding journeymen. There are some trades, unlike the gasfitter trade, where journeymen are difficult to find: bakers, for example, and sometimes butchers. It is sometimes difficult to get an operation that has a journeyman and can also afford an apprentice. These are all things that we have been wrestling with. In order to get an interprovincial seal, you have to have at least one journeyman for the duration of the apprenticeship.

Mr. Lang: The definition for gas installation applies to trucking, would it? You are talking about conveying. I refer specifically to propane and the way it is transported here in the territory. Is that not correct?

⁵³ **Hon. Mr. McDonald:** Conveying gas includes trucking gas.

Mr. Lang: I am going to install a cylinder of propane in my mobile home. Even though I am doing the work myself, I have to get an inspection to ensure that it is done properly. Is that correct?

Hon. Mr. McDonald: Yes, an inspection will follow.

Gas barbeques are not part of this.

Clause 1 agreed to

Hon. Mr. Porter: I move that the Chairman report progress on Bill No. 40.

Motion agreed to

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

⁵⁴ *Speaker resumes the Chair*

Speaker: I will now call the House to order. May the House have the report from the Chairman of Committee of the Whole?

Mr. Webster: This day, Committee of the Whole has considered Bill No. 40, entitled *Gas Burning Devices Act*, and directed me to report progress on same.

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

Some Members: Agreed.

Speaker: I declare that the report has carried.

May I have your further pleasure?

Hon. Mr. Porter: I move that the House do now adjourn.

Speaker: It has been moved by the hon. Government House Leader that the House do now adjourn.

Motion agreed to

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

The House adjourned at 5:29 p.m.

The following Sessional Paper was tabled January 6, 1987:

87-3-93

Statement by Government of Yukon in Response to U.S. Department of Interior draft Arctic National Wildlife Refuge, Alaska, Coastal Plain Resource Assessment (Porter)

The following Legislative Returns were tabled January 6, 1987:

87-3-24

Bob Sharp's Employment Status
Oral, Hansard, p. 325 (McDonald)

87-3-25

Payments of Participants in the Education Act Working Groups
Oral, Hansard, p.323 (McDonald)

87-3-26

Programs and courses proposed for the next few years in the health area

Oral, Hansard, p. 321 (McDonald)

87-3-27

Costs to parents for children staying at the St. Elias Residence
Oral, Hansard, p. 321 (McDonald)