



# The Yukon Legislative Assembly

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## **HANSARD**

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

## 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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Clerk Assistant (Legislative)	Missy Follwell
Clerk Assistant (Administrative)	Jane Steele
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Deputy Sergeant-at-Arms	Frank Ursich
Hansard Administrator	Dave Robertson

<sup>01</sup> **Whitehorse, Yukon**  
**Thursday, January 12, 1987 - 1:30 p.m.**

**Speaker:** I will call the House to order.  
 We will proceed at this time with Prayers.

*Prayers*

#### DAILY ROUTINE

**Speaker:** At this time we will turn to the Order Paper.  
 Are there any Introduction of Visitors?  
 Are there any Returns or Documents for Tabling?

#### TABLING RETURNS AND DOCUMENTS

**Hon. Mr. McDonald:** I have for tabling a discussion paper entitled Broadcasting and Telecommunications Yukon 2000 — Toward a Communications Policy.

<sup>02</sup> **Hon. Mr. Penikett:** I have for tabling the Business Development Advisory Board Annual Report.

**Speaker:** Are there any Reports of Committees?  
 Are there any Petitions?  
 Introduction of Bills?  
 Are there any Notices of Motion for the Production of Papers?  
 Are there any Notices of Motion  
 Are there any Statements by Ministers?

#### MINISTERIAL STATEMENTS

##### Green Paper on Communications Policy

**Hon. Mr. McDonald:** It is with pleasure that I rise today to table the government's Green Paper on Communications Policy.

This green paper has been prompted by this government's commitment to participate in the decisions affecting communications services. We in Yukon do not have the same access to communications services as other Canadians.

This view is shared by rural residents, by the Association of Yukon Communities and by the Members of this Legislature.

You will recall the outcry last spring when rural Yukoners were cut off from important games in the Stanley Cup final.

We have heard from the residents of Old Crow, Stewart Crossing and Beaver Creek about their desire for increased TV channels and more relevant programming.

This government made a commitment to look at the options and costs for increasing television services to rural communities, and we have done this in our green paper.

Mr. Speaker, I want to say that this problem is not confined to broadcasting services alone. This House has just finished debate on a motion about the high costs and inadequate telephone service in rural Yukon.

At the same time that we are hearing these concerns, this government is faced with having to replace its VHF mobile radio system, which is approaching technological obsolescence. We realize that before we can decide which technology will best serve our needs, we had better determine just what our overall communications needs are now and what they might be into the year 2000.

I should note that, historically, the Yukon government has not been actively involved in communications matters. We have had a limited voice in the policy and regulatory decisions made by the federal government and its agencies.

This government believes that Yukoners should have a voice in these decisions which affect our economic development, our quality of life and our future.

The green paper I have just tabled is made up of a background paper and a discussion paper on policy options which the government could follow.

The papers are designed to stimulate discussion and facilitate

consultation so that Yukon people can make an informed decision about communications policy development.

And in line with our commitment to consult, we are planning to meet with interested communities, groups and organizations throughout the territory to receive the public's view and in late spring to hold a communications symposium.

We believe this process will help ensure that this government's first steps in developing a communications policy will reflect public opinion.

I would like to invite all Members in this Assembly and all Yukon people to participate in this process. I look forward to a positive and fruitful public discussion, which I am sure will result in a policy that reflects Yukon's special and unique needs and interests.

<sup>03</sup> **Mr. McLachlan:** I look forward to reviewing the green paper on the communications policy. I am just somewhat disappointed that in only one part of this statement reference is made to television and VHF Mobile Radio Systems, but no mention is made of radio service. There are some situations in Yukon, albeit not large, that are deficient in radio, be it CBC flag carrier or be it private radio, who have expressed an interest in receiving additional radio service.

**Hon. Mr. McDonald:** I would just like to assure the Member for Faro that the policy discussion paper, upon reading, will make clear the fact that radio services are very much a part of the telecommunications broadcasting system in the territory, and we would obviously like to hear what the public has to say and what the Member for Faro has to say about improving that particular mode of transmission in our discussions on the policy.

##### Yukon Participation in the National Task Force on Environment and Economy

**Hon. Mr. Porter:** I would like today to inform the House of my role on the National Task Force on Environment and Economy and to highlight some of the Yukon issues and northern perspectives that I will be discussing with my colleagues as we enter into our nine-month schedule of work.

The National Task Force on Environment and Economy was proposed by the Canadian Council of Resource and Environment Ministers at our fall meeting last year, and was formally established in January with the mandate to report back to the Council of Resource and Environment Ministers in September, 1987.

<sup>04</sup> The major objective of the task force is to promote environmentally sound economic development in Canada and on Canadian projects around the world. We will be working toward this objective by:

- Recommending actions to build environmental quality concerns into the decision-making process regarding economic development.
- Supporting the development and implementation of conservation strategies in Canada, and
- Reviewing the final report of the World Commission on Environment and Development and contributing to the Canadian response to this report.

The 17 Task Force members were selected to represent a range of perspectives and expertise from across the environment-development spectrum. The group is chaired by the hon. Gerard Lecuyer, Minister of Environment and Workplace Safety and Health in Manitoba. I am one of the other six federal, provincial and territorial Environment Ministers who will be sitting with and working with two representatives of environmental interest groups, the vice-president of research from the University of British Columbia and seven business and corporate executives, including the president of the Canadian Chamber of Commerce, the executive director of the Canadian Petroleum Association, the executive vice-president of Inco and their counterparts from Noranda, Alcan, Dow Chemical Canada and the Ontario Waste Management Corporation.

Early reports about the Task Force in the national media tended to underline in stark but narrowly focused terms the classic dilemma of government trying to deal with the consequences of pollution and

of industry trying to cope with the bad image resulting from health-threatening incidents of chemical spills, acid rain and overuse of resources. The quickly drawn impressions were those of an urban environment, of toxic dump sites, of agricultural land lost to the housing sprawl and of polluted and poisoned river systems next to smoke stacks and paper mills.

As the members of the Task Force fully realize, this "urban blight" view of the environment-development issue is only half of the picture. It does not capture the complexity of the question when applied to the country as a whole and, when one looks at the country as a whole, one cannot escape the overall importance of the northern regions of Canada to the future prosperity and well-being of our peoples.

I will be reminding my Task Force colleagues of the richness of the renewable resources in northern Canada and of the dependence of northern communities on those resources. I will be emphasizing the legitimacy of renewable resource based lifestyles, and I will be arguing strongly that threats against those lifestyles must be fought at all costs. I will point to the dangers of the anti-trapping lobby. I will use the example of our interventions on US oil and gas drilling proposals for the Alaska North Slope as a bottom-line case where the protection of a major caribou herd and the protection of the interests of the resource users should take priority over the development interests of the industrial sector. I will be expressing the concerns of aboriginal and non-aboriginal northerners alike about the environmental impacts of developments that have not been planned to take full account of northern conditions or of the vulnerability of northern ecosystems.

The broad perspective we can offer the Task Force is one of "Planning to Prevent" rather than "Planning to Cure". We in the Yukon never want to be in the frightening position of having to expropriate houses and tear them down because they are built on toxic waste sites, a fact of life in many Canadian cities.

By participating in and contributing to the work of the National Task Force on Environment and Economy, we can make national leaders in government, industry, academia and non-government organizations more aware of and more responsive to Yukon concerns and Yukon objectives.

At the same time, we can ensure that the ongoing cooperation in the Yukon between government, business, the aboriginal community and the public at large is based on information and an understanding of what is taking place in the rest of the country. This two-way flow of communication will contribute to the positive trends in Canada and in the Yukon toward further economic growth and prosperity in an environment that is clean, that is protected, and that is borrowed from wisely.

The first meeting of the council will be held in Winnipeg Tuesday of next week.

<sup>05</sup> **Speaker:** This then brings us to the Question Period. Are there any questions?

#### QUESTION PERIOD

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

**Mr. Phelps:** I have a few questions. I am wondering, first of all, whether the Government Leader is ready to table the maps showing the overlapping claim by each of the six or seven groups in the NWT and the three BC groups into Yukon?

**Hon. Mr. Penikett:** I believe it was yesterday or the day before that I took that question as notice again. The information has not been provided to me yet. When it is, I will provide it to the House.

**Mr. Phelps:** Can the Government Leader tell us just what kind of urgency he is placing on this request? Will it be ready by the end of March when we resume?

**Hon. Mr. Penikett:** I do not want the implication to be left that I do not take the matter seriously. The matter of providing the maps may not be the number one issue in the Land Claims Secretariat, but I do intend to honour the commitment to bring the information to the House. I do not see any reason why I cannot provide the information that has been asked for by the end of March.

**Mr. Phelps:** Can the Government Leader confirm whether

meetings have been going on between negotiators for the Government of Yukon with overlapping claimant groups this week?

**Hon. Mr. Penikett:** I believe I confirmed that earlier in this week.

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

**Mr. Phelps:** The Government Leader also said that he would be coming forward with a statement about the overlapping claims. Does he still intend to do that this week or in the near future?

<sup>06</sup> **Hon. Mr. Penikett:** I did make a statement yesterday with respect to the lawsuit concerning the Kaska Dena and the federal government, and I will be coming back later in response to the questions by the Member opposite — or there was some other initiative — but we will be providing the House with more information on the overlapping claim issue as matters proceed, I expect.

**Mr. Phelps:** The Government Leader knows that if groups from outside Yukon are claiming large areas of aboriginal title in Yukon, it is incumbent upon them to prove that title. What steps is this government going to take to put these claimant groups to the proof?

**Hon. Mr. Penikett:** The questions seems to imply, in the use of the word proof, that there ought to be court proceedings with respect to all these matters. I have previously indicated the preference of this government for negotiation rather than litigation as a method of trying to deal with, expeditiously and appropriately, overlapping claim questions. The major problem under which we all labour at this moment is the absence of a clear federal policy, without which, in the end, no satisfactory resolution of this problem can be achieved.

**Mr. Phelps:** What we are suffering from in Yukon right now is the clear absence of a territorial policy on overlap, and I would like to ask the Government Leader if he intends to simply accept any claims that come from outside the territory without having those claimants prove that they have title?

**Hon. Mr. Penikett:** I doubt if it is entirely up to us to accept. The Member still seems to be suggesting that somehow all these things should be subjected to some court process. As he indicated yesterday, it is his view that the inevitable result of that is to tie up the matter in the courts and, therefore, prevent a Yukon land claims settlement being achieved for years. Our view is that that is not in the public interest.

The Member, on many occasions, has made the assertion that the Yukon government does not have a policy on the overlap matter. On an equal number of occasions I have responded outlining the policy of the Yukon government with respect to this matter. I am sorry that the policy does not meet with the approval of the Member opposite, but the policy is at least as substantial, and perhaps even more so, than the one that was espoused by him when he was representing the previous government in these matters.

##### <sup>07</sup> Question re: PCB storage

**Mr. McLachlan:** I have a question for the Government Leader. Not surprisingly, enough resentment and suspicion is beginning to build in Faro in relation to the storage of PCB's that are now in use at the Power Commission's generating plant. The Government of Yukon has yet to state or say anything about its position for the storage of PCB's. My question to the Government Leader is: what is the policy of the Government in regards to the storage of dangerous chemicals like poly-chlorinated biphenyls in the Yukon Territory.

**Hon. Mr. Penikett:** It is my understanding that at this moment we do not have satisfactory environmental protection legislation in this territory. That is something to which this House may wish to address itself. It will not be any of my departments that are the lead agency in that area, but I do take as given the seriousness of the matter identified by the residents of Faro in their communications to both the Member opposite and to ourselves. What I would like to do now, if it is acceptable to the Member, is to take the question as notice, since I understand that as the result of recent events we will acquire new responsibilities in that area. I will take the matter under advisement and report back to the House on our intentions in that area.

**Mr. McLachlan:** I have a supplementary question for the Minister of Community and Transportation Services. Can the Minister advise if there is anyone on staff in the department, either in the area of municipal advisor or in transportation, who has experience in dealing with PCB's, in moving them or in the storage of them?

**Hon. Mr. McDonald:** As the Member will know, I believe in 1985 we passed dangerous goods legislation, which handled the transportation and terminal requirements for the storing of dangerous goods, including PCB's. Subsequent to the legislation, of course, a dangerous goods coordinator was hired who has had extensive training in the handling and the storage of dangerous goods, including PCB's. That dangerous goods coordinator is very aware of the situation in Faro and is doing what he can to ensure that the storage facility and the transportation of goods to that storage facility is done in a safe manner.

**Mr. McLachlan:** The danger, of course, is fire, and what people are most concerned about is that in the event of a fire in the storage container it could make the situation at Bhopal, India look like a Sunday school picnic. Nobody wants or needs that. Does the Minister not agree, in his learned opinion, that it would simply be better not to store the chemicals in Faro at all, at least insofar as those not in use are concerned?

**Hon. Mr. McDonald:** I think the Member's reference to Bhopal, India were slightly inflammatory, if he was trying to compare a fire at this storage site with what happened in Bhopal. Clearly, the death of anyone or the injury to anyone would be a tragedy that we would like to avoid. I would say, as I have mentioned to the Member before, that the cautions that the dangerous goods coordinator is taking, along with the fire marshal, to train the fire department in Faro to handle the situation, such as the one the Member mentions, I would hope would go some distance to ensuring that should an unlikely eventuality occur it would occur in such a manner that would not cause harm to humans.

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

**Mr. Phelps:** I would like to ask the Government Leader a question which could be answered by a simple yes or no. In the negotiations taking place between this government and the outside groups, do those negotiations have anything to do with setting up a process for granting land in Yukon to those outside groups?

**Hon. Mr. Penikett:** I indicated earlier this week to the Member that we have had discussions to try to establish an acceptable process among all parties for resolving overlap issues. I also indicated to the Member, I believe it was earlier this week, that this government has issued no mandate, whatsoever, for the disposition nor the negotiation of land to any overlapping claimant groups.

**Mr. Phelps:** If the government decides to change its policy and to issue a mandate to grant any Yukon land to outside groups, will it advise this House immediately?

**Hon. Mr. Penikett:** If the House is sitting, yes we will do that; if it is not, I am quite sure, as I have offered previously to the Leader of the Official Opposition, briefings from the Land Claims Negotiator, and if he would like to be kept current on these matters, I am quite willing to arrange that.

**Mr. Phelps:** The public would like to be kept current on these matters, and I am quite prepared to act as a middleman if I am allowed to tell the public what is going on. Is that the offer?

**Hon. Mr. Penikett:** Let me say that the public is better informed about these matters than they ever were in his day. I want to tell him that when he was the Land Claims Negotiator, I was offered briefings only on the condition that I never said anything to the public or raised any questions publicly. So we do have a different rule here. I am quite happy to not only have the Member briefed, but also to indicate to him that if he wishes a briefing, he can convey it to anyone.

**Question re: Land Claims Negotiator, remuneration received by**

**Mr. Phillips:** I have a written question I would like to read into the record. The question is to the Government Leader:

It is reference to the Chief Land Claims Negotiator, Barry Stuart. Number one, what is the salary or fee that Mr. Stuart received from the Government of the Yukon from August 1985 to December 1985?

Number two, what is the total salary or fee paid to Mr. Stuart from the Government of Yukon for the 1986 calendar year?

Number three, what is the total number of working days by Mr. Stuart from August 1985 to December 1985, and for the 1986 calendar year?

Number four, what was the total amount paid by the Government of Yukon to Mr. Stuart for the purposes of covering expenses incurred from August 1985 to December 1985, and for the 1986 calendar year?

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

**Mrs. Firth:** My question is to the Minister of Education regarding the Joint Commission on Indian Education and Training.

I would like to ask the Minister what kind of contract his department had with Stan Boychuk Management Services?

**Hon. Mr. McDonald:** It was a standard contract. I do not know whether I have tabled it in the House before, but it is a contract that can be tabled. It was a contract to Boychuk Consulting — I do not quite recall the name of the consulting firm — which was to provide the basic funding for the operations of the Commission.

**Mrs. Firth:** By standard contract, I take it the Minister means a service contract? I would like clarification on that.

Could the Minister tell me how much the total contract was for?

**Hon. Mr. McDonald:** I cannot remember. I do not know the exact figure off the top of my head. I will seek the information for the Member.

**Mrs. Firth:** I find that quite interesting, since this is such a controversial issue before the media right now. I would have expected the Minister to have that figure at his fingertips.

Could the Minister tell us what authorization there was to give out a large lump sum of money to the Stan Boychuk Management Services consulting firm?

**Hon. Mr. McDonald:** The vote authority was given by this House. I presume the authorization was given by the Management Board. I can table the contract. There is nothing out of order in terms of the financial practices of this government in the issuing of that contract. I am sorry I do not have the exact figure of the contract in front of me. I expect, at any given day, there could be thousands of questions asked on any number of issues. If the issue is important to the media, I am not sure I know exactly why.

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

**Mrs. Firth:** The Minister's excuses are really slim. This is an issue that is of concern to Yukoners. It has been in the media for the last two or three days. It was front page news in the newspaper yesterday. It has been on the news all day today. Obviously, the Minister is expressing a lack of concern about the issue.

In service contracts, is it no longer the policy of the government that when payments are made they are made after the service is performed, or that never more than 10 percent of the total contract is given at one time?

**Hon. Mr. McDonald:** From my knowledge of the situation, the issue is not controversial. It does not denote a lack of concern on my part for the management of public funds. I am very concerned about the public funds and will continue to be.

**Mrs. Firth:** The Minister did not answer my question in that long defensive explanation. Is it still the policy of the government that payment is made after the service is performed, or that they are never given more than 10 percent of the contract? I do not like have to use my supplementaries to repeat my questions to the Minister when he does not answer them.

**Hon. Mr. McDonald:** If the Member states preambles that lead to an inaccurate picture of what the state of affairs is like, I feel obligated to respond to the preambles. If I sound defensive, it is only because the Member's questions are offensive.

I can check on the policy with respect to the payment of the

contract for the Member, but, clearly, in this particular case, which is what I think she is leading to, there was funding left over in the contract when Stan Boychuk left the Commission. The funding that was left over in the contract is funding that the government is seeking.

**Mrs. Firth:** I find that very interesting. It will probably prompt many more questions, because, from the news today, the government is not seeking anything; they have not asked for the money yet.

Why was the policy broken in this case, and was it authorized by Management Board?

**Hon. Mr. McDonald:** The Member is assuming that the policy is broken. I do not accept that assumption. I can tell her that the lawyer for Mr. Boychuk has sent us letters stating that the money is held in trust until such time as the severance issue is settled. That is where it is to date. Of course, we are looking for the money, and we are developing a position on their claim for severance.

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

**Mrs. Firth:** On the radio this afternoon, Stan Boychuk was quoted to say that the government has not asked for the money yet. Is the Minister denying that statement, or is he saying that Mr. Boychuk is wrong?

**Hon. Mr. McDonald:** We received a letter from the lawyer involved, which said that the money was going to be held in trust until the severance issue was settled. We took from that letter the obvious implication that if we were to officially ask for the funding, the funding would not be forthcoming. We have been developing our position with respect to a severance, seeking details as to what their position is, and then responding to that. I hope that we can respond to Mr. Boychuk within a number of days.

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

**Mr. Lang:** This is a fairly serious situation. My colleague, the Member for Whitehorse Riverdale South, asked a number of questions over the past three weeks, and we were never informed that \$70,000 of taxpayers' money had been issued, without authorization, to somebody outside the government. Could the Minister tell us why he did not inform this House that \$70,000 was being held in trust by the company in question and why we had to learn that by the media?

**Hon. Mr. McDonald:** The Member has just stepped into an area where fools fear to tread. I think it is pretty obvious that the Member does not know what he is talking about. We did not issue funds without authorization. We have issued funds with authorization.

As I have mentioned once in the House already, the funds that had been issued, as per the contract, were left outstanding because the contract was terminated by the people who resigned and who were not prepared to carry out further the terms of the contract, and, therefore, there was money left owing to the government, because they had not carried out the full terms of the contract.

We then received a letter from the lawyer representing Mr. Boychuk stating that the money would not be returned until the severance question was settled.

**Mr. Lang:** I guess we bought the car and did not get the car. It says in the front page of the *Whitehorse Star*, "private company formerly contracted to coordinate the Joint Yukon Indian Education Commission has stored away \$70,000". Could the Minister tell us under what terms and conditions he granted this particular management company to store away the taxpayers' money?

**Hon. Mr. McDonald:** That is the point. The government did not give any sanction to the storing or holding in trust of any money. That is the whole point, and that is the reason we are seeking the funds.

**Mr. Lang:** We paid for the car, but we did not get the car. Could the Minister inform this House why he authorized \$70,000 to an organization that had not performed the work they were supposed to do? Why did he grant that money?

**Hon. Mr. McDonald:** Funds were provided for the Commis-

sion on Indian Education and Training to undertake its work. There was a contract. There will be a contract tabled this week. I will provide it to the House today if it is ready. There will be a contract that will denote the fact that there is funding that is being allocated to the Commission on Indian Education and Training in order to undertake the work of the Commission.

Now the Commission has not reported, but, nevertheless, there are funds being allocated for the Commission to do its work.

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

**Mr. Lang:** There is a very fundamental question here. In normal contracting, you provide up to a maximum of 10 percent of the monies forwarded to a contractor, and then you go on progress payments. Why did he advance that amount of money with no terms and conditions so it could be stored away by a private individual without having the work done?

**Hon. Mr. McDonald:** There are terms and conditions that are in the terms of the contract. Those terms and conditions state, I do not have the contract here, it would be handy if I did, that certain work will be performed and if that work is not performed then the money left owing to the government should be repaid to the government. Now the person in this case has indicated that he is holding the money in trust. We feel the money is owing to the government, and we will seek the money.

**Mr. Lang:** There is a major change of policy here. Is it now the policy of the government that if a road builder gets a contract to build a piece of highway that the money is front-ended prior to the work being done? Is that the policy of the government now?

**Hon. Mr. McDonald:** The money involved is not front-ending all the money to the contractor. I do not know what portion of the money it is, but I will check on the facts for the Member on exactly what percentage was forwarded to the Commission. It was not the full amount; it was a portion of the amount. In situations like this, I understand it is quite standard procedure to provide funding for a commission of this sort to do a particular piece of work.

**Mr. Lang:** Has the money been granted to the new Commission that has been set up, and are they under the same terms and conditions, or the lack thereof, that were granted to the previous Commission? Is that the same policy that is being followed?

**Hon. Mr. McDonald:** I do not know what the Member is talking about in terms of lack of conditions.

#### **Question re: Heritage rivers**

**Mr. McLachlan:** As a result of questions asked during debate on the Renewable Resources budget, I have been provided with a list of rivers named for heritage river designation by the department. Can the Minister advise if all of the river is named for designation as a heritage river when such a choice is made, or only small portions thereof?

**Hon. Mr. Porter:** The list of rivers that the Member talks about that he sought during the debate on the Capital Mains for the Department of Renewable Resources are only those rivers that were contained in the inventory. The only two rivers that are actively considered are the Alsek in the area of Kluane and, as well, the Thirty Mile section of the Yukon River.

**Mr. McLachlan:** In the case of two of those rivers close to my riding — I am familiar with the Ross River and the Pelly River — considerable monies have been expended by consulting companies — in this case, the Power Commission — for a study at Granite Canyon on the Pelly for more potential power dams. I believe that the outlay to this date has been extensive.

Is the Minister now telling us that, even though sites have been identified on the rivers for potential economic development, the people who believe it should be designated as a heritage river can come along and designate it as same even though it has already been identified for the sake of economic development?

**Hon. Mr. Porter:** I will attempt to be short in my answer to the long question. The answer is that the rivers are involved in an inventory of rivers. Should they move toward designation, the questions that the Member raises will be addressed at that time. I hardly think that we would be interested in designating those two

rivers at this point.

**Mr. McLachlan:** I simply have to ask, who comes first, the people who have expended the money for site investigation for power development or someone from Toronto who comes up and decides it could be a potential heritage river. Who gets first crack?

**Hon. Mr. Porter:** Questions of a hypothetical nature are not usually allowed within our rules, but I will respond to the Member. If there is a designation, then the questions in that hypothetical situation would be addressed at that point in time.

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

**Mrs. Firth:** My question is to the Minister of Education regarding contracts. I would like to ask the Minister of Education what kind of contract the new Commission has been given?

**Hon. Mr. McDonald:** I am not sure about the official designation, whether it is a service contract or whether it is a consulting contract. I can check on the official designation for the Member and provide the contract to the Member as I said I would last week.

**Mrs. Firth:** The Minister does know what kind of contract it is because he told me the other day it is a contribution agreement contract. I would like to know why the new Commission has been given a contribution agreement contract that is totally different from the service contract that was given to the former support staff on the Commission?

**Hon. Mr. McDonald:** I will have to check on the details of the particulars for the Member. I am not sure what the Member is referring to in terms of total difference between the two, but I will come back with a comparison of the two contracts as well.

**Mrs. Firth:** I would like to ask the Minister if the government is going to have to take Stan Boychuk Management Services to court to get back the taxpayers' \$70,000?

**Hon. Mr. McDonald:** If we do not get the funds willingly then the court is the obvious option.

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

**Mrs. Firth:** I would like to ask the Minister another question about this contracting situation. I did not get an answer to the question that the Member for Porter Creek-East asked about the authority. Can the Minister tell us if he has checked to see if he complied with the laws of the *Financial Administration Act* and the *Contracts Directive* when he issued this contract.

**Hon. Mr. McDonald:** Yes, my understanding is that it quite conformed to the *Financial Administration Act*.

**Mrs. Firth:** Is the Minister then saying that there is a loophole in the *Financial Administration Act* that has allowed the Minister to put the government in this very uncompromising position where we now have management consultant services who is holding, I believe it was called a bargaining chip against the government, in order to pressure the government to settle in their favour?

**Hon. Mr. McDonald:** I think the Member meant compromising, not uncompromising position, and there is nothing about this leverage that would force the government to settle in Mr. Boychuk's favour. I do not understand that connection at all, but I can simply say that the terms of the *Financial Administration Act* were followed to the letter.

Our recourse is to seek the funds from the contractor. If the contractor does not provide the money owing, even if it is a portion of an advanced payment or anything else, then, of course, we can seek legal support, which we have done. We can pursue the court option if we need to.

**Mrs. Firth:** It is very easy to say that the government has not been put in a compromising position when it is not your own money you are spending. There are going to be court costs attached to this. So, we feel it is rather irresponsible for the Minister to say that.

I would like to know when the Minister intends to move on this issue and proceed with court action if management consulting firms have said they are not prepared to turn the money back to the government?

**Hon. Mr. McDonald:** There is absolutely nothing irresponsible

about the action we have taken. We have done everything absolutely up front. The allegations and accusations the Member has made are completely unwarranted and unjustified based on the scantiest of information — press reports and innuendo. The results of the contract will be made known. Everything is on the record. The situation would be much the same if there were a contribution agreement or an upfront payment to a contractor who did not do the work that was expected under the terms of the contract. We will be seeking funds for work not done.

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

**Mr. Lang:** Just talking in a broad policy sense, is it now the government's position that if one is to get a consultant's contract with this government, or any other type of contract for that matter, that the government will now put forward a major portion, if not all of the money, to the contractor under a contribution agreement, and then monitor it to see if they get good work for the dollars they put in? Is that the new policy?

**Hon. Mr. McDonald:** There is no new policy. The policy is the old and time-honoured policy. The contracts that have been signed with various individuals in this matter have conformed to the *Financial Administration Act*. They conform to existing policy, and when work is not done the government will seek the remaining funds that have been scheduled to pay for a full job. That is the policy, that is what we have been doing, and we will continue to do that in a responsible way.

**Mr. Lang:** The fact is that we have a private organization with a minimum of \$70,000 of the peoples' money — not Mr. McDonald's money, the peoples' money. He made the allegation that we had to rely on innuendo. I suppose he is telling us that the reporter is a liar too. I would like to know from the Minister when he was first informed that Boychuk and Company had stored away \$70,000 of the peoples' money?

**Hon. Mr. McDonald:** First of all, no one has accused anyone of being a liar. I have suggested that Members of the Opposition do not have their facts straight. I recognize that money in my trust, as Minister, is public money and take that trust very seriously. I do not appreciate the innuendo that the Member for Porter Creek East issued, which suggests that I would only be responsible if it was my own money.

With respect to understanding or knowing of Mr. Boychuk's action, it was probably a couple of weeks ago, at which time we got our lawyers to start reviewing the case before us.

**Mr. Lang:** It was brought to the Minister's attention two weeks ago that \$70,000 of taxpayers' money was being held by Boychuk and company without authorization. Is that correct?

**Hon. Mr. McDonald:** That is correct, except for one detail. The money was not being held by Boychuk's company. The money was being held by a local lawyer — a Mr. Veale — in what they call a trust.

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

**Mr. Lang:** Now that we have established that we have \$70,000 of taxpayers' money that is elsewhere other than the public treasury, could the Minister tell me how long Mr. Boychuk and company had that \$70,000, prior to him being informed of the fact that they had it in trust?

**Hon. Mr. McDonald:** At one point, they resigned. Within the following week or two, we were seeking an accounting, or an auditing, of the accounts of the company, so that we were assured of the monies that were owing to the government. Subsequent to that, it became known to us that Mr. Boychuk was seeking a severance allotment. He felt he had a dispute with the terms of his employment, along with the other employees of the Commission, and he had put the available funds in a trust account with the lawyer whom I mentioned.

**Mr. Lang:** Could the Minister tell this House which public official authorized that amount of money to be granted to Boychuk and company and delegated to spend it?

**Hon. Mr. McDonald:** Whomever signed the contract will be

made clear on the contract itself. With respect to the terms, the individual in question is not important. The fact of the matter is that the contract had the official sanction of the government.

<sup>16</sup> **Mr. Lang:** That is what concerns us; the official sanction of this government, that seems very, very willing to give money, at any cost, to anybody, at any time. You just have to know the right people it seems.

What terms and conditions of the contract can prevent the contractor in question from just taking the \$70,000 and taking up residence elsewhere?

**Hon. Mr. McDonald:** I would like to say to the allegation that anybody can get any amount of money from this government based on who they know is an outrageous allegation, and I would ask the Member to withdraw it.

With respect to the \$70,000, or \$68,000, the funding is held, as I have stated, in a trust account with a lawyer. If someone absconded with that money, I am sure it would be considered a criminal matter, and we would pursue the matter, not only through the civil courts, but also through the criminal courts.

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

### ORDERS OF THE DAY

#### Water Board Appointments

**Hon. Mr. Penikett:** I would request the unanimous consent of the House to waive Standing Order No. 27 that requires notice be given for Motions in order that I might be able to move the following motion: THAT this House recommends to the Minister of Indian Affairs and Northern Development the appointment of Grant Lortie, of Whitehorse, and Jean Gordon, of Mayo, to the Yukon Territorial Water Board for a three-year term.

**Speaker:** Is there unanimous consent?

**Members:** Agreed.

**Speaker:** There is unanimous consent. It has been moved by the hon. Government Leader THAT this House recommends to the Minister of Indian Affairs and Northern Development the appointment of Grant Lortie, of Whitehorse, and Jean Gordon, of Mayo, to the Yukon Territorial Water Board for a three-year term.

**Hon. Mr. Penikett:** I will address this motion briefly. Recently, we have been advised that the terms of two nominees of this House to the Yukon Territorial Water Board are expiring. The citizens we are proposing are both worthy individuals who we are persuaded can make a valuable contribution to the work of the Water Board. The terms of the two previous nominees, Mr. Fekete and Mr. Byram, are expiring. The first of these two gentlemen, I was advised at the time of their selection by this House by the Government Leader of the day, was, by tradition, a nominee of the Yukon Chamber of Mines.

<sup>17</sup> Out of respect for that tradition, we consulted with the Chamber. The Chamber proposed a pair of names, the first of which was Mr. Lortie. Consistent with our aspirations for rural/urban, as well as a gender balance, the second nominee proposed is Mrs. Jean Gordon of Mayo who, I am sure all Members will know, is a former Member of this Assembly and a well-known and highly regarded citizen of the community of Mayo. I believe that both these residents of the territory are capable of serving the public interest well.

**Mr. Phelps:** Both Grant Lortie and Jean Gordon are long-time Yukoners and well known to us all. We are very pleased to support this motion.

*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 hon. 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*

### COMMITTEE OF THE WHOLE

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

*Recess*

<sup>18</sup> **Chairman:** Committee of the Whole will now come to order.

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

*On Clause 6*

*On Amendment*

**Chairman:** Clause 6(i) stood over. Debate on the amendment continued.

**Hon. Mr. Kimmerly:** The concern here is about two things: one about criminal charges, which would be lost if the amendment carried, and the other issue that was addressed by the Leader of the Conservatives, which was about certainty, or the ability of employers or the Commission to make determinations about what is relevant and what is not relevant when comparing criminal records and employment.

There has been one case in this area. The reason for the lack of jurisprudence is that it is only Ontario, Manitoba, Quebec, BC and the federal Acts that have a form of protection against discrimination for criminal records. The protections are all different in those particular Acts.

The case is McCartney and Woodward Stores Ltd. The Court of Appeal in BC set down a number of tests. These are the general guidelines that we have. The tests are as follows:

<sup>19</sup> Does the behaviour for which the charges were laid, if repeated, propose any threat to the employer's ability to carry on his business safely and efficiently. That is the obvious one, of course, generally stated. Secondly, what were the circumstances of the charge and the particulars, considering age and extenuating circumstances, and thirdly, what time has elapsed between the charge and the employment decision, and what the individual has done in that period of time.

Those are three general tests. The jurisprudence is very sketchy here, and the Leader of the Conservatives is quite right; it will be the first cases that establish the guidelines. He has one of those case, and I am assured there will be others, but the reason for mentioning that example is to give an example of how guidelines, in fact, are established through jurisprudence.

It is the view of the government that this is an important protection for people here. It involves the protection for many, many people here and we view this protection as desirable and in the public interest. It promotes the possibility for rehabilitation, and we do not accept the proposition that "criminal charges" should be deleted. We are, therefore, continuing to oppose the amendment.

**Chairman:** Is there any debate on the amendment? Are you ready for the question on the amendment? Are you agreed?

*Amendment negatived*

<sup>20</sup> *Clause 6 agreed to*

*On Clause 9*

*Clause 9 agreed to*

*On Clause 13*

*On Amendment*

**Mr. McLachlan:** On Clause 13, I rise to withdraw the amendment that I proposed on the grounds that the amendment on coercion on the basis of political involvement may be interpreted by the courts as too narrow a type of avenue or area for the Human Rights Commission to have jurisdiction under. Consequently, I would like to withdraw the amendment I proposed to Clause 13(1).

**Chairman:** Would this be with unanimous agreement of the House?

**All Hon. Members:** Agreed.

*Amendment withdrawn*

*Clause 13 agreed to*

<sup>21</sup> *On Clause 17*

*On Amendment*

**Hon. Mr. Kimmerly:** The purpose of the amendment is to restrict the Commission in putting information in its annual report. This presents some problems. Practically speaking, the information is in the public domain, in any event. It does not seem to us to have any utility. However, the point of the amendment about publishing names and using information is something that was debated at some length in general debate. I am expecting an amendment to Clause 31 establishing a statutory restriction on all information held by the Commission, which makes much more sense and is a much better protection. We are, therefore, opposed to this amendment.

**Mrs. Firth:** I would like the Minister to elaborate a bit on that. We were not looking for statutory restrictions. We debated previously in the Legislature specific directions given to the Commission regarding respect to publication of the annual report. It was the publication of the report and the contents of the report that raised the questions. The point was made that in other provinces controversies were being created because of some of the information the Commissions were publishing in the report, and that there are other provinces in Canada who are looking at revising the directions that the government is giving to the Commission when it comes to contents of the annual report.

At that time, I felt the Minister was fairly receptive to some recommendations and some amendments coming forward as to the contents of the annual report.

<sup>22</sup> **Hon. Mr. Kimmerly:** The situation around the country is that annual reports, as a practise, do not publish the things that are complained about in the amendment. There was a situation in Saskatchewan, and a backbencher asked a question there recently about the extent of the problem. It is not a major issue in the country at all.

The amendment here speaks about the dollar amounts of penalties awarded, and it is clear that it is to everyone's advantage, specifically to the businesspeople, who require certainty to know the past range of penalties that are awarded around the country. In this case, this amendment would not stop the publication of those things in all sorts of forums. It is my clear expectation that because of the profile of this issue, generally, in the Yukon, and of the media coverage here, that these things will be covered in the media in any event. There is simply no utility at all in this amendment.

<sup>23</sup> **Mr. Lang:** I take exception to the Minister and I guess this goes back to the principle consultation and listening bringing forward various points of view and then just go ahead and do whatever you want.

In the opening remarks of this particular legislation the Government Leader and the Minister of Justice stood up and said reasonable amendments would be seriously considered, and in many cases accepted. Well, we are doing real well, we are doing real well. The Bill we started a year and a half ago is still here, with perhaps a better redrafting job, but the principles are still here. We might as well settle in; I think we are going to be here for a little while.

I want to read in the record July the 14th, 1986 has to do with an experience that is fact. It happened in Saskatchewan and I think it is important it be read in the record. It starts off, "What proof? Those merely accused are named as if guilty.

"Members of the Saskatchewan Human Rights Commission liken it to a police force zealously probing reports of discrimination. But Saskatchewan Eastview MLA Kimberley John Young thinks the high minded commission is itself guilty of unfair play for publishing in its 1985 annual report the names of those merely suspected of sexual harrassment or racial discrimination." "Says the appalled lawyer, 'I don't think any member of this house or anybody in business would want his name published under the heading of sexual harrassment unless something more than a complaint had been filed.'

"The matter arose in the legislature earlier this month when New Democratic Quill Lakes MLA Murray Koskie complained about a \$30,000 cut in the SHRC's \$1.05 million 1986 budget. Mr. Young then pointed to the commission's 1985 annual report that states that Rosthern Steak and Pizza managers John Dimas and Rocco Pelletieri were accused by a waitress Faith Ratzlaff of 'sexual

harrassment of a verbal nature'. Surely the publication of these names before the commission had even held its quasi-judicial hearing of the case, he charged, was a far greater breach of human decency than any budget chop. Mr. Young then demanded that Justice Minister Sidney Dutchak examine the SHRC's name publication policy, which the latter quickly agreed to do.

"But Ronald Kruzeniski, the commission's \$9,000 a year chief," — I assume that is a misprint, it is probably \$90,000 — "defends the practice. The commission publishes names only after its officers have investigated the complaint by interviewing all parties involved. Intones Mr. Kruzeniski: 'The investigators' work is like police evidence gathering, to be done with objectivity and neutrality.'

"If the rights police deem the complaint valid, the accused is in effect deemed guilty and given the choice of settling quietly, and without publicity, or of appearing before a government-appointed board of inquiry. Since such bodies are open to the public, Mr. Kruzeniski has no qualms about printing the names of those involved." — which subscribes to the Minister's philosophy that he just espoused here a minute ago.

<sup>24</sup> "Human rights commissions in other provinces follow the same policy. 'We do not phone the names around or actively seek publicity about these hearings. We're just reporting our work to the justice minister. It's Mr. Young who has given the case all the attention,' snorts Mr. Kruzeniski. Retorts Mr. Young, 'You'd be surprised how many people read this thing.'

"While Messrs. Dimas and Pelletieri were unavailable for comment, Reginan Reginald Wilchuck, 26, says he's furious with the Saskatchewan Human Rights Commission for printing his name. The Commission is accusing the former shoe store owner of racial discrimination. He refused to accept the personal cheque of a native Indian Ivy Pelletier when she tried to buy a pair of shoes at his shop. The Commission charged him after one of its white investigators managed to purchase shoes there with a cheque. 'I thought in this country you are innocent until proven guilty,' says Mr. Wilchuck."

We are citing an actual experience in a much larger jurisdiction than this one. The amendment that was brought forward by my colleague from Riverdale South is not here to raise a major political issue. It was to ensure that people's reputations were protected to the fullest extent we could until they were taken to this tribunal and tried.

What more can you ask for? Why would you want to put Mr. Porter's name in under the heading of sexual harassment because somebody alleged that it happened, so somebody could read and the media could have a great day with it. They could take Mr. Porter and put his name right across the airwaves, and in black-and-white. Is that what we want? Or Mr. Brewster's, or Mr. Lang's name, or Ms. Norma Kassi's name, or whomever? Is that what we want? All we are asking is for protection for any Yukoner, under the method of reporting, to ensure that their name is not brought up unless they have been effectively proven guilty of having done something wrong. I think it is understandable. I do not think it is out of order.

**Hon. Mr. Kimmerly:** Some of us here talk more than we listen. What I just explained is that this amendment really does not protect Yukoners from that potential abuse. There is an amendment coming about privacy, which is a protection.

We do not have a substantial argument at all about publicizing people's names if the result of any determination is not known. The principle that both Members are espousing here is a good principle, and we agree with it, but there is a better way to do it, and a way that achieves a real result. It is in Mr. McLachlan's amendment to Clause 31, establishing 31(2).

<sup>25</sup> **Mr. Phelps:** Let us move to that amendment. Perhaps the Minister can tell us how the identity of a person complained against is protected by the amendment that was tabled already by Mr. McLachlan.

**Hon. Mr. Kimmerly:** The amendment says that personal information under the control of the Commission shall not "without the consent of the individual to whom it relates be disclosed, except", and there are the obvious exceptions about proceedings under the Act, and about proceedings in court that would occur

anyway. So if we put in the Act the statement "personal information shall not be disclosed", that is the issue here. That is most important.

This first amendment simply speaks to the Annual Report. The Commission could still disclose personal information.

**Mr. Phelps:** Of a charge against a person and the person being named, is the Minister seriously trying to say that that is covered under the proposed amendment? Surely the Minister is not saying that this amendment takes care of the concern raised in the proposed amendment by Mrs. Firth? If a person is charged, that is not personal information. The charge is not personal information. The naming of the accused or the person complained against is not personal information. Surely the Minister is not saying that. Is that what he is saying? I would like to hear.

**Hon. Mr. Kimmerly:** The Member is talking about if a person is charged. The only way to charge a person here is in the criminal courts. In the criminal courts the procedure is extremely well laid out and the procedure is in public. There are newspaper accounts of trials all the time. There is not anything that anybody can do about that, and I am sure we do not want to.

The proceedings under this Act are in the nature of civil proceedings and the Commission here will be under a statutory obligation not to disclose personal information. What more could you want?

**Mr. Phelps:** The Minister, in his normal fashion, is being evasive and misleading. The amendment proposed by the Member for Riverdale South reads "the report shall not publish any names of individuals or businesses in which a complaint was dismissed or has not yet been dealt with".

<sup>26</sup> The proposed amendment by the Member for Faro does not deal with that issue at all. If a complaint is raised against Mr. Kimmerly, of Riverdale, for whatever, there is nothing in the proposed amendment that he refers to that would prevent the publication of the complaint or the allegation and the name of Mr. Kimmerly in the annual report. There is nothing. It is a completely different subject area and has nothing to do with the proposed amendment by the Member for Whitehorse Riverdale South.

If the Minister can show us that the proposed amendment by the Member for Faro covers the situation, I would like him to show us. I would like him to stand up and say that proposed amendment covers sub-clause (d) of the proposed amendment of the Member for Whitehorse Riverdale South.

**Hon. Mr. Kimmerly:** The two amendments deal with the issue of privacy. The proposed amendment in 31(2) is far wider. It is a far better protection for personal information.

If a complaint actually occurs and is decided by a Board of Adjudication, that process will be public, and it will be reported in the media exactly like other court matters are reported. The question of what occurs in public in the public domain is something where the general law is part of fundamental justice, so people can see that justice is done.

That issue is partially dealt with in both amendments. I would submit here that it is most appropriate, and it is a good public policy, that there is some publicity and some knowledge and certainty about things like the dollar amounts of awards and the proceedings of public cases. It is contrary to public policy to issue gag orders.

<sup>27</sup> The important question here is in the disclosure of personal information. That is information a complainant may make about a person, which is exactly the case that was referred to by the Member for Porter Creek East in reading his long quote. That is personal information, and it would clearly be covered under 31(2).

**Mr. Phelps:** I said that the Minister was misleading in his argument, and I maintain that. The amendment under discussion states "the report shall not publish (a) any dollar amounts of the penalties awarded pursuant to this Act". There may be some reason for disagreeing with the amendment, and the Minister has come up with some arguments, but not the argument that he said was covered under the amendment to Clause 31.

The second part of the amendment that we are discussing right now, "The report shall not publish (b) any names of individuals or businesses in which a complaint was dismissed or has not yet been

dealt with", is not covered, at all, by the amendment being offered by the Member for Faro.

The Minister knows this. He should not stand up and fraudulently say something he knows is untrue.

The second part of his argument is entirely different. We can deal with a real argument on this side. The second part of his argument has to do with public policy and nothing to do with the Section 31 amendment. If the Minister is maintaining that that kind of information ought to be public in any event, right from the time that the complaint is laid on the grounds of public policy, that is an argument that has some merit, but it is not covered by Clause 31 in any way.

**Mrs. Firth:** If I may, I would like to clarify the debate in some way. I would like to withdraw the amendment that I have proposed and submit a new amendment.

**Chairman:** Does the Member have unanimous consent?

**All Hon. Members:** Agreed.

*Amendment withdrawn*

*Amendment proposed*

**Mrs. Firth:** I would to submit an amendment to Bill No. 99, entitled *Human Rights Act*, that it be amended in Clause 17 at page 7 by adding the following: "The report shall not publish any names of individuals or businesses in which a complaint was dismissed or has not yet been dealt with".

**Hon. Mr. Kimmerly:** This is not a practise that would appear in the Annual Report anyway. There is no particular harm in this. We have no objection to the amendment.

<sup>28</sup> *Amendment agreed to*

*Clause 17 agreed to as amended*

*On Clause 19*

**Hon. Mr. Kimmerly:** I am not aware of any outstanding amendment for Clause 19(1).

*On Amendment*

**Chairman:** I am sorry. I am wrong. It is 19(2). "A complaint must be made within one year of the alleged contravention." The amendment is "six months" to replace "one year". I apologize.

**Hon. Mr. Kimmerly:** This is not a bad amendment. We support it.

*Amendment agreed to*

*Clause 19 agreed to as amended*

*On Clause 24*

**Hon. Mr. Kimmerly:** The principle here is to find a way to deal with persons who fraudulently complain, or who complain when they know the complaint is false, or who try to use the Commission as a means of getting revenge on somebody or making trouble for somebody.

The competing concern is that people should not feel intimidated into making a complaint, or not making a complaint, in that many people who might complain have nowhere else to go to anyway and are most frequently members of disadvantaged groups and minority groups. It is in the public interest to provide a free complaint procedure, but to not facilitate abuse.

I have researched this question around the country, and it is the general view that these kind of complaints do occur, but they occur very rarely.

<sup>29</sup> In fact, it is fairly easy to weed them out. There is no reported case that has gone to adjudication that anyone is aware of this actually being a problem at the adjudication. Nevertheless, it is important to plug loopholes or to provide protections where one can. Consequently, the government has considered exactly this problem and will be proposing an amendment that meets the problem, but it is not the same wording as this. I will circulate the amendment. There are actually two: one is a substantive amendment to Clause 28 adding a 28.1; and, the second is a numbering change in Clause 29. I would table those now, but I will not formally move them until we get to Clause 28, which is the subject of other amendments in any event.

The amendment that I am proposing is as follows. There would be a new offence added and the offence would "Any person who reports to the commission information that the person knows to be false commits an offence."

That will clearly get at the situation where people abuse the

system, and it is in the public interest to protect against that because that kind of thing, in fact, serves to discredit the whole process of protecting human rights, and I will propose that amendment. It encompasses the concept of giving information that you know to be false. We have purposely left out the word "malice" because, as the lawyers' office has said, malice is virtually impossible to prove. The essential elements of this offence are that the person was telling a lie, that they knew something was false and lied about it. That will clearly address this problem.

The question of costs, if this kind of thing is proceeded with, in the very unlikely event that it was, I would submit that it should be on the commission and not on the individual, for two reasons, one of them practical. Practically speaking, the individual would unlikely have the ability to pay in any event, and, more logically, it is the Commission that has carriage of the proceedings not the complainant. The person who has carriage of the proceedings should be the one who is held accountable. Consequently, we are in favour of this principle, but we will be opposing this amendment in order to correct it later.

<sup>30</sup> **Mr. Lang:** In deference to this side, I would like to make a point. We tabled our amendments yesterday, and we have all of a sudden been told what the amendment is going to be, and we have not even had an opportunity to read it. We are being asked to vote on this amendment on the face of what has just been said. I would like a few minutes to read for myself what is being presented prior to voting on the section. Further to that, I have some questions.

**Chairman:** I will distribute the proposed amendment at this time, and we will stand it over for debate at another time.

**Mrs. Firth:** Would it be appropriate for me to ask the Minister some questions that I am sure will be relevant to our decision.

I would like to know if I may ask questions about Clause 28(1) and the proposed amendment with Clause 24?

In light of the proposed amendment that any person who reports to the Commission information that he knows to be false commits an offense, he is therefore putting that action on a par with Clause 27 and 28, which are obstruction and retaliation. However, I believe the principle of our amendment stated that the Commission could make orders to pay, or make orders for payment, which would include all of the defined things that would be paid on the same basis as someone who had had a complaint brought against them and been found to have had made a discriminatory act. So it does not take into account dignity, feelings or compensation to the individual that the false information was given about. I would like some clarification from the Minister about that.

**Hon. Mr. Kimmerly:** The assumption that was made was wrong. It does take into account those things. The measure, as it is proposed in Section 24, is a protection that incidentally is an accountability protection which does not exist around the country. It does take into account damages exactly as the amendment does; there is no difference at all in considering the award of damages between the original section and the amendment put forward by Mr. Phillips. The concern here is that if the Commission acts wrongly, it is the Commission that has carriage, and the Commission should be accountable.

<sup>31</sup> **Mrs. Firth:** Do I understand, then, that the person who reports falsely the information would be subject to the penalty clause, as well as to the penalty clause of the Summary Conviction to a fine of \$2,000, as well as to the costs in Clause 24, which the Commission could bring forward?

**Hon. Mr. Kimmerly:** No, not exactly. The person who makes the false complaint would be subject to the penalty. The Commission would be subject to the damages.

**Mr. Lang:** I do not understand. I will accept the argument, to some degree, that there is a very good chance that the individual who has falsely put forward a complaint, and it is proved to be false, may not have the wherewithal and financing to be able to pay for the respondent's costs.

I will accept the principle that the Commission should pay, but should we not make it mandatory that the Commission pursue the individual who initiated the action? Right now, the way I read it, it is silent. It seems to me it goes in favour of the guy who has nothing has nothing to lose, so, why not, let us go for it. I do not

think we should be accepting that. It is like civil Legal Aid. I think the individual has a responsibility, and there should be some method to pursue that particular individual.

**Hon. Mr. Kimmerly:** I do not disagree at all with the Member for Porter Creek East. Bill No. 99, as originally proposed, did not provide that method. This amendment to 28(1) would do exactly that: provide a method to pursue the person who lies.

**Mr. Phelps:** I find some merit in the arguments presented by the Minister, and I do like his proposal for the penalty section of the Bill entitled False Report. I also have a proposal for an amendment, once we have dealt with the amendment before us at this time. So, I will be prepared to vote against the amendment and will have another amendment to replace it with.

*Amendment negated*

*Amendment proposed*

**Mr. Phelps:** I have just written this up: THAT Bill No. 99, entitled *Human Rights Act*, be amended in Clause 24 at page 9 by adding immediately thereafter the following:

"24.1 If the Board of Adjudication concludes that the complaint was based on information the complainant knew or ought to have known to be false the Board may order the complainant to pay to the respondent

(a) part or all of the respondent's costs of defending against the complaint, and

(b) damages for injury to the respondent's reputation."

<sup>32</sup> **Hon. Mr. Kimmerly:** I do not think I have any problem with that concept. I would like to see the wording and study it for five or ten minutes or so just to be sure of the wording. I would ask to stand that matter.

**Chairman:** Is it agreed that Clause 24 be stood over?

*Amendment stood over*

*Clause 24 stood over*

*On Clause 26*

*On Amendment*

**Hon. Mr. Kimmerly:** This amendment has a problem. Again, I have researched, or caused to be researched, the situation in other jurisdictions and this is the kind of clause that has existed in some Acts and has been changed, but the amendment is the kind of clause that has existed and has been changed.

First of all, the amendment proposed is unique in that it provides an appeal to a single judge of a court and then provides no further appeal, which is unique and I would suggest offensive to the general rule that what judges do is appealable. Secondly, and much more importantly, it practically provides a system whereby the loser simply has a second chance and a chance in a different forum.

The purpose of this legislation is to set up a commission and a board of adjudication that has a specific expertise and interest in human rights. It is in the public interest that that board decides the question. It has long been established that that is a better procedure than the formal courts. The practical effect of this amendment is that it would simply allow the loser to, first of all, extend the whole question for, I would suggest, approximately a year or so, or certainly six months, and put the commission to substantial expense and to force the complainant to go through the process twice. It would simply be a way to get a second kick at it so to speak. The principle of appeal will always be important in that as long as human beings do things, there will be errors made and the whole concept of appeal is to correct errors.

<sup>33</sup> The provision in Clause 62 clearly protects from the possibility of errors and maintains the policy that these decisions should be made by a Human Rights Tribunal. For those reasons we cannot accept this amendment.

**Mr. Phelps:** I will speak very briefly to the reasons given by the Minister.

The first reason given for the proposal was simply that most people, who were told there was a right of appeal to a court, had an understanding and seemed relieved by that fact. They had a concept that the appeal would be in the nature of a trial *de novo* and not under the very extremely narrow legal grounds provided under the present Section 26. There is certainly a misconception out there when laypeople are told there is an appeal by right to a court. That was the main reason for putting this amendment forward.

The Minister also speaks about the order of adjudication not to be taken lightly, but this simply gives a party the opportunity a second kick at the cat in a different forum. I would submit, in response to that and for the record, that there is the issue of costs. Of course, if costs are awarded against the person who does not really have a good appeal, then that is certainly a factor that will be taken into consideration, I am sure.

The third point I would like to make is that the Minister spoke about forcing the complainant through the process twice. That really does show a bias, in my opinion, because this is an appeal, surely, that is open to either side. I think that perhaps some focus should be placed, not only on the complainants rights, but also on the rights of the person against whom the complaints are laid, sometimes wrongly.

**Hon. Mr. Kimmerly:** I will respond to those in reverse order. The fact that appeals are open to either side works both ways. The respondent who wins is equally annoyed if they are proceeded against a second time. There is an equally valid argument for that, of course.

The question of costs is an interesting one. Theoretically it works, but practically these matters are frequently about things that are not of a huge monetary amount. It is clear experience that if a large amount of money is involved, there is most often an appeal in any event. As all Members well know, if there is a large amount of money involved, there seems to be some sort of principle of law that comes up or is manufactured by the litigants. That is not a good protection against appeals, especially where there is a commission with a very limited budget and a commercial interest that is quite wealthy.

<sup>34</sup> I would suggest that the third issue about the public perception can easily be addressed through public education.

**Mr. Lang:** I kind of object to the principle that because somebody has the financial capability and feels they have been wrongly dealt with, that the Minister would say he should not have the right for an appeal through the proper methods. As a layman, I would think that he would provide the evidence in a court of law and see whether or not a decision that had been taken by the Board of Adjudication was the proper one taken.

I am a layman, like many of the Members here. I am sure most people are not aware of that. We are certainly going to go on the technicalities of law where, as opposed to being able to appeal, which is natural in most pieces of legislation that you can appeal, you get one second chance to present your case. I do not understand why the amendment has been put forward, although I would suspect it would be very rarely used, why all Members would not endorse the principle that anybody — the complainant, the respondent — who felt that they were unfairly dealt with should have the right to go to what is referred to as a trial *de novo*, which is basically a court, to have it heard.

This is where we part company with the side opposite, where they put so much responsibility and authority with a quasi-judicial body. Maybe he is right. Maybe we should not have any respect for the courts. Maybe that is what the Minister is trying to indirectly say. We are saying that there should be the opportunity for anyone, or any organization, or any association, or any company, or any person, to have the opportunity for an appeal. I do not think that that is that far out of line. I think it is a very basic amendment that is being brought forward.

**Hon. Mr. Kimmerly:** I agree with the first point made, but not the second. The question of the right of appeal is obvious. I am absolutely convinced that all Members here will support a right of appeal. The principle of an appeal is to correct a mistake. It is not to get a second kick at it. It is to correct a mistake. The provision here is establishing a right of appeal, which everyone agrees with.

The second point is that an appeal ought to deal with mistakes in the first instance, not be a second kick at it. The question of money should not enter into it. The trick for us legislators should be to establish a system that is fair, regardless of whether you are poor or rich. This just establishes that.

<sup>35</sup> **Mr. Lang:** Is it not correct that if one wants to appeal, and if they did not have the wherewithal, do we not have provisions for that individual, or individuals, to be considered for the program

called civil Legal Aid? If you want to get on to the question of money, the one who gets caught in the middle is the poor working stiff who is "lower middle class or middle class" and he is not eligible for anything. All he does is pay.

*Amendment negated*

*Clause 26 agreed to*

*On Clause 28*

**Mr. Lang:** I think we can deal with Section 28. If I have unanimous consent I will withdraw my amendment so the Minister can put forward the amendment he has brought forward, which essentially does the same thing.

**Chairman:** Do we have unanimous consent?

**All Hon. Members:** Agreed.

*Amendment proposed*

**Hon. Mr. Kimmerly:** I move THAT Bill No. 99, entitled *Human Rights Act*, be amended at page 10 by adding the following heading and Clause immediately after Clause 28:

"False Reports

28.1 Any person who reports to the Commission information that the person knows to be false commits an offence."

*Amendment agreed to*

*Clause 28 agreed to as amended*

*On Clause 29*

**Hon. Mr. Kimmerly:** I move that Bill No. 99, entitled *Human Rights Act*, be amended in Clause 29 at page 11 by substituting the expression "section 27, 28, or 28.1" for the expression "section 27 or 28".

On the written material filed, the word "by" is written as "be". I would ask to consider that a typographical error, the "e" should be a "y".

**Some Members:** Agreed.

<sup>36</sup> *Amendment agreed to*

*Clause 29 agreed to as amended*

*On Clause 31*

**Mr. McLachlan:** As the Minister and I have some difference of opinion on this, I would like to withdraw the amendment that I proposed yesterday in favour of an insertion of one that has three additional words, and I will explain the reason for them.

**Chairman:** Do we have unanimous consent?

**All Hon. Members:** Agreed.

*Amendment withdrawn*

*Amendment proposed*

**Mr. McLachlan:** The change is such that I shall read the introductory clause: "Personal information under the control of a commission shall not, without the consent of the individual to whom it relates, be disclosed or be used except", and parts (a) and (b) are identical as introduced yesterday.

The intent of the Clause, as we have heard through a great deal of painful debate, is that information gathered by the commission during the course of investigation may be very unnerving for the particular individual under investigation, and a lot of personal information may accumulate during the course of that investigation. This particular Clause is somewhat similar to the *Privacy Act* and it is intended to be put into the Bill to prevent the release, intentional or unintentional, of the information gathered during the course of the commission.

The item that I referred to earlier that undergoes the change is intended thusly: "disclosure" I interpret as something that may wind up in the newspaper; "be used" is something that is intended to prevent that another action be started against an individual as a result of material gathered during the investigation for infringement upon any of numerous acts of the Yukon, such as an infringement of the *Employment Standards Act*. Its general purpose is to protect the privacy of information of individuals gathered during the course of investigation.

**Hon. Mr. Kimmerly:** Just briefly, I do not know how you use information without disclosing it, or disclose information without using it. This makes no practical difference and we do not object.

*Amendment agreed to*

*Clause 31 agreed to as amended*

<sup>37</sup> *On Clause 32*

*On Amendment*

**Hon. Mr. Kimmerly:** I think the Member for Porter Creek East and I have no disagreement, if we consider what he said last night. We have a disagreement about the practical effect of the section as it is, and the practical effect of the amendment. Let me explain that.

The basic principle under common law and under employment law is that an employer is responsible for the actions of an employee in the course of employment. This is very well established. For example, if employees do not wear hard hats, the employer can be found negligent. The reason is that it is the employer who has the ability and the duty to control the workplace. That is a very well-established principle.

It is a good principle because of the obvious public policy that everybody knows. The people who control actions at worksites is the employer. That is the nature of the employee-employer relationship.

The Supreme Court of Canada has set down tests for what the Member should have called the "onus of proof". He said last night that the principle right now is that the employer is guilty until he proves himself innocent. That is wrong. That is not the case. The principle is that the onus of proof is decided by the Supreme Court of Canada, along several tests. The two tests are that there should be a rational connection between the fact presumed and the conduct to be proved. Secondly and, perhaps, most importantly, is that the onus falls on the side that has the ability to know, or has the knowledge, about the particular incident. That is fairly obvious.

It is important to draw the distinction here that we are not dealing with guilt. We are not dealing with offences. There is no provision here that makes an employer guilty of an offence committed by an employee.

<sup>38</sup> There is a provision, which is in the nature of the civil law, of the employer being responsible for the actions of the employee. That follows very well-established law and uncontroversial law. This section serves to define the public policy that where discrimination occurs involving an employee/employer relationship, it is the employer who has the control over the situation, and it is the employer who has some duty to meet the discrimination.

What we have done here is to lay out the ground rules as to how an employer can discharge that. We have added something that does not exist in common law. We have added the provision that if an employee does a discriminatory act, the employer has an opportunity to correct it. If the employer does what is reasonable to correct it, that gets the employer off the hook. That is not in common law, but that is provided for here. That is an extremely good public policy, because if the employer corrects the situation, firstly the situation is corrected and secondly, the employer is alerted to the problem and is able to solve the problem for a future time. That is simply what this means.

The employer is also provided a protection here. If they are diligent, if they do not consent to the discrimination and take care to prevent it, they are completely off the hook. This does not speak here about the onus of proof. The onus of proof is established by the existing law as laid out by the Supreme Court of Canada.

Consequently, the wording of the Act as it is meets the problem that the Member for Porter Creek East talked about in his defence of the amendment. The amendment is wrong.

<sup>39</sup> **Mr. Lang:** I have to question who would ever want to be an employer, after we listen to and carefully analyze what the Minister has just said. That side seems to forget that employers are people who are generally good people who hire people to work and manages to make our economic system work the way it does, which has its flaws. It is imperfect but, at the same time, in comparison to any other system in the world, I think that we compare very well. Our standard of living is one of the highest in the world, if not the highest.

For the Minister to come out and say what he just said and try to convince this side that the section that he has before him is not a section that says an employer is guilty until he proves himself innocent, I do not understand how he can say that. I want to read it into the record, and it states:

"32. Employers are responsible for the discriminatory conduct of their employees unless it is established that the employer did not consent to the conduct and took care to prevent the conduct or, after

learning of the conduct, tried to rectify the situation."

I am not a lawyer, and maybe it would be a good thing not to have too many lawyers in politics. I can read the English language. It says that an employer is guilty until he proves the following three points incorporated in the section. I can read legislation. The Minister shakes his head and says otherwise. Any sane individual reading that would read it the same way I have read it, that the employer is guilty unless it can be proven differently. I am only asking that the section read as follows:

"Employers are not responsible for the discriminatory conduct of their employees, unless it is established that the employer consented to the conduct and did not take care to prevent the conduct or, after learning of the conduct, did not try to rectify the situation."

I am asking that the Commission, this tribunal, have an onus to find the evidence that the employer knew that his employees were acting improperly and was encouraging them. If that is the case, then take all steps necessary with respect to invoking the law. I do not have a problem with that. If what the Minister has said in his argument that that is in the common law, then I do not understand why we are putting this section in.

I guess the purpose of this section is consistent with the philosophy of the Bill, that small business people or large businesses are bad people, and we have got to get them. I do not accept that. I do not accept that the state is always right. I think the state has an onus and a responsibility to prove the guilt.

<sup>40</sup> **Hon. Mr. Kimmerly:** You do not have to be a lawyer to understand this; it is not in lawyer's language.

The Member for Porter Creek East said, and if he reads *Hansard* he will see that he has said, that the philosophy of this Bill is that if a person owns a business they are a bad person. That is sheer and utter nonsense. The way this is written — and I would point the Member to the phrase, "unless it is established" — it does not say "unless the employer proves", or "unless the employer is able to prove" or anything like that. It says, "unless it is established". It does not say who has to establish it. It does not say that.

The law about who has to establish it has been developed over the years and there are some tests that are really common sense tests. It is who has the ability to know about it, and that is obvious. That is the way the courts will operate in any event. That is a common sense policy.

This does not put the onus of proof on the employer. The onus of proof will be on, in any particular case, the person who has knowledge of the events, according to common law. There is no onus of proof here. It does state the proposition that is clear in established law that employers are responsible for the conduct of their employees. Then it goes on to describe how an employer can discharge that responsibility. You do not have to prove all three of them. You have to find yourself, or the employer, within either the first two or the second one. It is an extremely fair section, and an extremely fair-minded section.

**Mr. Phelps:** Surely the amendment proposed by the Member for Porter Creek East would be viewed in a much more favourable light in the original section by employers? Would the Minister not agree with that?

**Hon. Mr. Kimmerly:** I certainly would not agree, because the amendment takes any onus at all off the employer and says that employers are not responsible for the discriminatory conduct of their employees, which is contrary to the established law. It is not found anywhere in the country.

<sup>41</sup> **Mr. Phelps:** The whole point is that virtually everything in this Bill is found anywhere in law previously in Yukon, and I thought we were designing a Yukon bill. We, on this side, feel that taking the onus off of the employer is a salutary thing, and we favour it very strongly. We can argue about this around and around for as long as we want. I am sure that the bench of the Ministers is very clear when it comes to the status of employers having the balance of power in society and all of that and it ought to be ground down by the heel of government. I think we should call the question and get it over with.

**Mr. McLachlan:** I have a question for the Minister of Justice that I would like him to explain for everybody present today. In simplistic terms, if I have a bus driver who during the course of

loading a number of people yells out at the top of his lungs, for whatever reason, "all Indians to the back", why am I responsible for that remark?

**Hon. Mr. Kimmerly:** The reason is that it is the employer who is in control of those kinds of situations. If the employer, in that situation, according to this section here, had not consented to conduct, or after learning of it tried to rectify the situation, the employer should not be responsible. However, the general rule and the general public policy is that the employees follow the policies of their employers. If a bus driver is going to do that, I ask you would that be the policy of the employer or the employee and who has the power to decide, the employer or the employee? It is clearly the employer and any smart employer, of course, would not want an employee to be doing things like that, and if they continue to permit that or, in fact encourage that, then the employer should be responsible.

<sup>42</sup> If the employee says a thing like that in the bus, it is sound public policy for the employer to tell them to stop saying it. If they do do that, they are off the hook.

**Mrs. Firth:** I have to stand and disagree with the Minister. In that situation that the Member for Faro just raised, I do not feel it would be the employer's responsibility at all. If that statement was made, it would be the responsibility of the individual who was offended or had a discriminatory act committed against them to stand up and complain. It is not the responsibility of that employer to tell his employee that his attitude is not correct. It is up to the individual who has had a discriminatory act committed against him or her.

**Hon. Mr. Kimmerly:** There is another example that I will put. What of the bar or hotel where the employer says to the waiters or waitresses, "Do not serve Indians." In that situation, it is clearly the employer who should be responsible. The question is what actions is the employer taking? If employees are, in the course of their employment, discriminating, there is a responsibility to have that stopped. The best public policy is that the person who is in control of the situation should have it stopped. If the employer acts fairly, that is all they have to do.

**Chairman:** Are you agreed on the amendment?

**Mr. Lang:** I would like division on this question.

**Chairman:** All those in favour of the amendment please rise. All those opposed to the amendment please rise.

According to our Standing Orders in the event of a tie, the Chairman has to vote to maintain the Bill in its present order. The amendment is defeated.

*Amendment negatived*

**Chairman:** I would ask Members to please speak up on a voice vote.

**Mr. McLachlan:** I would presume, but it is not clear from the way the English is worded, that employers are responsible for the discriminatory conduct of their employees while on the job. There is no intention whatsoever to relate the conduct of the employees anywhere than on the job, is that correct?

<sup>43</sup> **Hon. Mr. Kimmerly:** That is the nature of the employer/employee relationship. Of course, if it occurs outside of that relationship, they are not in an employer/employee relationship.

**Chairman:** Are you ready for the question? Are you agreed?

**Some Members:** Disagreed.

**Chairman:** All those in favour of Clause 32 please rise.

All those opposed to Clause 32 please rise.

The Clause carries.

*Clause 32 agreed to*

**Chairman:** The only clause outstanding is Clause 24. Is it the wish of the Committee to deal with it now or to recess for 10 minutes?

We will now recess for 10 minutes.

*Recess*

<sup>44</sup> **Chairman:** Committee of the Whole will come to order.  
*On Clause 24*

*On Amendment*

**Mr. Phelps:** I have had the opportunity of discussing this issue with the Minister. I would like to ask unanimous consent to withdraw the words "or ought to have known" after the words "complainant knew".

**Chairman:** Is there unanimous consent for that?

**All Hon. Members:** Agreed.

*Amendment agreed to*

*Clause 24 agreed to as amended*

**Hon. Mr. Kimmerly:** I move you...

**Chairman:** First we will go to the preamble.

*On Preamble*

*Preamble agreed to*

*On Title*

*Title agreed to*

**Hon. Mr. Kimmerly:** I move you report Bill No. 99, entitled *Human Rights Act*, with amendments.

*Motion agreed to*

**Hon. Mr. Kimmerly:** I would ask the agreement of all Members that we deal with Bill No. 79, entitled *An Act to Amend the Medical Profession Act*.

**Chairman:** Do we have unanimous consent?

**All Hon. Members:** Agreed.

**Bill No. 79 — An Act to Amend the Medical Profession Act**

**Chairman:** General debate?

**Mrs. Firth:** I am prepared to move that the Bill be deemed as read. I have checked with the Medical Profession Association. The Bill is exactly what they had requested that the Minister bring forward. I think we could just pass it.

**Mr. McLachlan:** Must the members who are called in from outside be registered as medical practitioners in the Yukon Territory, or is membership in Saskatchewan, Ontario, Newfoundland sufficient to be able to investigate and pass judgment here?

<sup>45</sup> **Hon. Mr. Kimmerly:** I do not authoritatively know the answer. I expect the answer is no, but I need to check it. I can undertake to provide a written opinion to the Member in due course if he will accept that.

**Chairman:** Anything further? There is a motion that the Bill be deemed read. Are you ready for the question? Are you agreed?

**All Members:** Agreed.

**Hon. Mr. Kimmerly:** I move you report Bill No. 79, *An Act to Amend the Medical Profession Act*, without amendment.

*Motion agreed to*

**Chairman:** What is the further pleasure of the Committee?

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

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

*Motion agreed to*

*Speaker resumes the Chair*

<sup>46</sup> **Speaker:** I now call the House to order. May I have a report from the Chairman of the Committee of the Whole?

**Mr. Webster:** The Committee of the Whole has considered Bill No. 99, *Human Rights Act*, and Bill No. 79, *An Act To Amend The Medical Professions Act*, and directed me to report Bill No. 99 with amendment, and Bill No. 79.

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

**Some Members:** Agreed.

**Speaker:** I declare the report carried.

May I have your further pleasure?

**Hon. Mr. Porter:** I would like to inform the House that we will now be calling Third Reading of Bill No. 79, and in order to proceed with Third Reading of Bill No. 99 at this time, unanimous consent is required. I would, therefore, request such unanimous consent.

**Speaker:** Is there unanimous consent?

**All Members:** Agreed.

**Speaker:** There is unanimous consent.  
Government Bills?

## GOVERNMENT BILLS

### Bill No. 79: Third Reading

**Clerk:** Third 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 third time and do pass.

**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 third time and do pass.

Are you prepared for the question?

Are you agreed?

*Motion agreed to*

**Speaker:** Bill No. 79, entitled *An Act To Amend The Medical Professions Act*, has passed this House.

### Bill No. 99: Third Reading

**Clerk:** Third reading Bill No. 99, standing in the name of the hon. Mr. Kimmerly.

**Hon. Mr. Kimmerly:** I move that Bill No. 99, entitled *Human Rights Act*, be now read a third time and do pass.

**Speaker:** It has been moved by the hon. Minister of Justice that Bill No. 99, entitled *Human Rights Act*, be now read a third time and do pass.

**Hon. Mr. Kimmerly:** I cannot let this occasion go by without a very short remark. The debate on this Bill has been long and occasionally acrimonious. It is time that Yukoners put the debate about what the principles should be behind us. It is time to look to the future for a society that is increasingly relatively free of discrimination. This Bill will, in some measure, do that, and I commend this measure to all Members.

**Mr. Phelps:** I will be relatively brief in my comments, as well. I do not want to get into the history of the Bill or rehash the acrimonious debate that has been present on all sides from time to time during the last year-and-a-half, nor do I want to dwell with any length on the rather false public consultation process that was entered into by the government.

We are unhappy about certain facts; about the fact that some of the basic principles were not changed, and, of course, we feel very strongly that a large majority of Yukoners were against some of the clauses. Be that as it may, we have fulfilled our duty to the public as the Opposition. We have asked for, demanded, and achieved some positive changes to the Bill. These, in brief summary, are: the inclusion of property rights in the Bill; the assurance, through certain amendments, of certainty; and, I think, especially when I say that about Section 7, the grandfather clause for existing structures in Section 8 and Section 19 of the Bill. All these modest proposals were proposed in order to ensure that employers and people in the Yukon had more certainty with regard to the ramifications of the Bill.

<sup>48</sup> I am also very pleased that we have achieved the compromise that third party complaints can no longer be made under the Bill, and, also, that the Bill now provides for costs against complainants if they lay a complaint on information that is knowingly false.

Finally, I think the amendments with respect to privacy are salutary. So, while we are unhappy with the Bill and will not support it, we know it is going through, and we feel that we have achieved some good in the amendments that we brought forward.

There were, after all, some 20 amendments from this party, some of which were agreed to and some of which were not.

I would like to thank the lonely Member to our left for coming forward with amendments, because some of them were accepted and, in the spirit of compromise, we can thank him for the work he has done.

Despite the fact that I am not happy with the Bill, I would like to extend my thanks to the people across the way who did give our numerous amendments serious consideration and agreed, at least in part, with them. Hopefully, the exercise has been a positive one for

all Yukoners.

**Mr. McLachlan:** I am extremely pleased to see the passage of this Bill today. Human rights have been a priority of the Liberal Party of Canada for a number of years. I am proud today, not only as a Liberal, but as a Member of the Yukon Legislature, to have been part of the process in passing this important Bill.

As this House is well aware, Pierre Trudeau, the former Prime Minister of Canada, had a deep-rooted commitment to see the passage of human rights legislation for all Canadians. Many of the principles espoused in this legislation today can be seen in the Canadian *Charter of Human Rights and Freedoms*.

This Bill has been extremely controversial, and the process of passing the Bill has been very divisive in some cases. Of that there can be no doubt. It is my hope that the people in the Yukon, once the dust has settled, will be able to put aside their differences and feel confident that the basic intrinsic rights of all people of this territory have been entrenched in law.

I realize that the passage of this Bill will not immediately alleviate all social ills, but it is one important step toward justice for all citizens of Yukon. I look forward to the appointment of a Human Rights Commission and know that all Commissioners will work hard to see that cases brought before the Commission will be handled in a just and thorough manner.

<sup>49</sup> **Mrs. Firth:** I feel compelled to rise and make a few comments at third reading of this Bill because I feel it is probably one of the most traumatic experiences that Yukoners have had in a long, long time.

We feel that Yukoners are basically good people and that they are fair people and that they are good Christians and that they believe in each other. It would have been our desire to see Yukoners brought closer together with this legislation. After the controversy that has surrounded this Bill, I do not know if that has happened or not. My feeling is that it has not.

I think there were attitudes and tolerances; they were not perfect, but they were there. I guess my biggest concern about the whole process that we have just gone through is the very little recognition that was given to Yukoners as to how tolerant or how fair or how good their attitudes were because we always heard the negative. We never heard the positive. We never heard about the good things that Yukoners do, good things they do for each other. We never heard about the good employers; we always heard about the bad employers. We never heard about the positive achievements that women had made in their struggle for more equitable wages; we always heard the bad or the negative. As I said in the beginning, when this Bill was tabled, if you tell people enough that they are bad then they start to believe that. I do not think that is very constructive or very positive.

I am very interested in the comment that the Minister of Justice made, brief as it was, about how it was time to put aside all of the controversy and turmoil. Well, it is easy to say that, but after a year-and-a-half of turmoil and negative comments and being told that you are unfair and that you are discriminating, and that you are not treating people equally, the wounds that are created by that are often deep.

<sup>50</sup> They are not physical wounds. They are emotional wounds and they pit neighbour against neighbour, friend against friend. So it is very easy to say something like that. I want to emphasize that wounds do not heal that fast.

The optimism I have is in that my faith in Yukoners tells me that they will survive this; they will continue to be good people; they will continue to be good friends and neighbours. We, on this side of the Legislature, are going to do everything possible to see that Yukoners can survive and that we can be optimistic about our future.

*Motion agreed to*

**Speaker:** I declare that Bill No. 99 has passed this House.

I would like to inform the Assembly that we will take a brief break before we receive the Administrator.

*Recess*

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

I wish to inform the Assembly that we will now receive the Administrator to grant Assent to Bills that have passed this House.

*Administrator enters the Chamber announced by the Sergeant-at-Arms*

**Speaker:** Mr. Administrator, the Assembly, at its present Session, passed a number of Bills in which in the name and on behalf of the Assembly I respectfully request your assent.

**Clerk:** *First Appropriation Act, 1987-88; An Act To Amend the Medical Professions Act; Human Rights Act.*

**Administrator:** I hereby give my assent to the Bills as enumerated by the Clerk.

*Administrator leaves the Chamber escorted by the Sergeant-at-Arms*

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

**Hon. Mr. Porter:** I move that the House at its rising do stand adjourned until it appears to the satisfaction of the Speaker, after consultation with the Government Leader, that the public interest requires that the House should meet; that the Speaker give notice that he is so satisfied; and thereupon that the House shall meet at the time stated in such notice and shall transact its business as if it had been duly adjourned to that time; and that if the Speaker is unable to act owing to illness or other causes the Deputy Speaker shall act in his stead for the purpose of this order.

**Speaker:** It has been moved by the hon. Government House Leader that the House at its rising do stand adjourned until it appears to the satisfaction of the Speaker, after consultation with the Government Leader, that the public interest requires that the House shall meet; that the Speaker give notice that he is so satisfied; and thereupon that the House shall meet at the time stated in such notice and shall transact its business as if it had been duly adjourned to that time; and that if the Speaker is unable to act owing to illness or other causes the Deputy Speaker shall act in his stead for the purpose of this order.

Are you prepared for the question? Are you agreed?

*Motion agreed to*

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

**Speaker:** It has been moved by the hon. Government House Leader that the House do now adjourn. Are you agreed?

*Motion agreed to*

**Speaker:** This House now stands adjourned.

*The House adjourned at 5:19 p.m.*

**The following Sessional Papers were tabled February 12, 1987:**

87-3-106

Green Paper - Broadcasting and Telecommunications - Toward a Communications Policy (McDonald)

87-3-107

Business Development Advisory Board Annual Report, 1985-1986 (Penikett)