



# The Yukon Legislative Assembly

---

Number 60

3rd Session

26th Legislature

---

## **HANSARD**

Thursday, January 8, 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.

## GOVERNMENT PRIVATE MEMBERS

### New Democratic Party

Sam Johnston	Campbell
Norma Kassl	Old Crow
Art Webster	Klondike

## OPPOSITION MEMBERS

### Progressive Conservative

### Liberal

Willard Phelps	Leader of the Official Opposition Hootalinqua	James McLachlan	Faro
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		

## LEGISLATIVE STAFF

Clerk of the Assembly	Patrick L. Michael
Clerk Assistant (Legislative)	Missy Follwell
Clerk Assistant (Administrative)	Jane Steele
Sergeant-at-Arms	G.I. Cameron
Hansard Administrator	Dave Robertson

**01 Whitehorse, Yukon**

Thursday, January 8, 1987 — 1:30 p.m.

**Speaker:** I will now call the House to order.  
We will proceed with prayers.

*Prayers*

**Speaker:** We will proceed at this time with the Order Paper.

**DAILY ROUTINE**

**Speaker:** Introduction of Visitors?

**INTRODUCTION OF VISITORS**

**Mr. Nordling:** I would like to introduce today 15 students from the Calvary Baptist School, which is located in Porter Creek West, and their teacher, Mr. Hunter. They are in the Gallery today to observe the proceedings of this House.

*Applause*

**Speaker:** Are there any Returns or Documents for Tabling?

**TABLING RETURNS AND DOCUMENTS**

**Hon. Mr. Kimmerly:** I have two documents: the Klondike Senior Citizens Society investigation report and recommendations pursuant to the *Societies Act* and the Report of the Review of the Justice System conducted by John Wright and Joanne Bill.

**Speaker:** Are there any Reports of Committees?  
Petitions?

Introduction of Bills?

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

**NOTICES OF MOTIONS**

**Mr. Nordling:** I give notice of the following motion:

THAT it is the opinion of this House that the Government of Yukon should urge the Government of Canada to retain the existing flow-through share tax incentive program, which is of great benefit to the Yukon mining industry.

**Speaker:** Are there any Statements by Ministers?

**MINISTERIAL STATEMENTS****Justice System Review**

**Hon. Mr. Kimmerly:** In April of this year, I announced that a review of the justice system would take place. The review was to provide a forum for the public airing of concerns and perceived problems respecting the justice system and would result in recommendations for improvement. Two panelists were appointed to conduct the review and would travel to all Yukon communities for this purpose.

The review process has confirmed that there is, indeed, substantial public concern about the justice system. More than 600 people and close to 15 community groups have come forward to express their views. They met with the panelists and were involved in formulating the preliminary and final recommendations. This process has provided an unprecedented opportunity to gather public input and to render the justice system more open and responsive to community needs.

The process of public consultation on the final recommendations has now been completed, and I have tabled the report in this House. I am confident that the continuing public discussion covering the justice system will be improved and enhanced by this whole process.

**03 Mr. Phillips:** We are pleased to see that finally we do have a report in the House. We hope that the report has made some fairly strong recommendations, and we hope that the government will take some immediate actions to try to rectify the problems we have in our justice system.

We have to, again, do what we can do here in this Legislature to try to install public confidence back into the system.

**Mr. McLachlan:** I am really pleased to see that the exercise has come to completion fully nine months after it was first announced. The proof of the exercise will lie in the pudding. We will be watching carefully for what changes the Minister is willing to make in response to the recommendations of the committee.

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

**QUESTION PERIOD****Question re: Agricultural lands**

**Mr. Phelps:** I have some questions relating to agricultural land. On December 11, I asked the Minister of Renewable Resources about outstanding agricultural applications. At that time, he answered and said that of the 198 applications for agricultural lands that were being reviewed, 25 applications have been sent on the Department of Community and Transportation Services for processing.

Since that time, has there been any further application sent over to the Department of Community and Transportation Services?

**04 Hon. Mr. Porter:** There may very well have been some additional applications sent on. I do not have those applications here with me in terms of recent information. I will check to see if there have been, in addition to the 25 that the Member speaks of.

**Mr. Phelps:** Again on December 11, I asked the Minister of Community and Transportation Services to advise how many of the 25 applications that had been passed on from the Renewable Resources Department had gone as far as the Federal-Territorial Land Advisory Committee. I wonder if the Minister could answer that question now.

**Hon. Mr. McDonald:** Six of the applications have gone to Agreement for Sale, in parcels of 65 hectares, 560, 350, 58, 4 and 65 hectares respectively. Two have been approved by FEDLAC and are awaiting a certified sketch by the applicant. Two have been transferred on December 12, going to Agreement for Sale soon. FEDLAC has approved three in principle pending Band consultation. Eight have seen some conflicts but are going to FEDLAC for agreement in principle soon. Four others require further internal review due to major conflicts. That is the breakdown.

**Mr. Phelps:** I wonder if the Minister of Renewable Resources could advise whether, as a result of the meeting held on December 12 with the group of people who are frustrated and upset with waiting for agricultural applications, anything has been done to change the procedures with regard to handling agricultural applications?

**05 Hon. Mr. Porter:** Prior to the meeting, one of the concerns that the applicants involved have expressed is that they were not able to get updated information with respect to the position of their applications. What we had achieved prior to the meeting, which was announced to the members there and helped out a lot in that particular question, was the computerization of all the applications so if an individual wanted to come into the department, he would have ready access to where their application stood.

One of the things that we did discuss at the meeting that they found favourable, which had been recommended by the APAC committee, was to transfer agricultural applications to the Department of Community and Transportation Services. To that end, the Minister responsible for Community and Transportation Services and I have discussed the issue. We have agreed that that is something that we both desire, and we will work toward immediate implementation of that transfer.

**Question re: Agricultural land**

**Mr. Phelps:** The points about the transfer of responsibilities and putting it under one window were contained in recommendations made to the select committee on renewable resources. There was an eight point program that was the subject of a motion in the House. Could the appropriate Minister advise whether or not the government is going to follow through and institute the eight point program, as we discussed last spring?

**Hon. Mr. Porter:** What I can report at this particular time is that we have not decided the specifics of the program. What both I and my colleague have agreed to is the principle of the transfer. We have agreed that it should be done because it does make sense, as the Member stipulates, to have a one-window approach to all land processing.

In terms of the specifics — for example, the 60 day idea as to a turnaround on applications — we have not yet addressed the specifics of those proposals. I would suspect that, once the transfer does take place, the guidelines that are put forward by the recommendation of APAC will be given consideration.

**Mr. Phelps:** This is taking a considerable period of time. There is a fair level of frustration by people out there who have given up on their applications entirely. Some people have left the Yukon, and we know about the public meeting that was called. When is this government going to come forward with a process and a policy that will deal in an orderly basis with the release of land?

I want to speak particularly about not only the one-window approach, which the Minister discussed briefly in his last answer, but the turn-around time. When is this government going to come forward and give a time limit within which the consultations with the Indian Bands and the paperwork will be done?

**Hon. Mr. McDonald:** This government, particularly the Ministers on the front bench of this government, are acutely aware of the delays that have occurred in the past, not only in the past year and a half but over the previous three, four or five years. There have been long standing complaints. People come into the office requesting land that was first requested over four years ago. So we are here to resolve the concerns that they have expressed and work our way through the maze of government departments that have to be contacted.

In so doing, we have opted for the one-window approach. As a result of the YLA recommendation, we have indicated that the Department of Community and Transportation Services will be the formal delivery agent for land transferring. We have already a person to review agricultural applications on a technical basis and get them moving. I have already indicated today what has happened with the 25 applications that have been transferred already to the Department of Community and Transportation Services.

The work that has been done to date has been quite successful. The land transfers that have taken place have been significant.

**Mr. Phelps:** I do not want to get into a debate on the success or rather lack thereof of the government's getting land out to the people. What I would like is an answer to a very simple question. When are we going to have a policy coming forth from the government that will set time limits? The recommendation from the agricultural group was 60 days, and 21 days if the land application was going to be rejected. I am wondering when we can expect, at the very least, to have a process that will be that finite so that people will know where they stand when they make application for agricultural land. When can we expect that policy?

**Hon. Mr. McDonald:** If Members will remember, we engaged in this debate, I believe, last spring, the Member for Hootalinqua and I. I indicated to the Member that if the system that we had developed was a failure that we would certainly tighten up on it. It has improved by most objective analysis to be a comparative success, compared to the history of the previous government. I would remind Members that the previous government took nearly two years between calling for applications...

**Speaker:** Order, would the Member please conclude his answer.

**Hon. Mr. McDonald:** ... and submitting the first request for a land transfer, so our record has been good and the policy is there.

**Question re: Rural and Native Demonstration Program**

**Mr. McLachlan:** I have a question for the Minister of Community and Transportation Services. It is a follow-up to an issue I pursued with the Minister in December, but I was unable to get clear, definitive answers at that time. In the light of today's announcement, can the Minister advise if the changes to the Rural and Native Program announced today by CMHC affect only those future homes in the program, or do those 12 or 13 that have already been underway in the 1986/87 budget year now have their contracts altered to reflect the changes?

**Hon. Mr. McDonald:** I did give a very definitive answer the last time around. I am sorry he missed it. I indicated to the Member that there were contractual arrangements which were undertaken between CMHC and the home builder, and those contractual arrangements would not be broken unless that was done voluntarily. If the recipient of a housing unit under the Rural Native Demonstration Program wishes voluntarily to break or change the terms of their agreement, and I understand some of them are prepared to do that, then that would be satisfactory.

**Mr. McLachlan:** Are the two changes that are announced today by CMHC the only changes that will be made in this revision or is there still an ongoing process with regard to future changes as well?

**Hon. Mr. McDonald:** Those were the two significant changes the CMHC Board has agreed to. With respect to future changes, this is still a pilot project. There will be ongoing discussions with communities, and I understand that CMHC and Yukon Housing officials will be in Carmacks this evening to discuss future changes. The changes identified today were changes that the federal Minister and this government had come to agreement on — that CMHC and Yukon Housing had come to agreement on — to date and they alleviate many of the concerns the Concerned Residents of Carmacks Committee have made.

**Mr. McLachlan:** If the client should decide to sell the property before the 25 years are up to secure clear title, and the Yukon Housing Corporation exercises its right of first refusal and buys the home, in order then that the client get a fair deal for the work that he or she has done in going into the housing program, will the Corporation follow the same sort of procedure it does for the guaranteed buy-back program for employee housing?

**Hon. Mr. McDonald:** I am not as familiar with the buy-back program as I probably could be. With a little notice I could be.

The person's labour put into the unit will be taken into consideration, in any case.

#### **Question re: Agricultural land**

**Mr. Phelps:** I seem to be having a little difficulty getting straight answers to my questions on land. In an effort to obtain the cooperation of the Members opposite, I will ask two more questions.

I would like to read out a few of the recommendations that were made and ask whether they have been done. The first one is apparently being done. It has taken quite a long time and is not completed. That is the transferring of the agricultural applications to the Lands Branch of Community and Transportation Services.

The second one was that the government advise DIAND immediately of all applications currently on hand and subsequent receipt of new applications so that a priority request list may be established to avoid other late requests for the land taking precedence, such as the request for commercial leases, which fall under the responsibility of the federal government. Has that recommendation been implemented by the government?

**Hon. Mr. Porter:** The prioritization with respect to applications has been done. I am not aware whether or not this has been communicated to the federal government. I will undertake to determine whether or not the federal government is aware of the application priorities that we have put forward. I suspect they are, simply because they are involved in the process.

**Mr. Phelps:** I will look forward to the answer from the Minister. As a fourth recommendation, we proposed a time limit be established to process applications from date of submission to final submission. We believe this time limit should not exceed 60 days. This is ample time for whatever consultation process to take place with the government.

Are they going to or have they formulated the policy where the turnaround time would be 60 days, as per this recommendation?

**Hon. Mr. Porter:** I cannot address the question in terms of the future consideration with respect to policy, but I can state that I have had discussions with various applicants under the agricultural program on this question of a 60-day time limit. There has been some concern expressed as to whether or not it would be a good idea to introduce this. Quite frankly, given the history of the ability for agricultural applications to take place in a very speedy process, if we adopted a hard and fast 60-day rule, the end result may be that many applications may be turned down, simply because of the various issues that they have to be consulted with throughout the review process.

I think that there should be a timeframe looked at, but as to whether or not it would be 60 days in the end result is questionable.

**Mr. Phelps:** Will the Minister then look at and adopt a timeframe and report back to the House as soon as that policy has been arrived at?

**Hon. Mr. McDonald:** If the Member is referring to a timeframe which encompasses all levels of discussion directed to the federal government, we could attempt to do that. Because we do not control all of the players, I think that any timeframe that we might develop may be ignored by the other level of government, whose land we are seeking. We already try to make consultation with individual groups as quick as possible.

#### Question re: Agricultural land

**Mr. Phelps:** The answer is very clear to me that the government rejects the Board's recommendation.

Throughout this process, we recommend that the applicant be kept informed at all times as to the disposition of his application, and that the contents of the application remain confidential unless the applicant consents otherwise. Has the government done anything to implement that recommendation?

**Hon. Mr. Porter:** Yes. As I indicated in an earlier answer, we have moved to computerize the applications that are on file. Because of the computerizations of the applications, the applicants do have ready access to the status of their applications.

One of the major complaints that they had in the past was that they would go to the department and have a difficult time in ascertaining in discussions with the department as to what stage the consultation process stood. We find that with the computerized process, that is no longer a major concern. The consent of the applicant is a policy that we would adhere to.

**Mr. Phelps:** The sixth recommendation was that the applicants be allowed to meet with government committees or individuals to explain their application should questions arise. Has that been fully adopted implemented by the government?

**Hon. Mr. Porter:** To my knowledge, no. In the process, there has not been a policy decision on allowing the applicant to meet with whomever or whatever committee in government that is considering their application.

**Mr. Phelps:** Is the government going to be changing its policy to accommodate the sixth recommendation?

**Hon. Mr. Porter:** I cannot speak for the future policy direction on this question, but if we got into a situation where each of the applicants is allowed, for example, to appear before the various committees concerned with the application, we may not be expediting the process but, rather, through the layering of the process, be bogging down some applications.

#### Question re: Agricultural land

**Mr. Phelps:** The seventh recommendation is that during any consultative process with an Indian Band in the area of concern an applicant be present during the consultative process and that this not take more than one week in total. What is the government's position regarding that recommendation? Has it been implemented? Does it disagree with the recommendation?

**Hon. Mr. Porter:** With respect to the question of having the applicant present during discussions with the band, I have always personally believed that those discussions would be advantageous and I felt that should applicants initiate on their own such

consultations, it would clear the way to speeding up the application process.

As to whether or not we have implemented that as a policy statement, the answer is no, that has not been implemented as a policy statement. I think the consultation process and involvement of the applicant and the concerned band is a good idea.

**Mr. Phelps:** With regard to a time limit in the recommendation from the Yukon Livestock and Agricultural Association, it was one week, but does the government foresee a time limit, and, if so, what would be a reasonable time in the government's opinion?

**Hon. Mr. Porter:** This brings us back to the earlier question with respect to the 60-day turnaround time from receipt of application. Again, I would like to express my reservations about adopting a firm time limit because a typical applicant may in the process be consulting with 12 different entities — trappers, outfitters, bands, other land holders, the federal government, federal departments, fisheries, forestry and it goes on. If we were to be very rigid in the time allocation for consideration of an application we may not be doing a service to the applicant. Maybe an idea would be a time limit for a specific review and, if a decision were made, then an appeal process to reconsider the application outside of the time limit. That may be something that can be considered for the future.

**Mr. Phelps:** I am just not clear on the answer. Surely there ought to be some time limit after which a decision has to be made by government if consent has not been given with respect to the consultation with Indian bands in the area. Is the government disagreeing that there ought to be some kind of time limit in place?

**Hon. Mr. Porter:** Again, because of various impacts, the rigidity of time limits may not be workable. This is a new industry and we are dealing with applications for many lands that have existing uses. To adopt a very rigid system may be putting the applicant in a situation where, because we simply cannot clear a particular hurdle, we reject the application. In the end, that may result in rejection of many applications. Flexibility is a word with which to approach these applications.

#### Question re: Tagish cemetery application

**Mr. Phelps:** I would like to go to a specific problem relating to land. It has to do with the Tagish Cemetery application. My understanding is that they are becoming frustrated because not much is happening. They would like the department to conduct its survey now, even prior to the land transfer. My question of the Minister of Community Services is whether his department will go ahead with the survey and urge the government to speed up the transfer of lands that have been on the shelf for some time.

**Hon. Mr. McDonald:** It is the case that this particular parcel of land has been on the waiting list for some time. We have sent it FEDLAC. They have approved it. The transfer is in process, and we hope to see the land transferred to Yukon shortly.

**Mr. Phelps:** I guess the issue is with the good weather to get the survey into process. Since there is money allocated for that survey, would the Minister look into this and try to get that going before the transfer is made?

**Hon. Mr. McDonald:** It is not generally done, except for the Chootla subdivision, that we would spend money improving a property until such time as the land transfer has been undertaken. If we perceive no technical problems whatsoever from the federal government, we will invest money to develop the property.

#### Question re: Land claims, overlap policy

**Mr. Lang:** With respect to answers that the Government Leader gave to two questions, one that was put yesterday and one the previous day, pertaining to the Kaska Dena Council Statement of Claim in the south Yukon, which will affect 10,000 square kilometres of Yukon land.

The question that was put to the Government Leader was whether or not he had read the Statement of Claim, which is going to have a very important impact, one way or the other, on the Yukon. Could the Government Leader tell us today whether or not he has read the Statement of Claim?

**Hon. Mr. Penikett:** No. As I told the House previously, I

asked the people who are competent to read legal documents to read this legal document.

**Mr. Lang:** I find it surprising, in view of the fact that the Government Leader made a public statement on the matter shortly after it was filed, as if he had read it.

Is it the Government Leader's intention to read the document?

**Hon. Mr. Penikett:** I have no objection to reading it. It may surprise the Member opposite to know that I do not read completely every important document that comes into this government. That is why we have Departments of Justice; that is why we have lawyers; that is why we have people who have certain skills that we retain to read and analyze and advise the governments on such questions.

It is my intention to have a look at the document. My experience of having read legal documents in the past is that I may not be able to read between the lines or have a very good understanding of exactly what is implied, because I am not trained in that area. I am perfectly capable of analyzing and making judgments on the advice that our lawyers will give us as to the contents and implications of such a document.

**Mr. Lang:** In that case, I think the Minister would have trouble sorting that out, because that would be legal advice given by his legal people.

I believe the issue is important. The people whom I represent believe it is important. When can we expect a decision by the Minister's advisors that he could report back here? When will a decision be taken whether or not this government is going to stand up on behalf of Yukon and intervene in the proceedings that are going to follow, in view of the declaration?

**Hon. Mr. Penikett:** This government is already standing up on behalf of the people of the Yukon, and we are going to be protecting Yukon's interests.

I have already indicated that we will be conducting certain kinds of consultations and taking counsel. We will be talking to the Kaska Dena people. We are talking to the federal government. We have also talked to the Council for Yukon Indians. We will be carefully assessing all our options and the implications of those options before we take steps.

I am advised that there is no dire urgency about us taking a stand. The possibilities of us intervening are very much open in the next little while. When we have made a decision after carefully analyzing all the facts, I will be announcing the decision to this House.

**Question re: Commission on Indian Education and Training**

**Mrs. Firth:** The Minister of Education was good enough to provide us with the new Terms of Reference on the Commission on Indian Education and Training. Upon reading them, I have made note of the changes. There are changes in the Commission Management Committee regarding the monthly meetings to give direction to the Commission in writing as determined necessary by the Management Committee. Can the Minister tell me what kind of direction that would be? Could he give me some examples? Is it something very specific that the Committee would be directing the Commission to do?

**Hon. Mr. McDonald:** This is a measure that I would anticipate being used very rarely if ever at all. It arose from the difficulties that had arisen before with the previous Commission, that we were not in a position to help resolve disputes among Commissioners.

We have made this decision jointly to provide ourselves with this very specifically worded authority so that we will be in a position to resolve any disputes that may arise in the future. I would hope that this provision would not be used. In any case, any decisions would have to be made jointly and in full knowledge of both parties.

**Mrs. Firth:** Yesterday, the Minister admitted that the Commissioners could change the final report after having met with the Chiefs and after the Chiefs having presented their arguments. I have the *Hansard* text if the Minister wants me to quote it. He did say that the Chiefs would make their arguments and present their case. If the Commission deems that to be so, I am sure the changes will be made, but that would be up to the Commission.

Since the function now of the Management Committee in giving direction would be to resolve disputes, would the Management

Committee be resolving any disputes that may arise between the Commission and the Chiefs in the event that there were to be changes made?

**Hon. Mr. McDonald:** No, I doubt that very much. The Commission is entitled to change its report and recommendations of any kind until such time as it presents and tables the report with us. I would find it very unusual, highly unlikely, and most improbable that the Management Committee would consider changing recommendations itself.

**Mrs. Firth:** Although the Minister says it is highly unlikely and improbable, the point is that there are still two interferences coming that have an ability to interfere or change the Commission's final report. How can he then maintain that the Commission is going to be an independent body when the bands can recommend changes and, now, the Management Committee can also referee disputes. There are two functions now that can interfere with the final report.

**Hon. Mr. McDonald:** As I mentioned yesterday, and I will make it even clearer today, the Board of Chiefs will provide input to the Commission as a significant interest group. They will not be dictating to the Commission; they will be providing information to the Commission. If the Commission chooses, it can act on that information. Equally, the Commission can come and speak to the Member for Riverdale South and, if that Member gives good arguments, then they can act on information that she proposes.

There is a guarantee in the terms of reference now that the Commission will, prior to the final submission, speak to the Chiefs. I think that is more than reasonable.

With respect to the Management Committee, I would find it highly unlikely, given that there has to first of all be joint agreement, that the Management Committee would change anything in the report. If it did so, it would have to do so in writing, and that correction would have to be made public.

**Question re: Commission on Indian Education and Training**

**Mrs. Firth:** I want to follow up on a comment the Minister made in reference to us, as Members, or I, having the ability to recommend changes. Does that mean that I, too, will have access to the report before it reaches its final stages, as the Board of Chiefs will?

**Hon. Mr. McDonald:** I would hope that anyone in the territory who wishes to have access to the Commission can speak to it. There is a guarantee in the terms of reference that the Commission will speak to the Chiefs, but anybody in this Legislature, anybody in the public, anybody in the Yukon Territory has a right to speak to that Commission.

**Mrs. Firth:** Speaking to the Commission and the question I just asked the Minister are two entirely different things. The Minister very specifically said that I would be able to have access and make recommendations, as anyone could.

It says very clearly in the terms of reference that the Commission will report to and discuss its initial findings with the Council for Yukon Indians Board of Directors prior to formal submissions of findings to the government and Council.

The way I understood it, the Minister said that I, too, would have the ability to do that.

**Hon. Mr. McDonald:** I indicated that any Member, anybody, can have access to the Commission. Prior to the Commission's report to the government, the Commission will speak to the Chiefs. That is what the terms of reference say. It does not prevent the Member for Riverdale South speaking to the Commission. If the Member for Riverdale South makes good arguments and knows her stuff and impresses the Commission so that the Commission feels that it should change its recommendations or alter them or create new ones, then that is her right and the right of the Commission. They can speak together as much as they like.

**Mrs. Firth:** I would like the Minister to tell me if I would have access to the report and be able to discuss the initial findings before the formal submission of findings are put to the government?

**Hon. Mr. McDonald:** That would be entirely up to the Commission in my view. I would doubt very much that the Commission would deliver its report to the Member before delivering a report to me. I think that would be highly improbable.

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

#### ORDERS OF THE DAY

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

*Motion agreed to*

*Speaker leaves the Chair*

#### COMMITTEE OF THE WHOLE

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

*Recess*

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

#### Bill No. 99 — Human Rights Act — continued

**Mrs. Firth:** I want to follow up on the regulations, not to get too involved in debate as we discussed them fairly thoroughly yesterday. I would like to know if the Minister could tell me approximately how long it would take to draft the regulations once the Bill is passed? When does he expect that we will be able to view them and interested parties, like the Chamber of Commerce, would be able to have access to them?

**Hon. Mr. Kimmerly:** The regulations will only be about procedures, so I would expect it could be done very quickly. The actual process of drafting would be, I would expect, several days, as a realistic estimate of the work involved. The consultation process would certainly take a lot longer. I can make a commitment here, and I believe I am safe in making it, that once the Commission has decided on recommendations and if the House is sitting, I can table them as draft recommendations. I have no problem with that at all. There is no reason for any particular secrecy about these regulations as they will be entirely procedural.

**Mrs. Firth:** I want to get something clear then. I know the Minister said yesterday that the regulations had not been drafted. Is his department in the process of drafting them right now? Is anyone working on them?

**Hon. Mr. Kimmerly:** No, we are not, and we will not be. The Commission will undertake that process.

**Mrs. Firth:** I understand then that the Commission will be drafting the regulations themselves. I could see that taking some time depending upon when the Minister is able to get the Commissioners in place and draft the regulations. Does the Minister expect that that could take quite a long time?

**Hon. Mr. Kimmerly:** I really cannot predict with any certainty, but it appears to me that the actual drafting will be done by a lawyer after receiving instructions by the Commission. I would expect that that drafting process would take two days or so. It would not be a very long and involved process.

It is possible to get the Commission going and even proclaim the Act without any regulations as they are not crucial; they are only procedural. I would expect that the Commission would look at those regulations that currently exist in the various provinces, which relate to procedures and adopt the options that they like. That is certainly an appropriate way to go about the process.

**Mrs. Firth:** I guess we will just have to wait and see what the regulations will bring. The Minister keeps insinuating that the regulations are not going to be important or crucial and that they are only procedural. Since we are not going to see a draft of them for a while, I will wait and see what happens when we do get them.

I would like to talk about the staffing complement and choosing the Commissioners. Yesterday, the Minister said that there were going to be two staff, a Director and a secretarial support person.

The two staff, I am assuming, include the Director and the secretarial support person. There are two people there, not four. Is that correct?

**Hon. Mr. Kimmerly:** Yes, that is accurate. There are two people. It will be up to the Commission, but I will make a public commitment here that I am not in favour of funding the Commission to more than two staff positions.

**Mrs. Firth:** Yesterday, the Minister said that the Director, who would be doing the investigating, would have the ability to hire assistants or further investigators if he or she needed the assistance. Is there going to be any limitation or restriction on how many people, and is that going to be included in the regulations?

**Hon. Mr. Kimmerly:** It will not be included in the regulations. It cannot be. There is no power to regulate in that area. Whether or not the Commission hires various experts to assist in particular areas, or extra help, or whatever they do will be entirely up to them. The control is that they will have a budget. The restriction will be the budget that is voted by this Legislature.

**Mrs. Firth:** For the budget that the Minister talked about yesterday, if we take the minimal number of people who will be involved in the Commission, I add up eight, more likely nine people. The Minister has indicated that the Commission will probably need someone to assist it when they conduct education and research on the principle of equal pay for work of equal value. I would anticipate another individual working there on a contract basis.

Where would the funding come from? Would it be out of that allocation of some \$75,000 that the Minister said the Commission budget would be?

**Hon. Mr. Kimmerly:** I anticipate that the Legislature will see a line item in the Justice budget, which is the funds granted to the Commission. That is where it will begin and end as far as the government is concerned.

The Legislature, in looking at that budget, would probably wish to look at the plans of the Commission and the particular budget that the Commission puts forward. Until that is known, it is impossible to answer specific questions. That would occur and should occur during the Budget debate every spring, I would suggest, in the Legislature. The Commission would not have any authority, whatsoever, to expend any public monies beyond what they are granted in the Budget.

**Mr. Lang:** At the outset, let us get our cards on the table. The reality of the situation is that the government has the authority to overspend providing they bring in a supplementary. If the Commission does go to the government for a supplementary, and if it is approved, obviously they have the authority to overspend. So, to give the allusion to anybody who is listening that they are given a finite amount of dollars beyond which they cannot spend is not an accurate statement. Steps can be taken to increase that amount of money in the middle of the year, and this side knows it.

It concerns me when I hear the Minister saying, "Well, I will make the public statement here that there will be only two people involved, and it is on the public record." The concern from this side is the number of public statements that have been put on the record and perhaps not in these Chambers. In one particular Select Committee Hearing we were told, and there was a group of about 200 people if I recall correctly, that this particular piece of legislation would be implemented within the existing complement of staff with, perhaps, the addition of one person. The Minister of Justice is the individual who made that statement at that time; that was a year ago.

We were told, and I have no reason to doubt it, and I would like to hear what the Minister has to say, that he was asked the question in either Dawson City or Elsa how much it would cost, in totality, to implement and enforce this legislation. The figure of \$200,000 was allegedly put forward by the Minister. Is it true that the Minister stated publicly that he felt, at least initially, that it would cost \$200,000 to implement the legislation that we have before us?

**Hon. Mr. Kimmerly:** The statement that was referred to was made in Mayo by myself. It was not made about this Bill, it was made about the previous Bill No. 58. It remains to be an accurate statement about this Bill. We now have on staff, and have had even

under the previous government, a person who was working primarily on human rights. There is now actually a contract or casual position on staff — I am not sure which — who is running the Information Office, and there is secretarial support. After the Bill is passed and the Commission set up, those expenditures will not be necessary in the Justice Budget at all and will be deleted.

I made a statement in Elsa, and it was before the green paper was introduced, about the cost of implementation of what would have been the scheme under Bill No. 58, and I said that the cost would be no more than \$200,000. That was reported in the media, but slightly inaccurately. The figure was right, but the statement was made about the previous Bill No. 58. The cost of the Commission will involve various factors, and those things have not been decided by the Management Board for introduction in this House and debate in the next budget. The plan is that there will be money for up to two people, which will undoubtedly be two people.

<sup>19</sup> That is \$70,000 to \$80,000, and a figure for public education, but not money for additional staff. It is a fund for public education and the administrative expenses like office space and whatever. The amounts of money are not known, and they cannot be known until the Budget is approved by the Management Board and is introduced in the House.

We are looking at two positions. We now have one position that is using clerical support, and the present jobs within the Department of Justice will disappear. As to the additional cost, after this year it may even cost less because of the cost of the development of the Bill and the public information campaign this year. However, I do not know specifically. For obvious reasons, the Budget is not set.

**Mr. Lang:** Could the Minister explain to me why he said it was going to cost in the neighbourhood of \$200,000 to implement this legislation if the Budget has not been set?

**Hon. Mr. Kimmerly:** I did not say that it was going to cost in the neighbourhood of \$200,000 to implement this legislation. I have been very careful not to mention a specific figure. The reason for that is that that decision will not be made by me; it will be made by the Management Board. However, I did say that the scheme that was proposed in the Old Bill No. 58 would cost under \$200,000.

**Mr. Lang:** Once again we are having difficulty with issues brought forward by the other side. It does not seem that the homework is being done adequately or else information is being withheld. I find it difficult to understand how we could deal with a piece of legislation that has been actively, publicly debated for over a year, and the Minister has said that it will cost under \$200,000. That could mean \$1 or \$199,999.

This concern has been reported by the media. It has been raised to me privately. What are the intentions of the government? It is very difficult for us to pass a Bill when we are not given a figure within five percent or 10 percent of what the cost of the program is going to be to the taxpayers who we represent.

<sup>20</sup> That is the difficulty we find ourselves in when the Minister across the way says pass the Bill and trust me. We have been to various programs. We have seen public statements made. I was at one where it was said to everybody there that there was going to be one individual and it was going to be chiefly within the complement of staff that we have. The distinct impression that was left was that the director who was involved would be the position that is handling these kinds of complaints at the present time.

We recognize that he has to go to Management Board, but there must have been a Cabinet document drawn up giving the financial implications involved in proceeding with legislation at this time. The financing figures will not be a surprise to the government. They had to be fully knowledgeable of them. I know how these papers are drawn up.

To the Minister's knowledge and understanding of the Bill, which he has provided for debate today, what is the estimated cost for implementing it?

**Hon. Mr. Kimmerly:** There is nothing unusual about this. The homework has been done in a very detailed way. It is not possible to give a precise figure. The reason why is that the figure for public education, as an example, has no approval and no authority behind it at all at the present time.

I can say, which may comfort the Member opposite, that the

Justice Budget is approximately 8.5 percent of the overall government Budget. It has been consistent at approximately 8.5 percent over the past five years. After this Bill is passed, that percentage will not be increased. There will not be an increase for Justice generally, which involves the police and the Corrections Centre and the regulatory agencies in Consumer and Corporate Affairs, and soon-to-be Human Rights. There will not be an overall increase as a percentage of the overall government's O&M Budget. It will remain at approximately 8.5 percent.

**Mr. Lang:** The Minister must think we are really stupid. I did not ask for a debate on the overall costs of the Justice Department, nor are we here to debate why there is going to be an increase of 8.5 percent to the Justice Department Budget, which is going to be tabled here a couple of weeks or a month from now.

I am here to ask about human rights. I have heard that the cost is going to be \$200,000. We come to this House and ask the Minister a direct question, and he does not know. I have given the latitude and the leeway in my questioning for the Minister to give us what he deems to be an approximate figure. If he is telling me that he is going to stand up in this House and say there shall be a public education program, and if he is telling me that the Cabinet or Management Board is going to turn that down, when we have a piece of legislation that does not say "may", as far as the operation of the Human Rights Commission is concerned, but says "shall" promote and do an education program, and if he is telling me that the Management Board is going to turn back whatever that amount of money is, he knows and I know that that can only be called baloney.

<sup>21</sup> Now that we have dissected this and we have gotten to the point where we know that the government must have a figure in mind, prior to the passage of this Bill, the government has a responsibility to come clean. What are we trying to hide? This is the open government. This is the government that wants to consult. This is the government that is more than prepared to listen to people, although they may do exactly what they were going to do in the first place.

The government has stated over and over how open and public they are prepared to be with their government policies and with their financing. Does the Minister think it is fair for him to tell us that it is none of our business how much it costs? Could the Minister please tell us what this program is going to cost the taxpayers within 5 percent or 10 percent?

**Hon. Mr. Kimmerly:** The Member opposite may have mis-spoke himself, but he talked about an increase of 8.5 percent in the Justice Budget. That is not accurate. The Justice Budget will not be increasing. It is approximately 8.5 percent of the total government's O&M Budget. That is 8.5 percent of the total figure in the Budget. These figures change every year.

I answer yes to the question of fairness. It is fair to have a discussion about costs. However, it is not fair to have a discussion about the particular detail that can only be given in the Budget. If I were here announcing the expenditures that I expect in the next Budget, I would be properly criticized for revealing figures in the Budget that are not submitted before the House yet. I simply cannot do it in any event because the next Budget is not fixed.

However, the Member opposite makes a point. He says that because the legislation puts a duty on the Commission to have a public education campaign, the Management Board could not reject the Budget that is put forward for that program. The Member opposite used the word "baloney". That is a colourful word. The words I use are "that is just false"; that is wrong, that is not the case.

The statutory duty is to carry out an education campaign. That can be done with no money, although I expect that it will cost some money. I am absolutely confident that the amounts will differ in the years to come. I am absolutely confident that the Management Board of the day will look at those figures and prioritize them on the various program. Some years it will be healthier than others.

<sup>22</sup> I am absolutely confident of that. That is clearly the process of government budgeting. It is very clear what the government expects in terms of costs. We expect, in terms of fixed costs, two staff positions and the office accommodation for those positions. The



honouraria for the members is a very small amount, perhaps \$2,000 in a year. Those are the fixed costs. The other costs are discretionary. We are expecting that there will be a fund for education. I fully expect that the budget for education will be very much lower than the amount passed by this House for the last year. I would expect it to be less than half of that amount. However, I simply do not know because that is a Management Board decision.

**Mr. Lang:** I find it difficult to debate an issue when I have a Minister who is charged with the responsibility of directly answering the questions put from this side. He admits that it is a legitimate question to ask how much it is going to cost to implement the program that is going to have to be put into place with the passage of a Bill of this kind. Instead, the Minister stands up and talks about an 8.5 percent increase in the total budget. That was not the question. The question was clear, succinct and to-the-point. How much is it going to cost, in total, to implement the program that the Minister has envisaged? For him to hide behind Management Board is totally and absolutely inappropriate. The reason I say that is because we are dealing with legislation that is going to add a major cost to the taxpayers of the Yukon Territory.

I recognize that a budget will have to be submitted and approved. I also recognize, which the Minister skipped over very quickly and did not even refer to, the fact that when a decision is made by government, and this must have been made by Cabinet, to go into a program, along with that would have to be an estimated cost factor associated with the total program.

What we have here is totally misleading. We have the Minister standing in this House saying the program is going to cost "in fixed cost" \$70,000 to \$80,000. The reason I say it is misleading is that that does not encompass the total cost that will be incurred by this program. Because of the Minister's mastery of the English language he uses the word "fixed".

<sup>23</sup> He is giving the impression to the public that it is going to cost \$70,000 or \$80,000, trying to imply that it is within existing funds, which it is not. The money that was voted for the propaganda campaign was a one-shot deal. It was not an ongoing cost. It was seen as a one-time expenditure. Now he is saying we could do it for half what we voted last year. Talk about economic voodoo and financial management.

The Minister slyly smiles to himself and says to himself, everything I have said is accurate according to the English language. I asked a very straightforward question. I am not leaving this until I get an approximate answer. I want an approximate answer, knowing the budgetary process, knowing that a budget will have to come down. I want to hear, on the public record, the approximate total cost of this legislation and the implementation cost. What is it going to cost?

Are we looking at \$200,000, within 10 percent either way? Are we looking at \$150,000? I will not accept his assertion that he does not know. He does know because of the fact that he has to go through the internal mechanism of government in order to get the necessary approvals. One of those is financial. There must have been some costs put down to say this is what it is going to cost.

Could he give us an approximate answer? I do not want a bunch of double-talk.

**Hon. Mr. Kimmerly:** The Member said, again, that there would be an 8.5 percent increase in the Budget. I say, again, there will not be an 8.5 percent increase in the Budget. There will not be an 8.5 percent increase in the Budget. I hope that I do not have to say that again, but I will if necessary.

The possibility exists that this legislation could be passed and there could be no staff. That is a possibility. That is not what I would expect at all. I would expect there will be two staff. The expenses for those staff will be \$70,000 to \$80,000. I am not trying to leave anyone with the impression that that is the total cost. I am saying that that is the cost for two staff members.

The costs are entirely dependent upon the degree of activity of the Commission, and they can change, exactly like any other program.

The Member said that I was trying to imply that the expenses could be absorbed, if you will, by existing funds. I am not trying to imply that. I am saying precisely that. I am saying that the Justice Budget is approximately 8.5 percent of the overall Budget of the

territory, as far as O&M goes.

<sup>24</sup> That figure is going to be maintained. There will not be an increase in that figure. We are not going to up to nine percent because of this legislation. There are costs that have been ongoing and were ongoing under the previous government concerning the development of this legislation. Those things will no longer be necessary.

I cannot precisely answer the question with an exact dollar figure. During a Budget debate, I can. I can answer it to the penny. During this debate, I cannot. I simply cannot. The costs are flexible from year to year. We have analyzed what costs are necessary, and we have determined that we can put this legislation in place without an increase in the percentage of expenditures for the Justice area. We can do that.

**Mr. Lang:** I want to express my disappointment that the Minister would attempt to take the debate in such a manner that he does not feel that he has a responsibility to give us an approximate cost of this legislation when it is implemented. For him to say that he cannot give us a precise figure is accurate because he does not have the Budget tabled in the House.

I have asked for an approximate figure of what he deems is going to be necessary to run this program for 12 months. I did not ask for a lesson on the financing of the overall government. If the Minister wants to talk about 8.5 percent, we can talk about 8.5 percent of what the total figure is. That is going to determine the number of dollars the Department of Justice is going to get this coming year, if that is the rule of thumb that the government is following in the Department of Justice.

That could be a very major increase if it is 8.5 percent of \$300,000,000 as opposed to 8.5 percent of \$200,000,000. All we are asking for is a very simple answer from the Minister. I did not think we were going to get into this kind of debate. I thought the Minister would say that he is estimating, for example, \$100,000 for the running of the Commission for 12 months, or \$80,000 or \$50,000. I think it is a valid question.

<sup>25</sup> We have heard the Minister in the public forum in Whitehorse saying that it was going to be a maximum of one individual enforcing the legislation. We have heard the figure of \$200,000 by the Minister's own admission, up to \$200,000, in a public forum in Mayo. So what is wrong with telling us what he feels it is going to cost? Or is he embarrassed? Is there something hidden in the figures that we should not be made aware of? My question again, and I will try to make it simple, and I have tried to explain what I am looking for, is that I want an approximate figure brought forward by the Minister saying, in his judgment, what it is going to cost, in the neighbourhood of whatever thousands of dollars, and that it will be subject to Management Board approval.

I will let him out of it. I will give him a caveat that if he comes back with \$10,000 less or more that I recognize the prerogative of the budgetary-making process. So my question is this, very clearly and concisely: could the Minister give us an approximate total figure of what he feels this particular program is going to cost in a 12-month program, subject to Management Board decision and budgetary process?

**Hon. Mr. Kimmerly:** No, I cannot be precise about that.

**Mr. Lang:** I will give the Minister an out. I have asked him to be approximate.

**Hon. Mr. Kimmerly:** Something in excess of \$70,000.

**Mrs. Firth:** I know that when legislation is brought forward an analysis is done, and legislative review processes are done, on the financial and person-year implications that that legislation is going to have on the government. I am sure that the Minister or his department officials would have done that because it is irresponsible to bring a piece of legislation forward to this Assembly without having done that analysis. I know that the Minister does his job responsibly.

There are a lot of costs that are not upfront. I appreciate what the Minister is saying about the \$70,000 to \$80,000 for the staff and the office. However, the director has the ability to hire assistants. We do not know how many the director can hire or at what salary range. They can ask for an assistant who is in a \$30,000 a year bracket or they can ask for one at \$70,000. It is a problem we had

in the Joint Commission on Indian Education and Training, where the Chairperson ended up getting a very large salary because of the position he held. That is a hidden cost.

There are other points that have not been clarified because of no regulations that could help cost implications. If the Minister could just tell us what kind of financial impact he presented to his colleagues when he did his analysis of the legislation, I think that the Member for Porter Creek East, I and the other Members of the Official Opposition would be satisfied that some responsible review of the cost factor has been done.

<sup>26</sup> **Hon. Mr. Kimmerly:** As the previous Ministers across the way well know, there are estimates made of these kinds of things. It would be extremely unusual to proceed otherwise. As they probably know, they are generally done in various options. For example, it is possible to spend an absurdly large amount of money on virtually any program. It depends upon the various options chosen.

The level of funding for, for example, the education campaign has not been decided. It could be fixed at \$5,000 or \$10,000. It could be fixed at \$50,000. What it will be will be decided in the budgetary process of today. I can assure Members here that there will not be an overall increase in the Justice area. I can assure Members of that, so that there is no reason to fear very large expenditures that involve cuts elsewhere or additional revenue, or anything like that. That is not going to occur.

**Mrs. Firth:** I recognize what the Minister is saying; however, surely in all sincerity, he does not expect us just to accept that point blank. He would not have when he was in Opposition. I know that, because I have been subjected to the Member for Whitehorse South Centre's cross-examination and scrutiny.

Our concern is that we have no regulations to lay out specifics; the Bill does not lay out specifics — I am talking strictly in the terms of costs now. Our expectation would be that, because it is a new Commission, an education program could possibly be quite extensive. You are not going to start a new Human Rights Commission and shortchange the education end of it. You want to make people aware of the Commission. This is the direction the government was coming from, was that people did not know that they could come to the government with their complaints, they did not know what discrimination was, and so on. Part of the educational program was to inform people about whether they were being discriminated against or not.

In all practicality and logic, I would expect that the startup costs for the Commission would be the larger cost. I can see it possibly tapering off as the years go by and the education programs get well on their way. However, I must make the point that the trend in other provinces has not been that costs go down. It has been that they go up, because the Commission finds other areas to promote and other things to do and requires more staff. Before you know it, the Commission's coming to the government and asking for more money. Most times, the government finds itself in the very awkward position of having to say no to the Commission, because then an education campaign is started against the government by the Commission. It is a catch-22. It is a very critical question to ask with respect to the whole human rights legislation and the spending authorities and, like I said, the direction that the government is going to be giving regarding the allocation of funds and how much they are going to be able to spend and exactly how extensive the responsibilities and parameters are going to be that the Commission and director are going to have.

<sup>27</sup> Now I do not think the Minister is going to disagree with comments I have made. He may, but I know he has done his homework and has probably found the same things that I have in the history of Human Rights Commissions in other provinces of Canada and in other countries.

I would like to know from the Minister if he would expect that the costs are going to be greater because it is the start of a new Commission, and is it going to be the government's policy to provide whatever funding they can for the start-up and for the education program so they can get it rolling?

**Hon. Mr. Kimmerly:** It is not my intention to fund, at least in any large amount. I will say, very approximately, \$5,000 as start-up costs. These kind of programs develop over terms of years.

I am not saying that there are \$5,000 in start-up costs. I am going to repeat that: I am not saying there will be \$5,000 in start-up costs.

The question of costs is being focussed on here and the real answer is that the costs will be determined in the annual budget, and there is no guarantee in the legislation as to what the costs will or will not be. It is exactly the same as every other piece of legislation that does not guarantee in it the level of government funding. That is not in any way unusual.

The real question here, and perhaps it is a philosophical difference between the Conservatives and the New Democrats, is what degree of public funding is appropriate for public education about discrimination and human rights. As I understand it, the Conservative position is that there should not be any mandate for public education. That appears to be their position. Our position is different. They will correct me if I am wrong. In fact, I hope I am wrong, and we will see what the Conservative position is about public education for anti-discrimination and human rights. Our position is that that is a legitimate area for the expenditure of public funds. We are presenting legislation to this House that proposes the policy that there shall be a Commission, which shall spend public funds concerning education about human rights and discrimination. The degree of funding is entirely up to the Legislature as it determines its budget in every year.

<sup>28</sup> **Mr. Lang:** The Minister is very crafty. He does have the ability, because of his mastery of the English language, to try to divert the question at hand to other areas. The direct question was, "Approximately how much does the Minister think this program is going to cost for a 12-month year subject to Management Board approval?" That was the question.

Now, all of a sudden, we are talking about whether or not this side thinks there should be public education on discrimination. He is trying to shift the question over to this side. That will be a question down the road, but the question that was put to the Minister was, "How much does he feel is approximately appropriate to implement this legislation, subject to Management Board approval?"

He says he cannot do that because we are not discussing the Budget. We have had public announcements made when the House was not sitting. For example, \$367,000 for the Commission on Indian Education and Training; thousands of dollars for renovating the Nisutlin Drive for a dormitory. That was without budgetary approval, without the Legislature fixing the Budget. To have that red herring and to give the impression to the public and the media that all Members of the House will decide how much money will be put into this line item is in error and is misleading to the public.

The Minister knows that the government will present a Budget with the line item with the precise amount of money that will be allocated for this purpose, subject to supplementaries if there are increases.

Is the Minister embarrassed? Is something being hidden? Is there something that the public should not know, for example, how much this legislation will cost? This has been a matter of public debate in meetings that the Minister has attended. The problem is that the Minister has given different answers to this question depending upon the forum.

Now that he has had a year and a half of running around the Yukon ensuring that there was as much political turmoil mustered as there could be, why will the Minister not tell the people of the territory approximately how much this piece of legislation and the programs that will stem from it is going to cost annually, based on the projections that have been given to him by his department, which we know are in his possession?

<sup>29</sup> **Hon. Mr. Kimmerly:** I thank Mr. Lang for his compliment about my mastery of the language. What he is doing is without any mastery, particularly. He is blatantly trying to shift the question.

The announcements that have been made previously about various programs are made after the Management Board approves those programs. The Management Board has not approved a penny for the Human Rights Commission. It will not until after the Act is passed. I can announce nothing. I have no authority to announce a single penny.

As to the process, I can assure Mr. Lang that what will happen is

that I will advocate that we spend quite a lot of money on public education. I think it is a good idea. I think that we should do that. I am sure that my colleagues will not give me as much as I advocate.

The principle that we are debating here is what is in Bill No. 99 and what Bill No. 99 stands for. If it is passed, it gives legislative authority and direction to spend public funds on public education about antidiscrimination. The first question is: is this House for that or against that? We are for it. Where do you stand?

**Mr. Lang:** I really resent the pompous manner with which the Minister treats the questions that have been put forward by this side of the House on behalf of the public that we all represent. For him to stand up in this House and say, in effect, that it is really no one's business what this particular program is going to cost is totally inappropriate, when we know and he knows that he has financial projections of what the government thinks this program is going to cost.

I have gone as far as to say to the Minister that we understand it will be an approximate figure, subject to Management Board approval and tabling of the appropriate document in the House. When we stood up and asked a question of the approximate cost, I did not think we would be sitting in this House for over an hour asking the same question.

The side opposite will make the allegation that we are filibustering, that we are holding up the progress of the Bill. That is the allegation that will be made. Yet, we have to sit here, like pulling teeth, to get some information on behalf of the people we represent.

The Minister is saying to this side that he wants a blank cheque. That is what the Minister is asking for. He wants a blank cheque. Numerous times in the course of debate, he stands up here and says "trust me". He said, "I will go on the public record". My point is, we have seen him on the public record. We have had two or three different figures thrown out. For the purposes and finality of the debate, I felt that the government has a responsibility to tell the people of the territory, now, with the Bill in its final form, that the projected costs will be as follows.

<sup>30</sup> What is wrong with that? What is wrong with asking how the taxpayers' money is going to be spent and how much? It is not out of order. It is not out of order. I think it is a very legitimate question for the people of Whitehorse South Centre who, because of this legislation, are going to bear a minimum of a five percent increase in their property taxation according to the Mayor and Council in view of one particular principle included in the legislation.

The Minister says, "I want to argue with you on idealistic and philosophical grounds." We will get into that. That is no problem. I am sure it will be a very enlightening debate.

I would ask again, could the Minister give us and the public of the territory that he serves, and that we serve, an approximate figure that he feels this particular piece of legislation is going to cost in the first year?

**Hon. Mr. Kimmerly:** The Member opposite, Mr. Lang, has only one method of debate. It is traditionally called "say not the straw dog" and arguing against that. He has stated that I have essentially stated it is no one's business to know the cost of this legislation. I previously answered that question. I specifically said that that is certainly a responsible area and an appropriate area to debate, and an hour ago he acknowledged that I had said that. He has now forgotten, or worse. He has said I want a blank cheque, which is another way of saying the same thing.

Then he said, and I was listening very carefully, that the people of Whitehorse South Centre are going to bear an additional five percent property tax in view of one principle in this legislation. That is absolutely and totally ludicrous, ridiculous and false. Property taxes have absolutely nothing to do with this legislation. That is a ludicrous suggestion capable of absolutely no belief whatever.

The question here is the legislative authority that is in this Bill. The principle in this Bill is absolutely clear that it states that this Legislature, if we vote for this Bill, stand for the public policy that there should be public expenditures on a Commission on Human Rights in order to promote human rights in the territory and to discourage discrimination in the territory.

<sup>31</sup> The first question is: are we in favour of that or are we not in favour of that. After we have answered that, and the Conservatives are refusing to answer it, we can talk about the amount. The amounts will be discussed in detail in the Budget every year. In this case, for this Bill, I have said that the government is contemplating two staff positions at an approximate cost of \$70,000 to \$80,000, plus administrative expenses and a figure for public education that has not been set.

It would be quite irresponsible of me to say that that figure should be \$5,000, \$10,000 or \$20,000, because I simply do not know. The figure will be fixed in accordance with what is available at the time. I have assured Members here that the total Justice Budget, which will include this, will not increase as a percentage of the total Budget.

I did not say that the Education Budget would be \$5,000, \$10,000 or \$20,000. I did not say that. I am saying that we do not know what it is. It could be any of those figures or any other figure. If the Conservatives will not answer the question, "are they in favour or not of some public expenditure or a Commission on Human Rights", I would ask them to consider what the cost is of not having the Commission?

**Mrs. Firth:** Sometimes I do not know where to start with the Minister. When it comes to answering questions, if there is anything that the Minister is a master at, it is a master at not answering the questions asked. About his command of the English language and so on, I reserve any comments.

This is the point, and I want the Minister to take this in a constructive manner in which the debate has been proceeding. I find it very interesting that any time we ask a question about something in the House, we do not get any answers, and that has been the habit of the side opposite. We ask the question twice or three or four times. If we seem to be insistent upon getting an answer, the side opposite automatically refers back to that distasteful kind of debate where they say that the side opposite is against whatever we are talking about.

That is, as the Minister would say, wrong, and it is false. It is baloney, as the Member for Porter Creek East would say. The Minister knows that. He knows that. He has never heard us in this Legislature, in the public, on the radio or on talk shows ever say that we were against the concept of public education on human rights, just as he has never heard us say that we are against women when it comes to pay equity.

<sup>32</sup> There comes a very critical philosophical question here. The side opposite so vehemently attacks us for our opinions and our questioning as to exactly what kind of Human Rights Commission they are going to have, because everyone in this House has different opinions and different ideas. We are not able to express them without the government immediately standing up and saying, "Well, because you are expressing your opinion about the cost and the implications of the cost that this Bill is going to have on the public of the Yukon, you are against public legal education." Is that the kind of Human Rights Commission we are going to have? One that stands up and looks at people's opinions?

Can the Minister tell me something about his philosophical thought about that? Is the Human Rights Commission going to stand up and say, "You are wrong, and you have committed some discriminatory act because our opinion differs, or your opinion differs with mine"? That is just what the Minister is doing in this House. He is standing up and saying, "Because your opinions are different, and you have a different idea of how the government should be accountable, you are against something."

That is wrong. I think that is wrong.

**Hon. Mr. Kimmerly:** The question before us is about the public policy as to whether public expenditure is justified. The first question is: is it or is it not? I am not saying that the Conservatives are opposed to that. I have said that they have refused to say. Are the Conservatives for it or against it?

The implication that I took from the previous Member's remarks, was that she was for it, that the Conservative position is that they are in favour of public expenditure for public education on discrimination and human rights. That being the case, I say that that is the only principle that is in this Bill that is before the House. If

we are all in favour of it, then we should be in favour of that object for the Commission on Human Rights.

I understand that I am interpreting it correctly, and I think that is progress. Then we can go on to the next question.

**Mrs. Firth:** That is not the question before the House. The Minister is doing it again. A question has been put to the Minister and he is trying to turn it around and put a question to the Opposition. It is not silly, but is it really not necessary. I do not like to use the term silly, because it is rather degrading. That is not the question that is under discussion right now.

We asked whether or not the Minister could give us an approximate idea of what the financial impact was going to be on the Budget and on the taxpayer of the Yukon Territory.

The Member for Porter Creek East made a comment about the mayor telling him that it could have some impact on increase in taxes. It was in the newspaper; the mayor was quoted.

The Minister gets up and says it is ludicrous and all those other things he says. He is not even prepared to listen to our argument and our presentation.

<sup>33</sup> That is not a ludicrous argument. It was in the newspaper. I believe that the city is predicting that the cost is going to go up some \$200,000 a year because of the concept of equal pay for work of equal value. That is the financial impact it is going to have on the budget of the city. It is a public statement, and I think the Member for Porter Creek East was following up on that in saying that there were other costs that were going to be incurred, although they may not be to the O&M Budget to the Justice Department specifically. I have some feeling that the Municipalities are probably going to come to the senior level of government and say that they want these costs covered, that you are imposing the pay equity in your legislation so we do not want to have to raise taxes, we want you to pay it. Maybe they will raise the taxes because maybe this government will say no that they have given enough money. So the argument is not ludicrous.

The question here is not whether or not we are in favour of public education. That is not the question that has been put. The question has been put to the Minister: can he tell us how much money this piece of legislation is going to cost? Is the \$70,000 to \$80,000 the best scenario? Is the \$200,000 the worst scenario? What is the impact on the budget? Then we know what parameter we are working within, and that is all we have been asking the Minister.

**Hon. Mr. Kimmerly:** The piece of legislation has no figures in it at all, obviously. The best scenario is with no staff at all which would be quite legally possible, so the best scenario is in the neighbourhood of \$4,000 or \$5,000. The worst scenario is probably in the neighbourhood of \$200,000. It is in that area, but it is absolutely clear that there is no authority for me to say what the figure would be. The parameters are very well stated when I have given an assurance that the overall budgets will not increase.

The principle of the legislation is only that there should be a public expenditure program about public education. That is all that is in the Bill. I understand that the position across the way is to support that so that is all that is in the Bill. As to the amounts, the amounts will change year by year. The amounts are not fixed amounts. It could be as low as \$4,000 or \$5,000.

**Mr. Lang:** It could be as low as \$2.00.

**Hon. Mr. Kimmerly:** Yes, it could be as low as \$2.00, and it could be a much larger figure. The politics here are obvious. The politics are absolutely obvious because the Conservative opposition has been trying to delay and attack this Bill. That is something that every Yukoner believes, and the Members opposite give public speeches attacking the Bill. It is absolutely clear. The object is to be able to use the largest possible figure. Well it is unnecessary for me to actually give a figure because they use figures anyway, and I have heard Mr. Lang use very large figures in the past.

The question of the cost of the concept of equal pay for work of equal value is another issue, and I would suggest that we debate that on that line of the Bill.

<sup>34</sup> **Mr. Brewster:** The Minister keeps accusing us of attacking the Bill. I thought that that was what we are getting paid for. We certainly do not believe in the side opposite's philosophy. From the letters I have from people I do not know, from petitions that are

circulating around, it is quite apparent that other people do not agree either. It is my responsibility to attack the Bill. Whether I attack it in the House or outside the House is my right. It is the right of anyone to speak.

I am sick and tired of the Minister continually turning this around and saying that we are not playing the game squarely. He never played it squarely either. We talk about projected costs. The government has not looked at this. The village of Haines Junction is very concerned about what it will cost them, because they are going to have to raise their wages. These little places that have few taxpayers who are going to have to foot this Bill.

The Minister said that he did not see the paper where the Mayor of Whitehorse said it would take \$200,000 or a four percent increase in taxes to pay for equal pay. I suggest that there is a lot more expense to this. I am getting a little tired of him saying that they are always being attacked. We have a right to say what we want, and we are going to say it.

There are people of my age who have to turn our whole lives around. All the things that we were brought up to believe in are all of a sudden caving in around us. We certainly have a right to speak up, and we will be speaking up. People who have never politically spoken up before are now starting to speak up.

**Hon. Mr. Kimmerly:** I thank Mr. Brewster for his comments. The comments I have made are very clearly about the debate here. The only way that we can proceed on this issue is for the various interests and parties to express their positions and the reasons for them. We can talk out what is possible to talk out, and where we agree to disagree, we can vote and the majority will rule.

I am absolutely confident that the Member opposite and all Members will express their views. It is quite wrong to say that I am attacking the Members opposite for expressing their views. I am in no way doing that. I am attacking the views that are expressed. I am certainly doing that, and I will continue to do that just as others are proud of the way they attack the views I am expressing. That is all that we are attacking here, and that is exactly how it should be.

It is quite wrong to say that people will need to change their lives and to change the things they have always believed in. First of all, people will not do that. This Bill is in no way calling for that. It is only calling for people affording, not by their beliefs, but by their actions, other Yukoners basic human dignity. That is all it is asking, and that is the essential issue of this debate.

<sup>35</sup> **Mr. Lang:** There are a couple of things I want to put down here. I find it very disappointing. I had a very simple question about what this is approximately going to cost per year to implement. We get the Minister in his usual roundabout way telling us how budgets change year to year, et cetera. On this side, we know that the Minister has been given projected costs. We know that. That is a fact. That is nothing he is denying. We are asking for projected costs on how much this legislation, in one given year, would cost.

I would think that is a very reasonable request. We did not ask that question with the idea that we were going to have an hour-and-a-half debate on the principle of this particular piece of legislation, to sit here and talk about costs. The MLA for Faro will share this. How do you go into a business without projecting some costs in the forthcoming year, and the second and third year, to the point that the government, even with the consent of this side, has authorized programs where money is allocated to do feasibility studies to give some projected costs to see where we are going to go and how we are going to move with the legislation.

We were hoping for a constructive debate. We were hoping to get some facts on the table for the public to deal with, to say this is what it is going to cost, this is how it is going to affect me, this kind of debate. But, no, what do we get? We get a Minister who refuses to answer.

All I can assume is that the Minister is hiding something. How else could I interpret the essence of the debate that is before us today? What does the Minister see for projected costs in the next 12 months, subject to Management Board approval? What are the projected figures that he has been provided with and that he is comfortable with, that would totally implement the program that he, as the sponsoring Minister, as the government, envisages?

**Hon. Mr. Kimmerly:** The minimum is if no staff is hired, and it is a very low cost. If staff is hired, it would be in excess of \$70,000 or \$80,000.

There is no way that I can project a specific figure. The Member opposite has used figures in the past of several hundreds of thousands of dollars. He did say once that it could approach \$1 million. Those figures are wrong. It will never approach \$1 million, at least until the territory has many more times the population than it now has. The approximate cost here is \$70,000 to \$80,000 plus what the Management Board will allow for a public education campaign. That is the projected cost.

That public education campaign may be \$5,000 or \$10,000; it may be \$50,000. Those are general figures, but those are the projected figures. We can responsibly propose this Bill because we know, and I can assure the House, that we do not need increased funding within the Department of Justice to implement this Bill.

**Chairman:** We will recess for 15 minutes.

#### *Recess*

**Chairman:** The Committee of the Whole will now come to order. General debate continues.

**Mr. Lang:** At this stage, I am not going to continue on with the question of the costs. I would like to express my disappointment in that the government feels that they do not have a responsibility to tell the people of the territory what this legislation is going to cost, especially when both sides know that there is a projected cost available.

**Mrs. Firth:** I would like to get back to the regulations again to ask about some of the duties and responsibilities of the Director. In the previous Human Rights Bill, it was written out as to what the duties, the powers of investigation would be and what the parties of adjudication would be doing. Is that going to be written in the regulations for this Bill?

**Hon. Mr. Kimmerly:** No. It cannot be because there is no power to regulate in that area.

**Mrs. Firth:** I know that the Director is going to have a lot of discretionary power and a lot of authority. When the Director wants to do an investigation, what are the powers going to be? Will he just make them up as he goes along? What direction will he be moving towards?

**Hon. Mr. Kimmerly:** The Director obtains power through two sources. One is what is specifically stated in the Act and two is pursuant to 18(b), to act in accordance with the Commission's policies and directives.

The administration of the Act is controlled by the Commission. The Commission will direct the Director. We all know that the Commission will be lay people who will probably meet once a month. The day to day activities will be carried out by the Director. There is no real controversy about administrative details like renting space, looking after the payroll and paying the phone bills.

The policies of the Director are guided by this Act. As the Act is stated, they are general guidelines, and if the Director wishes more guidance or if the Commission wishes to give the Director guidance, it will be given by the Commission.

<sup>36</sup> That is the beginning and the end of it. There is no other power to give any other direction.

**Mrs. Firth:** If that is the case, then where do the powers come from for the Commission to give direction to the director under the Act?

**Hon. Mr. Kimmerly:** Section 18(b).

**Mrs. Firth:** I do not want to get specific and get into specific sections, but I do not read that as being very specific in giving directions, "carrying out in accordance with the Commission's policies and directives the administration of this Act". That does not tell us about the duties and responsibilities and parameters within which the director will be able to work, nor does it say the Commission can make up the duties or has the power to give direction to the director.

**Hon. Mr. Kimmerly:** The legislation is very purposely brief and general. The scheme here is that it is really concrete and clear that the power to decide the policies of the Commission is entirely

within the Commission. The Commission will supervise the director. The director will carry out the day-to-day activities of the Commission. A good analogy is the way a corporation works. The board of directors has power under the *Companies Act* to do everything, to direct everybody about anything that the business is involved in. The general manager actually manages under the policy control of the directors. That is the scheme that we have here.

**Mr. Nordling:** It is not entirely clear to me. I understand the Minister's analogy, but the powers of the company come under the *Companies Act*, and that Act is set by the Legislature and government. Is it the government that is going to limit and broaden the powers of the Commission from time to time?

<sup>38</sup> **Hon. Mr. Kimmerly:** I have already answered that question; the answer is no. The powers are found within the Act and the relevant sections to look at are Section 1, about the objects. The preamble is also important as the Member, being a lawyer, will know about. The specific powers or the specific policy in the legislation is in all of the sections but most practically Sections 6 and 7. The powers of the Commission are then in Section 15 and, as it relates to the director, Section 18. I think that is fairly clear.

**Mrs. Firth:** It is not clear to me. I do not want to sound like an echo of the Government Leader, but I am not a lawyer and so I read this Act as a layperson in the intention that it was written. That does not satisfy me, and I raised this yesterday as a concern. The Commission has a lot of discretionary power and when I asked specifically about how they were going to make judgments, the Minister said they would be acting on persuasions and then they could modify it to be applicable to the Yukon. What about the direction that it is going to give to the director? I am not clear, from any of the clauses that the Minister has mentioned, that there are any parameters given on the Commission as to what they can do, and the director simply has to respond to the policies and the directions of the Commission. The clause that the Minister mentioned, I believe it was 18, was for the Director of Human Rights and said that the director shall be responsible to the Commission for carrying out the administration of the Act in accordance with the Commission's policies and directives. I do not see anywhere where it says what the Commission's policies and directives are going to be. Can any policies and directives to achieve the objectives of the Act be acceptable? Is it that wide open?

**Hon. Mr. Kimmerly:** Essentially, yes. It is the power and the duty and the responsibility of the Commission to carry out the objects of the Act. The objects of the Commission are in Section 15 and they are generally stated, they are widely stated, and that is the policy direction that is given to the Commission by the Legislature. <sup>39</sup> I would say that that is entirely appropriate. This Legislature should specify what the general public policies should be. The more detailed way it is carried out should be under the control of the Commission. If the Commission went beyond the objects of this Act or the definitions in the Act, then they would have no authority to do that. It would then ultimately fail.

**Mrs. Firth:** The objectives of the Act and the silent powers of the Commission, or the all-encompassing powers of the Commission, the total discretionary power and total free rein give the Commission the ability to do anything. Can the Minister give me an example of how he would see the Commission going beyond the objects of the Act? I cannot think of an example immediately.

**Hon. Mr. Kimmerly:** I cannot either. The public debate has been loud about the Commission. On one side, the position is that there should be a Commission to enforce our policy about human rights. On the other side of the debate is that there is an all powerful Commission with total free rein. I am quoting the phrases of Mrs. Firth. Those positions are put before the public as antagonistic positions.

The Members opposite object to me asking them questions so I will not ask. I will phrase it another way. The way we can proceed here is to state our positions about what is appropriate. It is, I suppose, conceivable to write a long piece of legislation to talk about the Commission's power to supervise the Director in particular ways.

40 Something like the *Public Service Commission Act*, or something like that Act which, I believe, is 50 or 60 pages. We could do that. That is possible, but I would say that that is totally inappropriate for this legislation. The object of the legislation is to state a public policy about the tolerance level that we will support in the community, in Yukon and to, in clear lay person's language, identify those areas in which people cannot discriminate. That is what we have done. If we do anything else, it becomes lawyers' legislation: a long Bill that is practically impossible for lay people to read.

There is no compelling reason to put in multi-sections about the way the Commission should supervise the Director of Human Rights.

**Mrs. Firth:** I know the Minister is doing it again. I think I am becoming wise to him as the debate goes on. I was expecting it not quite this soon, but he has done it again. He has no argument to present as to the free rein of the Commission, and so on. He is now accusing me of trying to create some kind of public controversy or build a straw man or straw dog or whatever the Minister was saying. That is not my intention.

I have been asking responsible, legitimate questions about the regulations. I would have expected that that kind of definition would have been in the regulations. That was where I anticipated seeing it. I expected that to lay out the procedures. I cannot see how we can know nothing about the duties of the director other than the Commission is going to set these and that the director is going to be responsible to the Commission. Who are the parties to adjudication going to be? I do not know who is going to determine that. I cannot tell. I do not know where that would be found. The Minister will say it is under three clauses of the Bill, and that is fine. I will read the three clauses and it will again be very open-ended.

I am trying to understand the Minister's Bill and the direction that the government is coming from and the powers of investigation that the director is going to have. I thought the Minister could have given us some indication of what the government direction was going to be, either in the form of regulation or what the procedure was going to be. I know that the government is not supposed to tell the Commission what to do, so the Minister does not have to get up and tell me that again.

41 So, in order not to create any controversy or build any straw creatures, can the Minister give me some reassurance that the Commission is not going to be a free-reining Commission because I perceive it to be so. I think that the Minister recognizes that it is open-ended if he cannot think of any instances either where the Commission would overstep the bounds of the objects of the Act. We all know that objectives are very broad and not specific or procedurally oriented, so I look forward to hearing what the Minister has to say. I hope the Minister will get back on line to the constructive debate and not accuse me of doing something I am not doing.

**Hon. Mr. Kimmerly:** There are essentially three major points that I was able to glean. If there were more I will be reminded, I am sure.

The parties to the adjudication, if there is to be adjudication, are the Commission and the respondent; that is, the Commission and the person who is alleged to have discriminated — not accused, because it is not an accusation here. If it is a discrimination, that is not an offence, that is not part of this Bill at all. So, those are the parties.

As to the power of investigation, the director has the powers that are listed in the Act, has no other powers, and there is no power to regulate or to acquire additional powers. Also, as to the powers of investigation — I would quote the numbers but they are easy to find — the major one is Section 31, which is the power that you see in other Acts, usually as search and seizure or the ability to search or to search under a search warrant. There is no power to search and seize. There is no power to search. So the investigation would be entirely consensual until the point that the investigators, if they reached a point where the person or entity being investigated refused to consent, could only go to court and convince a judge to make an order for the person to produce a document. This is not novel. It is unusual in this kind of legislation because in every

single province there is a power of search and seizure, but not in the Yukon.

42 This provision was copied from the *Employment Standards Act*, which was passed under the previous government.

I will answer the question of overstepping the bounds of the Act in a different spirit. The way the question was phrased the second time was slightly different. An example would be if the Commission decided to prosecute an accused person for a crime or an alleged crime under the *Criminal Code*, that would be an example of the Commission overstepping their power. They have no power to do that. It would not proceed. That is an example.

The duty of the Commission, when they receive a complaint, is to try and achieve a settlement. The experience of Commissions around the country is that that process is a very successful one. Agreements are made very often. It is less often that agreements are not made, and the matter is adjudicated by a Board of Adjudication.

**Mrs. Firth:** The last point that the Minister just made, I believe, is a good attempt at citing an example. I believe, however, that there are clauses in the Bill that prevent the Commission from doing that anyway. It specifies the basis upon which the Commission cannot proceed, so it does not really address the question I have about the objects of the Act.

I still cannot see where it says in the Bill — and maybe it will be put in the regulations — that the parties to adjudication are going to be the Commission and the respondent. I do not see that in the Act. The Minister has told me that that is what it is going to be, along with the powers of search and seizure, which are not going to be in the Act. The Minister keeps saying that; however, the director will be able to, with a judge's order, have papers produced for disclosure. That would really come under the Commission's policies. That is not defined in the Act either. This is my concern. I am not asking for a 50-page Act, but I am asking where all of these concerns are addressed and how far can the Commission go.

43 **Hon. Mr. Kimmerly:** Another example of the Commission overstepping its bounds is that the Member may know that one of the grounds of discrimination in the federal Act is alcoholism or drug dependency. That is not in this Act. If the Commission attempted to proceed on a complaint based on that, they would be overstepping their bounds.

The Commission only has the jurisdiction that it is granted under this Act, which is limited to the policy that is passed by this Legislature.

With respect to the question of parties and regulations, there is no section that says the parties to an adjudication "are" or "are only". The reason is there does not need to be. The only way to have an adjudication proceed is if the Commission asks for it. The only power that is in this Act to achieve adjudication is if the Commission asks for it. Then, the jurisdiction of the Board of Adjudicators comes into play.

The Commission has carriage of the proceedings, which is in Section 15(1)(e). The only possible way to have an adjudication is if the Commission fails to achieve a voluntary settlement, and they ask for adjudication, and the adjudication actually happens. That is the answer. There is no other way to proceed. So, it is clear that those are the only parties.

44 **Mrs. Firth:** I still cannot find where it says that there will only be the Commission and the respondent, and I believe the Minister said it does not say it anywhere. Is that going to be a policy? How do I know that is so? Is it just because the Minister is telling me or can anybody intervene? How is it going to work?

**Hon. Mr. Kimmerly:** It could be there. There is no compelling reason to put it there, but if it is there, there is no harm done. Although there is some slight harm in that the Bill loses its readability: If you increase it in length with details, it becomes extremely cumbersome. The Board of Adjudication may listen to other people. That is entirely up to them, but their duty is to act in accordance with natural justice. It is stated briefly like that. The phrase "natural justice" is explained in the explanatory notes, it is a legal term and it brings into play a body of law about the procedures.

**Mrs. Firth:** Just to clarify a couple of things, the Board of Adjudication then is completely separate from the Commission and



the Commission's policies and directives would have no bearing on the Board of Adjudication. So, if it is the Board of Adjudication that sets its own policy and directives, there would only be the Commission and the respondent, and they can talk to other people, I gather, so someone else can intervene. Is that correct? Can that other person be present with the Commission and the respondent at the time of the adjudication hearing?

**Hon. Mr. Kimmerly:** Yes, that is essentially correct. It is up to the panel of adjudicators. The reason for that, of course, is that the Commission acts as a party in the proceedings asking for something, or advocates a position, and the panel of adjudicators carries the function of the judge. The two must be entirely separate. There is a Supreme Court of Canada case to argue the authority to that proposition.

It is important to note here that the Commission has no power whatsoever to make any kind of an award, an award of costs or an award of damages. The only power the Commission has is to investigate. If it arrives at its own conclusion that discrimination has occurred, its only course of action is, if things are not settled by agreement, to ask a panel of adjudicators to make an award. The power to make any award is only within the panel of adjudicators.

**Mr. Nordling:** I would like the Minister to point out for me where the term "natural justice" appears in the Bill. I have read through it, and I do not see where the term is.

**Hon. Mr. Kimmerly:** Excuse me. I was referring to section 22, which reads "fundamental justice". I should have said "fundamental justice".

**Mr. Nordling:** Does the Minister see the terms "fundamental justice" and "natural justice" as interchangeable?

**Hon. Mr. Kimmerly:** No, not precisely. The term "fundamental justice" is wider than "natural justice" and includes more than simply procedure.

**Mr. McLachlan:** Is it entirely possible that the Board of Adjudication could be composed of one, say the chief adjudicator?

**Hon. Mr. Kimmerly:** Yes, and I would expect, in order to be efficient about the cost, that that would occur in some cases.

**Mr. McLachlan:** Would the Minister expect a Commission and/or the adjudicators panel or board to travel? That is, would all the investigative work be done in the capital city, or would it be his wishes that they get on the road?

**Hon. Mr. Kimmerly:** It would certainly be my wish, and it is my expectation that if, for example, there were a complaint arising in Faro and an adjudication about it, the adjudication would occur in Faro.

**Mr. McLachlan:** Is it the Minister's expectation that the panel of adjudicators, the chief adjudicator and/or the Board of Adjudication would be on the normal \$100 a day per diem that is established? Will they not be full time employees? Will they be called upon only under the normal basis that boards and commissions meet?

**Hon. Mr. Kimmerly:** It is clear that the panel of adjudicators will not be full time employees. They will be, I expect, paid only when they work. That is the way it operates elsewhere, and that is the only logical way to operate. I would expect that they are paid more than \$100 a day. It would depend upon the fees that the Commission sets, and that is one of the things that they have the power to regulate about.

The panel of adjudicators will be primarily local people but there may be, especially in the first years, at least one who is an experienced adjudicator from the western provinces.

**Mr. McLachlan:** On that last remark, is it the Minister's expectation that the panel of adjudicators would not be local Yukoners? Would we be calling on expertise, in all cases, whether that panel of adjudicators were composed of six, seven or eight, from outside the territory?

**Hon. Mr. Kimmerly:** It is my ultimate aim that all of them would be Yukoners. However, I expect that in the initial stages, perhaps in the first year or two, it would be a good idea to have at least one on the panel who is expert in southern Canada. The expertise should gradually grow here.

It is crucial that these people who are selected by the Legislature, in the same way that the Commission is selected, be impartial

people and have a good ability to adjudicate and be acceptable to all Yukoners.

<sup>47</sup> These are the people who could be called on from time to time to actually make decisions. This is an important function. I would sincerely hope and expect that the majority of them will be Yukoners and, ultimately, all of them will be.

**Mr. McLachlan:** The legislation specifies that the Chief Adjudicator will establish the Board and determine its membership, be it two, three, four, or whatever. Is it also the intent that the Chief Adjudicator determine all other matters relating to the adjudication of the complaint and, as well, that he will set up the calling of the witness, the times — all it refers to in this specified legislation is, "shall determine membership" — so what about all the other mechanisms by which the adjudication is heard?

**Hon. Mr. Kimmerly:** These matters generally proceed somewhat along the lines that labour arbitrations proceed. They are set up at a time and place agreeable to the parties.

I would expect that there will not be many adjudications in a year: three, four, five, maybe 10, in a year, but I would expect that that would be an unusual year. I would expect two or three a year. They will occur only when needed, at a convenient time and at a convenient place to the parties.

<sup>48</sup> **Mrs. Firth:** The Province of Ontario, when it had its Human Rights Commission, went about setting up sensitivity workshops and I believe they participated in some kind of mock hearings. Is the Minister planning any kind of activity like that or is that again something he is going to let the Commission determine for themselves?

**Hon. Mr. Kimmerly:** I am not planning sensitivity workshops or workshops involved in setting up the Commission at all.

**Mrs. Firth:** Perhaps the Minister could give us some indication as to the familiarization process or if the Commissioners and adjudicators are going to have some special training or special access to what has happened over the rest of Canada or what is going to be done to make their job easier?

**Hon. Mr. Kimmerly:** There are two courses that are given in Canada. One is by the Centre for Human Rights, which operates out of, and is an independent part of, the University of Ottawa. That course is run annually and is a two-week course run in the summertime. There is another one run by — I forget the name of the university, but it is a university — and it appears to me that it would be appropriate to send the Commissioners on that course, if they have not already taken it. I know there are a few people in the territory who have already taken it. That is one way.

Another way is that there are annual conferences of Commissioners that occur in Canada now and in which the Yukon does not participate. That is another way.

The government is not planning any particular orientation or any particular workshop. We are planning to appoint people who are singularly qualified because of their experience or because of their stature in the community.

<sup>49</sup> The training that they will get will be largely up to themselves, and the decisions of the Commission. It would seem to me that is an excellent way for the Commission to grow in its expertise over the years.

**Mrs. Firth:** What about the adjudicators? Perhaps the Minister could give us some elaboration on that.

**Hon. Mr. Kimmerly:** I could suggest alternatives, but it is like training judges, in a sense. There is no training course, per se, for adjudicators. We are starting a course about arbitrators in the labour field, and there may be some courses around the country in that area. We would not propose to develop our own course. This is a body of expertise that is largely gained through experience. It may be appropriate, for example, to appoint some justices of the peace as adjudicators. They have training as justices. That kind of qualification would be relevant for adjudicators.

<sup>50</sup> **Mrs. Firth:** I wanted to find out if the government had any set plans about individuals who they were going to appoint. I understand they appoint the adjudicators, and I wanted to know if they were going to be looking for any special individuals with specific backgrounds in the area, like the Minister just mentioned. The Minister shook his head indicating no when I asked if they had

some particular individuals in mind.

When does the Minister anticipate that they would have their panel of adjudicators appointed, taking into account that the legislation has to go through? Are they going to be local people?

**Hon. Mr. Kimmerly:** The adjudicators are appointed in the same way as the Commission. It is an Executive Council appointment, which is affirmed by the Legislature. There are no individuals in mind. I would put forward the same offer of consultation as I made about the Commission. This is the same kind of appointment. It is singularly inappropriate for this panel to be representative of any particular agency or body or organization. It would be most appropriate that the selection process of the individuals not be political, in the partisan sense. That would be one of the very important criteria. The most important criteria is the ability to weigh and balance evidence and policy and arrive at the decisions.

There are many competent Yukoners who are able to do that. Many of the existing boards make these kinds of decisions: the Public Utilities Board, Workers' Compensation Board, a whole host of boards.

**Mr. Nordling:** I move that the Chairman report progress on Bill No. 99.

*Motion agreed to*

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

*Motion agreed to*

*Speaker resumes the Chair*

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

May the House have a report from the Chairman of the Committee of the Whole.

**Mr. Webster:** The Committee of the Whole has considered Bill No. 99, the *Human Rights 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?

**Ms. Kassi:** I move that the House do now adjourn.

**Speaker:** It has been moved by the hon. Member for Old Crow that the House do now adjourn.

*Motion agreed to*

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

*The House adjourned at 5:27 p.m.*

**The following Sessional Papers were tabled January 8, 1987:**

87-3-95

Klondike Senior Citizens Society Investigation, Report and Recommendations (Kimmerly)

87-3-96

A Review of the Justice System in Yukon (Kimmerly)