



The Yukon Legislative Assembly

Number 26

3rd Session

25th Legislature

HANSARD

Thursday, October 20, 1983 — 1:30 p.m.

Speaker: The Honourable Donald Taylor

Yukon Legislative Assembly

SPEAKER — Honourable Donald Taylor, MLA, Watson Lake

DEPUTY SPEAKER — Bill Brewster, MLA, Kluane

CABINET MINISTERS

NAME	CONSTITUENCY	PORTFOLIO
Hon. Chris Pearson	Whitehorse Riverdale North	Government House Leader — responsible for Executive Council Office (including Land Claims Secretariat and Intergovernmental Relations); Public Service Commission; and, Finance.
Hon. Dan Lang	Whitehorse Porter Creek East	Minister responsible for Municipal and Community Affairs; and, Economic Development.
Hon. Howard Tracey	Tatchun	Minister responsible for Renewable Resources; Highways and Transportation; and, Consumer and Corporate Affairs
Hon. Bea Firth	Whitehorse Riverdale South	Minister responsible for Education; Tourism, Heritage and Cultural Resources
Hon. Clarke Ashley	Klondike	Minister responsible for Justice; Yukon Liquor Corporation; Yukon Housing Corporation; and, Workers' Compensation Board
Hon. Andy Philipson	Whitehorse Porter Creek West	Minister responsible for Health and Human Resources; and, Government Services

GOVERNMENT MEMBERS

(Progressive Conservative)

Al Falle	Hootalinqua
Bill Brewster	Kluane
Kathie Nukon	Old Crow

OPPOSITION MEMBERS

(New Democratic Party)

Tony Penikett	Whitehorse West Leader of the Official Opposition
Maurice Byblow	Faro
Margaret Joe	Whitehorse North Centre
Roger Kimmerly	Whitehorse South Centre
Piers McDonald	Mayo
Dave Porter	Campbell

(Independent)

Don Taylor	Watson Lake
------------	-------------

Clerk of the Assembly
Clerk Assistant (Legislative)
Clerk Assistant (Administrative)
Sergeant-at-Arms
Deputy Serfeant-at-Arms
Hansard Administrator

Patrick L. Michael
Missy Follwell
Jane Steele
G.I. Cameron
Frank Ursich
Dave Robertson

Whitehorse, Yukon
Thursday, October 20, 1983 — 1:30 p.m.

Mr. Speaker: I will now call the House to order.
 We will proceed at this time with prayers.

Prayers

DAILY ROUTINE

Mr. Speaker: Are there any returns or documents for tabling?
 Reports of committees?
 Petitions?
 Introduction of bills?

INTRODUCTION OF BILLS

Hon. Mr. Ashley: I move that Bill Number 25, *An Act to Amend the Compensation for Victims of Crime Act*, be now introduced and read a first time.

Mr. Speaker: It has been moved by the hon. Minister of Justice that a bill, entitled *An Act to Amend the Compensation for Victims of Crime Act*, be now introduced and read a first time.

Motion agreed to

Mr. Speaker: Are there any notices of motion for the production of papers?

Notices of motion?

NOTICES OF MOTION

Mr. Kimmerley: I give notice that I move that the government officials employed by the Women's Bureau be instructed to employ themselves on women's issues and that this House regrets the confusion in direction given to government officials employed in the Women's Bureau.

Mr. Speaker: Any further notices of motion?
 Are there any statements by ministers?

MINISTERIAL STATEMENTS

Hon. Mr. Tracey: As you know, and I'm sure all members of this House know, sports fishing is one of our favourite pastimes in Yukon.

Sports fishing has become one of our major elements of outdoor recreation enjoyed by Yukoners of all ages. In 1980, over 20,000 fishing licenses were issued, representing approximately 170,000 man-days of recreational angling. Obviously we have some of the best fishing in the world.

The Government of Yukon presently has the responsibility for tourism, wildlife, parks, campgrounds and outdoor recreation. The transfer of the sports fishery is a logical progression as these areas of responsibility are all interrelated. Having control over sports fisheries would enhance our ability to integrate our policy planning. The end result would be better resource management for the benefit of both the residents and the visitors to Yukon.

Our fishery is important to us and is a resource that must be managed by Yukoners.

As you know, the freshwater fishery in Yukon is administered by the Pacific Region of the Department of Fisheries and Oceans. The Yukon Fishery is the only freshwater fishery administered by that region and, as a result, it has received a very low level of management. This is well documented in the 1981 assessment of that fishery and is recognized in the Pearce Commission findings.

Freshwater fishery is a relatively small component of the total Department of Fisheries and Oceans, Pacific Region, and does not seem to fit well with the region's dominant concern for tidal fisheries.

The Yukon government is already involved with a number of fishery-related activities such as the responsibility for license sales, the logistics for the production of territorial angling regulations, the

conduct of the national sports fishing surveys of 1975 to 1980, and extensive aquatic resource inventories.

⁰² We are now willing and able to take the next step, the full responsibility for the administration of the Yukon fresh water fishery. It is because we, as Yukoners, value our sports fishery that I approached the hon. Pierre deBane, Minister of Fisheries and Oceans, on the subject when I was in Ottawa last spring.

At that time, I proposed the transfer of the responsibility from the Government of Canada to the Yukon government. I have, since that time, been consulting with the minister on a number of occasions. While Mr. deBane seemed somewhat sympathetic to our cause, no agreement has been reached.

The transfer of the fresh water fishery would be another step in our political development and therefore, on behalf of all Yukoners, I would urge all members to support this government's activities in this regard.

Mr. Penikett: I shall be brief.

The minister's statement appears to make three essential points: one, that we like fishing here in Yukon; two, that he wants to control it; and three, that the federal minister has not yet agreed to that. There is not a lot more we can say at this point except that we look forward to an opportunity to debate the minister's fishery policy.

Mr. Speaker: Are there any further statements by ministers?

Hon. Mrs. Firth: It is with a large degree of pleasure that I am able to advise the members of this House that Cabinet has approved a new initiative by the Department of Education's Advanced Education and Manpower Branch to promote apprenticeship training in Yukon.

This program will utilize existing government facilities and staff to train up to 20 apprentices a year in many skills trades. Program funding will be through the Department of Education's Advanced Education and Manpower Branch's budget. Departments utilizing the program will not be required to amend or increase or decrease their operating budgets or their person-years.

The apprentices will be indentured under the Director of Apprenticeship Training and there will exist sufficient flexibility within this program to enable the apprentice to experience the widest range of training possible.

I should caution potential apprentices that the program has just recently been approved and the staff within the Department of Education is now preparing the required information package, application forms and guidelines for this program. It is our intention to publicly advertise this program and recruit apprentices as soon as all the groundwork is in place, which will be before the end of November.

I wish to emphasize that this new program is strictly intended to provide on-the-job training for apprentices. These new training positions will not affect the normal staff complement required by any department to which they are assigned and certainly are not intended to take jobs away from employees. Apprentices will be offered employment only for the required training period and there will be no guarantee of employment upon completion of their training.

This program has been developed with a vision to the future. Members may be aware that it takes a minimum of four years of apprenticeship before a tradesman can gain journeyman certification in most trades. The current downturn in the economy has resulted in a greatly reduced intake throughout the territory into the apprentice program. This is due, to a great extent, to the lack of turnover by existing journeymen seeking other employment. It is anticipated that such turnover will increase significantly as the economy improves and more public and private sector jobs become available.

⁰³ At that time, Yukon could find itself lacking in the skilled tradespeople it requires. This government's lead role in providing apprenticeship training opportunities today will help ensure that locally trained Yukon residents are available and prepared for the jobs in the future.

Mr. Byblow: Recently, it has become quite rare that I approve of any of the minister's public utterances. However, her statement today makes it very easy to say the initiative outlined is most welcome, even though I believe the government leader announced

the program in his speech Monday.

Certainly, as the minister is aware, we on this side have lobbied long and hard, particularly the leader of the opposition, to have a broadening of the apprenticeship program opportunity in the territory. I believe a rather exhaustive debate took place in the last set of estimates in the spring on the subject, so certainly we are quite pleased with the response from the minister in a fairly substantial way on this subject. In fact, I believe last Thursday at the task force hearings, the subject was promoted at some length.

On the subject of the initiative announced, there are a couple of points I would like to raise with the minister which she can respond to shortly or perhaps at a later date. If I understand what the minister said, these apprenticeship positions will be opened up only within existing government departments. These positions will not be extended into the private sector or into jobs of government that result from contracting out or tendering out. Perhaps the minister could clarify that? As I see it, the primary thrust or change that the minister announced is the indenturing of apprentices under the director of apprenticeship training. My enquiry would then be to ask whether a journeyman would be required in the work place where the apprenticeship is in training, as under the current regulations.

Extending from that, I would like to ask the minister if she knows now in which trades apprenticeship opportunities will be offered through these 20 positions. As well, I would be curious about the selection criteria and certainly the eligibility of candidates. However, the minister did say more information would be forthcoming by the end of the month.

Probably more important is further assurance from the minister that in fact the initiative announced will not displace any current employment. And I raise that because we had a case in our office, only yesterday, where a journeyman casual employee believes that he will be laid off because of the sponsorship of two apprentices for his job.

⁶⁴ I will conclude by saying that we certainly welcome the initiative and we look forward to further detail and, of course, implementation.

Hon. Mrs. Firth: I believe this was a government initiative, although we did have quite an extensive debate in the spring session, as the member for Faro has indicated. It was at that time that the opposition and the leader of the opposition, in particular, indicated his support of our endeavours, I believe. So, I think it is wonderful that we can do this together in a cooperative way. The essence of it all is that that is really the function of the opposition, to be the advisors to the government and to give some good constructive advice.

As for the government departments using people who are journeymen, that is correct. We do have a lot of government employees who have special skills and who are qualified journeymen — qualified tradespeople, I believe they are referred to. We wish to use these people to extend the apprenticeship service to use them in a training capacity and this program is a training program.

As far as the numbers of trades, or which trades have been identified, we do not have all of them identified yet. We are still receiving applications from apprentices. However, we are anticipating that the majority of the positions will be available in the highways department.

We will not be displacing employees. The intention of the program is to train new people and we identified the 20 positions for that reason. There is no such thing as a journeyman casual employee. I am not sure who the member for Faro is speaking of, particularly, but we have casual employees and if their services are no longer required, then they are no longer employees of this government. This program is something that is entirely different from that.

Mr. Speaker: Are there any further statements by ministers?

QUESTION PERIOD

Question re: Resignation of minister

Mr. Kimmerly: A question to the government leader. Yesterday, the Minister of Justice stated, at page 425 of *Hansard*,

speaking about judicial sentences, "we would not permit the Crown to appeal it." The minister obviously does not know his jurisdiction in that area. Has the government leader asked for the resignation of such an incompetent minister?

Hon. Mr. Pearson: No.

Mr. Kimmerly: Tuesday, the Minister of Justice stated, at page 399, "my territorial chief judge." This is a denial of judicial independence, the most basic and fundamental of the judicial functions. Will the government leader ask for the resignation of such an incompetent minister?

Hon. Mr. Pearson: After giving it serious consideration, no.

Mr. Kimmerly: Because of the demonstrated incompetence and indifference to the laws he has sworn to uphold, will the government leader ask for the minister's resignation and replace him with someone with more respect for the laws passed by this House?

Hon. Mr. Pearson: There are a number of people who work for this government who, in my opinion — and maybe even in the opinion of the member for Whitehorse South Centre — have had disrespect for the law. I have not asked for their resignations, nor do I intend to ask for the Minister of Justice's resignation.

Speaker's ruling

Mr. Speaker: The honourable member from Whitehorse South Centre has requested to have two questions in a row and the Chair will grant that.

Question re: Appeal of judicial sentences

Mr. Kimmerly: Will the government leader tell us if it is the policy of this government to condone and refuse appeal of judicial sentences not contemplated by existing law?

Hon. Mr. Pearson: No.

Mr. Kimmerly: Will the government leader investigate whether or not the Minister of Justice was in direct consultation with certain JPs concerning the sentencing of certain offences in violation of every tradition of ministerial and judicial conduct in the free world?

Speaker's ruling

Mr. Speaker: I do not know how to rule on that question. It seems to me the question would be very argumentative. However, I will permit the government to answer if they so desire.

Hon. Mr. Pearson: If the member opposite can give me a specific incident, I shall have it investigated.

Mr. Kimmerly: The minister, in his own words yesterday, talked about a particular incident. Will the government leader investigate that?

Hon. Mr. Pearson: No.

Question re: Elsa — recreation facilities

Mr. McDonald: I have a question for the Minister of Municipal and Community Affairs. The minister said in the House on Tuesday that Elsa is the only community in Yukon which has a company that can afford to pick up 50 percent of a project such as the construction of recreational facilities. I assume that the minister was referring to the company's ability to pay and the responsibility to pay. Is the minister saying that to meet its own responsibility it would be willing to pick up the other 50 percent?

Hon. Mr. Lang: No, I did not give the House an indication.

Mr. McDonald: The minister also said on Tuesday that the government would not inject capital funding into projects on private property. Given that this government already gives money to private projects, whether it be to the small business incentives program or in the form of capital assistance for private tourist facilities, can the minister explain why this government cannot cost-share recreation projects in Elsa?

⁶⁷ **Hon. Mr. Lang:** The member obviously is not giving the full story respecting the situation in the community of which he speaks. My information is that the company matches every dollar that is raised in the community, dollar for dollar, with respect to various recreation facilities. To some extent, I gather, they have even gone further, as for financing various capital projects.

To my knowledge, it is one of the few — if only — communities that has that particular vehicle there available to them and the people within the community. I do not know. The member opposite should, perhaps, go down to Mayo because Mayo has no company that is prepared to match them 50-cent dollars so, we, as a government, come forward and cost-share various ventures with the community of Mayo.

Further to that, it is a "company town", it is private property that the mine does own and that is the way, as I understand it, at least to date, that the company wishes to keep it.

We give various support to the community of Elsa, whether it be in the area of justice, whether it be in the area of education and, in some cases, in the area of recreation. As the member so graciously acknowledged the other day, we are going to help them with the technical support necessary for looking at the engineering of their pool.

So, I think there is a common denominator here and I think it would work to the advantage for all of us.

Mr. McDonald: The company does have a policy in the face of government neglect, that is certainly true.

I have a question for the government leader. The government leader has repeatedly suggested that increased revenues to this government are thanks in a large part to the re-opening of the United Keno Hill Mines. Rather than thanking the Yukon residents in Elsa verbally, will the government leader consider restructuring the tax policies of these people who are suffering this government's policy of benign neglect.

Hon. Mr. Pearson: I am quite prepared to concede that our rejuvenated financial position is due, in part, to the opening of United Keno Hill Mines, once again.

It must be made clear to the member opposite that United Keno Hill Mines did not re-open for the benefit of this territory. United Keno Hill Mines, for the benefit of the member opposite, is a business. It is a company that is in business and they are here to make money and that is what they are doing. I say to them, more power.

Question re: Cabinet re-organization

Mr. Penikett: I am not sure what that answer had to do with the question, but let me try the government leader on another question.

I am in possession of his June 24th press release announcing the re-organization of the Cabinet and elevation of two-thirds of his caucus to Cabinet positions. While this is an excellent way to grant pay increases to the majority of the caucus, could I ask the government leader, since the press release refers to great burdens placed on himself and his Cabinet colleagues since last June despite falling population, exactly what great new burdens is he referring to?

Hon. Mr. Pearson: I have maintained from the very first day that we were elected that our Cabinet should have been larger and that when we established it in the first place it would have been very nice to have put more people into it. It had nothing to do with population.

I might say that the size of the Cabinet and even, to a large extent, the size of this government has nothing to do with the population. No matter whether we have 10,000 people more or 10,000 less, the people who are here are still going to expect exactly the same services. Not only that, but at the same level and, in most cases, even better. Some of our greatest demands for government services come from the opposite side of the House.

It is a fact that our responsibilities increase all of the time. I am somewhat shocked that the leader of the opposition was not prepared to verbally support us today with respect to our efforts to take on more responsibilities, specifically fresh water fisheries. It is another evolutionary step. It is another political step, but it seems now that the party opposite is not in favour of responsible government in this territory.

They are not prepared to support us any longer in that respect.

Mr. Penikett: That was very, very responsible and we oppose irresponsible government. I want to ask, since I am particularly concerned that the government is not, in fact, managing its present

powers very well, and that it should want more, given that we have had a shrinking tax base and a shrinking population, I ask the government leader, again, to explain what increased burdens he was referring to in the press release, because he has not answered that question yet. What increased burdens were there that created the necessity to increase the Cabinet by 20 percent?

Hon. Mr. Pearson: Our workload in this government grows daily. The member opposite is quite aware of that. He may well be under the impression that we do not have an increased workload because of the impending land claims settlement; that we do not have an increased workload because of the interest that the multi-departments of the Government of Canada seemed to have taken in this territory in the past two years.

Maybe the leader of the opposition should take a look at the number of commissions and committees of the federal government that have been in this territory in the past two years. Maybe he should be taking a look at the number of briefs that we have been expected to present on behalf of the people of this territory in multi-places in Canada. Maybe he should take a look at the number of meetings that it is absolutely imperative, absolutely necessary, that we, as a government, be represented at by ministers of this government. It is not good enough, nor is it acceptable, to any other government in Canada, if we are (1) not there; or (2) send someone else; just not acceptable in most cases.

Our workload is increasing and it will continue to increase and we want it to. We know that we are doing a good job. All of the indications are that we are doing a good job and that is why our workload is increasing.

Mr. Penikett: Rather the opposite happens when most managers are doing a good job; the workload decreases. However, we will not quibble about that. The government leader may be aware that we have to provide almost as many briefs as he does, with a staff of one.

I want to ask him a serious question. Due to the fact that there are a good many administrations with more than twice the budgets and less than half the executives as there are in this government — and I could prove it — could the government leader indicate to me how many hours a week, approximately, are the Cabinet ministers now working?

Hon. Mr. Pearson: Yes, I will match, in and out of the parking lot, with the leader of the opposition any day of the week, seven days a week, and any night of the week. For the information of the member opposite, I am normally in my office prior to eight o'clock in the morning and I very seldom ever leave before six in the evening — sometime between five-thirty and six o'clock in the evening.

That is twelve months of the year, save and except when I try and get away on a vacation in the wintertime. I work hard, like my Cabinet colleagues work hard, for this government, and our hands do not shake one little bit.

™

Question re: Economic development

Mr. Byblow: I have a question I will direct to the government leader, though he may wish to defer to the Minister of Economic Development.

For well over a year now, we have waited in anticipation of some announcement by this government of its concluded negotiations with the federal government towards the release of monies for economic development. Given the current state of our economy and length of time of those negotiations, why have we not had some conclusion to negotiations by this time?

Hon. Mr. Lang: I should probably suggest that maybe the question should be better put to the NDP northern affairs critic, in the NDP caucus.

There have been major problems encountered in the negotiations with the Government of Canada. Hopefully we are ironing out those problems. There was a major problem with respect to trying to come to some quasi-agreements with the federal government and ourselves, the areas that we should be looking at for the direction of whatever dollars that were available. It should be pointed out that we are also trying, at the present time, to sort out who would

deliver the various programs.

I do not think that the Minister of Indian Affairs is entirely happy, either, that it has taken as long as it has. We had a meeting approximately two weeks ago and we are doing the best we can to expedite the business to see whether or not we can come to successful conclusion of the negotiations.

Mr. Byblow: Could the minister indicate to me whether, in the negotiations taking place, the magnitude of money intended to be released once the negotiations are complete is still in the \$50,000,000 magnitude.

Hon. Mr. Lang: I think I would be remiss in my responsibilities to name a figure. I do not want to raise expectations until such time as we can come to a successful conclusion of the agreement.

Mr. Byblow: The minister indicated a number of hurdles that have cropped up in the negotiations. Can he answer whether or not any sub-agreements are in place, save for the funding.

Hon. Mr. Lang: Under the new agreement, no. It would be very difficult to do that because, as he sees on the Order Paper, we have the enabling legislation to debate during the course of this session.

Question re: Policing Agreement

Mr. Kimmerly: To the Minister of Justice. Pursuant to Section 4 of the Policing Agreement, and concerning the police policy of recruiting informers by offering immunity from criminal charges, has the minister made any representation to the police about that issue.

Hon. Mr. Ashley: The Chief Superintendent of the RCMP and I meet on a fairly regular basis. That is on my list for our next meeting, as a matter of fact.

The Solicitor General of Canada has made a statement today, I believe, that he is going to be looking into that incident and the Chief Judge has ruled on it.

Mr. Kimmerly: The Territorial Chief Judge has disapproved of the practice. Yukon's Attorney-General stated yesterday in the Commons that he did not approve of the practice. Is it the policy of this government to disapprove of the practice.

Hon. Mr. Ashley: I do not approve of the practice, no.

Mr. Kimmerly: A question to the government leader. As the policy of the government is not communicated to the police, the Minister of Justice is not doing his job. Will the government leader demand the resignation of such an incompetent minister?

Hon. Mr. Pearson: No.

Question re: Beaufort Sea — employment

Mr. McDonald: An open-line radio show, yesterday I believe, had the minister saying that among other benefits from Beaufort development there would be plenty of work for truckers. Is the minister suggesting that this government is now supporting road construction between the Dempster Highway and the port facilities on the north coast in order to accommodate truck traffic?

Hon. Mr. Lang: I am amazed at the question by the member opposite. Perhaps the member should take a quick lesson in geography or else consult the budget that we vote every year. We do maintain the Dempster Highway to Inuvik. It is going to be required for the purposes of that construction to get the necessary up into that area for the purposes of construction. And that is one of the routes that will be utilized for the purposes of transporting equipment in there. I recognize the members opposite perhaps may not be in support of the principle of truckers getting job opportunities in this particular area, but it has been indicated to us that the company would do everything they possibly could for those truckers who have trucks available and if they could do it at a reasonable cost they would provide the necessary work if the job were to go ahead.

Mr. McDonald: I will admit that I am an amazing guy. I was asking about road construction. The minister spoke of Yukoners getting hundreds of jobs in the various business opportunities. Can the minister tell the House what guarantees he has that these jobs and business opportunities are, in fact, forthcoming and what form these guarantees will take.

Hon. Mr. Lang: At the present time, we have verbal assur-

ances. As we all know, first of all, the unfortunate company is going to have to get by the NDP critic in the House and various other political impediments that are put forward by the side opposite's national party, as well as their local party, in order to be able to get the necessary land use permit. Once the land use permit is issued, then it would be a requirement of the company to go out and get the necessary contracts with the American companies that are drilling offshore off the Alaskan coast.

Once that has been accomplished, then it would be a requirement for the company to enter into a socio-economic agreement which then would therefore form the basis with respect to how Yukoners and businesses would prosper from such a venture. I see no problem with it. I think it is fairly evident that this side of the floor would like to see development, the other side of the floor cannot make up their minds.

Mr. McDonald: This issue really begs, really demands, debate. Can the minister say whether these guarantees or, sorry, verbal assurances from the oil companies, are in addition to those already given to COPE by the oil companies?

Hon. Mr. Lang: I understand there has been some possibility of COPE getting a number of contracts from the venture on the North Slope. I do not see any conflict there with respect to what services we could provide here from the Yukon. It would seem to me that there is going to be enough work, enough business opportunities, there. As long as we are competitive and we are prepared to buy an alarm clock and a lunch bucket and get up in the morning, there is no doubt in my mind that Yukoners will be able to go to work up there as long as they meet the qualifications, which I am sure many of my constituents will, and, I am sure, the members' opposite constituents will as well.

Question re: Intergovernmental affairs

Mr. Penikett: I have a question for the poor minister. He seems to have had a truly humiliating experience at the hands of Mr. Fulton.

To the government leader, who does not seem to be nearly as delicate a little violet as the member for Porter Creek East. This is not a question of intergovernmental affairs. As the government leader knows, the Kluane/Wrangle/St. Elias National Parks were designated a world heritage site in 1979, under the World Heritage Convention, the only such site nominated by two national governments. In the US Senate, Bill S-49 proposes to change the status of this site and I wonder if the government leader has seen fit to express this government's concern about such a measure?

Hon. Mr. Tracey: I have been approached in that regard by, I think, the NDP's number one federal source of information, and they have requested our position on it. It is a position taken by the federal Government of the United States and certainly, if they feel in their wisdom that they want to reduce the acreage that they have under park reserves or under a wilderness area, that is their privilege.

We feel that, because the Wrangle/St. Elias/Kluane Park covers the vast majority of the area that is being spoken about, really, what we are talking about on the border area is an icefield and very little game. So, we do not have a major position against what Alaska and the member in the United States federal government is trying to have proceeded with. That is much the same as our interference in the British Columbia government's position that they have down there. We are not prepared to intercede against them anymore than we are against the British Columbia government.

Mr. Penikett: I have a supplementary for the minister responsible for wildlife management in this territory. I want to ask him if he is now going on the record by saying that Senate Bill S-49 would not seriously affect the dall sheep habitat adjacent to the Kluane Game Sanctuary and National Parks, in that it would permit hunting in the Wrangle/St. Elias National Preserve? Is that the government position?

Hon. Mr. Tracey: It would have no more effect than if we, for example, were to reduce the game sanctuary from around Kluane Park, in the area that abuts Kluane Park. There is a park there, there has to be a border somewhere. We do not feel that the reduction of Wrangle/St. Elias would affect the game in Kluane Park or in the

game sanctuary, except very peripherally.

Mr. Penikett: I want to put this question to the government leader because it is specifically on the intergovernmental affairs question.

Since I understand, from previous expressions, the territory is concerned about illegal hunting in the Kluane Game Sanctuary, does the government leader plan to make any inquiries about US Senate Bill S-49 in the interest of protecting the habitat of the dall sheep, a valuable Yukon wildlife resource?

Hon. Mr. Pearson: I am surprised that the member has asked me such a question after he has just received the answer from the responsible minister.

So as he is not too disappointed, I will answer a question he asked a couple of days ago, seeing as how I am on my feet. It is with respect to the allegation he made that there was some sort of a signed accord between the Government of Yukon and the Council for Yukon Indians whereby we agreed to abide by some six conditions respecting land claims negotiations so that the Council for Yukon Indians would permit us to return to the negotiating table.

I want to make two points: that there were no conditions discussed and there is no accord or agreement in existence, nor has there ever been.

On December 20th, 1982, the Government of Yukon withdrew from land claims negotiations to resolve with the federal government — and I emphasize that — six issues which had become paramount for the Government of Yukon to effectively participate in the land claims settlement. The right to withdraw from those negotiations and to settle these bilateral disputes is specifically addressed in the federal-territorial Memorandum of Understanding of 1979, which has been tabled in this House, respecting the land claims negotiating process.

On May 11th, 1983, six issues having been resolved to the extent that the Government of Yukon could proceed with negotiations and we formally announced our return to the land claims negotiations.

On May 12th, the following day, the Minister of Indian Affairs and Northern Development concurred with the announcement that negotiations would resume. Now, on the same day, May 12th, 1983, I received a letter dated that same date from Council for Yukon Indians Chairman, Mr. Allen, indicating that CYI would be discussing the one-government system and the Government of Yukon's return to negotiations. I am sure all members will recall that there were meetings of the chiefs going on at that time.

On May 27th, 1983, the Council for Yukon Indians invited me to a meeting with the CYI board of directors. At that meeting the Chairman of CYI announced his pleasure that the so-called boycott had ended. Chairman Allen asked if I would respond to six queries that the board of directors had framed, in order that the board could appreciate the then position of the Government of Yukon respecting land claim negotiations.

I responded to the six queries and confirmed my responses in a letter to the CYI chairman later that same day. On May 31st, 1983, I received a letter of confirmation dated May 30th, 1983 from the Council for Yukon Indians Chairman. That letter contained a misunderstanding with respect to a statement in the letter. I want to quote it: "No further boycott of the talks will occur." I corrected that misunderstanding by return letter dated June 1st, 1983, from myself to the Chairman of the Council for Yukon Indians.

Mr. Penikett: A very brief question to the government leader on the same subject.

Given that the Council for Yukon Indians has issued a publication in which they describe this exchange of letters as a written agreement, could I ask the government leader of his intention to table this correspondence from which he has, in fact, just quoted?

Hon. Mr. Pearson: No, I do not see any reason to table the correspondence at all.

Question re: Alaska highway access

Mr. Falle: I have a question for the Minister of Highways. At kilometer 1429 on the Alaska Highway north, better known as mile 928, the old Alaska Highway enters the new Alaska Highway. The entrance is extremely dangerous at that point. There has been a

fatality there and minor accidents in recent years. Will the minister look in to this approach and see if anything can be done?

Hon. Mr. Tracey: Certainly.

Mr. Speaker: There being no further questions, we will proceed to the order paper.

MOTIONS RESPECTING COMMITTEE REPORTS

Motion No. 16

Hon. Mr. Lang: I would request unanimous consent of the House to proceed at this time with Motion No. 16.

Mr. Speaker: Does the hon. member have unanimous consent?

Some Members: Agreed

Mr. Speaker: Under Motions Respecting Committee Reports, it has been moved by the hon. Member for Kluane that the second report of the Standing Committee on Statutory Instruments be concurred in.

Mr. Brewster: As chairman of this committee I feel I should make a few comments, for what they are worth. The general problems outlined in this report are much the same as they were in the first report. Also, I might add, they are the same as the five reports of the last committee of the House. This would also indicate that our third report will probably be much the same. Therefore, I will list our major concerns once again for the record.

(1) Lack of proper guidelines formally prescribed for drafting.

(2) Lawful consistency in routine orders being implemented for the same purposes, for example, *Area Development Act* and *Orders-in-Council*.

(3) Lack of understanding of proper scope and purpose of *Orders-in-Council* and need for authority in parent legislation. This is usually indicated by the fact that wherever there are orders drafted which lack sufficient authority for the purpose required, the drafter has also either failed to cite authority or relied on a general regulation-making power where specific authority is required.

The responsibility of this committee is to bring to the attention of all members of this House the problems which exist in subordinate legislation for which this House is legally and morally responsible to the people of the Yukon. This is not a partisan issue. The work of this committee is not glamorous and prestigious or exciting; it is very important to the average Yukoner who must live with the consequences of poorly drafted regulations or regulations which substantially affect their rights for which there is no basis in law.

Your committee recognizes that in the present economic climate the government cannot be expending vast sums on total consolidation of regulations. Your committee believes that the government can give some assistance by: creating a policy to be adopted after discussion in this House on the format of regulation and a proper handbook; standardization of regulation-making sections into a variety of types of sections for different kinds of legislation; adopting the Clegg Report or other suitable guidelines for use by the legislation and regulation drafters, government officials and the House, as a standard against which all regulations can be measured; institute a policy that once the items previously mentioned are completed that, whenever possible and every time a set of regulations or an act is being amended, the appropriate attention be given to both the regulation-making powers of the parent legislation which require amendment by this House and a review and consolidation of our regulations under the parent act.

Your committee is prepared to do everything within its power to cooperate with the government and its officials to this end. Your committee would be very happy to work itself out of business; however, with the growing rate of subordinate legislation in modern society, its members will not start looking for a new area of endeavour in the immediate future.

The committee is very well aware of the fact that a substantial improvement has been noted in the *Orders-in-Council* produced by some departments in recent years. What is lacking, and what your committee respectfully requests the government to direct its attention to, is the creation of a specific policy and procedures to support and expand the efforts of its officials. The people of the Yukon and this House will be the ultimate beneficiaries.

Mr. Kimmerly: I wish to say a few words in my normal

non-aggressive, non-partisan manner. It is important that this committee remain a non-partisan committee, which it clearly is, and if any members attend the working sessions they will easily see that they are non-partisan business sessions, and extremely important work is done. It is not in the public eye. However, I submit that it should be a little more in the public eye and I hope it becomes a little more in the public eye and remains to be a non-partisan affair.

The chairman has rightly said that the last six reports, one in this legislature and five in the previous, have been very much the same, and that is true. It is important to also say that, if one reads the reports, the inadequacies pointed out are terribly, terribly serious. Now, I think all members ought to spend a little time with the second report, and I am going to quote from four places. First of all, on page 4, under the *Highways Act*, (a)(i), it says that a number of definitions are altered from those contained in the act, and consequently of course there is a definition in the act and a different definition in the regulations.

It promotes a great deal of confusion and many people do not know that the definitions in the regulations, as they conflict with the definitions in the act, are totally illegal and of no consequence. Harm can be done if those things are not corrected very quickly.

Of page 6 of the *Motor Vehicles Act*, under section (a)(ii), the report says this: "Section 3 of the order shows a fundamental lack of understanding of the regulation-making powers by attempting to repeal legislation through a regulation". That is hidden away in a report that very few people ever read, but that is a pretty startling statement. Here there is an act, passed by this House, and a regulation which attempts to repeal it. That is outrageous, it is ludicrous, and probably some members of the public rely on that regulation and rely on it in error because it is not legally binding and totally without authority and is, consequently, of grave danger if it remains.

Another section I will mention is in the middle of page 7 of the *Personal Property Security Act*, under (c). The report says this: "This order is a clear example of the need, when making such major amendments, to, in fact, produce a consolidation by repealing the existing regulation and replacing it with the amended". This is a fairly complicated act and a complicated series of regulations and complicated amendment to the regulations. If the public is to understand the laws, they must be understandable.

On page 8 of the *Workers' Compensation Act*, the report says, "Your committee knows that this order was brought into force retroactively". Now, the principles of retroactivity are well known, I am sure, to all legislators here and it is intolerable that these sorts of things still occur.

I would be very, very interested to hear from the ministers responsible for these departments what is being done to correct this most deplorable situation.

Hon. Mr. Lang: I am glad that he put us on notice that he was going to speak to this report from a non-partisan point of view and not attack the government, but to see how we could come up with solutions. It would be interesting when, at any given time, he decides he is going to be a nice guy, it would be interesting to see what he does.

With respect to the report and how it affects the various legislation for which I am responsible, I would like to refer to the *Area Development Act* to begin with. I want to point out that we will do what we can to follow what is referred to as the "Clegg Report" where possible, but there are areas there that would require legislative changes in the bill itself, I believe. I want to let the House know that, at the present time, it is not our intention to amend the legislation. It could happen in the future, but it is not on the calendar at the present time.

As far as drafting is concerned, I have brought it to the department's attention, along with the justice department, and we will be doing everything we can to ensure that that does not happen again and, also, that there is some conformity in the regulations that are put into place underneath that particular piece of legislation.

Further to that, there was a comment with respect to the *Assessment and Taxation Act* and it states in the report: "Since 'persons', as defined by the *Assessment and Taxation Act* does not include a society...". I am informed you can refer to the

Interpretation Act, which defines a corporation, which, in turn, defines a society as a person. Therefore, it is taken care of in other legislation, the way I am informed from the legal opinions that we have sought on the question.

Therefore, I would submit that that has already been taken care of in other legislation. I just bring that to the attention of the members of committee. Further to that, I want to inform the House that the committee is totally accurate in their assessment of the statement in their report that states, "your committee further reports that with respect to Orders-in-Council 1983, 24-29 inclusive, their authority cited is incomplete as subsection 24(1) is also relied upon". It is correct that it was an oversight on our part and should be referring, the way I understand it, to section 20 and 24. It will be taken care of in further Orders-in-Council when it comes to the necessity for appointments.

I want to commend the members of the committee for the work that they have done in this area. I think the member for Klwane said it very well. It is not seen as a very glamorous job rather, perhaps, as a more tedious, technical committee of the House. I think it is a necessity, from my point of view, in order to ensure that we have a double-check as far as our regulations are concerned. At least from our perspective, and the department's perspective, we take their recommendations very seriously.

Hon. Mr. Tracey: I do thank the chairman for what was done by the committee. I am only sorry, in this respect, that the member from across the floor who got up and gave us the discourse on legalities in this legislature, did not take the time to investigate some of the charges that he was making because he is wrong.

Before I get to that point, I would like to deal with the consumer and corporate affairs part of the report, the *Credit Union Act* and the *Stabilization Loan Fund Act*. The purpose of these two Orders-in-Council were to bring into effect the repeal of the Credit Union and Stabilization Loan Fund Acts with regard to winding up the credit union. It was unfortunate that the papers did not get signed until six days after they were to come into effect. However, there was no adverse effect on anyone in this territory. All it was doing was winding up the credit union.

On the *Labour Standards Act, 1983/03*, the department disagrees with the committee that section 7.1 should be cited as the authority for the Order-in-Council. The averaging of hours of work provisions, under section 7.1, are applicable to different circumstances. The committee repeated previous comments that in effect the Order-in-Council should make reference to the fact that the advisory board has recommended or concurred with the order. We disagree. The order is simply a statement of what is to be brought into effect. The background to that order and assurance that the proper steps have been followed, according to the legislation, are contained in the submission accompanying it.

With regard to the *Mining Safety Act*, the committee is quite correct in stating that section 6 could, or should, also be cited as the authority for this order. However, the authority is specifically expressed in section 7 and that alone is sufficient to enact a regulation. While we attempt to ensure that citations are complete and correct, there is no legal consequence to overlooking quoting section 6 and does not effect the legality of the order.

Regarding the *Partnership Act*, the committee is also quite correct in stating that the citation is incorrect. The error came about due to amendments to the act which were passed at approximately the same time as the regulations were promulgated. Our response to them is the same as what I just said about the *Mining Safety Act*. Justice advised us that we do nothing to correct the error.

With regard to the *Personal Property Security Act*, presumably because of the extensive length of these regulations, it was recommended that citations be included as marginal notes beside each section. This is totally alien to the way that regulations have been drafted up until this time. The authority has been quoted at the top of the order and that was followed in this regard. I can understand the request, but it would be a total departure from the way that we have drafted orders up to now.

Another recommendation made regarded the style of punctuation with regard to specific sections. The criticisms are the opinion of the committee and, in our opinion, the sections were written

correctly and they were reviewed and prepared according to instructions from our legislative draftsman, Mr. Almstrom.

¹⁶ On the *Motor Vehicles Act*, I suggest to the member across the floor, before he gets up and criticizes the government for what they do, that he should do a little investigating himself. If he looks in his book of all of the statutes, he will see that *Motor Vehicles Act* Section 258 at the back of the book, says, "refer to Chapter M11.1", and if he refers to 1977 Sessional Paper, he will read Section 258.1, and I will quote, "The Motor Vehicles Ordinance, Chapter M11 of the revised ordinances of the Yukon Territory 1971, or any portion thereof, shall be repealed on such days or dates as may be fixed by the Commissioner." That was done by that Order-in-Council.

With regard to the *Highways Act*, those regulations provide for control of private highway signs in rural areas. The regulation of such signs on the highways in communities or urbanized areas is currently being addressed. When this work is completed, private highway sign regulations will be re-drafted and expanded. The recommendations of the committee will be addressed at that time.

Hon. Mr. Ashley: I would like to thank the committee chairman as well for the report. It was very well done. I would like to discuss first the *Yukon Housing Development Act*, Order-in-Council 82/343. The Housing Corporation acted under legal advice but, as the committee has recommended, I will refer back just in case that advice was wrong. We will re-check.

On the *Workers' Compensation Act*, that was the back page of your report, there is a reason why this was brought into force retroactively, and I will give you that reason now. This Order-in-Council sets the amount of compensation to be paid in 1983. The amount has to be proportionate to the average annual consumer price index established each year by Statistics Canada. We cannot get this information before the end of the year. However, under the act, section 79(4), it states that the board shall in January of each year, or as early as possible, establish the amount of compensation to be paid in that year. They pay the old rate in January. When they establish the new rate, they go back and adjust the January payments. That is the reason that that has been done this way.

Hon. Mr. Pearson: I want to say thank you to the committee for their work because I believe that this Standing Committee on Statutory Instruments performs a very important function for the administration of this government. Having said that, I would like to refer to three of the Orders-in-Council that are highlighted in the report.

Before I get to them, though, I think I should say something about the constant reminder, which I do not think is bad - I think it is very good - that probably the one underlying theme of every standing committee on statutory instruments that I have ever seen in this government deals with the retroactivity of regulations.

I want to say to the members of the committee that we are cognizant of the fact that there are times when it is necessary for us to make regulations retroactive. It is not a good thing to do. We do not like to do it, but it is necessary. The Minister of Justice has just given an example of one instance where it is virtually unavoidable. We have, in the past year, I am positive, made some retroactive regulations that were, in fact, avoidable. I want to assure members that we will continue to try to do away with the practice every chance that we get. I want to assure them that departments that are put in the position of having to draft retroactive regulations have a tough time explaining them to their ministers now. They are something that we do not like.

¹⁷ The standing committee points out that the exemption from school taxes granted by Order-in-Council 1982/337 under the *Assessment and Taxation Act* can be obtained by a separate order under section 11 of the *Financial Administration Act*. This section deals with remissions. It is quite correct that remissions from school tax can be granted under the *Financial Administration Act*, but the policy adopted in the new *Financial Administration Act* is that all regulations, wherever possible, should be issued under the act to which it pertains. Accordingly, it is preferable that exemptions from school taxes for societies should be dealt with under the *Assessment and Taxation Act* rather than the *Financial Administration Act*.

On page 4 of the committee's report, there is a reference to

Order-in-Council 1982/354 which deals with the investment policy of the government. When this policy was submitted to Cabinet and approved last December, it was not intended that it should become a set of regulations. In any case, these regulations will be revised and re-issued as a result of the complete review of all orders-in-council under the new *Financial Administration Act*.

On page 4 of the committee's report, there is also reference to Order-in-Council 1983/49 dealing with campground regulations. As a result of one of the consequential amendments to the new *Financial Administration Act*, these regulations will be re-issued under the *Parks Act*, where they belong.

Mr. Brewster: I would like to thank the ministers. It is quite apparent they have taken our report and read it and have certainly indicated that they are trying to make some improvements. I would like to state a number of things on my own that are not necessarily those of the committee. It is very frustrating to sit on one statutory committee and get advice from one group of lawyers and experts, then chair another one and get exactly the opposite from the other. It is very, very confusing and I take the attitude that I am an average individual — I am not smart but I am an average individual, like on the street — and when you try to decipher this, how do they expect people out in the street to decipher such things as this when two lawyers cannot even agree. In fact, I am very fortunate; I have three lawyers who I can deal with in these two committees. I must say, in all fairness to the one across the floor, he is very non-partisan when he sits with us in the back room. I do not know whether that is because we have a club or what, but he is. I have taken it upon myself to have all the parties informally meet to see if we cannot close the communication gap between the government committee and the house committee. It is my sincere hope that we can come to an understanding acceptable to all; the same terms of reference can be used for both committees, surely. Every Order-in-Council or regulation does not have to develop into a battle between lawyers. We should be making these Orders-in-Council understandable to the general public and not for the legal mind. In this regard, I think there is a great deal more work to be done but I do think that we are progressing.

Motion No. 16 agreed to

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

Mr. Speaker: It has been moved by the hon. Minister of Municipal and Community Affairs that Mr. Speaker do now leave the Chair and that the House resolve into Committee of the Whole.

Motion agreed to

Mr. Speaker leaves the Chair

¹⁸ COMMITTEE OF THE WHOLE

Bill No. 19: Access to Information Act

Mr. Chairman: I would like to call the Committee of the Whole to order.

We will proceed with Bill 19 but, before we do that, we will have a recess for 15 minutes.

Recess

Mr. Chairman: Committee will come to order.

We will proceed with general debate of Bill Number 19, *Access to Information Act*.

Mr. Penikett: Firstly, we could have a quick vote on our amendments, if you want.

Hon. Mrs. Firth: A quick what on the amendments?

Mr. Penikett: A quick vote on the amendments. Sorry, it was only a joke.

I got in a pickle last night, just as we were adjourning, because there was a question I desperately wanted to put to the minister and I thought she was going to deny me this opportunity.

While we are in general debate, I just want to give immediate notice now to the government leader that I have a couple of questions about present policy, which I would like to put to him

because he may be in a position to answer them.

My question to the Minister of Education is this: given our discussion last night about 8(h), about the whole problem of Cabinet communication as a matter of policy, is it the minister's view that all information that flows to and from a minister should be automatically excluded from public access?

Hon. Mrs. Firth: I have been thinking about this matter since the leader of the opposition brought it to my attention. I was trying to think of all the correspondence and papers that do come across a minister's desk and, when I thought about it very carefully, the only things that do come across a minister's desk are, perhaps, memos from their deputy minister and any other correspondence to individuals and draft press releases; things that really I did not seem to think would create any big problem with denying access to that information. The correspondence usually deals with an individual or a fellow MLA or a constituent, or such. Memos from deputy minister's are really a matter of advice they are giving or concerns that they are bringing forward to the minister's attention.

Other than that, I would like the leader of the opposition to be more specific about exactly what kind of documents he is concerned about and what kind of concerns he has, specifically.

Mr. Penikett: I want to respond enthusiastically to the minister's invitation. Let me be perfectly precise.

If the bill was clear, that what we were excluding were those documents she has described as memos from the deputy minister, which would be, if you like, Cabinet documents or Cabinet briefings or whatever, if that is what the law said, while that might be in some people's minds debatable, it would be very clear.

I want to ask the minister if she will not concede that, right now, as it reads, everything else, as well, is automatically excluded — and I am not suggesting that this particular minister would ever do this, but some future minister, some day. All they have to do then to prevent the public ever having access to a document is put their signature on it, because then it becomes a communication to and from the minister and nobody can get a look at it at all, even if there is absolutely no reason for it to be confidential, except to protect the minister from some minor embarrassment or to protect the minister even from an inquiry. It does not have to be an embarrassment, it could just be an inquiry. The bill then says quite clearly that if it goes to or from a minister, any way, anything — it could be a little sweet note from the member for Faro to the Minister of Education, or it could be a copy of a press release from my office going to the minister's office — it means if someone else came along later from the public and said they wanted a copy of it — or it could be a copy of a press release from Ottawa that everybody in the country has seen — but if a minister has signed it as received or sent it on to her deputy then, all of a sudden, it is embargoed. That is the problem I am quite concerned about, as a matter of principle.

Hon. Mrs. Firth: I understand what the leader of the opposition is saying. However, those documents that he is referring to are really not documents, in a sense, and there is always some other avenue at which time they have been public information, so that information is available. The only confidential papers that ever come across the minister's desk — now, maybe I am only speaking for myself and I do not see a lot of confidential papers — are in the form of memos from the deputy minister giving advice. I think that it is not unreasonable that we ask that that remain confidential information, because I am concerned about it automatically being assumed to be government policy. The other confidential documents are those that come in preparation for Cabinet or management board or legislative review, and these documents would not be public documents.

So, I really do not understand which papers — letters would have been public information at one time, or information to an individual — are the leader of the opposition's concern.

Mr. Penikett: I am sorry about that, I am deeply sorry, and I want the minister to know that, because I take the point she is making for Cabinet documents. I understand that. That is not what the law says. If the proposed bill simply defined precisely "Cabinet documents", alright, that principle would be clear. But we are talking about any and all communications to and from the minister.

Let me just use an example. I will make one up off the top of my head because I have not thought about it. Say, a document came for her approval which showed there had been a dramatic increase in the cost of living in the previous period; the statistics were there. Okay? Now, normally that information becomes public as a matter of course, as a matter of routine. Let us suggest it is the middle of an election or the middle of contract negotiations with the public service, for example, and it is in the government's interest or the minister's perceived interest not to make it public. All the minister has to do is, in fact, say, "let's sit on this" or put a signature on it, and the normal right of a citizen — let us assume that we would all agree that it would be improper for a minister to do that — to apply for that information, to ask for that information, to obtain it, is being denied under this act automatically, without appeal, simply because the minister may have put a signature on it or made a memo that said, "look, I do not want to approve the issue of this or the release of this for another few weeks". That is one example. I may be able to think of some others if you give me a couple of seconds.

Hon. Mrs. Firth: That is exactly the point I am making. The information that would have been needed to compile that memo or that document is public information. So, if people wanted to know specifically what the member is asking about, there are other avenues where that information can be found. However, it is not as convenient because it is not all compiled into one concise document with everything listed, which is the document that has been done for the minister. So, the information that is channelled through the minister's office is information that comes from within the public service and probably most of it is public information.

Mr. Penikett: Forgive me, but that is exactly the problem. You are starting off with the principle of public access to information, which the minister is proposing. Good, okay? Then if you provide a means of subverting that principle — and all you have to do to subvert that principle is, in fact, run it through the minister's office — then, whatever it is, whatever the nature of the information is — and it could be information that may be generated or at least accumulated entirely within the public service, and there are quite a lot of such information outlets — as long as it is funnelled through the minister's office then it is the minister, as a matter of political or personal convenience, who controls access to that information. It is not, as the bill states, a matter of public record. And it seems to me that — I accept what the minister says — there is all sorts of information which ought to be the public's by right. They have paid for it. However, what we have is the potential, it seems to me, and this is a matter of serious principle, that by simply routing it through the minister's office all of a sudden there is no way of access to it. The bill says that quite clearly — communications to and from the minister — no access, no appeal. And that is the problem I have.

Hon. Mrs. Firth: I do not know whether the member is under some impression or delusion or something that it is possible there is a lot of information that goes into the minister's office that is top secret and that the minister can veto; that is not true. The information that is given to the minister is information that comes from within the public service. It is information that is put to him in the form of a memo from his deputy minister advising him of certain possible approaches he should take to a certain problem, or something that may have come up. I have no problem with that being confidential and I am sure the member opposite does not either.

The minister does not receive information across his desk that he or she can arbitrarily put their name on so that that information is not made public. It is usually an accumulation of information set out in some pattern with some personal opinions and viewpoints in it, and so on, as to approaches and strategies to deal with a certain issue. But the information has come from within.

Hon. Mr. Pearson: I read it again carefully, after listening to some of the discussion over the past number of hours with respect to this particular subsection. I believe that the intent of the particular subsection, and maybe we can reword it to make it clearer, is that there is no right to information under this act where access to it or its release will disclose who has written a letter to a

minister or who a minister has written a letter to, nor will it expose what is in that letter. In other words, I think the intent of this particular subsection is to protect the identity of a person writing a letter to a minister for whatever purpose, or conversely, protecting the identity of a person receiving a letter from a minister, for any purpose.

Mr. Penikett: I appreciate the government leader's intervention because, while his reading of the thing may be the accurate one, it is not mine. If it is the accurate one, it may partially solve the problem but it does, at least, suggest another one. Let me ask a couple of questions about the nature of the other one.

Let me ask the government leader about existing practice, not under this law, but existing practice right now. When any citizen, for the sake of argument somebody who has just arrived in the territory — they could be my third cousin but they go to live in Riverdale north — comes to me with some complaint. It does not matter what it is, the pothole in front of the street, or they do not like the school committee, or there are not prayers in the schools, a normal kind of inquiry or complaint that people come to you with. I then write to the appropriate Cabinet minister on the matter. Let us say that this person feels strongly they should have a Jewish prayer every day in school. I write to the minister saying someone has approached me and feels very strongly there should be Jewish prayers in the schools. What is the current practice? Would the Minister of Education communicate to the actual MLA on the government side on this matter? Would he, for example, in this case, copy the government leader on any communication on the subject?

Hon. Mr. Pearson: Because of the size of this government, which the leader of the opposition was referring to in question period today, I think probably what would happen, without doubt, is that the minister in receipt of the letter would, in fact, speak directly to the MLA whose constituency that person lived in, then would answer the letter by a number of ways. They may send to the department for an answer or a draft of an answer for their signature. They may dictate an answer right then and there. We certainly try to keep our members aware of any concerns that their constituents might have.

Mr. Penikett: I am going to get to the question of procedures which touch on the bill. That squares with what I understood the practice was. In the last House, I believe, a government backbencher advised me that on occasions when I had happened to write to a Cabinet minister concerning a private and confidential matter that may have been raised with me by someone who happened to be resident of constituency, that MLA was routinely copied on the correspondence, even though it was a private member and not a Cabinet minister. Is that, in fact, still the case?

Hon. Mr. Pearson: Yes, that still is the case. I do not know whether it would be the case after this legislation came into being.

As I have said a number of times in the House, I think we operate a very open government and I do have some concerns about what the changes are going to be with access to information legislation. We are going to have to look at procedures and we are going to have to be very careful that we are not going outside of the legislation.

I think that, probably in some instances, information may be harder to get. Either you or your colleague for Whitehorse South Centre asked that question of the minister last night. I think she was quite correct in answering it in the way that she did. We have been an open government, we have tried to be as open as we possibly could. I am concerned that any access to information legislation may have restrictive natures that we, without any legislation, did not invoke before.

Mr. Penikett: Perhaps if I could close the circle on this particular round with the government leader. I want to see if he could make an effort to — at least on his feet — clarify existing policy. He will recall that I previously raised with him the problem, if you like, of privacy of communications, not so much between members of the House and the government but communication on behalf of constituents that may be of a very private and personal matter to the government leader.

The government leader has just indicated that if, in fact, a

constituent of a government back-bencher came to me with some personal problem and I wrote to the minister, that back-bencher might be copied on that correspondence.

Hon. Mr. Pearson: Maybe.

Mr. Penikett: Maybe. Okay, that is part of what I want to explore because, to state the obvious, of course, opposition MLAs are not copied on such correspondence. So, we seem to have a hierarchy of privacy in terms of the existing thing, where the Cabinet has a collegiate confidentiality to communicate with each other about these matters, especially if they relate to each other's constituents. Government back-benchers have access to this private information by virtue of their shared status in the party, even though, in law, there are no more private members than we on this side, but we do not.

The potential problem, it seems to me, here — and this gets to the other principle, if you like, in the bill about the privacy of information — is this sort of privileged position of Cabinet attention. I am a little concerned, because it could happen in a small community like this, that we might have someone in Klwane, for example, who, for some reason because of something that happened 35 years ago, is a sworn enemy of the Brewster clan. The last thing in the world they would want to have happen is anything in their private or personal life ever come to their attention or have anything to do with them. So, because those things sometimes happen, they write to the Minister of Education or they write to me or they write to someone else, but they consciously do not want to involve that person because they do not trust him, they do not like him or for any other reason. I am concerned about the rules or the kind of guidelines or the practice that would operate where government back-benchers would be routinely copied because there would be, perhaps, an invasion of privacy in such a case.

Let me turn from the whole thing about the Cabinet, then, because the Cabinet has a lot of policy here, and go back to my original question about the new arrival making the inquiry about Jewish prayers in the school. I use that as a hypothetical case.

This fear I have is that, because of the wording of 8(h) — and the government leader's interpretation may be correct, I do not know but, my wording — is that anybody who makes an inquiry of the minister of this kind — has the issue of Jewish prayers in the schools come up, or can I find out if you have ever discussed this or is this a matter that you have had reason to explore or consider — all of a sudden they have no right of access to that information because of the wording of that particular section.

The minister may have expressed an opinion. There may have been a deputy minister communication between the minister, as you previously said, on the subject and, therefore, it becomes potentially excluded. That is my concern.

Hon. Mr. Pearson: Yes, I think probably the leader of the opposition's concern is valid in that case because, in fact, 8(h) at this point in time says that we could not disclose either the existence or the content, because it was confidential. As I have said to him, we will certainly look. I would, frankly, like to talk to the draftsman and find out exactly what his intent was with respect to that, because I read it as being a personal piece of correspondence that is not going to be disclosed.

But I want to get back to what the leader of the opposition said about actions we might take upon receipt of a complaint from someone who is mad at the Brewster clan and has been mad at Bill for 35 years. If that person said in that letter, "I want this to be treated as strictly confidential", it would be treated as strictly confidential. There is no doubt about that. We do not copy MLAs on either side of the House as a matter of course. If we think that it is advantageous, though, to the person who is corresponding with us or on whose behalf the correspondence is, then certainly we would advise the MLA. But under no circumstances would we, as a Cabinet minister, automatically divulge information that comes to us, particularly from an individual, if they have asked that we keep it confidential. We get that kind of correspondence often. Some people simply do not want anyone else to know that they have written us a letter or written any one of us a letter about a personal concern. We guard that kind of correspondence very, very carefully. That kind of correspondence, if it is at all indicated on

the envelope, will be delivered to my desk unopened. No one else is allowed to open it if it is marked "confidential", and particularly if it is marked "personal and confidential". Now, we go one step further. I understand, in our mail service, there is only one person in that branch who handles ministerial mail. So, if correspondence is opened and it is deemed to be confidential at that point, that envelope is then sealed by the mail room and sent to us once again unopened. We try and adhere to confidentiality where it is necessary and where it is indicated, but we do not have any sort of automatic blanket policy. I should say, we go out of our way to try to make sure that what we consider to be confidential information, particularly personal confidential information, from the public is kept that way.

Mr. Penikett: Just one last comment before I allow other members to get in. It seems to me there is at least an undertaking from the other side to at least have a look at that particular clause and in fact I am quite happy to wait until we get to specific debate to pursue that matter further.

The government leader suggested that some change might be forthcoming with respect to the dissemination of information in private communication to members of the legislature or the elected representatives of correspondence, or people who write to the government. I wonder if, without being too specific, the government leader might give an undertaking to make some statement in the House at some point about what new policy may emerge? I make this point seriously as a result of the bill, because it is not in the bill and it presumably would not necessarily be in regulations either. I think we would like to know and I am sure the citizens would like to know what they can expect in terms of access of people to their private communications with the government.

Hon. Mrs. Firth: As we are considering this 8(1)(h), I also would like the leader of the opposition to consider it because I really do think he is reading something into that subsection that is not there. I just want to read it again to him, slowly. Information that "would disclose the existence or content of communications to, between, or from members of the Executive Council": They are only talking about members of the Executive Council, files of the Executive Council office, Cabinet offices, DM's files and their correspondence with ministers. That is the kind of information we are talking about.

Mr. Penikett: I would say to the minister again, with all due kindness, I read it, I understood it almost as well the first time as when she read it just now. She will have to admit to the possibility that while I understand what she is talking about, she is talking about a fairly narrow class of information. I still submit that the clause just read by the minister could encompass a larger class of information than what she describes. It is an issue of definitions and I accept the government leader's undertaking and the minister's undertaking to have a look at it.

Mr. Kimmerly: Simply to add a word to the debate, the minister explained in an earlier debate that there may be a report compiled. An example was an ERPU report for the minister, a consolidation or a particular formation or organization of information for the minister which may be a personal communication to the minister. The way the section is worded, it includes such things as the ERPU reports intended for public consumption, at least at some point. That raises the general question in the bill as a whole about the collectivity of the exclusions in Section 8 about the wording being wider than the intention. I certainly accept, and I think it is clear on this side, that as to Cabinet documents and particular communications, some of them should be excluded, and we are not disagreeing with some of the statements that are made about the intention. The point is different. The wording is wider than is necessary to accomplish the intention.

It was stated last night that the exclusions, in a general sense, were worded very conservatively. I commented on that phraseology and that particular statement which was made. I would ask if there could be a clarification of what is meant by the word "conservatively". Does it mean, for example, that all of the sections were drafted with a view to only excluding limited and particular items of information or does it mean they were drafted in a very general sense in order to maximize the ministerial discretion in deciding

what should be released and what should not? What is the intention or meaning of that statement which was made last night?

Hon. Mrs. Firth: The member's former comments were the intention of that statement. I am not quite sure how he worded it, but that was what I meant by the conservative exclusions.

Mr. Kimmerly: The minister will not be surprised when she hears that I disagree that the wording is designed to exclude only certain and particular items. The wording is very general in a number of sections.

I would like to enter into a debate concerning the reasons why a claim is made that the drafting or the wording is conservative. As an example, the debate in the last few minutes on section (8), of course, is a difference of opinion as to the effect and the purpose of a particular section. Can the minister back up her statement with reasons that the drafting is conservative?

Hon. Mrs. Firth: I believe I discussed all this last evening, that the intent of the bill was to provide access to as much information as we could. In our exclusions, we were conservative because we listed as few exclusions as we possibly could so that more information would be accessible.

Now, I cannot make myself any clearer for the member and I apologize that I do not have the ability to do that but, for some reason, I just cannot seem to assist him in understanding what I mean. I think that is probably about all I can say on the matter. If the member for Whitehorse South Centre does have some concerns, he can present them in the form of amendments and so on.

Mr. Kimmerly: I understand the problem as to clarity and understanding. I believe we both understand the same things, with regard to what is being said. The question is not about explaining the previous statements. I understand them perfectly well and they are perfectly understandable. The question is about reasons and an argument to back up the statements made. It is one thing to say that the wording is conservative: it is another thing to back that up with reasons why that can be said.

The member opposite will agree with me, I think, that if reasons are not given I will continue to disagree and I will continue to say that it is not as she suggests. In fact, yesterday and today I have given reasons for my statements, not only to explain it but to argue in favour of the statements that I am making. An example of that is the particularization under section (h), as to the effect of it.

The minister commented that the exclusions are as few as possible in number. That is not the issue. I do not think anybody is arguing as to the number or if there is one more or one less. The question is about the effect of the wording of the collectivity of the exclusions. I would suggest that it is appropriate to back up the statements that were made with reasons and argument and that has simply not been done.

Hon. Mrs. Firth: I really do not know what more I can tell the member for Whitehorse South Centre. We feel, on this side of the House, that this is a good bill. The people who drafted the bill feel that it is a good bill. The people within the department feel that it is a good bill and that is understandable. The leader of the opposition stood up in this House and said that he thought this bill was good, it could be improved upon and so on. The only stick in the mud seems to be the member for Whitehorse South Centre. I have told the member for Whitehorse South Centre that I cannot make things any clearer for him.

In view of the time, please, could you report progress on Bill 19?

Mr. Penikett: I am sure that we can report progress. I just want to say to the minister, very nicely, she should not get too upset about this. The one thing she should be worried about, though, having read Crossman's diaries — I know she has — and having watched *Yes Minister*, with a bill like this she should be a little bit concerned if everybody in the public service thinks it is wonderful.

Hon. Mrs. Firth: Well, I did not say everybody in the public service.

Mr. Chairman: Is it agreeable that we report progress on Bill 19?

Some Members: Agreed

Hon. Mr. Lang: I would just like to rise in my capacity as House leader and indicate to the House the order of business. We would like to proceed with Bill No. 16, Bill No. 18, and if there is

still time, Bill No. 21. For the rest of today I should alert members that it would be our intention today to proceed with second reading of the *Financial Administration Act* and I would advise that members should also be prepared for second reading of the amendments to the victims of crime act for second reading on Monday.

Mr. Penikett: On the point of order. I appreciate the advice from the government House leader. I hope our critic will be here Monday on victims of crime but I can certainly say to him that we will be ready to speak to Bill No. 14. I say, in passing on that subject, that I am sure the passage of that measure and the discussion of that measure will be considerably expedited by the fact that we experienced an excellent departmental briefing this morning which, in my time in this House, has been unprecedented. I think it was a unique, novel and extremely useful procedure that, in fact, in the ministers' interest in saving time, we could implement again on other measures, to our mutual advantage.

Hon. Mr. Lang: Further on the question of the bill that was tabled today, I just alerted members they should be ready for second reading. I just consulted with the minister here and it will probably be later on in the week, as far as second reading is concerned.

Mr. Kimmerly: On the same point of order, I would like to put a comment on the record about Bill 22 on the Order Paper. I have exchanged notes with the minister responsible for the bill. The bill is obviously an extremely lengthy and complex one and my concerns are that it not be passed extremely quickly but that the debate and consideration be as efficient as possible. Frankly, I am expecting either no or very little controversy about the sections of the bill. It is certainly not controversial from my point of view and I have as of yet received no indication of any particular problems.

I would ask the House leader if a consideration is being given to send the bill to a select committee in order to avoid the very tedious going through uncontroversial sections in the House.

²⁶ **Hon. Mr. Lang:** I did not, as I rose on a point of order, want to get into a full-blown debate on the Order Paper and what was going to be discussed. I just wanted to alert members to the progression of business on the day following. I will have further discussions with the House leader on the other side to try to resolve these problems rather than all members getting into the debate. That was not my intention in any case. I appreciate the current concerns by the member for Whitehorse South Centre and they will be taken into consideration when I have the opportunity of meeting with Mr. Penikett, perhaps maybe Friday, if he does work Fridays — this side of the House does.

Bill No. 16: An Act to Amend the Society of Management Accountants Act

Hon. Mr. Tracey: I think I expressed in second reading pretty well what is in this act. All it does is amend the act to allow registered industrial accountants to now call themselves certified management accountants, because of the broadening of the work that these type of accountants do. These days, they get into a lot of management accounting and we want to broaden their base so that they can call themselves management accountants.

Mr. Kimmerly: Simply to put a comment on the record: we have no concerns with this bill.

On Clause 1
Clause 1 agreed to
On Clause 2
Clause 2 agreed to
On Clause 3
Clause 3 agreed to
On Clause 4
Clause 4 agreed to
On Clause 5
Clause 5 agreed to
On the Title
Title agreed to

Hon. Mr. Tracey: I move that you report Bill No. 16, *An Act to Amend the Society of Management Accountants Act*, out of

committee without amendment.

Motion agreed to

Mr. Chairman: Would you like to take ten minutes for coffee and then finish this?

Agreed

Mr. Chairman: So be it.

Recess

²⁷ **Mr. Chairman:** I call Committee back to order.

We will deal with Bill Number 18, *An Act to Amend the Yukon River Basin Study Agreement Act*.

Bill No. 18: An Act to Amend the Yukon River Basin Study Agreement

On Clause 1

Hon. Mr. Tracey: As I said during my second reading speech, all this does is extend the period of time for us to complete the work that we have to do under the Yukon River Basin Agreement. It extends the time from December 31st, this year, until next fall in order for us to complete it. All parties to the agreement have agreed, including the federal government.

Clause 1 agreed to

On Clause 2

Clause 2 agreed to

Hon. Mr. Tracey: I would like to say, again, if you notice in the title there are two "the's" — and I mentioned in my second reading speech — we would like to have that treated as a typographical error.

Mr. Penikett: I was planning to move an amendment to the title, but I will accept that.

On Title

Title agreed to

Hon. Mr. Tracey: I move that you report Bill Number 18, *An Act to Amend the Yukon River Basin Study Agreement Act* out of committee without amendment.

Motion agreed to

Mr. Falle: In the four years that I have been in the House, this bill here went in at 4:14 and it is out at 4:15. I think it happens to be a landmark; one minute, in second reading.

Mr. Penikett: I am pleased to have demonstrated that kind of leadership, so approved by the member for Hootalinqua.

Bill No. 21: An Act to Amend the Legislative Assembly Act

Mr. Chairman: We will now go to Bill Number 21, *An Act to Amend the Legislative Assembly Act*.

On Clause 1

Hon. Mr. Pearson: As I stated at second reading, this bill is here as a result of the much despised — and I appreciate that the members on the other side of the House, like members on this side, actually do despise it — "six and five" legislation that we found necessary to bring in.

I think it would be unfair if the legislature did not subject itself to the restraint measures that we found it necessary to impose upon the public service of the territory.

Clause 1 agreed to

On Clause 2

Clause 2 agreed to

On Clause 3

Clause 3 agreed to

On Clause 4

Clause 4 agreed to

On Clause 5

Clause 5 agreed to

²⁸ *On Clause 6*

Clause 6 agreed to

On Clause 7

Mr. McDonald: Believe it or not, there is one short question. I understand that clause 7(1) repeals the indexing formula that now applies to members' indemnities and expense accounts. I am just wondering, as this is the first time that the members on this side of

the House have seen this act and seen this initiative, what the government leader's reasons would be for not having informed us, because it has to do with our pay too, prior to putting it into legislation so that we might have at least been allowed to comment on it.

Hon. Mr. Pearson: It is true that we have used the vehicle of this particular amendment to repeal this section but I am surprised that it came as a surprise to anyone on the other side, because I was under the impression that we have had this discussion, and in fact I made my intentions with respect to this legislation, and especially that indexing clause, well known to all members some considerable time ago. The major reason for repealing it, as I said at second reading, is in the last 10 years that it has been in the act it has only been used twice and it has been a source, I submit respectfully, of considerable embarrassment to all members of this House on a number of occasions. The idea of an index is a good one because in theory it removes the necessity for the legislators to have to go through the painful process of facing the public with respect to salaries every year. An index is very nice, but we just have not found the right index formula yet. Hopefully, some day we will be able to find one. I am confident that if the Rules, Elections and Privileges Committee can, in fact, come up with an indexing formula that they deem to be equitable and one that is workable, I know the members on this side would be most interested in sponsoring that type of a bill in the House.

Mr. Penikett: I cannot let pass the government leader's suggestion that it is impossible to create such an indexing formula when he refers to the 10 years. He should be aware that the formula under which we have been operating for the last two Houses is in fact the Lang-Penikett formula. A right-left coalition was organized in committee against the centre and in fact it did carry the day. It may not have worked, but it was a wonderful coalition. It was one of those marvelous cases where a political compromise solved the political problem but the financial problem continued to exist.

Clause 7 agreed to

On Clause 8

Clause 8 agreed to

On the title

Title agreed to

Hon. Mr. Pearson: I move that you report Bill No. 21, without amendment.

Motion agreed to

Bill No. 20: Certified General Accountants Act

Mr. Chairman: We will now go to Bill No. 20, *Certified General Accountants Act*.

Mr. Kimmerly: I understand there is a procedure whereby it is unnecessary to actually go through all the particular clauses. There are no questions from this side and if unanimous assent is obtained, it should be deemed to go through all of the sections all at once.

Mr. Chairman: It would need unanimous consent for that.

Some Members: Agreed

Mr. Chairman: Unanimous consent has been given. All clauses are deemed to have been read in committee. Are you agreed?

Some Members: Agreed.

All Clauses agreed to

On Title

Title agreed to

Hon. Mr. Tracey: In that case, I move that you report Bill No. 20, *Certified General Accountants Act* out of committee without amendment.

Motion agreed to

Hon. Mr. Lang: In view of how expeditiously business has been conducted I would move that Mr. Speaker now resume the chair.

Motion agreed to

Mr. Speaker resumes the Chair

Mr. Speaker: I now call the House to order. May we have a

report from the Chairman of Committees?

Mr. Brewster: The Committee of the Whole has considered Bill No. 19, *Access to Information Act*, and directed me to report progress on same. Further it has considered Bill No. 16, *An Act to Amend the Society of Management Accountants Act*, Bill No. 18, *An Act to Amend the Yukon River Basin Study Agreement Act*, Bill No. 21, *An Act to Amend the Legislative Assembly Act*, Bill No. 20, *Certified General Accountants Act*, and directed me to report the same without amendment.

Mr. Speaker: You have heard the report of the Chairman of Committees. You are agreed?

Some Members: Agreed.

Mr. Speaker: May I have your further pleasure?

Hon. Mr. Lang: Mr. Speaker, I would move that we do now adjourn.

Mr. Speaker: It has been moved by the hon. Minister of Municipal and Community Affairs that we do now adjourn. Are you prepared for the question?

Are you agreed?

Motion agreed to

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

The House adjourned at 4:28 p.m.