



The Yukon Legislative Assembly

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HANSARD

Monday, January 12, 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 Kassi	Old Crow
Art Webster	Klondike

OPPOSITION MEMBERS

Progressive Conservative

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

Liberal

James McLachlan Faro

LEGISLATIVE STAFF

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

Prayers

DAILY ROUTINE

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

TABLING RETURNS AND DOCUMENTS

Hon. Mr. Porter: I have for tabling a copy of the statement by the Government of the Yukon Territory in response to the Department of Interior National Wildlife Refuge of Alaskan Coastal Plain Resources. This was delivered in Washington on Friday, January 9, 1987. Attached to the statement is a letter expressing full support from the Government of the Northwest Territories for the position taken by this House.

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

PETITIONS

Mr. Brewster: I have a petition from the people of the Burwash Landing area requesting better police protection.

Speaker: Introduction of Bills?

INTRODUCTION OF BILLS

Bill No. 101: First Reading

Mr. McLachlan: I move that a Bill entitled *An Act to Amend the Home Owner's Act (No. 2)* be now introduced and read a first time.

Speaker: It has been moved by the hon. Member for Faro that an *Act to amend the Home Owner's Grant Act (No. 2)* be now read a first time.

Motion agreed to

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

Notices of Motion?
 Ministerial Statements?

MINISTERIAL STATEMENT

The Yukon Government's Response to Federal Policies on Mining

Hon. Mr. Penikett: Two recent events have focused attention on major new federal policies affecting the Yukon mining industry. These are the new federal northern mineral policy, presented at the first Northern Mines Ministers Conference, which I had the honour of hosting in Whitehorse last month, and the release of the Yukon Water Board's Report on Placer Mining to the federal Minister of Indian Affairs and Northern Development.

I would like to report briefly to the Members on our government's responses to these emerging federal policies on mining.

Our responses have been developed according to three guiding principles: the need for dialogue among all interests; the need to help the northern mining industry compete in tougher world markets; and the need for a framework of legal certainty.

On the question of dialogue, our government is committed to broad and extensive consultation with all affected interests in order to maximize local benefits and minimize negative impacts. To this end, the briefing on the new federal mineral policy included not

only both levels of government and the associations for prospectors, exploration, placer and mine operators, but also the United Steelworkers of America and the Council for Yukon Indians.

Helping the northern mining industry compete is a major subject of the new federal policy. During the recent conference, I responded on behalf of our government on many issues covered in the new federal policy, including: infrastructure, which we see ultimately as the financial responsibility of the federal government; access to land, which we agree should be facilitated through the Northern Land Use Planning process; and updating the *Yukon Placer and Quartz Mining Acts*, which we support.

Speaker: Let me just mention some problems of importance to the development of mining that are not mentioned in the new federal policy: power generation and distribution, human resource development, mining communities and local spinoff benefits.

We consider these issues, along with the implementation of a new federal policy, to be the subject of further consultations among the two levels of government, the industry and other affected interests.

Finally, with regard to placer mining, the federal Minister has stated that he is committed to ensuring legal certainty for operators, and, in accordance with Motion No. 57, unanimously passed in this House on November 26, we agree. An operator who is legally licensed to use water under one federal Act should not be subject to prosecution under another federal Act.

On this point, we are prepared to support the federal recommendation for effluent standards. It is worth noting that the federal *Fisheries Act* requires regulations to specify quantities or concentrations of material that may be deposited. Therefore, neither the recommendations of the Placer Mining Task Force for a one-hour settling time, nor the recommendation of the Yukon Water Board for downstream water standards would provide the legal certainty needed by placer miners.

Our support is for regulations that can be shown to be technically and economically achievable by a majority of Yukon operators and to maintain water quality at an acceptable level.

The standards now proposed by the federal government represent a significant compromise, and we believe the two sides are close enough together to resolve this issue in the near future.

Beyond this immediate issue, as stated in the unanimous opinion of this House, we will urge the federal government to work with us in "establishing a steering committee to implement measures based on the (Placer Mining Task Force) recommendations to ensure the continued health and vitality of this industry in the Yukon," since many issues such as valley classification and financial incentives are beyond the powers of the Yukon Water Board.

Eventually, as the Yukon government achieves more responsibility for these programs, we look forward to developing our own policies for water use based on local requirements.

Mr. Nordling: I assume this is the long-awaited Ministerial Statement that was to answer my questions with respect to the government's position on the Task Force on Placer Mining and the Report of the Yukon Water Board.

First, with respect to the northern mineral policy, although this government's position is not outlined in the statement, I am pleased that the topic such as power generation, human resource development, mining communities and local spin-off benefits have been raised and will be the subject of future discussion.

With regard to placer mining, I have some major concerns with the position taken by this government. It appears to me that this government has taken the position that the recommendations of the Task Force on Placer Mining and the recommendations of the Yukon Water Board must be adapted to satisfy the *Fisheries Act*. Our position is that the *Fisheries Act* should be adapted to come more into line with the recommendations of the Task Force and the Water Board, or we should take over responsibility ourselves in this area to implement our own policies for water use based on local requirements as soon as possible.

The Minister states, on page 4 of the Ministerial Statement, that "We believe the two sides are close enough together to resolve this issue in the near future. The two sides, I assume, are the federal

government and the Yukon placer miners. I would urge this government to play an active role in the resolution of this problem to assist our Yukon placer miners and to show the federal government that we are capable of developing policies in areas such as these and capable of running our own affairs.

Mr. McLachlan: Today's Ministerial Statement could, in fact, have been extracted from a line of Shakespeare in that it is full of sound and fury and signifieth nothing. This Ministerial Statement is a clever attempt to skate the issue on thin ice and say essentially very little. Until such time as the government is prepared to come forward with the firm policies on the water use, there is very little else that can be said that is constructive about the statement.

Hon. Mr. Penikett: I am sorry that the Member for Faro is disappointed in it. I am sure that if he reads it again, he will find some of the things that he missed the first time.

Let me respond to the comments made by the Member for Porter Creek West very briefly. He is essentially proposing that we should have obtained amendments to the *Fisheries Act* or devolution of the powers over water rather than the method that we are proposing here. I am assured by everybody involved in the federal government that the national consensus required to amend the *Fisheries Act* is not likely on the present time horizons, and the devolution of powers, which he suggests, is not likely to be done in any kind of expeditious way either. The negotiations, which the federal Minister is sponsoring, and the position that we have taken today are designed to get a solution to the problem this spring so that they will be in place for the next placer mining season; therefore, we think they are the most sensible position that can be taken at this time.

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

QUESTION PERIOD

Question re: Land applications

Mr. Phelps: I have some questions of the Ministers responsible for land and applications under the Agricultural Policy. On January 8, I asked a question of the Minister for Renewable Resources as to whether or not, since December 11, any further applications for agricultural land had been sent over to the Department of Community and Transportation Services. He said there may well have been some, but he would have to look into it. I would like to know whether he has looked into it and whether there have been any additional applications sent over.

Hon. Mr. Porter: In addition to the 25 applications that were reported to the Member earlier, since that I have had an additional five applications sent to the department.

Mr. Phelps: I wonder if the Minister could advise since, as at December 11, 1986, the outstanding applications were 198, how many of the approximately 300 applicants, which were outstanding 12 months before that, just gave up in disgust because there was no action? Does he have any estimate of that?

Hon. Mr. Porter: I do not make it my business to find out if there are any factors discussed with the applicants, but to answer the Member's question as to how many of the original applicants have since withdrawn their applications, I will review the data that is there and inform him as to what that number is.

Mr. Phelps: Again, on January 8, we discussed the issue of prioritizing applications so that there would not be a mix-up, so somebody who came along after an application had been filed would not obtain land under application. The Minister of Renewable Resources was going to determine whether or not the federal government is aware of the application priorities that his department was putting forward. Has he checked into that or is the federal government cooperating with regard to prioritizing applications for land in Yukon?

Hon. Mr. Porter: They have informed us of the priority with which applications are dealt with, and so far they have not informed me that they were not going to cooperate. The people in Land

Management are doing everything they can to cooperate with community agencies.

Question re: Agricultural land

Mr. Phelps: Does that mean that a person could put in an application for agricultural land and be assured that someone will not come along later with an application for commercial land and get it despite the fact that it is under application?

Hon. Mr. Porter: One of the questions that was discussed was the one of dual application for agricultural land. Should an applicant make an application for a piece of land for agricultural purposes, that application is notated and any later application for a similar purpose would not be allowed.

As to whether or not an application can be given out for other uses, I would suspect that we would make the argument that because the land has been identified for agricultural purposes, that should be the question that is looked at first.

Mr. Phelps: Last Thursday, we were discussing the eight recommendations made by the Yukon Livestock and Agricultural Association. A motion was put forward and passed unanimously in the House on May 21, 1986 regarding those eight recommendations. The Minister of Renewable Resources was the only government Member who spoke to the motion.

At that time, the Minister fully supported the motion and had reservations only about one of the eight points. That was the 60-day turnaround time for an application to go through the system. Why has it taken so long to transfer the responsibilities for land over to the one window approach within the Department of Community and Transportation Services?

Hon. Mr. Porter: Contrary to the Member's opinion, we seem to be taking the transition somewhat smoothly.

Mr. Phelps: It may be going smoothly, but the question was: why was it taking so long. It had to do with time.

Why, when the government Members were prepared to pass the motion unanimously in May, did it only put forward a caveat about recommendation number four, when recommendations five, six and seven are ones that they have no intention of putting into policy?

Hon. Mr. Porter: We have never stated that we would not look at those questions with respect to policy problems.

Question re: Yukon Development Corporation

Mr. McLachlan: On December 23, the Government Leader announced the board of directors of the Yukon Development Corporation. Other than the chairman, fully one-third of the members of that board are either under direct control of or on government payroll. Can the Government Leader explain why he has felt it necessary to have that type of control of the board of directors of the Yukon Development Corporation?

Hon. Mr. Penikett: I must say I do not think I share the Leader of the Liberal Party's arithmetic. The owners of this corporation are the people of Yukon. Generally speaking, its purpose is to assist us in the economic development of the territory through the operation, in the main, of the power company.

The two public servants represented on the board of directors are the executive director, who is the deputy minister of the Department of Economic Development — which is provided for in the Act — and, as we consider this prudent, the assistant deputy minister of the Department of Finance. The financial operation of an enterprise is very important. My Cabinet colleagues and I deemed it prudent to have the Department of Finance represented on this corporation's board.

As to the percentage makeup, as I said at the time of the announcement, we may well consider further appointments at the time we conclude negotiations with the federal government on the NCPC transfer.

Mr. McLachlan: In view of the Government Leader's previous comments about wanting to try private sector management and involvement, it would seem strange to see that one-third of the board of directors, other than the chairman, do have direct government control. For example, the Yukon Liquor Corporation, Workers' Compensation Board, and Yukon Housing Corporation do not have this degree of control.

Can the Government Leader advise if the regulations have now been completed for the Yukon Development Corporation? If so, would he table those in this Legislature?

Hon. Mr. Penikett: No, the regulations have not been completed yet.

Question re: Land claims, overlap policy

Mr. Lang: I would like to refer a question to the Government Leader. He has had a fair amount of notice on this. It is with respect to the Declaration put forward into the courts by the Kaska Dena Council from northern British Columbia, who are claiming 10,000 square kilometres of Yukon real estate.

It came as quite a surprise to all of us that the Government Leader deigned not to read the 6-page Declaration that comprises their reasons for going to court.

Since the Government Leader has found time to read newspapers and magazines in this House, has he now found time to read that very important document?

Hon. Mr. Penikett: In his typical slimy way, the Member for Porter Creek East is making accusations here that I have had time to read newspapers and magazines, and that is not true.

Mr. Lang: Harrowsmith, I do not believe, was produced by the Government of the Yukon Territory as an official document, but that is neither here nor there, and in his typical slimy way he has avoided the question.

I would ask the Government Leader, in view of the fact that he stated on page 400 of Hansard, "It is my intention to have a look at the document", has he found time in his very busy schedule to read what he deems to be not a very important document?

Hon. Mr. Penikett: Once again, we have three different assertions made in the Member's supposed question. I do not suppose I have seen Harrowsmith for a month, and I certainly have not been reading it in my desk.

On the question about whether I have had time, the Member knows I have been very busy and I will be reading documents. For legal documents, I normally refer them to legal officers to analyse for me. I said I would be looking at the document, and I will be.

Mr. Lang: Could I then have a definitive yes or no instead of the jousting that has gone on by the side opposite: has he read the document?

Hon. Mr. Penikett: I said I had not read the document, but as to jousting, if the Member would for once in his life ask a direct and straight and simple question, he would get a direct and straight and simple answer.

Question re: House business

Mr. Nordling: I have a question for the Government House Leader with respect to the adjournment next week. There have been differing reports on the radio and in the newspaper as to which Ministers will be attending conferences and/or meetings next week and as there is a considerable amount of important business before the House that will be delayed, I would ask the Government House Leader if he would explain what conferences and/or meetings are scheduled for next week and who will be attending them.

Hon. Mr. Porter: If there is some confusion with respect to the intent of the government for adjournment in terms of representatives of the government attending conferences, I will try and straighten that out.

With respect to next week the intention is for the Government Leader and me to attend the Aboriginal Rights Conference, which is being held in Halifax. In addition to that, there has been a suggestion that there is going to be a meeting on Friday, January 23, in Ottawa between Canada and U.S. officials on the issue of the 1002 lands related to the coastal plain of Alaska. Those are formal consultations that are called for in Section 1005 of the *Alaska National Interest Lands Conservation Act* legislation. Furthermore, the Minister of Social Services also has a conference in Ottawa that occurs during that week, so should the House be adjourned for that week, she will attend that conference as well.

Mr. Nordling: Perhaps my supplementary should be directed to the Government Leader. I would just ask whether or not the Government Leader is satisfied that this Conference or meeting in

Halifax is so important that it should take priority over the business of the House?

Hon. Mr. Penikett: I am not going to play a mug's game of evaluating constitutional conferences or meetings of this House. Meetings of this House are very important. As we move into an era now where it becomes apparent that we are coming closer and closer to the situation of meeting perpetually, some recognition is going to have to take place of the fact that, as Minister to the Crown, there are federal-provincial conferences — some more important than others — which require attendance.

I think I have missed almost as many ministerial conferences because we were sitting in this House as I have attended. Given that we are moving toward a constitutionally mandated deadline on this matter of aboriginal self-government, I deem it important that we be fully present at this meeting on January 20 and 21. If the House will not consent to adjournment for that purpose, we will have to adjust our plans accordingly.

Mr. Nordling: Is the meeting in Ottawa that the Health Minister will be going to a priority also that would merit the adjournment of the House?

Hon. Mr. Penikett: Again, I should say that the principal purpose of the meeting that first causes our seeking adjournment is the meeting in Halifax. If we are adjourned for that purpose, then other Ministers will also be able to attend ministerial meetings. I do know the Minister of Health and Human Resources and the Minister of Education and, no doubt, other Ministers have missed — not only because of sittings of the House, but also standings of the House — meetings that they otherwise would have attended.

There was a time when, because of the standings in the House and because of willingness to pair on behalf of the Opposition, that Ministers could more readily attend these meetings. Of course, we are in a different situation now.

Question re: Justice review

Mr. Phillips: In view of the recommendations made in the Justice Review Report concerning the need, in some communities, for more JPs, will the Minister reconsider the recommendations that were made to him some months ago by the Judicial Council and appoint JPs in those communities that are in need?

Hon. Mr. Kimmerly: Yes, but as necessary. Immediately, no.

Mr. Phillips: Could the Minister tell us in what communities he plans to appoint the JPs? These recommendations have gone through the whole process; they are fully trained. It is quite a responsibility for someone in the community to accept the responsibility of becoming a JP. They have been sitting for five or six months waiting for an answer from the Minister. The Judicial Council that recommended these people is a council that the Minister, himself, appointed.

Why will the Minister not appoint these people now, so that they can get on with the work in the communities and so these people do not have to sit and wait?

Hon. Mr. Kimmerly: I do not believe anyone is sitting and waiting. The answer from the Minister, in this case myself, was given extremely promptly. The answer was no. The policy of the government is that we will work extremely hard to achieve a racial and a gender balance among the appointed JPs. That is our policy. That is what we will do.

Mr. Phillips: Has the Minister or the Judicial Council conveyed to the people who have taken the course in good faith that they do not presently meet the Minister's criteria and that they will not be accepted as justices of the peace, even though they were acceptable by the Judicial Council?

Hon. Mr. Kimmerly: I am unaware of the communications between the Judicial Council and the candidates. I have asked for information about those communications in the past. The Judicial Council has refused me that information. What they do is their business, according to them.

The concern of the government is to achieve a racial and a gender balance in the appointment of JPs. Until the recommendations come forward and that balance achieved, the answer will be no.

Question re: Casino Trail roadway

Mr. Brewster: On December 9, 1986, I asked the Minister of Renewable Resources about the Casino Trail and the construction of a roadway that went through two trappers' areas. The Minister stated that he would check to determine if the two traplines were affected by construction work. I would like to know what the Minister found out.

Hon. Mr. Porter: We got the application for the land use permit on October 24. Any comments had to be submitted to the federal government by October 28. The turnaround time did not allow us to consult. This has been one of the problems that we feel has existed all along between the two levels of government, and we have continuously made it known to the federal government that we would like more lead time in which to be able to assess land use permits and be able to carry out the necessary consultation.

Given the short turnaround time in which the comments were to be given to the federal government, no, the two trappers were not consulted.

Mr. Brewster: All I needed was the answer, no. I did not need the rest of it. Can the Minister advise us what the policy of the government is in this regard?

Hon. Mr. Porter: Our policy is that we are asking the federal government to give us more time between notice of the land use application and the date of the decision to allow us some time to be able to carry out consultation.

Mr. Brewster: Can the Minister assure this House that, in the future, consultation will be made with trappers and other people?

Hon. Mr. Porter: All things being equal and perfect, yes, we would want the opportunity to inform trappers what we know about activities. In this case, this was not the situation. However, in the future, when other issues do arise, it would be our policy to try to get the opinions of the trappers so that we can make representation on their behalf.

Question re: Deputy Minister of Education

Mrs. Firth: It has been five months since the dismissal of the Deputy Minister of Education. What is the problem with hiring a replacement?

Hon. Mr. Penikett: As the Member may or may not know, the appointment of deputy ministers in this government is the responsibility of the Government Leader. No decision has been made on that position yet.

Mrs. Firth: Could I ask then why it is taking so long for the Government Leader to tell us how many applications have been received and how many interviews have been held?

Hon. Mr. Penikett: It is not our custom to get into those kinds of details on personnel matters in the House. If the Member wishes to ask a question of a particular number of applications or information requiring research of information that a Minister is not likely to have at his or her fingertips, then the normal remedy of filing a written question is in order.

Mrs. Firth: I would like to thank the Government Leader for his big lecture. I am just asking a simple question. The Government Leader said he wanted simple questions asked, and I am asking a simple question. I would like a courteous answer. What is the big problem with hiring a new deputy minister, and when does the Government Leader expect that we are going to have a new deputy minister? It has been five months.

Hon. Mr. Penikett: I certainly hope we will have a new deputy minister as soon as we can. As to the question about applications, I do not know how many there are off the top of my head. The Member opposite would not have known that when she was Minister, probably. It was in the dozens and dozens and dozens. If she genuinely wishes to know how many applicants there were, I will come back to her with the information.

Question re: Deputy Minister of Education

Mr. Lang: I think that the Member for Riverdale South asked a very good question. When do we expect an appointment for a new Deputy Minister of Education since it has been five months since the Minister of Education dismissed the previous one?

Hon. Mr. Penikett: When I am ready to announce an appointment I will advise the House. I cannot do more than that.

Mr. Lang: Are we talking about a month or two months? Could the Government Leader give some projections as far as time is concerned as to when he expects to be in a position to make an announcement to this House? Within the next month?

Hon. Mr. Penikett: Because I cannot predict the future accurately, I cannot answer the question any more accurately than to tell the Speaker and to tell the House that when we have a decision it will be announced in the House.

Mr. Lang: Could I ask the Government Leader a very simple and straightforward question, and I hope it does not irritate him: why has it taken five months to get to a point when we still do not have a Deputy Minister of Education?

Hon. Mr. Penikett: Because we do not yet have a decision.

Question re: White Pass Railroad

Mr. McLachlan: I have a question of the Government Leader. Somehow on the busy day of Saturday, January 10, the Government Leader found an opportunity to meet with Mr. Primi of Fantasy Railroad Corporation of New York. If media reports are correct, the government appears not to have offered any help and Mr. Primi does not appear to have asked for any. My question to the Government Leader is, other than a handshake and a smile, what was the Government Leader able to offer Mr. Primi in terms of encouragement to proceed with this venture?

Hon. Mr. Penikett: At this point, all I was able to offer Mr. Primi was an opportunity to brief me on his plans, to outline his proposal, to show me, in some detail, how he planned to operate the railroad, if he is successful in buying it; to indicate to me some of his plans, which he has developed in some detail, for the town of Bennett; to explain to me how, if he acquires the railroad, how he plans to refurbish the rolling stock; what kind of schedule he proposes to operate. He has information, in general terms, about the hours of operation, the type of operation he wants to run. He has done some preliminary work in the economics of each of the modes. I was able to take the opportunity to ask him, in some detail, questions about his plans and the timing of his plans, and was also able to arrange for him to have some information about the business assistance programs, which are available to any entrepreneur from this government.

Mr. McLachlan: On the subject of the railroad and its operation, is it not too late at this point to be able to advertise in tourism-related brochures for the coming year of 1987 that we may have a railroad running? How does the Minister of Tourism plan to use this information to be able to assist tourists coming to the Yukon in this current tourism year?

Hon. Mr. Porter: Yes, it is too late.

Mr. McLachlan: Does the Government Leader acknowledge, or can he advise this Legislature, that any attempt by the New York-based corporation to take over the White Pass and Yukon Railway would require the approval of the Federal Environment Regulatory Agency, or its successor, or is the White Pass Railway registered as an Alaskan company and would, therefore, not require FIRA approval?

Hon. Mr. Penikett: As far as I know, there is more than one company. I think there are more than two that operate on both the Canadian and American sides, and different regulatory regimes operate on the two sides of the border.

As to the question of the marketing, Mr. Primi has apparently already been in contact with cruise ship operators, who are the principal market for him. It would require a decision on the part of those cruise ship operators and their agents whether they would plan to book passengers onto his train.

I assume that he is well aware of that. Judging from our conversation, he seems to have been in contact with those people already. The regulatory regimes are different on both sides of the border, though FIRA does not exist. It has a new name, but I gather the intent of the new federal government is to encourage investment, rather than, if you like, protect national economic sovereignties. There is a different approach. I would assume that there would be no unnecessary delays on that score.

Question re: Janitorial services

Mr. Lang: Does the Minister of Justice have the long-awaited

janitorial study that was commissioned by motion here last spring and was completed during December? Is he in a position to table it?

Hon. Mr. Kimmerly: Very soon. I have seen a draft that is not the final one. I will check and find the date for the Member, but I expect that it would be quite soon.

Question re: Glulam plant

Mr. Lang: I understand that there was a report commissioned to look at the feasibility of a laminated beam plant. Has this report been completed? Is the government in a position to table it in this House?

Hon. Mr. Penikett: There was an application to EDA for funding of such a study. I do not know if the study is complete, and I am not sure whose property it is. I will take the question under advisement.

Mr. Lang: There are a great number of reports being commissioned through the auspices of the Economic Development Agreement. One only has to look at the number of consultants in town to know that it is a very viable business. I do have concerns about the general policy as to whether or not the Government of Yukon at least retains the rights to make these documents public so we know how public money is being spent.

Is it the policy of the government that if public monies are spent directly to do a feasibility study that those documents and information are made available to the public?

Hon. Mr. Penikett: In some cases, the applicant is funded to do some research that remains the property of the applicant. In connection with the Opportunity Identification Program, for example, which we provide 100 percent of the money for, the information is available to the applicant for a period of time following which time it becomes public information and is available to anybody.

I would be happy to take the question as notice and provide an answer to the question regarding each of the programs under which such studies may be financed.

Question re: Native Courtworkers

Mr. Nordling: On December 3, the Minister of Justice made a Ministerial Statement announcing that CYI was planning to deliver the Native Courtworker Program and that discussions were taking place between the government and CYI. Has there been any agreement reached at this time? If not, when does the Minister expect one to be reached?

Hon. Mr. Kimmerly: There was an agreement reached at the time of the announcement, but it was an agreement in principle. The contract is not actually signed. Negotiations are continuing, and CYI will be employing a person to start. I believe that the advertisements will be placed this week, and the program is starting up as far as CYI is concerned. The formal transfer will occur on April 1. The contract should be signed before April 1.

Mr. Nordling: In the Ministerial Statement, it was announced that a funding level was being increased to allow a native courtworker to travel to the communities. Is this the position of the government? By that, I mean is it the position of the government that the service should be delivered to the communities by a courtworker who travels with the court circuit?

Hon. Mr. Kimmerly: No, definitely not. The position of the government and the position of CYI, as expressly stated, is that there should be courtworkers resident in the communities. The funding level for that is the subject of Management Board approval and will appear in the 1987-88 O&M Budget.

Question re: Deputy Minister of Education

Mrs. Firth: I would like to follow up on a question with respect to the deputy minister of Education. What is the problem? Is it that there are not enough applications; the salary offered; advertising has not been enough; is it the gender-racial balance; and why has the decision not been made?

Hon. Mr. Penikett: Again, I will observe the rule that was established in my time in this House by a former Government Leader, Mr. Pearson, and I will not discuss personnel matters on the floor of this House. In answer to one of the questions the

Member asked, were there not enough applications, I believe the applications numbered in the dozens. I cannot give her an answer as to the total right now, but I said I would take that question as notice. Again, when a decision has been made, it will be announced. I cannot be absolutely certain as to a decision time.

Mrs. Firth: There is no rule. The Government Leader has made up his own rules before, and he makes them up when they are to his advantage.

There are questions being asked: when are we going to have a new deputy minister of Education? I would like to know when we are going to have a new deputy minister of Education.

Hon. Mr. Penikett: There is not a rule as such, but I said I was observing a convention established by my predecessors. That is to respond to the preamble, which has nothing to do with the question.

The answer to the question is: as soon as possible.

Mrs. Firth: It has been five months now. There was some urgency in removing the deputy minister of the day. What does "as soon as possible" mean? I would like to be able to reassure the school committees, and so on, that we will be having a new deputy minister of Education.

Since the Government Leader was so cooperative in giving a time that he could announce the Ministerial Statement today about the government's position on the Task Force on Mining, perhaps he could announce when we will have a new deputy minister.

Hon. Mr. Penikett: I am not in a position to announce when yet. When I am in a position to announce when a new incumbent will be in that role, I will advise the House and the Member opposite.

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

ORDERS OF THE DAY

GOVERNMENT BILLS

Bill No. 79: Second Reading

Clerk: Second reading, Bill No. 79, standing in the name of the hon. Mr. Kimmerly.

Hon. Mr. Kimmerly: I move that Bill No. 79, entitled *An Act to Amend the Medical Professions Act*, be now read a second time.

Speaker: It has been moved by the Minister of Justice that Bill No. 79, entitled *An Act to Amend the Medical Professions Act*, be now read a second time.

Hon. Mr. Kimmerly: This amendment will permit the Yukon Medical Council to delegate its judicial functions to a provincial college of physicians and surgeons. Several recent Supreme Court decisions here in the Yukon have identified a number of difficulties with the present statute.

The Yukon Medical Council was charged with an allegation of bias by a member of the medical profession while investigating complaints against that member. In an effort to remove the allegations of bias, the council delegated its judicial role to the Alberta College of Physicians and Surgeons. This action was taken pursuant to a Supreme Court Order, which was later overturned by the Supreme Court. It appeared that there is no clearly defined statutory authority for the Council to delegate functions.

Since the majority of members must be appointed from within the local community, the question of bias could, and probably will, arise again. The profession is self-regulatory and peer review of alleged misconduct of a physician has never been questioned. In order to allow this process to proceed, this amendment is not only necessary for the public's protection but for the profession to carry out its mandate, or peer review, when instances warrant it.

Similar disciplinary and complaint-handling procedures exist in the *Legal Professions Act* and the *Institute of Chartered Accountants Act*.

Provinces also carry out disciplinary and complaint functions through the professional peer review process.

In brief summation, this amendment will allow the Yukon Medical Council to delegate its judicial functions to a provincial College of Physicians and Surgeons when the need arises, thereby

removing possible allegations of bias. The need for this amendment is supported by, I am informed, the doctors in Yukon and the members of the Medical Council.

17 Mrs. Firth: I thank the Minister for his brief outline of the history leading up to the legislative requirement for the change. There is no need for me to repeat it. After consultation with the Yukon Medical Council and the President of the Yukon Medical Association, I find that the change is exactly as the Council had requested; therefore, we will be agreeing with the proposed legislative change.

Mr. McLachlan: I have only two comments to make regarding what the Minister has said. I find it a little strange that it is only the Council that may determine that it has a conflict of interest. This is satisfactory if the Minister would give the Legislative Assembly, at some point in time, his confirmation that it will not be up to a senior level to perceive that there is a conflict, that the Council alone will make that decision, and no Minister of Justice of the Government of Yukon will determine that there is a conflict of interest.

I also find it strange that the amendments are only being proposed at this time and something was not done earlier. The Minister of Justice knows all too well that the Lawyers Discipline Committee in the Yukon, for example, has a large degree of input into another province when it comes to dealing with thorny issues. I think that is a good idea and that it should have been done earlier than this amendment has been proposed.

Speaker: The hon. Member will close debate if he now speaks. Does any other Member wish to be heard?

Hon. Mr. Kimmerly: There is absolutely no power in the legislation for a Minister of Justice to determine if the local board is in any state of bias or not. The Minister of the day could not do that and certainly would not. It would be interference with a judicial process that would be totally improper and not contemplated at all by the law.

Motion agreed to

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

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

Motion agreed to

Speaker leaves the Chair

18 COMMITTEE OF THE WHOLE

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

Recess

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

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

Chairman: General debate, continued.

Mrs. Firth: Last week, I asked the Minister a question about sensitivity workshops, and so on, with the Commission. The Minister said that he was not going to plan on having any sensitivity workshops. If the Commission decides that they would like to do that kind of procedure, could it happen?

Hon. Mr. Kimmerly: Yes, it certainly could happen. Within the funds allocated to the Commission, it would be a decision of the Commission if it did happen.

Mrs. Firth: The Minister indicated to us that the regulations are going to be two to three pages of procedural matters. I am concerned about the direction the Commission will be operating under and, as well, the adjudicators. I asked the Minister the

question about who would be present at an adjudication hearing. The Minister said that the Commission and the respondent would be present. Yet, that is not in the legislation anywhere. The Minister said that the Adjudication Board would be setting out those guidelines and that the Commission would be setting out their guidelines.

When would we have that information, so that the public knows, if the Commission and the Board of Adjudication is going to be in place, how that process is going to work, how the Commission is going to work and how the board is going to work? When would we expect that the public would be made aware of that?

19 Hon. Mr. Kimmerly: I would expect two or three months after the Commission started to meet. If the House is in Session, I would certainly propose to table that information in the House at the time of its progressing to Cabinet. The procedures that will be in the regulations will be entirely procedural, and I would imagine they will be modelled on the procedures in the provincial Commissions.

Mrs. Firth: I am asking specifically about the policy directives of the Commission and the Adjudication Board. I gather they are going to have their own policies and directives. For example, the Commission is going to have some policy directives as to how the director is going to operate. When would we expect to have that information made public? I am assuming that it will be separate from the regulations, that it will be a different paper altogether. Is the Minister going to be tabling that in the House, and when would he see that coming forward?

Hon. Mr. Kimmerly: I would not be expecting to table that information, but I would expect that it be public. The Commission would be responsible for making that information public, and I would expect it will be made public by the Commission and could easily be tabled in the House by the Speaker. After the Commission is set up, it is responsible, not to the Minister of Justice, but to the Legislature. I would expect that the Commission will likely make its information public. What is tabled here would be tabled by or through the Speaker. It is not our practice, of course, to table all public documents in the House; for example, regulations.

20 Mrs. Firth: The Minister surely does not deny though that this would be information that the public would be interested in having. It is going to be the whole essence of how the Commission and the Board of Adjudication is going to work.

Is the Minister telling me that he is not going to see those policy directives prior to them being made public by the Commission? Once the Commission and the Board of Adjudication make up their policies and directives, they will not be given to the government? Will the Commission and the Adjudication Board have the authority to publish them, to give them out to whomever they wish without the government having any prior opportunity to see what they are?

Hon. Mr. Kimmerly: Yes, that is exactly my expectation. The regulations are different. There is no requirement for the Commission to advise the government of the directives and the other material that the Commission makes public, either prior or subsequent to it being effective. I would expect that the Commission would act entirely independently. That is exactly what I would anticipate happening.

Mrs. Firth: When the Commission makes up its policies regarding the annual report, the Act simply says that in each fiscal year the Commission shall deliver to the Speaker of the Legislature a report about the administration of the Act. Who will be setting the publication policy of the annual report? Will it be the Commission?

Hon. Mr. Kimmerly: Yes, it will be the Commission entirely, although it is possible that the report would be debated in this House. The Act is clear that the Commission is responsible to the Legislature. If the Legislature required certain information in the annual report, that would occur. That is laid out in the statute, but it would not be the Ministry of Justice or the government that would be involved; it would be the Legislature.

21 Mrs. Firth: Can the Minister tell us. I was of the understanding that in the Annual Report, in some of the other provinces, it was the government that gave direction as to the publication policy of the Annual Report. Is that not correct?

Hon. Mr. Kimmerly: Yes, it is correct. Approximately 10 or 15 years ago, and beyond, it was a clear policy of the Legislatures

to have commissions responsible to the government of the day, exclusively through the Ministry of Justice. That is the policy in most of the provinces today.

The modern position is pretty uniform that a desirable situation is that a Commission is responsible to the Legislature, not the government. Most of the provincial Acts have not caught up with that, as of yet.

Mrs. Firth: I understand that in the provinces there is kind of a state of flux because of potential change in Annual Reports that are published, and so on. Is this government saying that it is not going to give the Commission any direction as to the publication policy of the report, and it is not going to be in any way the responsibility of the Department of Justice to indicate to the Commission what their desired publication policy should be?

Hon. Mr. Kimmery: Yes, that is accurate. A potential abuse would be that Annual Report may not contain the things traditionally contained in Annual Reports. I would expect that it would contain all of those things but, if it did not, and the government did not agree — indeed, if any Member here did not agree — the proper procedure would be to set down a motion in the Legislature to have the will of the Legislature expressed on that issue. It is clear in the Act that the Commission is responsible to the Legislature. That is the way to remedy any potential abuse. The possibility of that potential abuse is extremely remote.

Mrs. Firth: It is fine for the Minister to stand up and say that the potential for abuse is remote, but that has not been the case in other provinces. Why should we reinvent the wheel? Why should we have our Commission have to start sorting out what precedents have been set in other areas that have not worked? There are a lot of other areas that are in the process of redefining some of their policies and guidelines that have to do with human rights legislation and the Human Rights Commission.

Is it not really the responsibility of the government to give that direction as to what they wish the policy to be, as opposed to the Commission. Ultimately, it is the government that is taking responsibility for this legislation. I get the feeling that the Minister of Justice and government is saying: we are not going to have anything to do with it; it is going to be the Legislature; it is not us; we are going to want this Commission of three to five people, and they are going to be ultimately responsible for setting all the rules; we are not going to be responsible, in any way, for giving them any direction or telling them what to do. If there is a public outcry about the operation of the Commission, it is not the government doing it; it is the Commission.

²² The Minister has already expressed a concern that they may not be able to get individuals who want to sit on the Commission. I could see that with them having all that responsibility on their shoulders, it would be very difficult to get Commissioners who would be able to sit and take on that public responsibility.

Hon. Mr. Kimmery: The Member is totally inaccurate when she states that there is controversy about annual reports in the provinces. There is not. Annual reports are required by the Workers' Compensation legislation and the Liquor Board legislation. If the Member will look at the legislation calling for annual reports, she will see that it is generally stated. Now there is only one issue here and that is, do we state in the legislation, as we have in Section 17, that the Commission shall deliver an annual report, or do we make the section much longer or make it into several sections and establish by legislation what the report is to contain?

I can say that that report should, at a minimum, contain the financial statements, and a statistical analysis of the complaints and adjudications, if any, and a description of the activities of the Commission in the last year. These are all very standard things, and it would really be unthinkable to submit an annual report without all of those things.

We could put in a longer section here, an outline, that will contain all of those things. That is not a practice in other laws, although admittedly it is a little more specific than here. It is my very clear opinion that if we require that there be an annual report that the Commission, the Legislature and the public all know very well what that means. It means a balance of statements, a statistical analysis and a statement of the activities.

If it does not contain that, I will be presenting a motion in the Legislature asking for it if another Member does not beat me to it. It is extremely clear what that means, and there is no controversy; there is no problem. The Member opposite stated that it appears to her that I am trying to give the impression that once this is set up, the government is not responsible, the Commission is responsible to the Legislature. I would disagree only with her wording. Section 15 clearly states that there shall be a Yukon Human Rights Commission accountable to the Legislature.

²³ It later talks about the annual report that is delivered to the Speaker of the Legislature as a symbol of the Legislature, and it is tabled by him. This is not an implication. This is a very clear statement that is stated in the Act. It is appropriate that the Commission is responsible to the Legislature.

Mrs. Firth: I am positive that the Minister knows what I am talking about, but he insists on saying that there is no controversy and that we are not accurate. Sometimes I get the overwhelming feeling that the Minister says to me what he thinks I might like to hear and what the public might like to hear.

The Minister knows the direction I am coming from. It is consistent with the way the government has been operating. I am sure if the Minister reads it in *Hansard* tomorrow he will see that I have made the point. However, if I am not making it clearly enough, if I am not expressing myself clearly enough for the Minister, I will try to do so now. This is my concern: first of all, the Minister has admitted that there may be some difficulty finding people who will be prepared to sit on the Human Rights Commission. It is going to be a Commission that is going to have a tremendous amount of responsibility.

The government is not indicating even the publication policy of its annual report. It is not indicating any guidelines for adjudication hearings, and I have been through all of the independence stuff. The Minister does not have to reiterate it for me. The government is removing itself from having any responsibility of what the Commission is doing. I recognize from Clause 15 that the Commission is responsible to the Legislature.

However, it is this government that is responsible for making this law. For the Minister to say that the annual report is going to contain financial statements, statistical analysis of complaints and adjudication hearings is not what is written in the law. Clause 17 states that the Commission, in each fiscal year, shall deliver to the Speaker of the Legislature a report about administration of this Act.

What does that mean? It does not mean what the Minister says if it is not written there, if it is not going to be written in regulations or if the government is not going to give any indication to the Commission as to what they wish their publication policy to be. I recognize who the Commission is responsible to. But, the government is going to be appointing the Commission, and it will be endorsed by the Legislative Assembly. That is fine.

The Minister is not being accurate in saying that I am not accurate in my comments about controversy over publication policies. He gives me the impression that he is saying things that I want to hear. He is trying to second guess what I want to hear and then he says it.

²⁴ It is wrong for the Minister to say that. It has been a controversy. It has been a controversy both in Saskatchewan and in Manitoba, such a controversy that the private members of the governing Conservative Party in Saskatchewan stood up in the Legislature and asked questions about the publication policy. As I understand it, there is a controversy in the way that the commissions have been publishing the names of those who have had accusations or allegations of human rights violations brought against them. The controversy is that the accusation of sexual harassment, for example, has been brought forward. Before the Commission had even held its hearing and the individual charged, the name of that individual was published in the Human Rights Commission Annual Report.

That has created quite a controversy for some businesses and individuals. The Human Rights Commission insisted that that practice be continued. They defended the practice, and then went on to say that you would be surprised how many read that thing and referred to the Annual Report, that the public found a very curious document to be read. I can see why they would find that a curious

document, to call into question the reputation of individuals if they have had these accusations brought against them, yet they have not been proven to be so.

There also lies a controversy in the fact that amounts of settlements have been published. Some individuals — although I do not know who, but I know that there have been individuals, because it has happened in other provinces — look upon it as some kind of shopping list. Why would we even entertain creating that kind of a controversy here if we do not have to?

It is incumbent upon the government. I think they have a responsibility to indicate to the Commission what the publication policy of the Commission should be, through the Department of Justice.

Hon. Mr. Kimmerly: I would welcome a discussion about all this under clause 17, in clause-by-clause. This is focusing on one particular section. In order to avoid the charge of not answering, let me answer the concern as follows.

That is an issue not really about Annual Reports at all. It is an issue of the policy of publishing names before the final determination is made, or publishing the amounts of settlements. It is far more effectively done in the newspaper, rather than Annual Reports. I would say this: that is an issue that the government should not be involved in, concerning an independent board. If the board is responsible to the government or the Minister, which it is in the two provinces mentioned, it becomes another issue, and maybe the subject of a question in Question Period, as an example, or a debate in the House. The legislation in those two provinces is different.

The policy of publishing a name is interesting. One could look at the model of what exists here: trials in the court, in the civil and criminal area, are all public, and the names of people involved in those processes are public. They are repeated on the radio and written in the papers. Now that television is here, their pictures will probably be on the TV.

²³ In future, all of that is essentially about freedom of the press, or the public's right to know. As to the policy of, for example, publishing a list of all the people charged with, say, impaired driving, there was an experiment, I believe, in the maritimes where the lists of names of individuals receiving a certain charge was published. I would normally say that is something that is the policy from time-to-time of newspapers or radio stations or the like. This information is available; it is in the public domain.

Whether the names are published in an annual report or not, I would suggest, is the province of the Commission responsible for that report. As is clearly the case under the *Liquor Act*, the enabling legislation does not set out that the names of the people charged are or are not published, or the names of people applying for licenses are or are not published. The same is in the Workers' Compensation legislation: the names of applicants or recipients may or may not be published. I would suggest that the people drafting the report are in the best position to know.

Mr. Lang: I want to follow up on my colleague for Riverdale South. I would like to begin by saying that the Minister is totally abdicating his responsibilities alarmingly by shirking his responsibility to say what he feels the Commission should or should not be doing. To say that you are going to strike a body and allow them to do anything they want within the grounds of common law in an area as contentious as this, I submit to all Members, is irresponsible.

When the Minister was on this side and we discussed such things as the Yukon Recreation Advisory Committee, he wanted to know how it functioned, what its responsibilities were going to be, what areas they would be involved in and how money would be allocated. All those things were to be either outlined specifically in regulations or in the legislation.

If we are going to abrogate all our responsibilities and give them all over to the Commission, what are we doing here? There is a real fear out in the general public, not only from an ideological point-of-view, but a fear of what such a mechanism could do, set up in law, if it is given free rein to do anything, at any time, at any place with respect specifically to the reputations of individuals. ²⁴ We are dealing with a very subjective area, not an area that is definitive in the law. We are dealing with case-by-case situations,

and I think the Member for Riverdale South has raised a very important issue. In the general context of the Bill that has been presented to us, what exactly is the cause and effect going to be to the public?

The Minister is saying that under the *Liquor Corporation Act*, the names of those charged with liquor offences cannot be published. He knows that the Liquor Corporation is basically responsible for the allocation of licensing and the hearing process entailed within the legislation. It is an absolute red herring. He pontificates and tries to convince people with that kind of reasoning. He tries to sound convincing knowing that that is not what they do. Neither are they charged with that responsibility.

It is beyond me. When we do get the position stated by the government, it does not pertain or give weight to the side opposite's arguments. It is almost as if he is making it up as we proceed through the debate. It is as if he is trying to convince my colleague, in this case, of what we should believe. If I was a neophyte and walked into this House, I would listen to my learned friend across the way and say, "He is knowledgeable. He really knows his stuff."

I think the public is fortunate that there are a few people who have been in here for a while and who are able to point out that the arguments the Minister is making do not hold any basis. To drag the Workers' Compensation Board into this conversation is absolutely ludicrous, and he knows it. He will sound so knowledgeable as if he ran the Workers' Compensation Board, as if he was responsible for it since its inception and ask us to believe him.

There is a very real question in the minds of the Member on this side. There is an outstanding question regarding the mandate of the Human Rights Commission: what is the policy going to be on publishing names that have been raised in investigations? Are they going to be made public? At what stage will the names of people who have been wrongly accused be made public?

²⁷ It is not really a new question. It is becoming a major concern in a number of the provinces, which the Minister alluded to. At the same time, he started talking about Workers' Compensation Boards.

To say that for the Human Rights Commission it should be within their mandate, and that they should be the people who really know how to do this, he says it is absolutely essential they be responsible to the Legislature. They are going to be responsible to the Legislature. Then, we have the responsibility of saying here is the criteria, here are the guidelines with respect to how we are going to report to this House, and opposing to creating a body that can do anything it wants at any time.

This is not beyond the realms of possibilities. We saw that situation arise in British Columbia, where there were some major problems, to the point that there were major revisions done to that particular body that had been set up by the Government of British Columbia approximately 10 years ago. It was revised three or four years ago.

There was quite a major public debate on just exactly what this type of body should be doing. I submit that that's where ideology comes in from this side as opposed to the other. We are concerned about what direction the government intends such a body to go. We are concerned about saying: look, we are strictly going to give you this responsibility and regulation. The Minister will come down and bless us with regulations maybe three months down the road, and really tell the public the intent of what the Bill really is, because we will do it in regulations.

That is not the purpose of this body here. It is not the purpose of the Member for Teslin, or why he was elected, or the Member for Old Crow, or the Member for Riverdale South. If it was, we would not need all these pages in the Bill. All we would need to say is there should be a Human Rights Commission and its powers and duties will be described by the Commissioner in Council. It is simple. That can be done. He knows that.

Just to dismiss the observations made by the Member for Riverdale South, of what we believe to be a very important issue, is an irresponsible action on any Member of that side to say it really is not worthwhile discussing. We will just leave to the Commission who it is going to be comprised of, how it is going to be appointed,

or any of these things.

We have heard the Minister, in his conciliatory remarks during the course of the start of the general debate, say that he was prepared to listen to how they should be appointed. The Member for Faro raised some observations. My colleague, the Member for Hootalinqua, the Leader of the Official Opposition, raised his concerns with respect to how this body was going to report, and what method or mechanisms should be to ensure that the public interest and the Legislature is going to scrutinize what is going to take place.

The issue of how it is going to report to this House should be just as important. It does require some general debate.

²⁸ Surely the Minister has put some care and attention into this particular area, especially in view of the fact that it is of that importance that it is being raised, as he mentioned, in a number of the provinces in the past six months. It is not as if it is new on the scene and just happened yesterday. I would like the Minister to tell us his feeling, and the government's feeling, with respect to the reporting and what areas they should be reporting on in the general context of the Bill and the workings of the Commission.

Hon. Mr. Kimmery: Mr. Lang was talking about the government's power to regulate. I would like to emphasize that there is no power to regulate in this area so it would not be possible for the government to regulate in this area. This is not a procedure of the Commission, this is concerning a policy. Mrs. Firth was right, it is a

Chairman: Point of order.

Point of Order

Mr. Lang: I know that the Minister of Justice is doing it deliberately. I believe, under the rules, and I do not know which rule it is as I do not have my book in front of me, but my understanding is that when you address another Member you address them by their riding as opposed to by name in the House. I would like that clarified because I prefer that method of debate to ensure that we can keep it as constructive as we possibly can.

Chairman: On the point of order.

Hon. Mr. Kimmery: On the point of order, it is my understanding of the Rules that the rule is in the "House" the proper address is by the constituency. However, in the Committee of the Whole, there is no such rule and the practice is, in some legislatures, to use the names. In fact, I was following that, but if the Member for Porter Creek East finds it offensive, I will refrain immediately because I have no particular concern one way or another.

Chairman: On the point of order, it has been the standard practice here to refer to one another here by their surnames in Committee of the Whole, however, when the Speaker is in the Chair, it is by riding.

Hon. Mr. Kimmery: As to regulation, I was concluding my remarks. We were talking about the policy of the Commission as to what it would publicize in its annual report. The Member for Porter Creek East talked about the government's position. I will explain what my position is, but if he says, "Well, it is all very well for the Minister to say that, it is not in the law", he is perfectly right, it is not in the law.

My position is that it is not appropriate to publish the names of people who are complained against or who complain until the matter is concluded.

²⁹ If the matter is concluded and the panel of adjudicators makes a decision, it is perfectly appropriate to publish the results and the amounts of the awards. However, it is perfectly appropriate for members of the media to accurately report on what occurs. I am confident that if there is a panel of adjudicators deciding a particular matter and it is held in public, that the names would be published. I am confident that that would occur in the newspapers. I do not see anything wrong with that.

This legislation has gone further than any other provincial legislation in guarding against damage to reputation for people who are complained against if the complaint was frivolous or vexatious. That is an accountability procedure for the Commission that is absent in other jurisdictions and that would be an addition in all of the Commissions. We will see how it works here.

The Member for Porter Creek East also complained about the fact that I was dismissing the concern of the Member for Riverdale South. I was not at all. I specifically said that I would welcome a discussion under Clause 17 when we get to it. This is a matter that is particularly relevant to Clause 17 and only Clause 17. If Members opposite feel strongly about a publication policy, we can amend the Act or provide for regulations and table the regulations extremely quickly. However, the policy of the drafting of this Act is to keep it as simple as possible.

The general public understands the concept of an annual report. The position of the government is that there should be an annual report in the traditional form. Whether or not names are publicized is, in my opinion, a decision for the Commission to make. If Members feel strongly about it, I have no objection to spelling it out. I think it is cumbersome and unnecessary, but I am willing to be compromising on that point if Members feel strongly about it.

³⁰ **Mrs. Firth:** I find the Minister's attitude somewhat irresponsible, frankly. All we are saying to him is: where is the government going from? They are the ones who are making this law, not the Human Rights Commission. When the government makes laws, it has the responsibility to tell us what kind of law this is going to be for Yukoners, and what effect it is going to have on their lives, and where they are coming from and how they see it functioning.

The Minister is standing up in the Legislature and saying, well, I see it working this way, or I see it working that way, and I will not know if the Commission is going to want that published or not, and I guess we can all make it together.

The government is bringing a Bill in here and asking us to approve a piece of legislation. I want them to be up front and tell me how they see it affecting Yukoners' lives. It is up to the government to issue some policies regarding a publication of the Annual Report. The Minister has said no, he is not going to do that. It is going to be up to the Commission.

I raised the concern that those who are merely accused of some kind of violation against the human rights legislation could be named as if they were guilty. The Minister goes into a big song and dance and beats around the bush, and says maybe we should be debating this when we come to clause 17. We do not have to debate this when we come to clause 17. It is consistent with the debate of the general principles of the Bill and the general direction and attitude of this government when it comes to the Human Rights Bill and the Human Rights law.

I will submit that the Minister has a responsibility, not only to the Members of this Legislature, but to the public to tell us where he is coming from. I have heard so many stories and so many different versions of the Minister's clear opinion of something that I do not know where he is coming from anymore. Before we get through this human rights debate, I want to know exactly where the Minister is coming from.

Hon. Mr. Kimmery: Where I am coming from is that it is the government's policy, and my policy, that this decision should be made by the Commission and that, in my opinion, the best way to make the decision is to publicize the fact of awards and the amount of awards, but to not publicize the facts that complaints are made.

Whether, in the Annual Report, the Commission would like to say three awards were made against three companies, or three awards were made against company A, and name the company, and company B, and name the company, I feel is a decision for the Commission.

Whichever way they do it, if it is about awards, is fine with me. I am absolutely confident that if any award at all is made, it will be in the paper and on the radio.

³¹ **Mr. Nordling:** I think that it is irresponsible to be bringing a Bill forward expecting and inviting amendments. Normally, the Minister chooses his words very carefully. However, I agree with a previous comment that the Minister, in this debate, seems to be making things up as we go along, and making his positions up as we go along.

The point I would like to make is that there is a lot of difference between being charged with an offence and being convicted of an offence. The Minister referred to a program in the maritimes where those charged with impaired driving had their names published. I

find that hard to believe; perhaps the Minister could clarify it. To me it would make a lot more sense to publish the names of those convicted with impaired driving.

I would like to hear from the Minister as to whether or not he sees a difference between being charged and being convicted of an offence.

Hon. Mr. Kimmerly: I totally agree. There is a very substantial difference between being charged and being convicted. I would say that the fact of charges under this Act is only under two specific sections, Sections 27 and 28. Anything else is not a charge at all.

I would like to respond to the comment about inviting amendments. I find it really ludicrous. The position of the government is that we have put forward a Bill. After some substantial discussion on one of the details that may be of concern I say something like, "If Members are feeling strongly, I am perfectly willing to compromise, and we can put it in the Act." The only concern here is to make the Act longer and more detailed, it is less readable and less understandable to the lay public especially and Yukoners generally.

I am only being reasonable, and to be criticized for that is totally ludicrous.

Mr. Nordling: My impression, and the Minister is not doing anything to dispell the suspicion and the impression, is that the Minister is playing games with the House with respect to this Bill.

Mr. Kimmerly got up and introduced the clause-by-clause debate by saying, "Here is our proposal. I think it would help if you told us what we wanted to hear and we will discuss that to facilitate debate." I believe that the Bill has been written so that there are things that the Minister can give up and other things he wants to keep in. I do not think he has been entirely honest with the House in bringing the Bill forward as it is.

He said there are many things that are open and invites us to bring our amendments. I think there is great concern with respect to the subject we are talking about and that is the annual report and what is going to be published.

³² I am concerned that the Commission can publish names of people who are accused without being found guilty. I would like to know what the Minister, in his wisdom, will be able to do about it when the Commission does that. Will he advise or interfere with the Commission at all, or does he agree with whatever they do whenever they do it?

Hon. Mr. Kimmerly: Mr. Nordling makes an allegation that I am not honest with the House that I will bypass as simply being ill-chosen words.

The position of the government is clear. We are promoting the Bill in this language. Mr. Nordling knows full well that I would like to know what amendments the Conservative Party, or any individual Members, are promoting. I have asked. I have asked privately, and I have asked even publicly. I asked publicly at the beginning of the debate. It is impossible to speak about those potential issues in any business-like fashion until we know the wording that is proposed.

The government's proposed wording is before you. The next step is yours. The ball is in your court. The position of the government is that we are not standing here and saying we will not accept any amendments. We will look at any amendments, even any potential issues, and respond to them as they come up.

To give an example, the Leader of the Conservative Party first spoke about the tariff of costs, or the costs involved in adjudications. We have researched that. I would propose to not table here a proposed regulation, but to say that a proposed principle is to simply adopt the Supreme Court tariff of fees for party and party costs. The lawyers will know that there are various columns in those fees. The dollar figures go higher as you go to the right. We should establish which particular column is appropriate in the adjudications. That kind of guideline, I think, is entirely appropriate. It is my opinion that it is a very business-like way to operate, to bring forward that question, to respond about the tariffs. Do people agree that the fees could be simply an adoption of the court tariffs, and at what level or in which column?

³³ That is a sensible way to operate, and I am confident that all of us can arrive at a general consensus about what is appropriate. If the

debate is in that form, we will get on with it. I am not inviting amendments per se, but if there are concerns, let us talk about them.

There is a concern about the ability of the Commission to publish the names of people who are complained against rather than the people who do actually have an award made against them. If that is the policy that the Members opposite would prefer, it is the same policy that I have stated, and we can do several things. We can put in the Act as a legislative guideline in the annual report or we can include a section to allow us to make regulations about that.

I would argue, contrary to the Member for Porter Creek East, that it is allowable under the present regulating-making power. I think it is not. In any event, we can regulate that because all of us are agreed on that policy. It is a solvable problem, and we are prepared to do it. I do not see the major issue.

Mrs. Firth: If that is the case, why did the Minister not include it in his legislation, in his law? He is supposed to have done the research. His department has drawn up this law. This is law that he is bringing forward to the Legislative Assembly. Now, I not only get the feeling that the Minister is making up positions as we go along, but he is asking us to write his legislation for him.

I asked the Minister what the publication is going to be, and I think he started making it up depending on what he feels our concerns are. After we raised a few concerns about names being published, he said that they could accept that. I want to know what the government's position is. I have been asking this all along.

The government comes in with a 12-page Bill after they had dropped on the public, like a bomb, a Bill that was some 60 pages with all kinds of directions, instructions, powers, seizures and so on in it. Let us just lead up to it. They drop a bomb on the public of the Yukon Territory, then they come back with this small Bill, with these readable lay person sentences, which is fine.

I asked the Minister about the regulations expecting some clarification. Again, the publication policy is something I would have seen in the regulations if it is not in the Bill, but the Minister will say no.

³⁴ No, that is not true. The Minister has said that the Commission is going to make up their own set of guidelines, their own policy directives. When I asked what that was based on, he said that they would be based on precedents. Then he tells us that he cannot interfere, the government cannot interfere as to what the Commission's policy directives are going to be; the Legislature has to do it so that he will not see the policy directives before.

My concern is: based on the principle that the Commission will be making their policies and directives based on precedents, we start debating the publication policies. We go back and forth about whether or not it has been a controversy. Well, it has been. In some instances the Minister sounded like the Commission that came to its own defence in the Province of Saskatchewan. I will cite the example so that we are all clear on the issue that we are debating. Maybe the Minister can tell us exactly what the government's position is on some of the policies and the issues.

In the Province of Saskatchewan a waitress laid a complaint of sexual harrasment. It was a verbal complaint against the owners of a business. That was an accusation. The business' name was published in the annual report before the Commission had even held its quasi-judicial hearings. When the Commission was questioned, or when the issue was raised, the Chief Commissioner or Chairman said, in defence of the practice, that the Commission published the names only after the officers had investigated the complaint by interviewing all the parties. I believe the Minister got up and talked in this context. The Commissioner also said that the investigators' work was also like gathering police evidence and was to be done objectively and neutrally. He then said that if the investigators deemed the complaint valid that the accused is, in effect, deemed guilty. He is given the choice of settling quietly and without publicity, or appearing before a government-appointed board of inquiry and that such bodies were open to the public.

That is fine if he is proven guilty, but if someone is merely accused of doing something and the Minister does not agree that the names should be published, why did he not indicate that? It could have been done very simply. I am sure the Minister will anticipate

that there will be some amendments coming forward regarding this since it has been the subject of some debate. Why did he not include that in the law?

Just to follow up, which raises my great concern about how the Human Rights Commission is going to set its own rules based on precedents in other provinces, the Human Rights Commissioner went on to say that the Human Rights Commissions in other provinces follow the same policy. I would conclude that the Human Rights Commission here, unless they get direction otherwise, is going to follow along the same policy lines. It went on to say that we do not phone the names around or actively seek publicity about the hearings, they just report their work to the Minister.

That was what I wanted clarification on: reporting the work of the administration of the Act and what the publication policy was going to be. The Commissioner went on to say that you would be surprised to see how many people read that thing. Obviously it was the object of much interest and much discussion.

The Minister comments about how this Bill goes further than any other in the country to compensate those who have been accused and have not been found guilty. How do you put a price tag on a business or a businessman's reputation when he has become the subject of a publication, particularly when it does not say that that individual was ever found to be innocent of the charges?

³⁵ Surely, the Minister knows, in the profession he has chosen to participate in in the last five years or so, that when one is accused of being guilty of something, that usually is a very big sensational headline and publication, but when the individual is found not to be guilty, sometimes it is a small note somewhere, "oh by the way, public, this person really was not guilty". It is a very great concern of ours, not just with this one clause, but in the context of how the whole Bill has been drafted and the whole attitude of the way the government is presenting the Bill.

Hon. Mr. Kimmerly: The question that is gleaned from the rhetoric is why is this provision not in the Bill as presented by the government? There are two answers. One of them is that we presented a longer, more detailed Bill, and the will of the Yukon public was that there be a Bill presented in a form that is understandable to everyone.

It is extremely unusual that the public, generally, reads legislation before it is passed. This first occurred, I believe, in any numbers at all, in the Yukon around the *Childrens Act*. This is the second Bill that the public generally has read in large numbers, as it goes through the legislative debate.

My own opinion is that that is extremely healthy, and the public should be reading legislation more. They do not have time to read all of it, but it is certainly our duty to make it as understandable as possible. We are doing that with this Bill. We are particularly using concepts like Annual Report, which the public understands, and which we all understand — rather than spelling out a long list of procedures and policies — which is exactly the right way to write this kind of legislation, when all the little details detract from that principle.

Secondly, this is not a problem. Mrs. Firth raised one question about alleged sexual harassment in Saskatchewan, which does not make it a problem. The situation in Saskatchewan is very different from the situation under this Bill. The situation there is that there is an accusation and a question of guilt. That is not the case under this Bill.

³⁶ The Members opposite have been using words like guilty and accused, which are the wrong words to use. We will not find them in Bill No. 99, except in relation to the two offences that are in sections 27 and 28. The other things are not accusations and are not findings of guilt or not. It is a civil procedure. It is concerning a complaint and a resolution, but it is not an offence to discriminate under this Bill.

The question of publicity is, practically speaking, not really a question of annual reports at all. It is a question of what the media do about proceedings under this Commission. That is the answer to that question. The much more important question about what we should do is that if Members opposite feel strongly, we can look at prohibitions against publishing the names of people unless the complaint is actually proven.

Mrs. Firth: The Minister really does have quite a stubborn streak. I find it quite amazing that when he makes up his mind not to answer a question, he can find more ways than any other Member of this Legislature to smoke, mirror and cloud over the issue.

He just used the word "prohibition" so that he can say that the opposition Members want prohibitions in the annual report. That is ridiculous, ludicrous or whatever the marvellous word is that the Minister of Justice likes to use. He talks about the words we are using not being the correct words, that he wants us to use charged and convicted instead of accused and guilty. What difference does it make? I am a layperson. I will use the words that the layperson can relate to. That is the way I read it, and if it is not good enough for the Minister, that is too bad. It is good enough for the people I represent.

The Minister says that the public wanted an understandable Bill. The public wanted the Bill put into a form that is understandable. That is fine, and that is well and good. They did not want the government to make the Bill completely lacking in what its position is. That is what has happened. The public did not ask the government to leave out what its position is on matters, but the government has done that. It has left out what they feel should be put in the annual report.

³⁷ The Minister cannot say that he could not write something in there to be more specific, instead of just leaving it wide open. It did not have to become complicated and complex, so that the public could no longer understand it.

The public does not want to deal with concepts. I take issue with the Minister saying that the Annual Report is a concept that all the public can understand. They understand what an Annual Report is, but what is contained in that Annual Report, I would beg to differ with the Minister. There are probably a lot of people in the public who do not know what the report is going to contain until the first report is published, particularly in this instance, where there has never been a Human Rights Annual Report published before.

I think it is incumbent upon the government to either say what they believe should be in the report, or give some indication to the public as to what their philosophical direction is as to what should be contained in it. It does not just apply to this clause. It applies to the whole Bill. It applies to the point we raised about who would be present at adjudication hearings.

The Minister said the Commissioners and the respondent, but when I asked if a third party could be present, he said that it could if the Board of Adjudicators wants it to be.

What is this government's philosophy about it? It is fine to talk in concepts, and say we should have human rights for all, and there should be discrimination against none. That is all motherhood, but let us get down to the some of the nitty-gritty here. Let us get down to some of the specifics and find out exactly where the government stands on issues.

I cite one example from Saskatchewan. If the Minister wants, I could bring my whole file in here of examples that I have researched and collected, and we can go through all of them, since he feels it is not a controversial issue.

All I am asking is for the government to be upfront. I cannot find in the Bill where it says that there will be the commissioners and the respondent present at an adjudication hearing, yet the Minister says that that is who will be present. I want him to tell me where that is included in the Bill.

I just want the Minister to be upfront with us and upfront with the public and tell us where the government is coming from, what their version of human rights is.

Hon. Mr. Kimmerly: I have repeated. I have said and repeated it twice, for a total of three times, where the government is coming from. I will repeat it again.

The position of the government is that the Commission should be an independent body. It should not be responsible to the government for its policies and directives, but should be responsible to the Legislature. The Member opposite talked about the words that were used, and she will use words that the lay public understands. I am sure she will, but I would ask her to use the correct words, which she did not. It is not a question of convictions, accusations and

guilt. Those words are not correct.

³⁸ There are equally understandable words like "complaint" and "award" or "resolution", and the process here is not a criminal process, it is a civil process.

Chairman: We will now recess for fifteen minutes.

Recess

Chairman: I will now call Committee of the Whole to order.

Mrs. Firth: Just to conclude the debate that we have been having, not in the context of the whole Bill and the principles, but for this specific clause, I want to mention two things for the Minister. I will enjoy the debate we will have when we get to the clause-by-clause debate, and I am sure the Minister will appreciate the amendment I am going to bring forward when we reach this clause. We will debate that when we get to it.

On the point the Minister made about the terminology and what the public accepts as terminology, I am telling the Minister that when the education job of the Commission is taken on, they will have to take into account that the public does interpret this as having been accused of a violation against the Human Rights Bill and they are either going to be found guilty or not guilty. Whether the Minister thinks that is accurate or correct, that is the impression that I get as to how most of the provinces interpret it, so we have some indication of one of the first jobs that the Human Rights Commission is going to have.

Unless the Minister wants to make any comments about that, I would like to proceed with some other questions.

Hon. Mr. Kimmerly: My only point is that if we, here, use the correct terminology, it will find its way into public acceptance faster.

³⁹ **Mrs. Firth:** I do not want to get into a debate about that, because I do not think a lot of the public reads *Hansard*. I take the Minister's point. I will certainly do everything I can to try to use correct terminology. I am sure the Minister will brush me up now and then on it.

When we finished the debate last week, we were talking about appointments to the Commission. The government indicated that they did not have anyone in particular in mind to be appointed to the Commission. The Minister did make some comments about groups that would not necessarily be represented on the Commission, because the Minister did not see that as being objective, and so on. I believe we talked about groups like the Chamber of Commerce. If they were represented then the Status of Women would want to be represented on it, and then CYI would want to be on it, and the Outfitters Association would want to be on it, and so on.

Is the Minister excluding nominations from those groups?

Hon. Mr. Kimmerly: No, not formally. The question in my mind takes two parts. One is about the appointment to the Commission. Secondly, it is about the appointment to the Board of Adjudicators. Although the Commission will have power, the real power will be with the Board of Adjudicators. That is the most powerful group.

If the proceedings of the adjudicators will be judicial or quasi-judicial, it is important that those members who actually listen to a proceeding and make a decision not be biased or have the perception of bias. The debate about the medical council is relevant here. It is that kind of concept that I am concerned about.

It is not the policy of this government that the Commission should be specifically representatives of usually opposing groups in the context — or I will use the analogy — of the traditional labour-management conflict, or business owners and employees in businesses.

The Commission will work best if the Commissioners all get along together and think about the common interests that they have and the public interest, generally.

⁴⁰ That is not to say that a person with a background as a business owner with the Chamber of Commerce or the Contractors Association should be excluded. They certainly should not be, but the

overriding principle ought to be that the people appointed should have understandings of the issues and should have the respect of the community, if possible should not be identified in a partisan way, and if some members are identified by their partisan background, there ought to be a balance as opposed to members of all one political persuasion or another and that there be a racial, gender and rural-urban balance. Those things are uppermost in our minds.

Mrs. Firth: The Minister has clarified that for me. I was under the impression that if someone was a member of, for example, the executive of some organization that that would exclude them from being appointed to the Human Rights Commission.

I submit that of individuals who are appointed to the Commission, or whose names are suggested, and there is political association attached to those individuals, rather than say that there should be equal political association attached to others, I would prefer that there was no political association to any of the Commissioners. That is something that we must stress.

Can the Minister tell me if he has had any representation made to him by any groups or organizations other than the Chamber of Commerce as to the process for the selection of Commissioners?

Hon. Mr. Kimmerly: No, I have not had such representation. The Chamber of Commerce has spoken of the issue generally. There have been some comments at public meetings about who are the kinds of people who would be appointed. There have been no specific submissions about the method or the persons appointed. There was one individual who approached wanting a job as a Commissioner, who I will not name. That is the list.

Mrs. Firth: I cannot imagine who would approach the Minister wanting to be a Commissioner on the Human Rights Commission.

Can we take it then, from the government's style and pattern of appointing committees, that we can anticipate that at least one of the Commissioners will be a woman and that there will be some native representation on the Commission?

⁴¹ Has the Minister had names submitted to him, or has he not had names submitted to him? I am not clear on what his response was.

Hon. Mr. Kimmerly: I have not had any names submitted to me at all, aside from the one individual who was interested in being appointed. It would certainly be my position that there should be at least one native person, at least one non-native person, at least one man, at least one woman, at least one rural person, and at least one Whitehorse representative. I hope some of those categories will overlap.

Mrs. Firth: I believe there was an American politician who completely destroyed his career in one mouthful along those lines, and I am not even going to come close to what he said, because I would like to stay here just a little bit longer. I am sure that Members in the House who have any familiarity with politics and human rights issues and minorities, it will come to mind if they think about it long enough.

Has the Minister and his colleagues come to any conclusion about the process that they most prefer for choosing the Commission? Is the Minister prepared to tell us, in some detail, what the process would be?

Hon. Mr. Kimmerly: Yes. The preferred process is that the government generate a list of potential appointees, that we receive from other parties here another list, and that we consult about each others' lists and make a short list of perhaps six to 10 people and rank them, and then start asking people if they will do it. I would imagine not everybody who is asked will accept.

The order of asking may change along the way, because if the first two who accept are either men or women or rural or urban, the third one, if it is expected to be three, is narrowed. After a panel of whatever it is — three, four or five — is selected, the parties know the list, and that myself would move, by a motion in the Legislature, that the named people be appointed and the parties vote on it.

⁴² If that consultation works well, the motion will pass with relatively little debate. If it does not, there may be more debate, of course. That is the preferred procedure that the government now has.

Mrs. Firth: I just have one more question about the whole appointment procedure and that is with regard to the Board of

Adjudication. Does the Minister see the same set procedure for the adjudicators?

Hon. Mr. Kimmerly: Yes.

Mr. Lang: I would like to go to another topic that is not a favourite of the side opposite, but does concern us. It is a question of costs. I had the opportunity to review the tedious and arduous debate that took place here during the course of our last afternoon sitting where we never really did get an approximate figure for the cost of the Commission.

During the course of that debate, the Minister referred to the fact that the cost of the Commission would be as much as half of what the actual cost of human rights over the last year has been. Could he report to the House just exactly what the total cost of the Human Rights Publicity Campaign was, how dollars were allocated, and various other things? I am sure he has a breakdown, and if he could give us the breakdown he has before him I think we would all appreciate it. It would give us at least some idea of just exactly what the public paid to be educated.

Hon. Mr. Kimmerly: What I was trying to avoid last Thursday was the kind of headline that appeared in the *Whitehorse Star*, that the Commission was going to cost \$200,000. It appeared to me to be a wrong interpretation of the debate and poor journalism; however, that in fact has occurred. I will say that the costs of the Commission will be less than \$200,000. The cost of the advertising campaign was \$60,874.09.

Mr. Phelps: I would like to move into a different area of concern regarding the Bill and that has to do with the use of the words individual or group in the first number of clauses. I am wondering why this Bill, unlike any of the others I have seen in Canada, uses the words individuals and/or groups?

Hon. Mr. Kimmerly: We wish to acknowledge the question of group rights as well as individual rights. This can be well explained using two examples. Aboriginal rights are a group right. They are a right granted in the *Constitution*, not to a particular individual or even a list of individuals, but to a group or a collectivity, possibly in some cases, an Indian band.

The question is relevant in the field of religion to a church congregation, a parish or the collection of the members of a church. They, as a group, may have or should have a right to, for example, exclude individuals who are not members of the church for the purposes of attending a meeting of that church, if they so choose. Some churches do choose. To use a concrete example, if a church congregation is running a church school, a Bible school or a Christian school and they wish to employ a teacher, to make a restriction that the teacher be a member of the congregation, they are expressing a group right as opposed to an individual right. It is to express that concept and include it that we use the word "group" as well as "individual".

Mr. Phelps: I am still a little unclear about that. When you speak in terms of the protection for a group, you go over to the provisions of section 10 of the Bill. The word "group" is not used in 10(1), so it was not necessary to use that language in order to speak in terms of protections, such as you have just mentioned, with respect to a church organization getting certain kinds of preference to members of the faith.

My concern relates to sections 3, 4, 5 and 6. I am concerned about the possible ramifications. I am wondering whether or not there was a study done or a legal opinion in writing received with respect to the potential ramifications for the use of that word, because it is a concern to me. For us to be unique is one thing, but for us to be unique and not really understand the consequences is quite another.

Is there any kind of written argument or brief that either led you to this concept or that states that there is no problem with the concept?

Hon. Mr. Kimmerly: There is no study that I am aware of. There is no study. There has been a consultation with the Commissions around the country and the federal Commission about the concept of including the phrase "group". It was included in Bill No. 58, and we had substantial consultation about that concept at that time.

The Commissions, or some of them — I forget precisely which

— have advised us that in some particular cases, the absence of the phrase "or group" or "and every group" was a problem. I will supply that information at a future date, perhaps tomorrow. Concerning any case where that would have made a difference, I am confident there are some, but I do not remember the names specifically.

⁴³ Concerning Section 10 and the word "organization" there, we could have used the word "group" in that section, but it was decided that the word "organization" would be clearer to the general public. The word "group" would include an organization. The concept here is to include the right of a Church congregation, for an excellent example.

Mr. Phelps: I guess I am trying to find the right way of putting this. We have an organization defined in law, where you have, for example, any organization with a charter built into it, where a member would have the right to vote and make decisions within the organization, be it a company or fraternal organization or whatever. There are certain rules, the group is defined and, of course, democracy operates. Generally, if you lose a vote and you are one of a small minority, that is fine.

When you move into a situation where group is not defined, and it is not a group with certain rules and regulations pertaining to what constitutes it, then it seems to me that you move into an entirely different area and some potential problems, because any collectivity of individuals could be called a group. It is one thing if you are intending to say the Lions Organization, the Chapter of Grey Mountain or Lake Laberge, or whatever, is doing certain things. Presumably that is a definable group and there is no problem because an individual member of the group has had a chance, presumably, to exercise his democratic rights within that defined body. If you are able to say you could take any collectivity of individuals, 20 people on Main Street, as a group, and one person within that 20 people is being somehow discriminated against — he is a member of a group in a very loose way of speaking — and it does not seem to you to present a problem, a problem with regard to certain kinds of defences available to the majority of people maybe doing something that amounts to discrimination? Does it not present to you certain problems because, without definition, a group is simply more than, I suppose, two or three people.

⁴⁴ **Hon. Mr. Kimmerly:** I have thought about that long and hard. I would ask the Leader of the Official Opposition to think about a concrete example, if he could, under section 3, 4, or 5. The way I have it is as follows: if we guarantee every individual free speech, that is well and good and, I think, uncontroversial. What about a church congregation or a political party? The Conservative Party makes statements as party philosophy as opposed to any statement of any individual. That right of that group to have free speech would not be actually guaranteed unless the concept of the right of the group were included as well as the right of individuals. If there is a group of 20 people on Main Street, under what circumstances would we wish to deny that group free speech? I simply cannot think of any. If 20 people sign a petition about anything, they are the group that is advocating whatever the petition calls for.

When we think about freedom of religion, conscience, opinion, belief, speech and peaceable assembly, I cannot think of any concrete examples where you would wish to deny a group that right. Therefore, I think it is important to include the concept that groups have rights as well as only individuals. If there is any harm, I cannot think of it.

⁴⁷ **Mr. Phelps:** I must admit that I have not dwelt on this in order to come up with a huge number of concrete examples. That is not to say I will not before we get down to the clause-by-clause. It is not to say that I do not have concerns that I feel are valid.

Let me try it this way. Generally, if you are speaking in terms of a group, the group is doing something. Let us deal with freedom of speech. To be a member of that group requires some kind of act on your part. You may want to belong to the Lions Club, or be a member of the NDP. The kind of group that is being contemplated in the dissertation of the Minister really refers to a definable group of people who are formed together for a certain purpose, be it commerce, be it for the purpose of charity, whatever. There is an act of will to become a member of the group. That is essential. If

the group is speaking about certain things, you, as a member, have certain remedies. If you disagree, you can retire from the group posthaste and state that you no longer believe in that body and you no longer wish to be a member.

If you are using a loose word that goes far beyond that kind of organizational concept, then one of the things that gets lost really quickly is the essential ingredient of what is intended by the Minister. That is the concept that there is a definable organization or structure that somebody wishes to be a part of. If somebody suddenly makes a statement, for example, that someone who happens to live in Carcross states something outrageous, and somebody says, well, that is just a group of people, and everybody in that group feels the same way, that seems to me to really suppress the freedom of the individual. Without being a part of a group, of authorizing or even debating what some individual you may not even know is saying, you are being associated arbitrarily.

I think that speaks to a very clear definition of what the writers of the Bill intend when they speak to some kinds of collective rights to freedom of speech and so on.

⁴⁸ Without definition, a group is nothing. Anyone can pick 20 people and say that that is a group. I feel that it is not tight enough at all. I sense that there could be a great deal of mischief come about if this is not defined, at least to some extent. If the person is talking in terms of organizations, internal or otherwise, as has been done in section 10, I suspect there is good reason for the people who drafted the Bill to fall away from the group and get into that kind of more particular language. I also suspect that that same kind of intellectual discipline ought to be brought to bear on the use of "group" in Clause 6 and the preceding three clauses.

Hon. Mr. Kimmerly: I fail to see the problem still. Imagine if the phraseology was "every individual and every collection of individuals", which is essentially the same as saying "every group". Then there is that same concern. It is frequently said that the Conservatives believe, Roman Catholics believe, Italians believe or residents of Carcross believe, or whatever statement you would care to make. If that statement is in any way controversial, you will find a Conservative who says that the Conservative policy is A, but I do not support it; I believe B. It is the same about any other group — residents of Carcross, or whatever.

It is important to make a statement that the group does have a right to speak if they choose. The freedom of speech is frequently abused in the sense that people speak wrongly or with false information. That is not really an abuse, but it is certainly a common occurrence.

⁴⁹ I would suggest that the concept of a collection of individuals, or a group, is also important, and not only the concept of an individual. Just as a practical example about, say, freedom of assembly and freedom of religion, you could say that every individual has freedom of religion, but if you do not say every individual and every group, there could be a case for discriminating against, for example, holding a religious service as a collection of individuals. That is a group right as opposed to an individual right, I would suggest.

The freedom of any political party to make a statement as a party is a group right. It is not an individual right. I would suggest that it is important to include both individual rights and group rights.

Mr. Phelps: I do not wish to belabour it, but if the Minister is so comfortable with "group", I wonder why under Section 10(1) he did not substitute the word "group" for the list of organizations contained therein. I could ask the question: would the Minister be happy with the wording, "It is not discrimination for a group to give preference to its members or to people the organization exists to serve"?

⁵⁰ **Hon. Mr. Kimmerly:** I cannot think of any particular problem in that wording, myself. The word "organization" here is not defined. It has its normal dictionary meaning. It is slightly different from the word "group", but it would seem to me it would have the same effect. I will reflect on it further, but immediately I see no problem.

The substitution of that word would probably detract from the readability or the understandability of that section, but the word "group" would suffice, in my view.

Mr. Phelps: I will look forward to receiving the examples of problems that the addition of the words "and every group" in clauses 3, 4, 5 and 6 was meant to overcome.

Chairman: Any further general debate?

Mr. McLachlan: I had some questions with respect to the information that will be gathered by the Commission. During the course of investigation, there could be a substantial dossier compiled on an individual or his business, certain relevant facts relating to the investigation. Although it is not specified in the legislation, what will the Commission do with this information? How will they keep it private or secure? In the last four weeks, we have certainly seen examples where certain income tax information under Revenue Canada's access walked away from offices in Toronto and Saskatoon.

⁵¹ Information compiled during an investigation by the Commission members could be very sensitive. It could be very damaging to one's future career. Can the Minister assure the Legislative Assembly of any means that would be used to keep that from getting into the press, the wrong hands or getting into a brown paper envelope?

Hon. Mr. Kimmerly: This concern exists with every investigation of every kind. I have never heard of a case where it was a problem when a brown paper envelope goes astray from a Commission. That is frequently the case with governments, but I have not heard about it with Commissions. The procedures to ensure that that kind of privacy are relatively standard around the country. I do not know specifically. I will look into the procedures for privacy, but I cannot imagine it is a significant problem. It is something to pay attention to as, of course, the government and the police do on all sorts of matters. The same kinds of procedures would be applicable.

⁵² **Mr. McLachlan:** I have no fear of information gathered during the course of an RCMP investigation. That information seems to be kept relatively private. I certainly do have in the case of this quasi-police commission, because the Human Rights Commission certainly does not have RCMP officers, et cetera. The Minister has said that he has no relevant information as to how this could happen. I want to suggest that in the case of Revenue Canada, it certainly did happen. Somebody decided to take some files home, for whatever reason. There are cases, and I could see it happening here. It should not, but if it did it could be damaging.

Let me word the question another way. Could people gain information about an ongoing investigation, or one that has just been completed, by filing for access under the *Access to Information Act*? Or would that only relate to government policy and procedures? How would you protect the information gathered in the course of investigations?

Hon. Mr. Kimmerly: I would have to specifically look at the *Access to Information Act*, and I will. I am reasonably confident that it would not apply.

⁵³ **Mr. Brewster:** I am not too sure where my question should come in the line debate, so I would like to ask it now. On the Minister's travels through the Yukon, there were a number of places where nobody showed up at meetings. Does the Minister construe that they all agreed with him and did not bother coming?

Hon. Mr. Kimmerly: No, I did not construe that at all. I believe that the only place nobody came was Beaver Creek.

Mr. Brewster: Did anybody show up at Destruction Bay?

Hon. Mr. Kimmerly: There was a lunch meeting at the restaurant, yes. It was not a public meeting, per se, but simply a meeting over lunch.

Mr. Brewster: Then, I would presume that there were quite a few people who wanted a meeting in Whitehorse, and it did not show up. He must gather that there is quite a bit of resentment in Whitehorse, at the same time.

⁵⁴ **Hon. Mr. Kimmerly:** No. I make no interpretation of lack of attendance at meetings.

Mr. Phelps: Was there ever a meeting held in the Marsh Lake area of Hootlinqua, at Lakeview Marina?

Hon. Mr. Kimmerly: There was a meeting last Thursday night of the Southern Lakes Chamber of Commerce, which was extremely well attended. I am assuming that residents of Marsh Lake may

have attended that. No such meeting was held specifically for the residents of Marsh Lake.

Mr. Phelps: Was there a meeting ever held along the Mayo Road or at the Hotsprings for residents in the Hootalinqua area to the north of Whitehorse?

Hon. Mr. Kimmerly: No.

Mrs. Firth: I would like to know if the Minister kept a record of the meetings held and the attendance, as the Select Committee on Renewable Resources did? Did he document comments that were made? Could he tell us approximately how many of the public from the rural areas attended the meetings?

⁵⁵ **Hon. Mr. Kimmerly:** Yes. I did not, in fact, but my assistant did. I thank Mrs. Firth for the question because it has an interesting answer. The specific submissions were very clearly in favour of the Bill, and particular sections of the Bill. I have statistics about the particular communities and the particular issues. I do not interpret this as a scientific poll at all. In fact, many of the meetings, the one in Dawson City is an excellent example and the one with the Southern Lakes Chamber of Commerce last Thursday night is another excellent example,....

Chairman: Order please. The time now being 5:30 p.m., we will now recess until 7:30 p.m.

Recess

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

Bill No. 99, general debate, continued.

Hon. Mr. Kimmerly: I was asked a question about submissions made to the government, and I would simply emphasize that these submissions were made about the White Paper and not the Bill per se. I think that is an important distinction.

In the general support to the Bill, there were 33 individuals, seven groups and one business. In general opposition, there were five individuals, five groups and two businesses. Those were submissions. In written submission letters, there were 52 letters from individuals, 17 from groups, four from businesses and 112 form letters saying exactly the same thing. A petition in support had 127 names.

On sexual orientation specifically, there was support in written form from 89 individuals and four groups. In opposition in written form, there were 12 individuals and four groups.

⁰² On pay equity, support in written form from 76 individuals and three groups and opposition from three individuals, six groups and three businesses.

Mrs. Firth: Would the Minister be prepared to table that information for us? I know the form letters that he is talking about, because we probably got the same form letters, too. You know you get two form letters with two principles in it and you get them from the same people. I do not think it really is a very accurate reflection of the support or lack of support. As the Minister said, it was not a scientific set of statistics. Conclusions could not be arrived at scientifically, but it would be helpful to us if we could see what statistics the Minister has and how he is basing his information so that we can participate in the debate.

Hon. Mr. Kimmerly: I cannot table any more information than I have just given. It is just simply a count of the letters. The only other information that is possible is to actually table the letters, and I will not do that because some of them were obviously intended to be private. I am absolutely positive that Members opposite received letters, and I am not asking them to table those. Those are private communications. Some of these were made by people who made the letters or the submissions public. For example, the Chamber of Commerce, I believe, has spoken to everyone.

⁰³ **Mrs. Firth:** Just to follow up, I do not want the letters. I understood from the Minister's comments that he had some kind of statistical information that he had compiled on a sheet and had arrived at certain conclusions from it. That was the information I was asking for.

Mr. Lang: I find it interesting that one of the pieces of information the Minister referred to was a petition. The normal

course of events for petitions is the tabling of petitions in the formality of the House. Is it the Minister's intention to table the petition formally in the House?

Hon. Mr. Kimmerly: No. This petition was not addressed to the Legislative Assembly and would be out of order, according to our rules. I believe the petition was circulated at the women's conference and received the names there. It was mailed to me. It was addressed to me, and it is not something that I would anticipate tabling.

Mr. Lang: Just so we get the record straight here, then, a lot of the letters that emanated from that particular conference in support of the principles enumerated in the Bill would also be the names, in good part, if not in total, of the people on the petition as well. Is that a fairly safe assessment?

Hon. Mr. Kimmerly: No. I identified form letters. It is my information that the form letters came from the same source; that is accurate, but the other letters, no. They are individual letters written by individuals.

⁰⁴ **Mr. Lang:** I have to apologize to the House because I asked a question at about three minutes to five and I had to leave right after I asked the question and the Minister was good enough to be giving a response. I know I appeared to be rude, but I had no choice. I was under the clock and had to get information into the Clerk by five or else we would not have had anything to discuss on Wednesday, which I am sure would upset Members opposite. I was doing it for the House. I apologize to the Minister because I know it appeared to be rude, and I apologize for that.

I want to go into the question of consultation and the exercise we have gone through to date. Was the purpose of the process that was undergone not to find out what the majority of the people of the Yukon were prepared to accept as principles for the purposes of Human Rights in 1987?

Hon. Mr. Kimmerly: The answer is yes, but it was not only that, of course. The question can be phrased, "what principles are Yukoners prepared to accept", which is a different question from what do Yukoners want.

The process occurred in essentially two separate processes. One of them was a public education campaign and secondly there was a tour by me, and meetings with individuals and groups by myself. At those meetings, and I was very clear about this in the House last fall, I was advocating a position. I was advocating the position contained in the White Paper.

⁰⁵ I saw those meetings as promoting a position and, as well as that, the government listened. At many of those meetings, there was a discussion of the various principles. At some of the meetings, some individuals expressed a view about the Bill, in general, or about particular sections, but I did not specifically ask Yukoners, "What is your view about a particular issue?" Many individuals took the opportunity to express their views. Many individuals, undoubtedly, had views but did not express them particularly, and questioned or entered into a discussion about them. There were some whose views I would suspect, but I am not absolutely sure of.

The process was a combination of a number of things, but it was clear that the views of many Yukoners were expressed. I would be the first to say that the tally, if you will, of those specifically expressing support and those who do not is not on a scientific basis, and it essentially means relatively little. I can certainly say that I received more letters in support of the section about sexual orientation than opposed, and I gave the numbers.

What that means about the general view of Yukoners is really anybody's guess.

⁰⁶ **Mr. Lang:** The Minister raised the question of sexual orientation. When he said there was an overwhelming negative response to including this in the legislation, was that not his assessment prior to tabling it in the House?

Hon. Mr. Kimmerly: It is my assessment, and it was my assessment at that time, that the majority of Yukoners are opposed to homosexuality per se, and do not particularly like homosexuality. It is not my view that the majority of Yukoners would deny homosexuals their basic civil rights. That is not my view at all. Yukoners are much more tolerant people than that.

Mr. Lang: I want to get back to the exercise of consultation

that has been gone through. I felt, in many respects, that the public was being manipulated. I say that because the Minister said over and over again that he was going out to listen. How people presented themselves and brought issues forward would determine the direction that the government was going to go.

I feel there are some basic principles that the government stood for in the ill-fated Bill No. 58, which we still see in the legislation before us. This reinforces our feeling that there was a charade that had to be undertaken at the public's expense in order to convince them that they were being listened to. At the same time, the proponents, the actors in the play — the Minister of Justice and the Government Leader — knew all along what was going to be presented to the House.

⁰⁷ I think this is the damning aspect with respect to, for example, including sexual orientation in the Bill, where the Minister, especially, up to about a week to the tabling of this legislation, said publicly in a number of public forums, through the media, that they would maybe withdraw it and gave every indication that, because of the turmoil that it was causing, they would probably be coming forward with a Bill that did not have that particular section, which is so contentious in the territory, included in the Bill.

I got the feeling that it was almost like there was a rabbit out there and somebody had a carrot, and somebody was having fun holding the carrot, knowing full well that the ability to pull the carrot back was there, and it was going to be pulled back when it was all finished and done with.

So, what do we have? We have a situation where we have a Bill with a number of very contentious issues in it. The one, specifically, that the Minister referred to is the question of sexual orientation. Why did we then go through the exercise of the public consultation process if the Minister was going to include it anyway?

It strikes me that it is very insulting to the intelligence of the people of the Yukon. The people of the territory are not stupid. I recognize that most people do not follow the minute-to-minute, speaker-to-speaker speeches in this House, *verbatim*, including some Members on the side opposite, but I will say that they do have, on balance, good common sense and intelligence, and they do follow, to some degree, the news media and try to ferret out what, in their judgement, is right and wrong, to the best of their ability.

I do not understand why, during the course of this debate, we are going to be dealing with issues — and I will refer now, specifically, once again, to the sexual orientation section — to which overwhelming opposition has been expressed. It is beyond my comprehension why any government would go on a campaign and, at the same time they pretend they are listening, they turn around and do this type of thing, knowing full well that the people of the territory, on the whole, object to a section of that kind.

I want to refer to a statement on November 12. This was a different date, but it was the same Minister, and I recognize things change on an hourly basis sometimes, depending on the principle and who we are talking to. The Minister stated as follows: "Many others do not like another principle, protection for gays. It is expressed best, I believe, in the rural Yukon who are simply nervous about allowing homosexuals to be openly tolerated in the community. They want gays to stay in the closet and fear the protection of the Human Rights Bill will only encourage them to come out."

⁰⁸ I want to say to the Minister that I think his analysis is correct. I think that what he has stated here is an accurate assessment of what the people of the territory believe. Now, the Minister has stated to the House that he has a little poll and he has 100 letters in support of this particular section, and various other principles in the Bill. He also has, and he passed over it very quickly, received quite a number of representations, both verbally and in writing, I believe, on behalf of, specifically with this section, congregations.

Now the unfortunate element of this is what comes out of the debate here. What is being perceived is that if somebody is a member of a religious organization and believes in the principles of that organization — and this is one area they do not believe should be in the Human Rights Act — what is being made out by the government, indirectly, and also some organizations, is that these people are very right wing and intolerant individuals as Canadians.

This is the kind of debate I think we could well avoid in this House and could well have been avoided by not including that particular section for the purposes of general debate in the House. Being the MLA for Porter Creek East, I do represent a number of people who are members of various churches throughout the community who go regularly to church and who do believe in the various principles of the religions they belong to. They really do resent the government and the organizations supporting the government, which are, incidentally, mostly publicly funded, coming out and really telling these people that they are intolerant.

I do not know what the government has against people who happen to be middle class, who work for a living and who happen to have some strong convictions and beliefs. I can speak for my riding, and I am sure the Members opposite can speak for theirs, too.

I happen to be very liberal minded in many cases, depending on the issue, but I really do think we have passed that fine line of tolerance and intolerance. The tragedy of it is that the government can take a great deal of responsibility for the intolerance that has been bred over the last six months. The reason I say this is that the government, through their public consultation process, gave every indication to the people of the territory that if they expressed their views and if there was an overwhelming opposition to a section or sections of the Act, they would not be included in the Bill.

⁰⁹ That is not the case. The Minister has had it both ways. The Minister has presented us with a Bill with all the basic underlying fundamental principles that were in the previous Bill except that it is better written this time. It is in layman's terms. He has intentionally left out a lot of details so that it would not muddy up the debate — according to the Minister — knowing that regulations would be required. We will not see the regulations, however, because those will be left up to the Commission. That buck is passed off to the Commission, and this debate will be finished with when the regulations are promulgated. I thought the Minister would at least have had the duty and the responsibility to table a draft that would be presented to the Commission.

The government is going to be drafting the regulations and the Commission will be going through them. The Commission will not have the capabilities or the resources initially. The legal fraternity within the government's bureaucracy will be charged with producing the draft, and I am sure the Minister will go through the draft prior to it being sent to the Commission.

The Minister says, "No". Well, I happen to know how the procedure works. The Minister is smiling to himself because he knows how it works, too. No matter what he says, government is government; certain processes are followed, and the regulations will finally have to be promulgated by Cabinet in any event. One way or another, the Minister will get his kick at the cat. That is the way the law works.

I think the people of the territory have been manipulated, and I do not use that word loosely. I use it very seriously. I feel very strongly that if a person has a conviction, and they are prepared to stand by that conviction, they should say so.

Going back to the question of sexual orientation, there are people in our community who say they fundamentally disagree with that principle. I respect that, and I have some respect for the person who says that they agree with the principle.

I find it disappointing because we have seen the end results of a so-called consultation process where the government believed in certain principles, knew the public did not, felt that they had to go through a consultation process in order to play a game of smoke and mirrors and winding up in the same place six months later.

¹⁰ We did not have a government that was prepared to stand on conviction. We had a government that, in my judgment, and through the antics of the Minister of Justice, brought forward a devious consultation process to get his end result. Now he is going to stand up in this House and say, "I am standing on conviction." At the same time, he will stand up and say to the public, "We are here to listen to the people of the territory. It is the people of the territory we want to hear, and they will tell us how to govern and what we should be doing."

I think the Minister of Justice and the Government Leader and his

Cabinet have overplayed their hand. I think they are being seen for what they have done and what they are in the process of doing. Although maybe some Members across the way do not like me personally, they do know I move around and talk to a lot of people in a day. I want to express to the side opposite that the charade and the game that we have seen the government going through is being seen for what it is.

The government should take my comments very seriously here in a general context. People are starting to really scrutinize the actions of the government and the actual intent of the government and where the government is going.

With respect to the question of consultation, I want to conclude by saying that I think the people of the territory have been witness to "the big lie". The tragedy of it is that it was with their own money.

I did not think it was the responsibility of the taxpayers of the territory to "have an educational program" by the side opposite, an educational program that they went through while they knew, when it was all completed, that there were sections of this that the overwhelming majority of the people of the territory would not support.

That is why, to some degree, we find ourselves in the dilemma today. We talked about the question in general debate. We talk about the question of compromise, but there is a great ideological gulf between the side opposite — at least, the heavy thinker on that side — and this side of the House, except for the Member to my left, who was prepared to support the legislation before it was tabled.

It is a question of what we want for Yukon and where we stand for Yukon. I would like to express to the Minister of Justice that I think the people of the territory have seen through the "public consultation process". I think the end result that we have with us is that the Guide to the *Human Rights Act* says it for what it is worth.

Sometimes we do not hear the results of what we do immediately after it is done. Sometimes it takes a little bit of time. The people of the territory are going to have their say. I think that the front bench on that side, under the leadership of the Government Leader and the Minister of Justice, will get their end results in due course.

Hon. Mr. Kimmerly: I welcome the opportunity of responding to some of these issues raised by the Member for Porter Creek East in an address that was rather more thoughtful than we are used to from him. The speech raised many questions, and I will try to deal with them in some sort of logical order, which is not the order in which he spoke about them.

First of all, he mentioned the word "congregation", and he spoke about religious communities and the conviction of religious communities. I have been addressed in my office, verbally, by three of the local pastors — or ministers, or priests, as they are variously called — who are opposed to sexual orientation in all its forms: opposed to homosexuality generally, opposed to certain practices of heterosexuals, opposed to inclusion in any law, and just opposed generally. I have received two written submissions, and only two. I received some letters, too, from the same individuals who spoke to me personally. I invited the comment after the letters, generally. I have received two submissions from religious organizations. One is the Ba'Hai Faith, which sent a letter and two booklets, the statement on peace and the statement on human rights, which was published and is a public document, and a letter, generally supporting the principles of human rights, but not specifically taking any issue, or supporting in particular any particular one. It is a very generally-worded letter.

I also received a submission from the Sacred Heart Parish of the Roman Catholic diocese. That is a very interesting document, and it refers to the positions of the Catholic Church nationally, the National Council of Bishops, and it takes positions. I would recommend that document, which is a public document, which is extremely interesting, to the Member opposite. He can interpret it in various ways, but it is a very open document. I will refer to it specifically when we talk line-by-line about sexual orientation, because it is an extremely thought-provoking and interesting document, by anyone's interpretation, that does not oppose the inclusion of sexual orientation in this Bill.

The statement was made that the Member for Porter Creek East resents the implication that people who are opposed, or religions that are opposed, to sexual orientation are intolerant. Well, I think that both sides of the debate talk about tolerance and intolerance somewhat. I think that it is certainly charged by some that those who oppose sexual orientation are intolerant.

¹² That is an undeniable fact, and I am not in any way trying to deny that. There are those who call that view, being opposed to sexual orientation, un-Christian. There are those who talk about the other position, being in favour of sexual orientation, as being un-Christian. It is clear that opinion is very divided.

I had the honour and the privilege of attending before the Ministerial Association in Whitehorse last week. I was very stimulated by the discussion that occurred. That was a discussion that I am sure was intended to be a more or less private one, but it was clear to me that opinion was very divided at that meeting among the priests, ministers and pastors.

It was also clear that there was a consensus there, probably not a unanimous view, but a general consensus that the debate over the last year or so had been, for the most part, healthy. For the most part, the Community, by its public debate, had dealt with an issue that they had not dealt with previously, and it was a growing experience for the community. That was not expressed by me, but by them. I did echo those words, but it was after I had heard it from them.

The general public view in the Yukon, in my estimation, has shifted in the last year. Peoples' attitudes have changed — some slightly, some drastically. I have no hesitation in saying that the majority of Yukoners are heterosexual and have no intention of becoming homosexual. I think that is a self-evident statement.

Although opinion is very clearly divided, the majority of Yukoners are not in favour of denying homosexuals their basic civil rights. The majority of Yukoners, in my view, have a fundamentally Christian view about the respect for the individual. They may object to the practice, some do, some do not, but there is a tolerance of the individual's right to exist.

In the Old Testament, there is a phrase about homosexuals being put to death. That is clearly not the popular view of Yukoners. There is a right to life, a right to exist and a right to the basic fundamental human rights for all people regardless of their activities or even of their morality.

¹³ The statement was made that the government started with one view and the consultation was a manipulation. I can say if the Member for Porter Creek East only knew, he would know that that was not the case. The issue is a very, very difficult one. For every politician, it must be. Even if it is simple for the individual as an individual, it must be difficult as a legislator.

The outcome was in no way decided until the very last moments before the position of the government was fixed by the Caucus. We considered all of the possibilities, considered the possibilities of compromise, and we have arrived at a position to put before the Legislature.

The Member for Porter Creek East spoke about conviction and he was referring to the position of an individual or a legislator or a party standing for something out of principle or out of conviction. Popular or not, this is our position because we believe it is right. Contrasting that with the position of representative democracy, that position is best expressed as, "It does not matter what my personal conviction is, but on this particular issue I will vote the way I perceive the popular will demands", or "I will vote the majority will, regardless of my personal conviction."

Those are things that all legislators, whether they are simply voting the party line or not, must consider in their own individual consciences, and must consider in their political assessments of the popularity of various issues. We all make our own decisions and ultimately the electorate will judge us for it in the next election. That is, if we stand again, of course.

The position, I think, must be balanced. I fully recognize that you are balancing things that are different, different concepts. In fact, it is the kind of process that gives politicians a bad name among some because many express the view that if you have a principle how can you compromise it? Experienced legislators know that it is better to

compromise a principle and to achieve a part of it than to achieve nothing at all.

¹⁴ We compromise all the time in our legislative dealings. That is the way this place works, and the way party positions are formed.

The resolution that we have to date of this issue is yes, we are standing on that principle. The principle is that if we are dealing with human rights legislation and considering discrimination and the rights of the minorities, we must not leave any individual or any group out in the cold. If we are considering these issues, we must consider everyone, even if it is perhaps unpopular to do so. However, it is my view — and I have expressed it before — that the majority of Yukoners are uncomfortable with the whole concept of homosexuality, but they are not intolerant of individuals who happen to be homosexual. They are willing to afford those people the dignity of their basic human rights as individuals.

Mr. McLachlan: I have a couple of questions that I would like to ask the Minister's interpretation on, in the event the clause prohibiting discrimination on the basis of sexual preference becomes law. I hope that the Minister will not hide behind "that is a legal opinion and I am not qualified to give same", or "that would have to be left up to the courts".

For example, if this controversial clause is passed, is the Minister of Health and Human Resources prepared to provide recognition under the Health Care Insurance Plan for same-sex spouses for medical insurance coverage? Number two: what happens to things like survivor benefits to same-sex spouses under beneficiary terms of an insurance contract, in the event of death? Number three: what then happens to the Yukon's *Marriage Act*, as antiquated as it may be, for a situation where you might have a marriage performed between partners of the same sex, if you could ever get a minister to perform such a ceremony?

I would like to hear the Minister's interpretation of these controversial areas, either as it applies under the territory's legislation now, or federal legislation for spousal benefits.

Hon. Mr. Kimmerly: I simply cannot answer some of those questions. The federal Committee on Equality, the Boyer Committee, has concluded that the wording of equality on the basis of sex in the federal *Constitution* covers sexual orientation. By implication, some of these questions involve the interpretation of laws, like the *Marriage Act* and also Medicare and spouse's allowance.

Ultimately, they will be decided probably by the Supreme Court of Canada under the *Canadian Constitution*. I am absolutely sure that each side will be vigorously argued on each of those questions.

¹⁵ I do not know. I do not know that what this Bill is talking about is a person's basic civil and human rights. Things like the *Marriage Act* are very different. The spousal allowance is also a little different. My personal opinion is, and it is only a personal opinion, that it is possible for the *Marriage Act* to continue to specify that a marriage will only be recognized or performed with different sex partners. I recognize that Bill No. 99 would take precedence over other Acts. To specify that a marriage must be between a male and a female, in my opinion, is consistent with guaranteeing basic human rights to people who are homosexual.

In effect, the *Marriage Act* is denying the possibility of same sex marriages, but I do not see that as either a statement of basic human rights or of discrimination. I see no problem. I recognize that there are those who disagree with me, and it is a question that the courts will undoubtedly deal with, in Ontario first.

The question of allowances, in my opinion, ought to be decided upon the basis of dependents, not on the basis of marital or family status, marriage or sex, but on the basis of people who are dependent on other people.

Mr. McLachlan: I realize that this may be a gray area requiring a great deal of interpretation yet to come, Supreme Court of the Yukon and the Supreme Court of Canada. It is a question that is often directed to me as a logical extension of these things in the Act. I have some basic differences with the Minister's opinions on the *Marriage Act*.

As the move to recognize commonlaw relationships becomes more and more established and rooted in law, I find it very hard to believe that the next logical extension would deny anything under this controversial clause. I really fear that it is a logical extension of

the recognition of commonlaw spouses although it may be five, eight or ten years away. That is the only other conclusion that I have.

I know this is an area of great controversy. The question that I have not asked, which is even worse than that, is when two people of the same sex apply to adopt a child. That is perhaps the one that will probably have the most distaste to people. I realize again the logical extension of the same situation is that many people will say that today there are so many single parenting situations that one may not be able to logically argue that it should take two of opposite sexes to raise the child.

It is one that I want to draw to the attention of the Minister because it was one that is brought to my attention very often in a lot of the rural ridings. It is certainly a contentious issue. Does the Minister have any further comments on what could be a very controversial area of adoption?

¹⁶ **Hon. Mr. Kimmerly:** Essentially no, but there are other safeguards about adoption. I do not fear that that is any particular danger.

Recognition of common-law marriages is an interesting factor. For years and years there was a religious and a legal marriage and that was it. It is really only recently, actually I think it was in the 24th Legislature here, that we really recognized so-called common-law marriages. It certainly seems to me prudent to recognize a factual situation that does exist, and there need not be any legitimacy or any particular importance to that recognition. It appears to me that where factual situations exist, that is what we deal with one way or another.

The question of the law here should be simply to afford all individuals, regardless of their particular living arrangements, their basic, fundamental dignity as a person. That is all we are calling for.

Mr. McLachlan: Could the Minister elaborate on what is the one part that would protect in the child adoption against what I just referred to earlier? What is that situation?

Hon. Mr. Kimmerly: With every adoption, there is a study done under the supervision of the Director of Child Welfare into the suitability of that home. There is a determination by a Supreme Court Judge that the home is or is not suitable. There is a substantial discretion there. It is entirely possible to have a couple as parents of different sexes in the home that is not suitable. It would seem to me that that kind of standard would be applied to any living arrangement: if it is an extended family or a so-called nuclear family, or a single-parent with a room-mate who is either sexually involved or not sexually involved with the parent. All combinations exist in society and the determination ought not to be individual on the suitability of that particular home.

¹⁷ **Chairman:** We will now recess for 15 minutes.

Recess

Chairman: Committee of the Whole will now come to order. General debate will continue.

Mrs. Firth: I would like to clarify a point that I think the Minister made earlier this evening, unless I did not hear him correctly. I would like him to repeat it for me if I have not repeated it the way he said it.

I understand, when the debate first started with respect to the sexual orientation concept of the Minister's Bill, the Minister said that he found that most Yukoners were opposed to homosexuality and do not like homosexuality. Is that what the Minister said?

Hon. Mr. Kimmerly: I was attempting to choose my words fairly carefully, but it is almost impossible not to be misinterpreted in some way.

It is important — I would even say crucial — that the government not be seen to be either approving or disapproving of any particular morality, and I mean morality in the general sense, or any particular moral practice. It is clear to me that the debate has shifted somewhat in the territory over the last year. People are recognizing the difference between the concept of approving homosexuality and the concept of including it in a Bill on human rights.

That realization is very real and has grown in the last year or so. It is that concept that I was trying to refer to. It is not our business, as a government, to give credence to any particular view by repeating it or anything like that. The view of the government is, and should be, to not either approve or disapprove of a particular morality.

Mr. Phelps: This part of the debate is of some interest. I am rather interested in some of the words that were used, particularly by the Minister, and particularly when it came to questions from the Member for Faro, who talked in terms of the particular distaste that people have when it came to such things as marriage between people of the same gender, common-law or otherwise, and adoption. The response from the Minister was something to the effect that fortunately other safeguards about adoption exist so that is not a particular danger. Those words are loaded with values that obviously the Minister holds.

I am rather interested — and it is unfortunate that I cannot address this question to the Member for Faro — in those comments because I take it that it would be in the mind of the Minister dangerous for an adoption of a young child by a couple of the same gender whose sexual orientation was not heterosexual. Is that what one can take from those rather surprising comments?

Hon. Mr. Kimmerly: In the context of the question and in the context of the debate, I was attempting to express the view that the safeguards involved in adoption are very, very many. The most important safeguard is the concern that the Director of Child Welfare will have — by legislation, does have — and the judge who sits on the case, as to the suitability of the particular home. Adoption and families are particularly controversial I would expect.

It is interesting to know that the Yukon, I think, can be proud, although a controversial issue, that it was the late Hilda Hellaby, the Deaconess of the Anglican Church, who was the first single parent in Canada to adopt a child. That child is now living in the Yukon and, I understand, is a productive, healthy individual. That, at the time, I am sure, was extremely controversial.

These things, I would submit, are best judged on the particular suitability of any particular living, family unit.

Mr. Phelps: I am still left rather bewildered by the motive of words spoken by both the Member for Faro and the Minister of Justice. When he stated that other safeguards of adoption exist so that that is not a particular danger, referring to the adoption of a young child by a homosexual couple, I am sure we could take it that the Minister was saying that there is something wrong with such an adoption, and that there were safeguards to prevent it. Further, he is against such adoption. Is that a fair reading of what he said, or would he like to withdraw the comments he made earlier and put himself on the record more clearly?

Hon. Mr. Kimmerly: In the context of the question from Mr. McLachlan, that was a fair answer that I do not withdraw. The question of the danger about adoption is the danger of an unsuitable parent or an unsuitable set of parents. The appropriate safeguards are there concerning the individual assessment of the family situation.

Mr. Phelps: We are in danger, then, of perhaps the Minister having misspoken himself. Is he really saying that he could see nothing wrong with homosexual couples adopting young children? Surely, he would also agree that that is something that is not unheard of in other jurisdictions?

Hon. Mr. Kimmerly: I make no particular judgment. To start with, it is not in the Act, but it is my view that the appropriate safeguards do exist. They are contained in the adoption section of *The Children's Act*. It is obviously appropriate to assess the individual family and to not categorize on the basis of general categories.

It may be that a single parent situation is a dangerous situation for children, but it may be that any situation is dangerous if the parents are not mature enough, or whatever. The appropriate test is to look at the individual situation and to assess on the basis of the merits of the particular home and particular individuals if the child is in any danger or not. That is the only policy that is fair, in my view.

Mr. Phelps: I am very pleased that we are finally getting it out with some clarity, the Members opposite and the Member for Faro, who is prepared to support the Bill at any cost before he sees it, no

matter what is in it. Our party stood here and said we are against the sexual orientation clause, and we are. We contrast that with the position taken by the others in this House who say they see nothing wrong or — let us put it another way — do not think that sexual orientation ought to be a bar to the adoption of young children. I take it that that is the position the Minister is espousing. It would have to be the position that the Member for Faro today is espousing, if not tomorrow. I want it clearly on the record that sexual orientation of a couple ought not to be a bar. Is that the position of the Minister?

Hon. Mr. Kimmerly: I would not say about anything in the general sense that it is a bar. I would say that the appropriate test is the one that is, in fact, used, which was placed in the law by the previous government and has not changed. It is that, in the case of adoption, the situation should be looked at individually.

Mr. Phelps: I do not know why the Minister is having trouble with this. He is putting forward a principle in a clause of this Bill that if a couple that happens to be a homosexual couple is trying to adopt a child, and the only reason given for them not to be allowed to adopt is sexual orientation, then that couple has a case based on this Bill, if it is ever passed, because this Bill takes precedence.

I really have trouble with a proponent of this Bill, whether it be the Minister or the Member for Faro or the Member for Campbell or the Member for Mayo, supporting these things if they are not prepared to stand up and be counted.

I am quite correct in saying that if a couple is refused solely on the grounds of their sexual orientation, they would have a case of discrimination under the Bill that the Minister wants to push through. Is that not correct?

Hon. Mr. Kimmerly: In every case of adoption, as the Member well knows, the procedure is that a Supreme Court judge makes a decision on the basis of the suitability of that particular home. That is the way it is; that is the way it should be; and it will remain that way, I am sure.

It is impossible to make any particular rules about generalities, one way or another: if the home is a Christian home or not, or a religious home or not, or if the parents are disabled or not, or whatever. All of those general rules, every single one of them, should be subservient to the particular assessment of the particular family. It is impossible to make any absolute general rule about adoption.

Mr. Phelps: It is not at all. It is a very simple issue. To deny a homosexual couple the custody of a young child solely on the basis of sexual orientation would be discrimination under this Bill, is that not correct — if it is solely on the basis of sexual orientation?

Hon. Mr. Kimmerly: No. Take the case of the child being a natural child of one of the parents, which could easily happen. Each individual case ought to be decided on its individual particulars. That is the only rule they can adopt.

Mr. Phelps: If a judge gave the reason that a couple were homosexual and would not be allowed to adopt children, and otherwise it was a fine home, would that not be discrimination?

Hon. Mr. Kimmerly: I do not know. Each particular case would be decided in the Supreme Court of Yukon on its own particulars.

Mr. Phelps: I wonder why we are bothering with this Bill. We have real work to do that is probably needed in the Yukon.

If an employer refused to hire a person solely on the basis of him or her being homosexual, would that be discrimination under the Bill?

Hon. Mr. Kimmerly: Yes.

Mr. Phelps: If that same person who was so discriminated against wanted, with his or her homosexual mate, to adopt a child and was refused solely on the grounds of their sexual orientation, would that be discrimination under the Bill?

Hon. Mr. Kimmerly: Awards of adoption are made by the Court on the basis of the particular individual family, and it is impossible to say that awards are solely on one characteristic or not. The awards of the court in a particular situation are in response to particular situations.

Mr. Phelps: Does the Minister feel that sexual orientation ought to be a bar to the adoption of young children?

Hon. Mr. Kimmerly: I have already said that there should be no general rules of any kind that are a bar. Should age be a bar? Should youth or advanced age be a bar? The answer is that there are no general rules. Each individual case is assessed on its individual merits.

Mr. Phelps: Under this Bill, if a judge made a decision about an adoption, and in his decision said that the reason for not allowing the adoption was solely because of the sexual orientation of the proposed couple, would that couple have a case for an appeal under the proposed Bill?

Hon. Mr. Kimmerly: This Bill will not impose a duty or a right to question a Supreme Court order. The proper procedure for the adopting couple would be to appeal. That is the case if the Bill is passed or if it is not. The procedure would be to appeal that order.

Mr. Phelps: I will have to take it that the Members in the Legislature, the Liberal Party and the NDP, are for adoption of young children by homosexual couples. Apparently, a straight answer is not available.

Is the common-law marriage to be recognized as well? Does the Minister support that?

Hon. Mr. Kimmerly: I am sorry. I did not hear the question.

Mr. Phelps: Does the Minister support the recognition of common-law marriages between homosexual couples for the purposes of all territorial laws that may be affected by them?

Hon. Mr. Kimmerly: The Member's preamble was about the possibility of gay adoptions. He made statements that are not accurate. He is talking about common-law marriages or unions. The truth of the matter is that there is no such thing legally as a common-law marriage between a man and a woman. There is a recognition of spouses living together, and that exists in the *Matrimonial Property Act*, I believe.

All of these are extremely hypothetical. The intention is to try to raise the spectre of things happening under this Act that are not basic human rights.

²³ The principle of the Act is to recognize the basic human rights of every individual, regardless of lifestyle or morality.

Mr. Phelps: Surely the Minister has read about the battery of cases that are going to be coming forward in the next few weeks and months and years regarding the passage of this controversial clause in Ontario. It is said by spokespeople for the gay liberation groups in Ontario that those cases are going to be testing these issues in the courts. There is one short article that we should read in. I think the Minister may be aware of it, but I am going to be asking whether they anticipate the same kind of program to take place in the Yukon.

This one is headed "Gay Rights Opens New Issues", December 12, 1986. It was in the *Whitehorse Star*. "Toronto (CP). The day Ontario's new ban on discrimination against homosexuals is proclaimed law, John Argue will demand family health insurance coverage for himself and his same-sex mate.

"Their three-and-a-half year partnership, he says, is as stable as any heterosexual union, and the Ontario Health Insurance Plan will be obligated to cover them — or risk breaking the law.

"Other homosexuals plan to use their new protected status to challenge laws on everything from spousal tax benefits to club and society memberships, pensions for surviving spouses and the right to adopt or foster children.

"None of these is specifically covered by the amendment to the *Human Rights Code* passed in the Ontario Legislature last week.

"Passed by a 64-45 vote, the amendment makes it illegal to deny anyone access to employment, housing and services such as restaurants on the basis of sexual discrimination.

"At present, the provincial health insurance allows family coverage only for partners of the opposite sex, whether in marriage or a common-law relationship.

"But activists like Argue, a member of the Coalition for Gay Rights in Ontario, say it's all a matter of interpretation.

"There will be complaints in a wide range of areas," predicts fellow activist Tom Warner, adding the gay coalition is considering setting up a fund for those planning to test laws perceived as discriminatory.

"Critics, meanwhile, are gearing up to challenge the amendment itself and demand exemptions for groups which normally oppose it.

"If necessary, we'll go to the courts," says Pentacostal Minister Rev. Hudson Hillsden, president of a network of opposition groups called The Coalition for Family Values. "We don't intend to change our moral values because of legislative pressure."

"While the new law may spell a bonanza for lawyers, it could mean a bureaucratic nightmare for provincial civil servants.

²⁴ "Warner says he wants a review of all legislation, provincial and federal, that allows an individual's sexual orientation to be recorded.

"Areas he's concerned about include tax benefits for homosexual couples; credit checking agencies that record orientation; membership restrictions of professional businesses and union organizations and spousal benefits for homosexual partners.

"Now that the principle of equal rights has been enshrined," Warner says, "I also think child custody legislation will be tested.

"Surely homosexuality can no longer be a factor. It's the child's welfare that should count, not the nature of one parent's sexual orientation."

"The Human Rights Code supersedes other provincial legislation in laws such as the *Health Act*, which covers health insurance, and will be expected to conform to it.

"A current case involving a lesbian couple seeking family coverage will almost certainly be settled in their favour, says the pair's lawyer, Howard Goldblatt.

"The spirit of the new law," he says, "clearly implies that people of the same sex clearly can be considered spouses."

"That may or not be. In Quebec, which has prohibited discrimination against homosexuals since 1977, the Human Rights Commission says that less than 10 percent of the complaints every year deal with sexual orientation.

"Most of them involve employment discrimination. The Commission's attempts to get the provincial medical insurance plan to grant coverage to the same sex partners has so far met with no success."

I am rather interested in whether the Minister anticipates this kind of action to take place in Yukon whereby there will be a plethora of cases launched to test the issues similar to those to be tested, and being tested, in Ontario once they pass a similar clause.

²⁵ **Hon. Mr. Kimmerly:** No. I do not anticipate those occurring in the Yukon. I anticipate that the test cases will occur in Ontario. It is interesting that Quebec has had this legislation for seven years now, and that prospect has not occurred in a substantial measure at all.

As the Leader of the Official Opposition quotes paper articles, I will quote one as well, an article in the the December 1 *Globe and Mail* called "Why They Oppose", and it begins, "Oh what a painful list of excuses Members of the Ontario Legislature have raised for opposing an amendment to the Ontario *Human Rights Code*". It talks about homosexuality, the value of the family and the threatening of the values of the family. It concludes, "...but the entire *Human Rights Code* is concerned with minority rights. It gives those without power the legal right to expect the same public treatment as everybody else. Denying a minority that right does not enhance traditional moral values. It mocks them. It diminishes our legislators and, through them, ourselves. The House should support the amendment."

I can quote from the speech of the Ontario leader, Larry Grossman, who has an enlightened view on this issue and voted for the amendment.

²⁶ However, I will wait until clause-by-clause for that particular item.

Mr. Phelps: We are not making a heck of a lot of progress here. We are trying to attempt to simply flush out exactly where the proponent of the clause stands on certain issues. He apparently would agree with the statement quoted in the article read that surely homosexuality can no longer be a factor with regard to custody. I guess in adoption it is the child's welfare that should count, not the nature of one's parent's sexual orientation. I take it that is a situation that is endorsed fully by the Minister.

Hon. Mr. Kimmerly: The Member opposite is raising the spectre of things that he expects will be not approved of in the

general population and says that we support them. I suggest that the most businesslike and the most sensible way to debate is to talk about the particular issues and the particular implications and to leave each particular side and each particular debator to define their own views.

²⁷ **Mr. Lang:** Maybe we could take another approach. I find that where we ask a direct question to the Minister, he has the capability of always trying to redirect the debate into a different area instead of answering the question. One of the Members says that it is when he does not have an answer. He does have an answer. He knows the answer. For his own political reasons, he is not prepared to give a straight response.

The reality of the situation is that we have a Bill before us. It is very clear and unequivocal that it states under section 36 of the Act, "This Act supersedes every other Act, whether enacted before or after this Act unless it is expressly declared by the other Act that it shall supersede this Act". This is paramount. That is in the Act. This is a section of the Bill provided by the Minister, and there had to be a reason for it. There must have been some discussions of the implication on other pieces of legislation.

In the drafting of this Bill and the legislative process that the government went through, was there discussion with his officials and/or his colleagues about the implications of this Act, with the inclusion of sexual orientation in the Bill. Were the consequences to the *Marriage Act*, *Matrimonial Property Act*, *the Child Custody Act* and other pieces of legislation discussed in full detail?

²⁸ **Hon. Mr. Kimmerly:** Yes, those things were discussed, although we did not dwell on them at any particular length. The reason is basically as I have stated earlier, it is that these questions are difficult questions. They will be debated under the *Canadian Constitution* and in Ontario and Quebec under their legislation. The courts will decide.

The Members opposite are trying to imply that by the passage of this kind of legislation there is a special right, or something like that, created. That is not so at all. The section here simply denies discrimination. It denies discrimination on many grounds, and it leaves no-one out. I would quote from the Ontario debate. This is December 2, 1986. This is the speech of the Conservative Leader, Mr. Grossman.

He says, "Does this Bill approve, encourage or reward a lifestyle? I think it only protects that lifestyle against discrimination. Nothing here makes members of the gay community special citizens. Let us be clear, it just makes them free citizens."

²⁹ Those are the words of the Leader of the Conservative Party in Ontario.

The Members opposite have heckled that if I like Ontario, why do I not move there? I like the Yukon, and I live here. There are people who might happen to be gay in this community who like the Yukon and who intend to live here. I would say that those people, along with everyone else, have a right to be free citizens here.

Hon. Mr. Porter: I move that you report progress on Bill No. 99.

Chairman: You have heard the question. Are you agreed?

Some Members: Agreed.

Motion agreed to

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

Motion agreed to

Speaker resumes the Chair

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

Mr. Webster: Committee of the Whole has considered Bill No. 99, *Human Rights Act*, and directed that I 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.

The time being 9:30 p.m., this House now stands adjourned until

1:30 tomorrow.

The House adjourned at 9:30 p.m.

The following Sessional Paper was tabled January 12, 1987:

87-3-97

Statement by Government of Yukon "In Response to the Department of the Interior Draft Arctic National Wildlife Refuge, Alaska, Coastal Plain Resource Assessment", Washington, D.C., Jan. 9, 1987; accompanied by letter of support from Govt. of NWT. (Porter)

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