



The Yukon Legislative Assembly

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HANSARD

Wednesday, November 18, 1981 — 1:30 p.m.

Speaker: The Honourable Donald Taylor

Yukon Legislative Assembly

SPEAKER — Honourable Donald Taylor, MLA, Watson Lake

DEPUTY SPEAKER — Grafton Njootli, MLA, Old Crow

CABINET MINISTERS

NAME	CONSTITUENCY	PORTFOLIO
Hon. Chris Pearson	Whitehorse Riverdale North	Government House Leader — responsible for Executive Council Office, Public Service Commission, Land Claims and Intergovernmental Relations.
Hon. Dan Lang	Whitehorse Porter Creek East	Minister responsible for Renewable Resources, Tourism and Economic Development.
Hon. Geoffrey Lattin	Whitehorse North Centre	Minister responsible for Municipal and Community Affairs, Highways and Public Works, Yukon Housing Corporation and Yukon Liquor Corporation.
Hon. Meg McCall	Klondike	Minister responsible for Health and Human Resources, Education and Information Services.
Hon. Howard Tracey	Tatchun	Minister responsible for Justice, Consumer and Corporate Affairs, Government Services and Workers' Compensation Board.

Government Members

(Progressive Conservative)

Al Falle	Hootalinqua
Robert Fleming	Campbell
Doug Graham	Whitehorse Porter Creek West
Peter Hanson	Mayo
Grafton Njootli	Old Crow
Donald Taylor	Watson Lake

Opposition Members

(New Democratic Party)

Tony Penikett	Whitehorse West
Maurice Byblow	Faro
Roger Kimmerly	Whitehorse South Centre

(Liberal)

Ron Veale	Whitehorse Riverdale South
Alice P. McGuire	Kluane

Clerk of Assembly
Clerk Assistant (Legislative)
Clerk Assistane (Administrative)
Sergeant-at-Arms
Hansard Administrator

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

Whitehorse, Yukon
Wednesday, November 18, 1981

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

Prayers

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

ROUTINE PROCEEDINGS

Mr. Speaker: Are there any Returns or Documents for Tabling?

TABLING OF DOCUMENTS

Hon. Mr. Pearson: Mr. Speaker, I have the honour of tabling today the Annual Report of the Yukon Government for the Fiscal Year April 1, 1980 to March 31, 1981. In special recognition of this International Year of Disabled Persons, we have respectfully dedicated this Annual Report to those Yukon residents who have special needs and who hold an important place in our society.

As well as containing a comprehensive overview of this government's activities during the last fiscal year, the 1980-81 Annual Report carries the theme which recognizes the great value of our wildlife resource here in Yukon. In keeping with our approach over the past several years, the theme of the Annual Report serves to reflect an important aspect of life in Yukon, from the natural environment to the economy.

Mr. Speaker: Are there any further Documents for Tabling?

Reports of Standing and Special Committees?

Are there any Petitions?

Introduction of Bills?

Notices of Motion for the Production of Papers?

Notices of Motion?

Are there any Statements by Ministers?

Ministerial Statements

Hon. Mr. Tracey: As the Minister responsible for Government Services, I am pleased to announce that it is my intention to have the government begin publishing a Yukon Gazette, as a separate and distinct document which will ensure an accurate record of published notices.

As the one remaining jurisdiction in Canada which does not presently publish its government's business in a separate document, this move will keep us in step with other territorial and provincial jurisdictions. An established Yukon Gazette will also serve to lessen public confusion and will be more effective in reaching a specific target audience.

The present system of publishing gazette notices through the local print media is an outdated and inefficient method of communicating gazette information to the public, the legal profession and law enforcement agencies.

The Yukon Government therefore, will begin publishing on a monthly basis, the Yukon Gazette as a separate document in order to implement an orderly and consistent fashion of publishing gazette notices.

One of the major difficulties encountered in the present system, where all gazette notices were published only through the local newspapers, is that notices cannot be published simultaneously, nor is there any consistency in the wording of notices. As a separate monthly document, a Yukon Gazette published by this government will correct these anomalies, ensuring better continuity and uniformity of information.

In cases where notices are required to be published more than once a month, the present procedure of using local newspapers will apply, thereby meeting legal requirements.

The publishing of a Yukon Gazette by the Queen's printer will allow for a better coordination of all submissions from government departments, companies and individuals; consistency of content, an established rate structure, and better coordination in control of publishing and printing distribution.

The total expenditures of publishing the Gazette notices under the present system, amount to approximately \$27,000 annually for government departments and private companies and individuals. Of that, about \$9,000 is spent by this government.

The publication of a Yukon Gazette will cost approximately \$18,000, of which an estimated 60 percent will be cost recoverable through the sale of subscriptions and advertising space, leaving a total annual expenditure by this government of about \$7,000.

Furthermore, the publication of a monthly Yukon Gazette by this government will offer more convenience to the public by consolidating information in one source and by creating a single avenue for the publishing of legal notices. However, as I stated earlier, in those instances where the publication of notices are required on a more frequent basis than once a month, the present system of using local newspapers will apply.

Mr. Penikett: This may or may not be a good idea. I have not had a chance to research it thoroughly and I must tell you frankly that I have not had thousands of phone calls from constituents on this matter. It seems to me the price is right. However, the competition, especially in advertising, with other existing media may cause some people to comment that this seems a bit socialistic, some people may even say. It will be interesting to have in the print media locally, the Star, the News and the Gazette. It will seem just like a big city here. As I note, the newspapers may not be pleased by this announcement. I do not know.

Of course, perhaps the Government has not always been too pleased with the newspapers locally, so that may be so. I wish the Minister well with his subscription list and hope the Yukon Gazette becomes a best seller.

Mr. Veale: I certainly welcome the concept of having a formal legal gazette, and I think it will be of definite value to the general public, the legal profession, and the law enforcement agencies. My concern, which I hope the Minister will address, is the distribution of it: that it may be a very public distribution and put up in all public offices in the territory on a regular basis, to ensure that by going this route we are not going to have a very few who read through it on a regular basis, who know everything, and the balance of people knowing nothing. That is of major concern, because one of the great advantages of having the newspaper system was that it really did come to the attention of virtually every householder who would subscribe to a newspaper. To that end, I would certainly recommend to the Minister, if advertising turns out to be lucrative, there be no subscription costs to it, and it be available much like another government publication, called Yukon Info, is available to every household on a monthly basis.

QUESTION PERIOD

Question re: Moratorium on taxation of northern benefits

Mr. Penikett: I have a question for the Government Leader. During his critique this Monday, of the federal budget, he noted that the Federal Minister of Finance would not be extending the moratorium on the taxation of northern benefits beyond the next year. The Government Leader was quoted Friday, saying he would make more representations to Ottawa on this issue, and I would like to ask him now if he could tell us exactly what action he will be requesting from Ottawa on this question?

Hon. Mr. Pearson: I would be most happy to. The same action as we have been requesting for the past and for the past year and a half, on this particular issue. That is, that all north-erners be taxed in an equitable manner for benefits they receive, and that the fact we live in the North be recognized by the federal government and that there be some sort of federal tax relief for those people who live in Canada's North. As we are in an area that is a long distance from central Canada, our costs are higher and we are charged to a large degree with the development of this part of Canada.

Mr. Penikett: As Benjamin Franklin, I believe, used to say, that there is equitably, and there is equitably.

The resolution adopted by this House asked for tax relief, and the Government Leader has quite properly asked for some kind of universal principle to be applied in whatever relief is being proposed.

Could I ask the Government Leader, if, in his specific request to the Government of Canada, he is asking for a tax deduction scheme, or is he proposing a tax credit scheme? The implications of both proposals he will be well aware of.

Hon. Mr. Pearson: I am quite confident that I tabled in the House, the proposal that we made to the Government of Canada, at that time. I would be happy to do so again.

Mr. Penikett: The Government Leader is saying that he has not changed his position. In fact, we have a situation where the Government of Canada has changed its position. There is a new budget, and a new situation.

What I was wishing to establish, is if there is a new representation, of any kind, or if in fact it is a reiteration of the government's former position?

Hon. Mr. Pearson: I do not know if he asked me a question, Mr. Speaker. I do not know what the answer is.

Question re: The Deschenes Report

Mr. Veale: I have a question for the Minister of Justice about the Deschenes Report.

The Minister indicated, the other day that he was examining the report, and that he had received a report from his department on the subject, and now wishes to make a complete review. I commend the Minister for doing that.

However, the Minister is aware that he is considering the appointment of another territorial court judge, and some of the recommendations in the Deschenes Report, specifically on page 205, deal directly with that sort of appointment.

Will the Minister of Justice agree to review those specific provisions before he makes his appointment?

Hon. Mr. Tracy: Yes, I will certainly be reviewing those, and I can state to the Members opposite, that one other consideration that Deschenes has recommended in his report that I am going to implement, will be the fact that judges, on their appointment, will not be subject to a probationary period.

Mr. Veale: I am very pleased to hear that the Minister is going to implement that specific recommendation because I believe it is a very important one for the independence of the judiciary.

The question I have regards the other aspect relating to the appointment of judges, in the case where a deputy judge is brought in for a specific case. Can the Minister now assure the House that that procedure will be reviewed very closely so that there will no longer be the appearance of judges being selected for particular cases but, rather, that would be left up to the chief judge of the Territorial Court?

Hon. Mr. Tracey: Mr. Deschenes' comments on that subject were to deal with a federal court, they were not to deal with a territorial court. It is Section 29 of the *Yukon Act* that allows the appointment of deputy judges to be sent to this Territory.

I would certainly concur with the Minister of Justice in Ottawa if he wants to change that.

Mr. Veale: Will the Minister of Justice forward that recommendation to his counterpart in Ottawa so that that will be acted upon as soon as possible?

Hon. Mr. Tracey: I hope to be in Ottawa in a couple of weeks meeting with the Minister of Justice and I will give him that

information at that time.

Question re: Vacant position on Territorial Court

Mr. Byblow: On the same general topic, I, too, would like to commend the Minister for having accepted a second recommendation of the Report.

I would like to ask the Minister why the position has not yet been filled? It is a position that has been vacant for a number of months, on the Territorial Court bench.

Hon. Mr. Tracey: I had a report from the Committee. The Committee recommended one name to me, and that was not suitable. I do not feel it is the responsibility or the prerogative of the committee to usurp the authority of Cabinet to appoint a member. I asked the committee to send me at least two or three more names. They have done so. I have had my department looking into it. Hopefully, within the next few days I will be able to make an announcement.

Mr. Byblow: Then the Minister is confirming that he will be directing an appointment within several days. Is that correct?

Mr. Speaker: I believe the question has just been answered.

Mr. Byblow: On the same general topic, I would like to ask the Minister if he can confirm whether or not the backlog of cases in the Territorial Court is about four months, at this point?

Hon. Mr. Tracey: No, I cannot confirm that. We do have deputy judges who are sitting on a regular basis.

Question re: Speed zones and Canyon Creek

Mrs. McGuire: I have a question for the Minister of Highways. I am not entirely satisfied with the irresponsible answers I received from the Minister on November 16, 1981, regarding the speed signs at Canyon Creek. He used the lack of enforcement of the speed zone as an excuse not to post signs. Now that the Minister has had ample time to think it over, and consider the situation, would he consider posting the signs now?

Hon. Mr. Lattin: I am very sorry to hear that the Member across from me does not agree with what I said the other day. As I indicated at that particular time, I was looking into it, and, at this particular time, I have made no decision. I am sure that when I do, I know that she goes back and forth that road quite frequently, if we do put those signs up there I am sure she will see them. At this particular time my answer is the same as it was the other day.

Mrs. McGuire: The Minister's answer is not satisfactory, and still irresponsible. He knows full well that people who live there are endangered every day, including children. I would like to ask the Minister if he has any objection if I post signs?

Hon. Mr. Lattin: I am certain that the Member is quite fully aware that she cannot post signs on a public highway.

Question re: Voluntary agency funding

Mr. Kimmerly: A question for the Minister of Social Services. Yukoners engaged in voluntary social agencies contribute a great deal to our way of life. Yukon Territorial Government grants in excess of \$200,000 annually to these groups. Is the Minister planning to issue a policy statement on voluntary agency funding in this Session?

Hon. Mrs. McCall: No, Mr. Speaker.

Mr. Kimmerly: When the Minister negotiates with voluntary agencies, for example Crossroads or the Child Development Centre, is it now the general policy to ask that a government representative sit on the board of directors of the agencies?

Hon. Mrs. McCall: It has not been a general policy to ask that a government member sit on the boards of voluntary agencies. It was found, however, that there was not the liaison that there might have been, and misunderstandings arose, with Crossroads as an example. It was felt that having a government person on that board would be helpful in the matter of communication. That was the reason for that.

Mr. Kimmerly: What is the current policy with regard to funding for travel, for out of town board members to attend board meetings of voluntary agencies?

Hon. Mrs. McCall: There is a fundamental government policy that I can supply the member with. The question has not arisen in any serious way. Any time that it has, it has been individually dealt with.

Question re: Government monthly newsletter

Mr. Penikett: I have a question for the Minister of Government Services. Before I do that, all will want to join me in wishing everybody happy Manitoba Day.

Laughter

Last month the government began publication of a monthly newsletter on its departments and programs and described it as a, "good, balanced view of the operations of the government." Since this is to be a balanced view of the departments, is the government planning to give the opposition equal space in the newsletter, so that a critique of these departments can be carried in the publication, as well as the congratulatory messages to the government?

Hon. Mr. Tracey: No, I can assure the Member across the floor that he is not going to have the opportunity to put his political advertising in the paper. Yukon Info was put out to the public to tell exactly what was going on in this government, and the programs available to them. It is well received by the public and we are planning to continue to do exactly what we have been doing.

Mr. Penikett: I believe it is well received by the public as the mail system, I think, delivers it with the "Yukon News".

I understand the cost of the publication is \$2,000 a month, for the government advertising, or \$24,000 annually. I would like to ask if this amount for the government advertising includes labour costs or is it only production costs?

Hon. Mr. Tracey: That cost, to the best of my knowledge, is the total cost of producing the paper, and it is about \$2,500 a month.

Mr. Penikett: Since, I am sure, the government members will agree that the local media have done an excellent job covering government activities, and since the government newsletter is distributed through a local newspaper, which has had a practice of printing almost all the government news releases prior to this newsletter appearing, could the government Minister explain the reason for this publication, in view of the fact that the government has had such wide-spread, thorough, in-depth and complete coverage of its activities up to now?

Hon. Mr. Tracey: I will be glad to.

The newspaper advertising that the Member opposite is talking about is usually criticism of one type or another. What we are dealing with here is actual programs that this government produces, and we are trying to make the information available to every member of the community. In order to do that, we have published this newsletter.

We are hoping, after we have gone through the departments, to consolidate it into a booklet that we can make available to the libraries and to the public, if they want it, so that they can have all that information on all the programs that are available in this government at their fingertips.

Applause

Mr. Veale: I note that the Yukon Info logo is geese flying across the front of the page and I assume that that indicates the government is on another wild goose chase.

Would the Minister responsible confirm the fact that this idea was actually conceived of at the Conservative Party Annual Meeting in Watson Lake when they discussed the issue of criticism being levied at the government in the newspapers?

Hon. Mr. Tracey: I can assure the Member opposite that that is not what happened.

Mr. Veale: We may never hear what happened.

My supplementary question is, would the Minister agree that such an information document should be free of any bias, or leading information, or misleading information?

Hon. Mr. Tracey: I can assure the Member opposite that we have made every attempt to keep bias out of it. What we are

trying to do is make knowledge of the programs that are available under this government available to the public. That is the long and the short of it.

Mr. Veale: Given that the Yukon Info document has a headline, "Medicare Offers More," and then on the second page, "Easing the Squeeze of Health Care Dollars," would the Government Minister not agree that that is misleading, because what has happened this year is that Medicare premiums have, in fact, increased? Is that not misleading information, Mr. Minister?

Hon. Mr. Tracey: No, Mr. Speaker.

Mr. Speaker: Order, please. Before we continue the Question Period, I would, once again, wish to caution all Members of the House that use of the word, or the imputation of anything as being, "misleading," is a very, very serious charge. I think that the use of the word by all Members on both sides of the House should be very, very carefully considered before its use is given in the House, as it tends to be unparliamentary unless certain accusations can be proven.

Question re: Driver education in the high schools

Mr. Byblow: Without any intention of bias, I too am very glad that Manitobans have found the perceptive political wisdom shown here in the Yukon by Mr. Kimmerly and myself.

However, I have a question for the Minister of Education. I would like to advise her that the number of traffic accidents by September of this year, and the number of dead resulting, has already exceeded all the totals for last year, 1980. Given the fact that young drivers are most likely to have accidents, would the Minister advise whether her department supports a driver education instruction program in the Yukon high schools?

Hon. Mrs. McCall: There is such a proposal under consideration at the moment.

Mr. Byblow: I take it, that the Minister is alluding to a report entitled, "Yukon Driver Education," submitted to her department of July 31 of this year. Has she reviewed that Report?

Hon. Mrs. McCall: I have.

Mr. Byblow: Would the Minister then be prepared to begin immediate planning towards a Yukon Driver Education program in the high schools?

Hon. Mrs. McCall: Once a decision is reached, I would be prepared to do that, but a decision has not been reached.

Question re: Yukon Housing Corporation

Mr. Kimmerly: I have a question for the Minister responsible for the Yukon Housing Corporation.

Can the Minister confirm that community housing tenants, must now pay any fuel and power charges for their homes that are in excess of quotas based on an average consumption for the previous three years?

Hon. Mr. Lattin: That is so.

Mr. Kimmerly: Since tenant rents are calculated as a percentage of their calculated income, do these extra fuel and power charges destroy the rent-to-income formula previously used?

Hon. Mr. Lattin: That is not so. We found that under the old system, there was abuse by tenants in many cases. In order to conserve energy, which we are all very concerned about, they will now pay the extra fuel and power charges. Nobody subsidizes my heat and light, and I do not feel that the tenants should go ahead and use as much energy as they wish.

We are addressing two things, in this instance. One is that they are expected to help conserve energy and are cognizant of the cost, and the second is that other taxpayers are not footing the bill for their misuse of energy.

Mr. Kimmerly: Since these charges amount to a rent increase, I ask if the proper notices of these increases were given according to the requirements of the *Landlord and Tenant Ordinance*?

Hon. Mr. Lattin: As far as I am aware, they were.

Question re: Kearns Report

Hon. Mrs. McGuire: I have a question for the Minister of

Human Resources.

In reference to the Kearns Report, what action has the Minister's government taken on the evaluation of Crossroads?

There has been a great deal of action on the Kearns Report. It was a very interesting report. It was quite a valued report and we are taking the advice given there very seriously.

Mrs. McGuire: I was wondering if the Minister would give me the cost of that report?

Hon. Mr. McCall: No I do not have the figures off-hand but I can supply that information.

Question re: Recreational lot prices

Mr. Penikett: I have a question for the Minister of Municipal and Community Affairs. I am certain that many Yukoners were happy to hear the Minister's announcement on November 9, saying cottage lots now released from the federal government will be available for sale when the land is transferred to the territory. The Minister explained that purchasers will have one year to pay for the lots. Could he say what the price range of these lots will be?

Hon. Mr. Lattin: I understand that you are talking about the recreational lots. If that is the case, we did an assessment last year, and on the assessment value of the lot the amount that we will be charging the people, which was announced also when I was speaking about it, is 29 percent of the assessment value.

Mr. Penikett: The Minister may have misheard my question, but let me ask a supplementary. The announcement pointed out, as the Minister said, that the lots will be sold for 29 percent of the recently assessed value, and that the price is close, "to development costs incurred by the federal government." Could the Minister tell the House if the price is above or below the development costs, and if it is below the development costs, who will absorb the difference?

Hon. Mr. Lattin: We are talking the lots that will be transferred, hopefully, in the very near future. On those particular lots, when the federal government is going to turn them over to us, I believe that my figures are right and my memory serves me correctly, around a \$600,000 debt comes along with them. That was part of their development costs. We also realize that for some of those lots there is some upgrading to do, so when we put it all together it would look to me that the 29 percent would be very close, in most cases, to the actual development costs. There might be a few dollars either way. I am sure the Member opposite realizes we cannot get every one dead on, but that is our philosophy, and that is the way we are attacking it, and that is the way the lots will be sold.

Mr. Penikett: The Minister said, as well, in his announcement that he expected the Order in Council transferring existing recreational lots to the Yukon to be processed soon. Can he tell us whether further transfers on recreational land are expected in the next few months, or the next year?

Hon. Mr. Lattin: I have been waiting with baited breath, as I am sure the Member opposite has. It is out of my jurisdiction. I hope, and I am waiting for the day when I will be able to stand in this particular spot and inform the Member across that those lots are transferred. I have just been talking to my department and it is on the way. All I can do is say that we have to wait until we get them transferred over to us.

Question re: Porter Creek water and sewer

Mr. Veale: I have a question that is within the Member's jurisdiction and it relates to the Water and Sewer issue that has been raised in the Porter Creek 'C' subdivision. I do not wish to impute blame between the two levels of government but I would like to ask the Minister a question. Would the Minister confirm that the present arrangement is for the Yukon Government to build the system, survey the lots, then sell the lots, and then turn over the sewer and water system to be run by the City? Is that the present system?

Hon. Mr. Lattin: Yes, that is the present situation.

Mr. Veale: As the Minister is well aware, in the Porter Creek 'C' subdivision, as has happened before, only a small number of lots have actually been sold, and a smaller number

are occupied and ready to have their sewer and water hooked up. Would the Minister advise if the Yukon Government assists the City financially to cover costs, where the City is not actually receiving taxes from the unsold lots that remain?

Hon. Mr. Lattin: We have had some discussions with the City on that particular point. We realize that if there are only a few people using the lots that the City would be burdened with additional costs. We have discussed it with them and we have made the suggestion, and an offer, that we are still negotiating.

Mr. Veale: Would the Minister indicate if the government is considering building-in some reserves in the development costs? Or is the government reviewing it from a point of view of actually paying taxes to the City for lots that are sitting unsold?

Hon. Mr. Lattin: There are various options open to us. The way we were addressing it at one of our discussions was that we would give a small grant-in-lieu per month for the lots that were not sold, for the winter months. There are other ways we can do it, but if you were to charge the operational costs against the lots, we would find that there could be some discrepancy. One person would buy a lot and the next one would have these charges against theirs. For the same type of lot one person would be paying a little bit more than the other. That is one option. I think the option that we had suggested is a lot better solution to the problem.

Hon. Mr. Pearson: When we last sat, I was asked by the Member for Whitehorse Riverdale South whether, prior to the Accord, I had had any discussions with the Prime Minister, or anyone in his office, regarding the nature of conferences to which the Government Leader would be called to attend and how the Government Leader would be able to participate in those conferences.

I have the answer now for the honourable gentleman. The Government of Yukon has been attempting, since as early as 1978, to come to some agreement with the federal government on the issue of guidelines for Yukon participation at First Ministers Conferences and other intergovernmental meetings.

Unfortunately, for a variety of reasons, we have not, until now, been able to reach such an accord. Recently, however, the Federal-Provincial Relations Office of the federal government indicated to us that it would like to re-open discussions on the matter in order to reach agreement on Yukon participation at such conferences and meetings.

As a result, my officials within the Department of Intergovernmental Relations are currently preparing draft guidelines to be presented to the Federal-Provincial Relations Office for discussion. Those guidelines will reflect Yukon's substantial progress over the past few years in the area of intergovernmental activity.

Hon. Mrs. McCall: I have a written answer to a written question from Mr. Penikett.

I would also like to inform the Member from Faro that the vocational school admission form that he drew my attention to has been withdrawn, and that I found it as offensive as he did.

Mr. Speaker: Are there any further answers to questions by Ministers?

If not, we will then proceed.

Question re: Development grant to Kasaan Holdings Limited

Mr. Byblow: I have a question for the Minister of Tourism and Economic Development, who I know is itching to get on his feet and say something about last night.

There was a government news release on September 1 that announced the federal and Yukon governments' offering Kasaan Holdings Limited \$330,000 towards the rebuilding of the Downtown Hotel in Dawson City. My question is, can the Minister tell the House if that is still the amount of the grant being used by the company towards construction?

Hon. Mr. Lang: That is the amount of finances allocated and it is paid on the basis of progress payments as the building comes to completion.

Mr. Byblow: That is excellent. I understand that the princi-

ple owner of Kasaan Holdings is a resident of Kelowna, B.C. So, very bluntly, I would like to ask the Minister if he can confirm that? If that is the case is there an explanation why the grant had to be awarded to an out-of-territory-resident?

Hon. Mr. Lang: One of the principal does live outside the territory. One of the basic reasons is that not that many people wanted to build a hotel in Dawson City. It definitely gave a foundation for the principle of coming in with the policy to try to encourage people to get the necessary hotel space in Dawson City for the tourism industry. If the NDP is against it, then stand up and say it.

Mr. Byblow: Recognizing the principle behind the decision, I would like the Minister to confirm whether or not Yukoners will be hired to work on the project, and whether building materials will be purchased from Yukon suppliers?

Hon. Mr. Lang: Well, if you want to talk about Yukoners I am sure that you will be glad to know that my colleague's son is working on the project, and I guess that would come under the definition of a Yukoner. There is no question, Mr. Speaker, there is quite a number of people from the Yukon working on the project and further to that, it is going to create quite a number of jobs in Dawson City over the summer months. If the NDP is opposed to that, say so.

Question re: Wildlife enforcement staff

Mr. Kimmerly: A question to the same Minister in his capacity as Renewable Resources Minister. A government news release dated November 6, stated that the number of complaints regarding wildlife occurrences has more than doubled since 1977 and the number of hours Wildlife Officers devote to public education have consequently dropped. Although the Auxilliary Conservation Officer Program is a step in the right direction, is the Minister planning on employing more full time enforcement staff?

Hon. Mr. Lang: There is only so much money in the barrel. I recognize that the party across the way does not recognize that. We have had to come up with innovative ideas on how to combat some real problems in respect to the area of enforcement. I believe we have done that through our Auxilliary Conservation Officer Program. We have already had quite a number of phone calls since the announcement and it appears it is going to be fairly favourable.

Along with realignment of responsibilities in the department there is going to be a number of positions transferred outside of Whitehorse and that should alleviate the situation somewhat. I am sure I have solved the Member's concerns.

Mr. Kimmerly: The same report mentions a compulsory training for auxiliary conservation officers. What will be the number of hours of training required?

Hon. Mr. Lang: I have not gone into that detail in respect to the department. It could be six hours and ten minutes, it could be eight hours and three minutes. I would suggest it will be a number of weekend workshops that will familiarize those people who are interested in aiding the department in this area so that they are fully aware of the legislation that is in effect and also the various responsibilities that a conservation office has. Also there would be a certain amount of training in the field as time goes on.

Mr. Kimmerly: In view of the reorganization within the existing budget, does this mean the Minister is giving a lower priority to public education than he did in the past?

Hon. Mr. Pearson: No, it is a false assumption.

Question re: Public speaking training for Cabinet Ministers

Mr. Veale: I have a question for the Government Leader. I understand that on September 28 and 29 of this year, a professional consultant in communications attended in the Yukon for a program to teach Cabinet Ministers how to speak in public and how to deal with the press.

Would the Government Leader advise the House who attended that seminar?

Hon. Mr. Pearson: If my memory serves me correctly, that was a government program that a number of staff people

attended. I know that I attended one for one day. Some other cabinet ministers who had time did attend and a number of staff people attended. This is a program that has been going on. It is not the first time it has happened. It is an ongoing program. It is a part of what this government sees as being its responsibility to be able to get across to the public exactly what this government is all about, and what programs it has to offer. It is just another lesson in communications, that was all.

Mr. Veale: Would the Government Leader answer the question in writing as to who was actually present at the meeting? My supplementary question is: would the Government Leader advise the House of the cost of that two day program to the Yukon taxpayer?

Mr. Speaker: I am sorry that I have to keep interrupting in Question Period, but I would very much ask if Members asking questions would refer back to Beauchesne, and the rules upon which Question Period is run. Questions ought to be seeking information on matters which are urgent and important at the time, and it would appear to the Chair that questions being asked in the last few moments during this Question Period would not appear to be urgent, or, in any case, within the rules under annotation 359 of Beauchesne. I would very much implore Members asking questions if they would refer to annotation 359 and perhaps, as I know that they would wish to, phrase their questions more properly. Perhaps, then, they would be more in keeping with the spirit and the rules which govern the Question Period.

Mr. Penikett: I rise on a point of order.

Mr. Speaker, with respect, I appreciate your ruling in this matter, however, I wish Mr. Speaker would give sufficient opportunity to make clear the importance of the question being asked. The matter concerns an expenditure of public funds, access to which the benefits of said expenditure may have been limited to a privileged few, including people who were not members of the government but who may have been partisan supporters of the government.

It seems to me, while I may not have put the questions in the same way as the Member for Riverdale South, it is a sufficiently important matter to warrant questions in this period and to demand, on behalf of the people of Yukon, answers from the Government Leader.

Mr. Speaker: I thank the Honourable Member for raising the point of order he has raised, however, I must say again that, with all consideration given to the remarks by the Honourable Member, a question must in itself be framed to indicate the urgency of the importance. I do not think it would be acceptable, in any sense of the word, to impute anything else to a question other than it ought to be important, it ought to be seeking information, and this nature of question.

I only offer this as a guide to the Honourable Members in order that we may continue the Question Period in a parliamentary sense. If questions of this nature are permitted, pretty soon things get carried away and, if we do not watch and abide by our rules, then there is no point in having a Chair and there is no point, really, in pursuing the legislative process.

Mr. Veale: Might I just rise on a point of order and make one submission to the Chair?

Mr. Speaker: Proceed.

Mr. Veale: The ruling we understand: that matters should be important. The urgency issue, Mr. Speaker, creates some difficulty because each member on this side of the House may have three or four questions a day, and those questions are often drawn out over time in the Legislative Assembly.

Now, if we had the Legislative Assembly sitting every month the problem would not occur, but it occurs when there has been no sitting of this Assembly for some seven months. Therefore, we have to ask our questions in sequence over time, and we may ask questions that relate back for some time, but they are still matters of very urgent public importance.

Mr. Speaker: In answer to the Honourable Member, who has raised an interesting point, I must refer again, and this will be the last time I will make a statement on this subject, to refer

to Annotation 359 of Beauchesne, which sets down the rules governing the Question Period and which, in part, in Subsection (4), states: "It ought to be an important matter, and not be frivolous."

More importantly, in subsection (5), "The matter ought to be of some urgency. There must be some present value in seeking the information during the Question Period rather than through the Order Paper or through correspondence with the Ministers or their departments."

I wonder if, in Hansard of today's proceedings, the Members may wish to reflect upon the statements I have made, which are not so much a ruling as to draw attention, as I am sure the Members would wish I would do, to some unintentional misuse of the Question Period.

May we proceed? I will allow one further question.

Mr. Veale: May I have an answer to my question from the Government Leader? Does he know what the cost of the two day seminar to the Yukon taxpayer?

Hon. Mr. Pearson: No, Mr. Speaker.

ORDERS OF THE DAY

Motions Other Than Government Motions

Mr. Speaker: We will now proceed to Orders of the Day. The Question Period is now closed.

We will now proceed to Motions other than government Motions.

On Motion 21

Mr. Speaker: Is the Honourable Member prepared to discuss his motion?

Mr. Kimmerly: Yes, Mr. Speaker.

Mr. Speaker: It has been moved by the Honourable Member for Whitehorse South Centre, seconded by the Honourable Member for Faro, THAT it is the opinion of this House that Medicare premiums should be abolished.

Mr. Kimmerly: I am very pleased to be able to give an address on this particular topic very early in this Season. As Members know, I have recently been through a byelection, and I attribute part of the success in that byelection to this issue.

In order to clarify the issue at the very beginning, I wish to say we are not talking about the quality of medical care, or the amount of medical care, or the delivery of medical services. We are talking about the payment for those medical services, or the cost, and the way the cost for those medical services is going to be paid.

After saying that, I would like to add one rider to that general statement. It is the opinion of Members on this side that a substantial saving could be made to taxpayers if preventive care were dealt with by the government in a much more serious fashion. On that particular issue, I would stress that on April 2, 1981, the present Minister of Health stated that she saw, "no problems," with the lack of preventative medicine in Yukon. Also, on November 16, last Monday, in response to a question on preventative care, the Minister said, "this is something the department has not been approached on at this point."

Despite the fact that the department has not been approached on preventive care, it is the opinion of members in this party that attention to preventative care, and including preventative health care in the Medicare Plan, will have eventual and long term benefits. Ultimately, there will be a tax saving to all Yukoners. It is a trite phrase, but an ounce of prevention is worth a pound of cure. The same statement can be made about the dollars involved in Medicare.

We are talking about the cost of Medicare, or the cost of the services generally rendered by doctors. The cost is paid for from several sources and, I wish to point out, that in other provinces, the payment or this medical care tax, is divided very, very differently. In Alberta, there are medicare premiums, and the percentage of the total cost of medicare that the medicare premiums cover is just under 10 percent. In the

province of British Columbia it is 7.8 percent. In the Yukon, with the increased Medicare payments announced in the last budget, the percentage goes up to 21 percent. That is, our medicare payments in Yukon cover 21 percent of the total cost of medicare. In other provinces, the percentage that the premiums cover is substantially less.

More than that, and a much more forceful and important statement is that, in seven of Canada's ten provinces there are no medicare premiums at all, and in the Northwest Territories there is no medicare premium.

The question obviously becomes, if there are no Medicare premiums in other provinces, why is it necessary that we have Medicare premiums? I say that it is not necessary. Obviously the money has to come from somewhere. Noone is expecting the services to be delivered out of the air, or not to be paid for. Obviously we must pay for it. Our suggestion is that it be paid for out of the general revenues, or out of the income tax.

The advantages of that system, are several. Firstly, on the Medicare Premium Plan, the cost is fixed, that is each person pays the assigned premium. There are two categories, of course, for single people, and for families.

Wealthy people simply write a cheque. Poor people scrape and struggle to raise that money, and there are people who cannot raise the money. It is true that, for those people who qualify for Social Assistance, the government pays for it. The taxpayers have to pay it for the people who cannot afford it. The fact of Social Assistance is a relevant consideration to the payment for medical services. The payment for Social Assistance is an extremely important question, but that is beyond the scope of the particular motion before us.

On an income tax basis, wealthier people would pay a greater proportion of the total cost, and the poorer people a lesser proportion, as the income tax is graduated according to the level of income, of course. That is a much fairer way to distribute the cost of this particular service. It is a necessary service, akin to other necessary services, such as police protection, and the general good work of the public civil service.

Medical care is just as necessary, and in many cases, even more necessary. Another advantage is that corporations pay income tax, but under the present scheme corporations do not pay Medicare premiums, as such. The tax load would be distributed much more wisely, and would include the major corporations who pay the major tax load in the Yukon. Medicare premiums are a regressive tax. Seven provinces out of ten have seen the light and abolished them, the Northwest Territories have abolished them, but the Yukon lags far behind.

I would make reference to two myths about the payment of me

icare. These myths were perpetrated by the Government Leader in his budget speech in the spring. The first one is that the majority of residents do not pay Medicare premiums because they have arrangements through collective agreements with employers. That is a myth. Benefits paid under collective agreements, of course, are paid by the employer, but are bargained for by the employee, or the employee union. In any bargaining process there is a give and take process. The present negotiations around northern tax benefits are a prime example. The total negotiated package of a collective agreement is considered in totality, and if the employers did not pay the Medicare premiums under these collective agreements, they could afford to pay that money directly to the employees and the employees would certainly demand that in their negotiations. That is a myth. The individuals do pay, indirectly. The second myth is that Medicare premiums are not a tax. I would quote from the Government Leader on the 26th of March, 1981. He said this, "our new premium fees are an attempt to balance our Medicare accounts without placing a further taxation burden on Yukoners." In fact, it is a tax by another name. Medicare premiums are payments paid to the government. It is a tax by another name.

I would also mention the cost of administration of collecting medical premiums and enforcing the collection of Medicare

premiums. If there were no Medicare premium plan, the enforcement, or the administration, would be unnecessary. An addition on the income tax has no increased administration. The collection of the Medicare tax is not cost-effective, in that, I believe, the administration takes up approximately eight employees in the Yukon civil service.

I would also like to mention, on that same general topic, other stop-gap measures would not be necessary. I was very interested to learn, in the middle of the last by-election campaign, that there was a stop-gap measure for seniors, a plan that benefited a few Seniors, where the Government paid the Medicare tax for them on a need basis. Those kinds of things are simply administrative bugaboos, and are completely unnecessary.

The real solution to the problem of paying for medical services is, and ought to be, in Yukon, that the cost is distributed as fairly as possible among all Yukoners, and the way to do that is to pay for medical services out general revenues out of the income tax system.

Mr. Veale: There is no question in the mind of our Party that the burden of paying Health Care premiums weighs far more heavily on those people of lower or middle incomes than it does on those people who are fortunate enough to have large incomes. That means that the premium, or tax, is a regressive thing, because it is the same amount, regardless of the amount of money that one would have available to pay it. It is true, I believe, that the majority of Yukoners, in fact, are paying most of the premiums, and they are not paid by the employer. There are some employers who are paying the complete amount, but you will find that many employers pay only a portion, and the system, as it receives the money, actually receives all the money from the employer, but the employer is, in fact, making the deduction against the income of that employee.

There are only four jurisdictions remaining in this country that have a health care premium. I believe, British Columbia, Alberta and Ontario and the Yukon make up the four. We are very concerned about this issue because people in the Northwest Territories are not paying the premium. And that means that people in the Northwest Territories who suffer the high costs of living in the North, as we do, are receiving a benefit that we are not. To my mind it would be possible, if the Members opposite can accept the principle of abolishing Medicare premiums, that this matter could be negotiated with the federal government so that Yukon is treated the same as the Northwest Territories.

I find it interesting that the Members opposite, whether they admit it or not, are moving in the direction of abolishment of premiums, by virtue of the fact that they have taken steps, as indicated by the Member from Whitehorse South Centre in the recent byelection, to reduce the number of people who are paying premiums. It may be a senior over 65 and a spouse, and then it becomes a person whose income is not of a certain amount who is then exempt from paying a premium. That, in effect, whether the Members admit it or not, is moving in the direction of abolition. It is our feeling that that is a movement that we encourage, and we would like to see the government move in that direction.

The question that is raised is whether it can all be done at one shot, abolition now. It is my submission that that presents another set of difficulties that have to be considered.

To that end, I would like to move an amendment because, in my belief, it would be more appropriate to have this premium reduction or abolition take place over a period of time. It is my submission that that would be more acceptable to this government because it would then permit an opportunity to plan the reduction of health care premiums.

Now, the Report of the Honourable Emmett Hall, which was prepared in 1980, and which is the, sort of, up-date on the national provincial health programs in Canada, makes an interesting comment in that regard. On page 41, it states, "I do believe, however, that as economic conditions improve throughout Canada, the three provinces in question should give

serious consideration to dropping the premium system, probably by yearly stages over a period of, say, five years, thus bringing all Canadian residents into the same pattern of coverage and accessibility." My Party and I endorse that concept, wholeheartedly.

The amendment that I wish to move, seconded by the Member for Kluane, is THAT Motion Number 21 be amended by adding the words, "by reducing the premiums paid, on an annual basis, over five years".

Mr. Speaker: Order, please.

Do I take it that the Honourable Member has just proposed the amendment?

Mr. Veale: That is correct, Mr. Speaker.

Mr. Speaker: It has been moved by the Honourable Member for Whitehorse Riverdale South, seconded by the Honourable Member for Kluane, that Motion Number 21 be amended by adding the words "by reducing the premiums paid, on an annual basis over five years."

Mr. Veale: I believe I have made the point that, with this amendment, we hope to make it more possible for government Members to accept the principle which has been adopted in seven provinces in this country and one territory, and to have an opportunity to establish it as a priority for Yukon residents so that it can be implemented over time and thereby cause fewer problems, both for taxpayers and for the Treasury.

It is my submission that the result will be the same, ultimately, and we will be in a position where Yukon residents will be equal in every respect to other residents of northern Canada.

Hon. Mrs. McCall: I would like to, first of all, correct some of the statements made by the Member for Whitehorse South Centre in his speaking to this motion.

When I said that there is no problem, that no one has come to the Department, the reason is that the Department very much encourages the practice of preventative medicine, in fact, applauds this practice. We sponsor some forms of preventative medicine, such as speech therapy and audiology services.

Our plan, as well, pays for some types of preventative medicine for some office visits to physicians, and we are expanding, as I mentioned the other day, to include physiotherapeutic services. We consider the practice of preventative medicine the most forward-looking of all practices.

We support community campaigns very much; we wholly support community campaigns such as the Yukon Medical Association's campaigns with breastfeeding, prenatal care, anti-smoking, infant nutrition, all sorts of campaigns. I would like to have it quite clear in the mind of the Member opposite we that we do indeed support preventative medicine.

As far as paying for the cost of Medicare, we very carefully considered how would we pay the bills. These costs are very high. The premiums that were the formula that came to us eventually and that we decided on, are still less than the Ontario rate. The family rate is still less than the B.C. rate and the single rate is not that much different.

Another thing, as far as retaining premiums is concerned, the costs of medicine are very high. There are times when people take it too much for granted; the paying of medical premiums keeps before the people the fact that this is not a service to be taken for granted, it is a very, very costly service and it prevents a certain amount of misuse that way as well.

The philosophy of other ways of raising revenue is simply a matter of philosophy.

Amendment disagreed to

Mr. Speaker: Is there any further debate on the motion?

Mr. Fleming: I must rise against this motion. I really, really can not understand where it came from or the philosophy of the three Members opposite who would even think of bringing in a motion like this.

I, myself, think that we have one of the better Medicare systems in this country. I also feel, and I think there are many other people in the Yukon who feel, that it is a system where they can see exactly what is going on.

This could turn the Medicare system into something that is

just another government run thing that could, in my opinion, bring in a real nice hidden tax structure of some kind.

I am not saying that this government would do it, because they would not; however, there are governments that may do it. In the future this is exactly what we could find in this country, a system that was run by the government and, through the hidden tax issue because it is not right out in the open, you are not too sure where your money is going.

Also, I would like to say now that if this happens it would cost every man, woman, and child in this country approximately \$80 if it was put on to income tax. If that be the case, I am afraid that some families would wish they had not seen this motion passed in this House, though I am sure it will not be.

Further to that, though the Honourable Member of the Liberal Party did bring up some things that were fairly relevant in some issues, I cannot in any way support a motion that would change our Medicare today.

Mr. Byblow: I find it indeed interesting and regrettable that I cannot agree with the previous speaker. More importantly, I did not quite hear why he is opposed to this.

I think, in light of the simple fact some of the more progressive governments in Canada have seen fit to abolish health care premiums, that that would seem at least one logical reason why this government, if it felt the same persuasion, ought to support that stand.

Yukoners now do pay the second highest medicare premiums in the country; only Ontario pays more. Here in Yukon, since 1978, there has been a 278 percent increase in the cost of those health care premiums. It seems to me that what is at stake here is a principle, a principle whether or not health care is a public service, a public right, and exclusive of ability to pay.

Like education, it seems to me, the answer is very clear and so is the motion before us.

We want to see premiums for seniors paid for out of general revenue; we want to see premiums for all Yukoners paid for out of general revenue.

I do not think that what is being proposed is either unpopular, impossible, or foolish. It is a very sensible approach to a basic service.

Now, I have here pages and pages with hundreds of names of people who signed a petition in support of this kind of a position for government. I have petitions from Dawson City, from Mayo, Stewart Crossing, Carcross, Faro, from across the Territory, that essentially say government health care premiums are far too high and they ought to be eliminated as a basic service.

I think, in addition to a number of the citations of argumentative support, I would like to add that Medicare premiums do tend to hurt the lower and middle income people worse than anyone else. On a percentage basis, you cannot call this a fair approach, to what ought to be—

Mr. Graham: Mr. Speaker, I rise on a point of order.

Mr. Speaker: Order, please, on the point of order.

Mr. Graham: I wonder if the Member opposite would permit a question?

Mr. Byblow: That would be okay, I was in the conclusion of my address. I will leave it to you more articulate and wiser people to try and demonstrate and argue why any government would be opposed to this motion.

Mr. Speaker: Is there any further debate on the motion?

Mr. Graham: Mr. Speaker, my question to the Honourable Member opposite was a legitimate question. What does he consider a low or middle income person?

Throughout the debate, so far, it seems to me that many of the Members opposite are dealing strictly with an emotional subject here. They have not bothered to research their facts and that becomes very evident throughout the debate. I think in many cases they do not really know what they are talking about, to be quite frank.

At the present time, the 1981-82 estimated revenue from medical premiums in the Territory are somewhere in the

neighbourhood of \$2,800,000 to \$2,900,000. In order for a government to raise that \$2,800,000 or \$2,900,000, we would have to increase personal income taxes in this Territory to somewhere in the 51 to 52 percent range from the present 43 percent range.

I think this question of Medicare premiums is one of the reasons the Honourable Member for Whitehorse South Centre attributes to his success in the by-election. I think mostly the success was due to the fact that he probably did not bother to tell anyone that he was talking to that it was going to cost an extra eight or nine percent in income tax. He also brought up the fact that several provinces do not charge Medicare premiums, but what he probably did not tell those people, is that those provinces have much, much higher income tax rates than does the Yukon. Those provinces have sales taxes. Is he saying that we should have a sales tax in this territory? I bet he did not tell any of those residents in Whitehorse South Centre that that is a very real possibility if you abolish Medicare premiums. So that is probably some of the success that he is talking about.

His preventative care spiel I did not quite understand because I have a couple of children and I am not sure what number of times I take these two children to well baby clinics. I consider that a preventative care feature that government offers to me as a health service.

So, preventative care is happening that he does not know about; I do not know why. Maybe he does not have any children, maybe he has never bothered to do the research and try and find out what is being offered.

It also comes as quite a surprise to me to hear him say that it is not really necessary to have medicare premiums. I keep getting back to the same thing; if it is not necessary to have these medicare premiums and all this money is going to come out of general revenue—we Anthony and the socialists figure there is a big pot that sits back there in the government storage room and that whenever money is needed you go and take it out of this big pot. Unfortunately, that does not always happen.

I also find it interesting that the Member for Whitehorse South Centre said corporations do not pay medicare premiums. Well, I used to, before I was elected, work for a group of people that paid some of my medicare premiums; at least, it did not all come off my pay cheque. I only paid 50 percent of the medicare premium of the day and I always felt that somebody else was paying that medicare premium. I also felt that if I did not have that medicare premium taken off my pay cheque, if I was given the full premium on my pay cheque as income and then I had to pay a larger income tax, both on that premium that was not being deducted and on the total pay cheque that I used to get, I found that I had to make somewhere in the neighbourhood of, I do not know, \$20,000 with my two children and wife, before it would make a difference to my income tax. I do not know about Members opposite, but I think that the vast majority of the people in the Territory are probably making more than that at the present time.

I also found that a single person working in the Territory, earning \$18,000 in a year, would probably find that he would just about break even. If he was paying the full medicare premium at the present time and if our income tax was raised to 52 percent then he might break even. He might make a little less because the income tax would take a tiny bit more than what his medicare premiums were but, at \$18,000, he would probably break about even.

What the Members opposite do not say is that somewhere down the road when these hidden costs come up and we do not get to debate the medicare premiums, we will institute a sales tax if necessary. I guess that is what he thinks. Then tell me your net cash outlay would be less than it is under the present circumstances; of course it would not be, you are going to pay more. That is the way it is.

It is interesting, too, that we hear about the Northwest Territories; the Northwest Territories do not have to pay medicare premiums, they also paid the exact same income tax as we do. What he did not say was that the Northwest Territories went

running hat in hand to the federal government for \$14 million, that they had a deficit on their budget. Does he tell us that we should go running to someone, hat in hand, saying we need another \$14 million to meet our budget commitments for the year?

Those are the kind of facts that the Members opposite are not bringing out and I think the people in Yukon have the right to know those facts before they make a decision. To have the Members opposite make all these fine statements—even the motion has got to be a little bit ludicrous, that this government abolish medicare premiums. Do not not say where the money is coming from, do not do anything else, just abolish them. We should abolish income tax, too. I am all for abolishing income tax; unfortunately, it is not very realistic.

I hope that the Leader of the Opposition will speak next and tell us what he considers a low and a middle income person to be. I will be very interested myself.

One point I think should be cleared up, too, is that when the Member for Faro said that we pay the second highest rates in Canada at the present time, it is not true, not true. If he gets B.C.'s rate, he will find that B.C.'s rate for a family is \$3.75 higher than is the Yukon rate. Now that is an error in fact, that is not an error in opinion, so perhaps he will check that out.

I do not know where some of the Members opposite come from, I really have a great deal of trouble with that. I guess I could go on at great length about some of the facts. I hear the Member for Whitehorse South Centre talking about myths that we have perpetrated, but it seems to me that he is living in a fairyland. He does not even want to start any myths, he wants to live in his own little fairyland out there, wherever he lives, I do not know. I am really interested in seeing where he comes from on some of these items. I just have a great deal of problems.

Anyway, I will not belabour the fact any longer. I am certain that if all of the facts were presented in a cold, dispassionate manner to people in Yukon and we allowed them to make up their own mind, you would find that people in this Territory would support the government's side of this argument.

Mr. Penikett: "Cold, dispassionate approach", I think, just about describes the Medicare increases that we had last year.

I welcome the intervention of the Member for Porter Creek West, who is back in fine old form, hyperventilating through his perforated myths. I do not think I have heard in this House before a speech asserting so many misuses of facts without a single statement of fact. I believe I counted one statement of fact in the Member's speech, the rest of it was the kind of delightful fantasy which we were used to when he was a minister. We all enjoyed it and were much entertained by it, but rarely, I should say, informed except when he had been properly briefed.

The former minister asks where the facts and figures come from; if they are unreliable, I apologise, but I am afraid we only have one source and that is the government records.

He asks a question of my colleague and friend, the Member for Faro. I appreciate the Member for Faro's modesty, as I am sure he would have been as able as anybody to answer the question asked by the Member about average income. I could not state the figures, but I could give the Member one very hard, economic fact of life that describes a reality in this society, or any other in the western world, that whatever the average income, given our economic system and given simple arithmetic, there are more people below average than there are above. That means that if you have a system that discriminates against the people below average, then there are more people who are going to get hurt than there are advantages.

Hon. Mr. Lang: ...unintelligible...

Mr. Penikett: Mr. Speaker, I am sorry, but the Minister of Tourism seems to be upset about something he calls socialism. I do not suppose he knows what it is, but the electors have had their first opportunity yesterday to pass an opinion on hairy-fisted conservatism, if you like, the sort of primitive Reaganomics and that sort of approach to government, and they

passed judgment yesterday at the first opportunity they had.

The weird notion that somehow the responsibility of government is not the government, the idea that government does not govern, that governments should stop doing things and run away and hide and participate in ceremonial function, that is not what government is supposed to do.

Let me say to the new Conservative over there, the Member for Campbell, you get bureaucratic growth and bureaucratic inflation when you tinker. You may find that one day that law is very cheap, it is programs that are expensive.

The former Minister complained about the lack of facts. Let me just introduce a couple of facts into the record. Yukoners now pay the second or third highest premiums, it does not make very much difference because B.C.'s just has recently increased, but they now pay the third, if you like, highest premiums in the country. Only Ontario and, perhaps, B.C. charge more. The premiums have gone up from \$57 to \$216 per year between 1978 and 1981. That is a 278 percent increase and there ain't any kind of inflation, even oil, that has gone up that much in that three year period.

Then there is the cost of Medicare. I will get to that in a minute. Health services have not increased, even though the premiums we pay have gone up by that astonishing amount. I stated before that it is a fact that medicare premiums hit hardest with the people least able to pay for them. Even the Conservation Leader admitted in his budget speech that low income people would pay more, as a percentage of their wages for health care, than high income people. Middle income people would not hurt under the revised income tax system we propose because the payments would be based on an ability to pay.

I think that in every case that the provinces have abolished premiums, and this is no relation to this but it is true, the level of health services and the number of things covered under Medicare is wider than Yukon.

We are in the development stage and there are all sorts of reasons for that, but the Government talked about the increases. In 1981, as I understand it, we are now paying 21 percent of the costs of the system. The year previously we were paying 10 percent.

The Member for Campbell threw out an interesting figure. According to him it would cost every man, woman and child in the Territory \$80 more a year if it was paid out of income tax. In a minute I am going to read you some comments from people in my riding, but let me tell you what the situation of a single parent is now. A single parent, even if the facts stated by the Member are true, would pay this year \$160 more under the system we propose if his figures are accurate, but, under this government's proposal, that same single parent pays \$189 more.

Yukoners pay directly far more than 20 percent of the costs of the health care premium. In B.C., I might point out, until the recent increase, it was only 7.8 percent. Even in Tory Alberta, the last heartland of the sort of wish fulfillment of the 19th century, it is less than 10 percent.

I asked my constituents what they thought of this increase and 264 of them responded with some helpful advice. Some of it is unprintable and would be unparliamentary, so I will not read those comments for the record. I will, for the edification of all Members, read some of the things that my constituents said to this question.

One lady said "I feel the increase is very unfair. Please let us pay according to our ability."

Another lady here was upset because there was no notice or time for her to adjust, on a tight budget. Another person said it was too fast a rise. Another person said that it was an awfully high jump. Another person said that they wished that they had been notified what the cost of Medicare per capita is in government expenditures.

Another person wrote me, "I truly support your feelings concerning the Medicare increase. I realize that there may be need for some increase, but I feel that what the government is

asking for is a little out of line."

Then this comment, which was typical of many comments I have, "It is very, very hard on single parents. Not a fair policy, not fair to singles, not fair to anyone. Unfair, unfair, not fair." Two ladies wrote to me and said, "We, the above, think the single payment is unjustified." A constituent from Wolf Creek wrote, "We are now uninsured, as the premiums for this year are higher than our doctors' bills for the last five years."

Self-employed people will be the hardest hit. Employees covered by Medicare paid for by their employers will not feel the pinch, but the self-employed will. It is a point that I made in a speech this spring.

Another lady wrote, "From \$6.50 to \$18.00. Is it not expensive enough in this country?" Another lady writes, "Please, not such a high increase." Other people said "disgusting", "exorbitant". "Can we be assured the quality of our medical care will rise 140 percent?" "Too high."

Another person pointed out what has been pointed out in this House, "If only three provinces now pay medicare premiums directly, I see no reason why the Yukon health care system should not do it under the income tax."

Another person said it is unfair. Another person said, "As a single parent with two children, ages three and seven, I find the new increase cuts deeply into our already tight budget, thanks to gas, food, oil and telephone increases. I wish someone would give an increase to me; I am a nonunion worker."

A gentleman who lives in Hillcrest wrote, "Another rip-off." "It is way too high for my amount of salary", says someone in Hillcrest. Someone else says "Too high." This person said, "There has got to be a more sensible way of financing Medicare. This person, who lives in Kopper King, says, "I protest the unfair rise in health care premiums and do believe it to be an erosion of our health care system."

This person, who lives on the south Alaska Highway, said, "The original idea of medicare is being eroded by imposition of fees." Someone here suggested that we could use some of the taxes from liquor sales, they are high enough, to pay for Medicare. So it goes on. There are people here upset, who did not understand it.

I am quite prepared, with the Member for Porter Creek West, to debate this issue publicly, to take whatever facts may be available and present them to the public in any kind of form. The facts, such as they were presented to the public by the ten members opposite, and critiqued by the five members opposite here, to the extent that they have been understood. 264 of my constituents did not agree and took the trouble to communicate back to me, send in the mail, put a 17 cent stamp on.

A number of people here, from the Kopper King Trailer Court, said "It is high enough and we do not want it to keep going higher all the time." These people are not making political statements but timed, serious, quiet, individual protests.

I will not go on reading from my constituency mail to the House, I am sure Members have their own, but I want to emphasize one point. I say this to the Government Leader, who I believe is capable of understanding the point, this is a tax policy question. The issue is, "Who pays?" The question is, "Is it fair?"

Some allusions were made from over there about the school system. Well, the health care system is as valuable, as necessary, as important a social right as the school system. I would never want to go back to the system that is being proposed or suggested by implication opposite, whereby only the well-to-do could go to school, that unless you had the fees to pay to go to school, as was the case one time, you could not continue in school. I never want to go back to that system.

The reason Medicare was introduced was to provide a uniform, universal health care system. A Party from the Province of Saskatchewan was attacked by opposing political parties for introducing a communist plot when they brought it in, but it is the single most popular program ever implemented by that government, and that government has been the government there for the best part of the last generation. It was so popular

that the federal government, only six or seven years after it was first implemented, went national. It is part of the fabric of this nation, part of what keeps this country together, it is part of the Confederation deal, that wherever you live in the country, no matter what your circumstances, rich or poor, you are entitled to a basic minimum of health care.

Now, we have made our political points previously, with the Minister, about wanting to see more emphasis on preventative health care and that is an issue for another time.

I want to submit to the Members opposite that the kind of tax they have proposed, that the kind of regressive tax they have proposed, is an imposition, is an erosion of the system. It is clumsy, it is inefficient, it is administratively ineffective, and it is ultimately a poorer way to collect the same revenue.

Let me say one last thing to any Member who wants to suggest that we are proposing a freebie. That is not it, what we are suggesting, for all of its flaws, for all its loopholes, for all of the inequities in it, is that the most fair system that we have is the income tax system, the one based on the ability to pay.

I will not support the proposal by the Member for Whitehorse Porter Creek West for a sales tax. I will not support the kind of proposal that we have here. What we have here is a sales tax on Medicare, on health, and we are opposed to it for the very same reason that we have always opposed that kind of tax.

I do not expect the government to make important and just and reasonable decisions like this until they have had time to consult with their very fine Public Service, although they seem to be continually attacking it, I do not know why, and saying that bureaucrats are terrible people. Actually, I represent quite a few of them and they really are very nice.

The point I want to make is that this is a principle. It has been suggested by the Liberal Leader that there is a problem of timing; I submit that. There may be all sorts of administrative questions that we may want to entertain and deal with. It is an important question, but it is a secondary question.

This House is being asked to address an opinion on a principle. We have stated ourselves very clearly on the principle. I urge all Members to do the right thing.

Hon. Mr. Lang: Talk about synthetic emotions. I cannot believe some of the half-truths that have been put forward on the floor of this House with respect to what we deem, on this side of the House, to be a very important issue.

Whether or not there is universal Medicare available to the public, to the citizens of the Yukon Territory, and, unlike what the Member opposite has implied in various statements that he made earlier, we are providing it. We provide it at a very reasonable cost in respect to any other jurisdiction in Canada.

The Honourable Member fails to tell the public when he says, "we are going to abolish Medicare premiums like in some provinces in Canada", that, when we go down to the province that does not have it they have got sales tax, income tax, they have got all sorts of hidden taxes that the general public must pay for, poor and rich.

If the Member opposite is implying that anybody is going to be put aside and not have to pay toward a universal medical plan in the Yukon Territory, I would go so far as to say that that is an untruth.

I am amazed, how...

Mr. Speaker: Order please.

Mr. Penikett: I would regard his remarks as suggesting that I made an untruth. Should he not, I would have a question of privilege, Mr. Speaker.

Hon. Mr. Lang: In respect to the Member opposite I may use the word misinformed. Perhaps that would be more appropriate.

Leaning further to my colleague from Faro who, since last Session, has moved remarkably to the left, if I might say so, I do not know what manifesto or what document he has read over the course of the summer, but it is kind of an interesting transformation in respect to where he speaks. I think there is an important point that has been lost in all the debating that has been going on, and that is in respect to what has taken place in

the last six months, in the petitions that the Member for Faro and, I believe, the Member for Whitehorse West, referred to, I know, from my own experience from talking with a person who happened to be in one of the areas, who was approached to sign the petition. The person who was carrying the petition did not know what he or she was talking about, because the individual was very well informed, sat down and explained exactly how the system worked. And the individual carrying the petition said, is that true? And to my knowledge, the individual in question did not carry on with the petition because all the information and the facts were put forward.

So, what I am saying is, and I go with my colleague from Porter Creek West, all the information is not being put forward to the public. And the major fallacy in the argument put forth by the NDP is the principle of income tax in collecting that money. There are six thousand to seven thousand transient workers that work in the Yukon during the summer months. In other words, they file their income tax elsewhere, and, subsequently, would not be charged, and would not pay for the medical care that would be put forward on their behalf if she or he were to get hurt.

So, what it does then, is put that much more onus on myself, who pays income tax, I am not too sure about the Member across the floor, who will have to pack that burden as well. So, I think there is a very major area, a very critical area, that has to be examined as to how we procure the money to finance such a plan.

I think it would be erroneous if the New Democratic Party, whatever they call themselves today, were to be put forward that they would have an agreement with Canada that we can tax these people off their income tax for this purpose. Well that is not the case. No federal government is going to permit that, especially in view of the Constitution.

It is fine for the Leader of the Opposition to stand up and say that there will be no sales tax, we will just increase the income tax. And I like this part where as soon as they get into the House, they are going to increase the income tax. They are not too sure how they are going to spend it, but they are going to increase it, and I am very glad that they are on that side of the House, from my point of view, as a taxpayer.

The point that I am trying to make is that yesterday they talked about housing, yesterday they talked about all the areas that we had to enrich with government programs. Today, they are going to abolish Medicare. And yet in the same breath, the Leader of the Official Opposition has the audacity to stand up and say that he is not going to put on a sales tax.

Well, I say to you, what are your options? I say the New Democratic Party stands for a sales tax and that is why I could not support them.

Applause

Mr. Speaker: Order, please. The Honourable Member has already spoken in this case.

Mr. Penikett: Question of privilege, Mr. Speaker.

Mr. Speaker: On the question of privilege, proceed.

Mr. Penikett: The Member who has just spoken has seriously mislead the House, just now. I want him to know that the Tory Government of Manitoba in 1969 was defeated by the NDP on exactly the issue of the sales tax, sales tax imposed by the Tories and opposed by the New Democrats.

Mr. Speaker: Order, please. I think earlier today, during the Question Period, I cautioned Members about the use of the word "mislead." The Honourable Leader of the Opposition must certainly know that he does not, in fact, have a case of privilege. What has happened is that there is a dispute between two Members as to an allegation of facts. I am wondering if, in the interest of good parliamentary practice, and in the interest of assisting the Chair, if Members would refrain from rising on questions of privilege which are known not to be questions of privilege. I think the temper of debate is such that a good debate is wholesome and healthy, and I know it is difficult, but I would ask both sides of the House for this courtesy.

Is there any further debate on this Motion?

Mr. Falle: I look at this motion and, boy, do I ever agree with it. The abolition of all bills. Boy, that is great. I sat over here in my new seat this week and I have heard the Honourable Members from the other side say we should build houses for everybody, more public housing. Now we have this Bill in front of us and noone, through the debate, has told me where we are going to get the money to pay the fiddler. But they are all calling the tune.

I certainly wish somebody would explain to me where we are going to get the money to get to pay for Medicare. We have a good Medicare. Surely, nobody on the other side is saying that we have poor Medicare, and Medicare is going to get cheaper. Sure, you run around and ask people if they think Medicare is too high. You bet it is too high. You go down the aisle and ask the guy next door if he paid too much for his car. Sure, it was too high, too. Everything is high. But, whether you put it on income tax or you charge it direct, it is still going to be high. That is my point. Nobody has told me where it is going to be any cheaper. It is very irresponsible of them.

Mr. Speaker: I must caution the Honourable Member for Whitehorse South Centre that by speaking now his speech will close the debate. Proceed.

Mr. Kimmerly: I will be brief and I will attempt to restrain myself from being too emotional, as Members opposite have been.

There are, obviously, disputes as to facts, and allegations of not putting all of the facts before the public or before this House, The Members opposite have made reference to a sales tax. We have not, and we do not. The reference to a sales tax is a cheap political trick, to try and put a sales tax beside medicare premiums and say it is one or the other.

Well, it is not so. A sales tax is every bit as regressive a tax as the medicare tax. We do not stand for a sales tax. It is Members opposite who stand for those kinds of regressive tax.

Mr. Graham: On a point of order, Mr. Speaker, a point of privilege.

Mr. Speaker: Order, please.

Mr. Graham: I am sure the Member opposite would wish to withdraw his remark about a cheap political trick, as he knows that it is not a parliamentary statement.

Mr. Speaker: The Chair would agree that the statement would be considered to be unparliamentary. Is the Honourable Member prepared to withdraw the statement?

Mr. Kimmerly: Yes, Mr. Speaker, if that is your ruling.

Some Members: Question.

Mr. Speaker: Question has been called. Are you agreed?

Some Members: Division.

Mr. Speaker: Division has been called.

Mr. Clerk, would you kindly poll the House?

Hon. Mr. Pearson: Disagree.

Hon. Mr. Lang: Disagree.

Hon. Mrs. McCall: Disagree.

Hon. Mr. Lattin: Disagree.

Hon. Mr. Tracey: Disagree.

Mr. Njootli: Disagree.

Mr. Falle: Disagree.

Mr. Hanson: Disagree.

Mr. Graham: Disagree.

Mr. Fleming: Disagree.

Mr. Penikett: Agreed.

Mr. Byblow: Agreed.

Mr. Kimmerly: Agreed.

Mr. Veale: Agreed.

Mrs. McGuire: Agreed.

Mr. Clerk: Mr. Speaker, the results are five yeas, ten nays.

Mr. Speaker: It would seem that the nays have it.

Motion defeated

Motion Number 18

Mr. Speaker: Is the Honourable Member prepared to deal with Item 2?

Mr. Falle: Next sitting day, Mr. Speaker.

Mr. Speaker: So ordered.

We will now proceed to Public Bills and Orders than Government Bills and Orders.

Public Bills and Orders Other Than Government Bills and Orders

Bill Number 101: Second Reading

Mr. Penikett: Next sitting day, Mr. Speaker.

Mr. Speaker: So ordered.

Bill Number 102: Second Reading

Hon. Mr. Lang: In speaking to the principle of the Bill, I recognize it has been some time since this particular Private Member's Bill was tabled. Since that time, my colleague, the Minister of Consumer and Corporate Affairs, has been doing a fair amount of work in respect to that piece of legislation.

The Bill has a couple of good points to it, I think, but, in view of what we intend to proceed with later in this Session, the tabling of a Green Paper on labour legislation, it would now be inappropriate for us to accept an amendment to the *Labour Standards Ordinance* in a piecemeal fashion.

Therefore, Mr. Speaker, we cannot support the bill.

Mr. Byblow: I am not clear that I understood what the Minister was trying to tell us with respect to his government's position and his government's commitment, earlier this spring, about introducing a labour standards ordinance at this sitting.

I think, if I interpret the Minister correctly, what he is saying is that he is opposed to permitting an increase to the minimum wage in Yukon. Certainly, in light of the present situation, where we do have the minimum wage tied to a federal scale, where we have a very limited increase to the minimum wage permitted each year, where, right now, \$3.60 is the minimum wage, I find it almost incredible that the government would be opposed to permitting some change to take place, to open up that opportunity for the minimum wage to change.

I think that it is important to note that I did not hear the Minister address the second section of the Bill, dealing with occupational health and safety. I certainly would like to hear considerably more debate on that principle of the Bill, something that is very basic to working conditions.

I cannot say that the government has taken this particular Motion seriously and, if they vote against it, they are voting against an opportunity to improve conditions in the Territory for the working public.

Mr. Kimmerly: It is obviously the intention of the government, on the question of amendments to the *Labour Standards Ordinance*, to wait until Spring. It is the position of the Members on this side that we do not wait until spring, but do it now."

If the Members opposite vote against this Bill, it should be public knowledge, and will be, that they are voting against raising the minimum wage from \$3.60 to \$4.00. The minimum has fallen well below what it now should be and I would urge Members opposite, again, not to wait for spring, do it now.

Mr. Veale: I raise to take issue with the statement by the previous speaker. The suggestion that there are no people in this territory working on the minimum wage, I believe, is incorrect. The record will show what the Minister said, but there are people in this territory who work on the minimum wage and that minimum wage is simply unacceptable. If this Government were prepared to say that they were going to raise the minimum wage this session to the extent that it is raised in this Bill, I would not have any problem waiting for that. The Government is not saying that, it is saying we may wait forever. We do not know what is in the Green Paper. If the Government gave a clear statement, I am sure that all Members would be happy to hear that it would be coming in the next Session, but we do not want to wait for the next Session, or whenever, for people on minimum wage to be paid properly, so they can survive, and it is a question of survival. I am in favour of the Bill.

Mr. Penikett: I would like to very briefly conclude the de-

bate on second reading. This is my Bill and I want to make it quite clear, as I did when I introduced it, that I do not regard this particular proposal on the minimum wage, the exact dollar amount, to be the solution. Not only do I believe that there are a considerable number of people getting the minimum wage, I know many of them. It is an important principle, not only to unlock it from the federal minimum wage, in recognition of our higher cost of living, but it is important to assert that this House should from time to time recognize the reality of inflation. The second principle of the Bill is another very important one for working people.

I do not want to get into the merits of the specifics, since this is a debate of the principle, but let me urge Members, because we have waited not one year, or two years, but three years. It was the last Legislature who first did the work on labour standards. We have been promised it ever since we came in here. It is not ready yet. We have not got it. We are going to get a Green Paper now, which means, at the very earliest, we can probably get legislation in the spring. We may have the complete life of the legislature go through before we get very many much needed amendments. Now, this is not the final word on that problem. I would submit, and I say so with the greatest respect to the Members opposite, that if we pass this Bill at Second Reading and put it into Committee, with the new committees structure, there are a number of possibilities for us. Referring the subject matter of the Green Paper can be done or, in fact, combining the subjects. I am sure the Members opposite would not want to be in the position of opposing a very modest and very slight increase in the minimum wage for our workers at this time.

Mr. Speaker: Are you prepared for the question?

Some Members: Question.

Mr. Speaker: Are you agreed?

Some Members: Division.

Mr. Speaker: A division has been called. Mr. Clerk, would you now poll the house.

Hon. Mr. Pearson: Disagree.

Hon. Mr. Lang: Disagree.

Hon. Mrs. McCall: Disagree.

Hon. Mr. Lattin: Disagree.

Hon. Mr. Tracey: Disagree.

Mr. Njootli: Disagree.

Mr. Falle: Disagree.

Mr. Hanson: Disagree.

Mr. Graham: Disagree.

Mr. Fleming: I may abstain, Mr. Speaker. I think that I was on the other side of the House when that Bill was submitted and also backed that Bill to a certain extent. I think there is some good logic in it. I am prepared to abstain because I am not going to put myself in to a position where I should vote against something which I really, at one time, did back. Therefore I wish to abstain, if possible.

Mr. Speaker: Order please.

It is not normal, in calling a vote, for members to debate, but on the privilege I must rule that the honourable Member does not have a question of privilege. Mr. Clerk, would you please continue.

Mr. Penikett: Agreed.

Mr. Byblow: Agreed.

Mr. Kimmerly: Agreed.

Mr. Veale: Agreed.

Mrs. McGuire: Agreed.

Mr. Speaker: Before the completion of the vote, I should advise the honourable Member that under the rules of the House, if a Member is present in the House, he must vote. If a Member ever wishes to abstain from voting, the time period allowed before the poll is taken, after division is called, is allowed so that a Member may leave the Chambers. So, I would think that I would have to ask the honourable Member for Campbell to cast either a yea or nay vote in this matter.

Mr. Fleming: I will agree, Mr. Speaker.

Applause.

Mr. Clerk: Mr. Speaker, the results are six yea, nine nay. Motion defeated.

Bill Number 103: Second Reading

Mr. Hanson: Next sitting day, Mr. Speaker.

Mr. Speaker: So ordered.

Bill Number 104: Second Reading

Mr. Kimmerly: I move, seconded by the Honourable Member for Whitehorse West, that Bill Number 104, *An Ordinance to Amend the Elections Ordinance, 1977*, be now read a second time.

Mr. Speaker: It has been moved by the Honourable Member for Whitehorse South Center, seconded by the Honourable Leader of the Opposition, that Bill Number 104 be now read a second time.

Mr. Kimmerly: This is a very simple Bill. It is designed to correct, what I believe is an oversight in the *Elections Ordinance*, specifically in Section 45 of the Ordinance.

The Bill simply changes the wording to read that, "the polling stations in an election shall be in premises of a convenient access to handicapped persons." The old section of the Ordinance was drafted in a fairly loose way, saying, "if possible."

The intention, in this International Year of the Handicapped, is to direct those managing elections to put the polling stations in premises which are convenient to handicapped persons. It is a reasonably simple Bill, and I purposely kept it very simple, in the hope that it would be passed in this International Year of the Handicapped.

I would move adjournment of further debate until the next sitting day.

Mr. Chairman: That, I am afraid, is not possible, as the mover of the Bill is not able to amend it in any way. Debate, thus, must continue.

Hon. Mr. Pearson: We, on this side, like the Honourable Member who has moved the Bill, are very, very sympathetic with what is said in it. But the Honourable Member should know that it is our intention, and this is a guarantee from me, to table a Bill at this session of the Legislature, with a large number of amendments to the *Elections Ordinance*. This subject will be one of the sections that we will be proposing for amendment.

So, we are proposing that because it is completely unnecessary and also because it is part of a government bill, we intend to vote against this Bill at second reading at this point in time.

Mr. Speaker: I would perhaps be remiss in my duties in the Chair if I did not present to the House, as I ought to have, perhaps, in the last Bill we discuss, the rule that states that a matter having been decided at one Session cannot be changed at that same Session. Perhaps when Members are dealing with Bills they may wish to withdraw them in order that corrections could be made, or find some other way in the parliamentary process to deal with it, than defeating or accepting a Bill. A decision having been made by the whole House cannot be reversed at the same Session.

The Honourable Member, now having spoken, will close the debate.

Mr. Kimmerly: I would withdraw this Bill on the undertaking of the Government Leader that this matter will be addressed as a government bill in this Session.

Mr. Speaker: Does the seconder agree to the withdrawal of the Bill?

Mr. Penikett: I seconded the Bill, I consent to the withdrawal.

Mr. Speaker: It will require the unanimous consent of all Members of the House to have this Bill withdrawn at this time. Does the House consent?

Agreed

Mr. Chairman: The Bill is ordered withdrawn.

Bill 105 second reading

Mr. Kimmerly: I move, seconded by the Leader of the

Opposition, that Bill 105, *An Ordinance to Amend the Liquor Ordinance*, be now read a second time.

Mr. Speaker: It has been moved by the Honourable Member for Whitehorse South Centre, seconded by the Honourable Leader of the Opposition, that Bill 105 be now read a second time.

Mr. Kimmerly: This Bill is a very, very simple bill repealing section 103(2)(B) of the *Liquor Ordinance*. The intent of the Bill and the purpose for which it is introduced, is to correct a problem that occurs in Whitehorse, and specifically in Whitehorse South Centre, and also in Mayo, as well as, on some occasions, in Dawson City. The problem is that under section 103 of the *Liquor Ordinance* municipalities may, if they wish, bring in a public drinking restriction, or a ban on public drinking, as it is commonly called. The public drinking ban does not apply to certain places and it does not apply because the jurisdiction of the municipality under this Ordinance is only to ban public drinking in public places. The Ordinance, under section 103(2)(b), defines what a public place is deemed in law to be, and one of the things it says is that a public park is deemed not to be a public place for the purposes of this Ordinance, even though a park clearly and obviously is a public place. The intention is to not give the jurisdiction to municipalities to ban public drinking in public parks.

The problem in Whitehorse has developed this way. There are some people, most of whom are probably alcoholic, who are going to drink anyway and the ban on public drinking simply determines where they are going to drink. If they drink on the public roadways or in alleys, that is a public place, and the police, if they catch them, can generally charge them, or take them into custody, at least until they are sober. What occurs is that those people who are going to drink in any event go to places where they will not be bothered by the police, and under the law it is not illegal to drink in public parks, and in Whitehorse South Centre, the park is Rotary Park. What occurs is that many people, much more so in the summer than the winter, congregate in Rotary Park and drink publicly there, and what occurs is there is a spectacle of public drunkenness and a substantial problem with broken glass and other kinds of littering.

The Rotary Park is the only decent park where children can play in the south end of downtown Whitehorse, and the present situation is such that Rotary Park in the summertime is not a fit place for children to play because of the spectacle of public drunkenness and the broken glass.

This Ordinance will stop the loophole. It will allow the police to correct the situation in Rotary Park. It will not cost the taxpayer any money, and if there are other problems about other specific areas in the territory, there is another section already in the *Liquor Ordinance* allowing the Commissioner and Executive Council to make regulations regarding the specific definition of a public place, in some places, and public campgrounds and tenting areas can and should be dealt with under that section.

In order to be absolutely clear, the repeal of section 103(2) does not mean that people who camp, and therefore have a temporary home, would not be allowed to drink. There is provision under the law to allow them to drink, if they so desire, in appropriate circumstances.

Mr. Hanson: I have to rise on this Bill, and I will not be supporting it. I do not think that the Members of this House should have the right to decide whether people in Mayo should drink in the Waterfront Park or not. I have phoned the community, and I know that some of the community are in support of it, but not all members. I suggested that they go ahead and take a petition, take it to the LID Board. This Bill, as proposed at this time, goes further than that. It will deny them the right to vote, whether they want to drink in that park or not. I disagree with it entirely. At one minute the Members opposite are saying, let the people out there decide, and the next minute reminds me of a sticker that was put on my door in the South

Riverdale election, which said, "vote Liberal, Ottawa knows best". This is much the same attitude that is happening in this Bill. I disagree with it heartily.

Mr. Fleming: I must rise against this Bill, not for the reasons that it is a bad Bill, but I feel that it is going to disturb many people. I think that if you withdraw this section, it is going to take effect all over the Yukon. I cannot agree with that, when the government has already allowed the communities to do their own thing. The place for the Member to go is the City of Whitehorse, if he feels the campground or the park, or the public beach in Whitehorse is a problem. I do not think that the Honourable Member would go to the City of Whitehorse with that problem. They too, have the right to open it up. I see some heads nodding that they do not, but we have done very well in Teslin. It says here that a public place does not include those. I still feel that this is going to affect the whole of the Yukon.

I am wondering if this does not also prevent drinking in a vehicle, which is considered a public place? I am just wondering about these things.

I cannot support this motion.

Hon. Mr. Lattin: I also will be voting against this Bill.

I think it very inappropriate that, because of a few people who might be abusing the law, the entire people of Yukon will have to suffer.

I believe that it is going against the freedoms of all Yukoners if we allow ourselves to let a few people interfere with privileges which we may have.

If we go ahead with this Bill, I want everybody to be aware that you will not be able to go down to Wolf Creek and have a lunch with your family, and enjoy a beer.

The other reason I am against this Bill is that I do not think that we have the right to tell people anywhere in the Yukon what they must do in their communities. I feel that we are not addressing this problem properly, by passing this Bill.

As far as the Liquor Corporation is concerned, which I am responsible for, we are looking at the whole field, and we have quite a few proposals to bring up, and in the Spring Session, we will be bringing in amendments to the *Liquor Ordinance*. I am sure that at that time we will address this particular problem, after having many, many consultations with people who urge this. At this time, I have to vote against this particular Bill.

Mr. Kimmery: The points I wish to make are basically two.

First, the law deems a public park not to be a public place. That is obviously silly. A public park is a public place. If we are not going to allow drinking in public, but we are going to allow it in public parks, than that is inconsistent.

Secondly, the people have spoken on this issue. They spoke on October 13.

Motion defeated

Mr. Speaker: We will now proceed to Government Motions.

Government Motions

Government Motion Number 12

Mrs. McGuire: I welcome this opportunity to speak to the resolution presented by the Government Leader on his government's busy and productive program. I love this type of report. It leaves much to the imagination. The report also gives one the impression that the Government Leader is either very, very tired, or, he just does not give a damn anymore, if you pardon the expression.

Mr. Speaker: Order, please. I wish that the Honourable Members would keep their language as parliamentary as possible. I think it is important, and I must serve notice that the Chair will look very, very closely at such breaches in the future. Proceed.

Mrs. McGuire: My apologies, Mr. Speaker.

In his first paragraph he says, "We have improved or extended a number of government social and educational services." What it does not say is what they are. Could he mean that he has raised the ante on welfare funds? This is all very

good if this is so. I do agree with the idea, but only if we can see something productive come out of the end results. If I may, I would like to quote the Government Leader some figures. These figures are not up to date. I was unable to get the proper information for 1980 figures, so I quote from 1979.

Approximately \$1,300,000 was doled out to some 4,500 people in the territory. This figure does not include Status Indians. Do you realize that this means that at least of one-fifth of Yukon's population collected welfare during that year? I would like to say that I have no qualms whatsoever about paying out funds to people who are in real need. The single parent families, the families with sickness, and the disabled or people suffering from undue or unexpected hardships. It was for these people that welfare was created.

I do not mind the Government paying out monies on a visible need such as Medicare. We know that every man, woman, and child must have Medicare and it cannot be abused. However, I personally think that the whole welfare system stinks. I own and operate a business in Haines Junction and I pay the top dollar for wages and sometimes include room and board. However, during the time I am absent from my business, as I am now, I am forced to shut down my store, and my motel. Why? Because I cannot find anyone willing to go to work. I operate a cafe with a staff of one person. Why? Because I cannot find anyone willing to work. They are either sitting on welfare or drawing unemployment insurance for the winter.

I know able-bodied families in my area who live the year round on welfare subsidies for either their food, rent or utilities and sometimes all of those items. I know of an able bodied man who draws welfare, yet he can write you a cheque any day of the week from an outside bank. The list could go on and on all over the Yukon. But what can one prove? Who would listen to you?

On November 12, of this year, Mr. MacEachen, the Minister of Finance, delivered to the people of Canada, not only a budget, but a message as well. That message says that we must all economize, we must all tighten our belts if we ever hope to regain an economic balance in the Canadian system.

Welfare and unemployment funding in Canada today is big business. One-half of the recipients I can accept, the other half I cannot. And the message I am giving the Government Leader today is that he must devise a welfare system that will work hand in glove with all employment agencies, the unemployment office, thus creating a close monitoring system of all recipients. In other words, crack down on this give-away game and stop making dropouts of Yukon people.

But, I am still surmising what the Government Leader means by improving social services in his speech. Perhaps he meant improvement in Drug and Alcohol Services. Now, if this is the case, then I am eagerly waiting to hear about them. This government almost made a breakthrough on the alcohol and drug scene, through a conference that was scheduled for November 17. However, it was cancelled, unannounced, by the Minister responsible. Perhaps I should say, delayed, rather than cancelled. Now, the question here is, delayed until when? What month and what year? No one seems to know. But, in keeping up the image of government, and indeed all governments, we must have delays and postponements.

I, personally, was very disappointed, and somewhat angered, by the postponement of this conference. When I think of all the work that went into putting this conference together, all the people who were involved, and then cancelled out, and all the money that was spent. I am sure that everyone in Yukon knows that, of our social problems, the use of alcohol and drugs tops the list as number one. The main purpose, I want to explain, of the conference was to revamp the whole system of alcohol and drug services, which now is neither a workable or successful system. It was to involve people who lived with, or participated in some capacity with, this social problem. People who had solid ideas on both prevention and cures, ideas that no social worker would know about.

The conference was to involve alcohol and drug workers who hoped to gain new knowledge and valuable working tools, as it is the main complaint of alcohol and drug workers that they have very little, or no, training at all to carry on their work in a productive manner. Although they have the initiative and they have the drive and they have the compassion to take on this kind of a job, most community workers are simply drawing a pay cheque while floundering about without training, without programs, and without direction of how to do their job, even though the intent is there.

I am saying to this government, the Government Leader and, in particular, the Minister of Health and Human Resources, that we have run out of time. We have no more time to waste talking about this subject. Now is the time for action, and I want to make it clear that this does not mean involving any more money, but putting into productive use the money we already have.

I will now skip lightly through the contents of the Government Leader's speech and zero in on a paragraph where he talks about good faith and commitment of his government to the Yukon Indian land claim settlement. Also, the Government Leader has stated many times, publicly, that his government supports the Council of Yukon Indians, that his government cooperates with the Council of Yukon Indians, that his government works hand in hand with the Council of Yukon Indians in their claim for settlement. Well, I for one, note that that is not true. The truth is that this government, and I know this has happened, has been dragged kicking and screaming throughout the entire land claims process.

Yesterday, the Council for Yukon Indians representatives were in this very building. Now, can you imagine, lobbying this government for support in their fight to have aboriginal rights reinstated in Canada's Constitution. Now, we want to inform this House, and the public, that the Council of Yukon Indians did not get this government's support. This government, who talks about faith, good faith, and commitments. This government, which supposedly represents all Yukon people. I tell you, Mr. Government Leader, who is not here, but if he were, that I would not lobby this government for a postage stamp.

I have come to the conclusion that the Government Leader and his government will not listen to anything, not even concerns of vital importance to the territory and to its people.

Since Thursday, the 12th of this month, my Liberal Party Leader, Mr. Veale, has been trying to get this government to debate two vital issues, of vital importance to the Yukon: the exclusion of aboriginal rights and the inclusion of the extension of existing provinces into the territory. Mr. Veale has spent

long hours researching and revealing the stark facts that could, and will, happen to us if we do not put up a strong fight on these two issues. Time is fast running out and it appalls me to see this government sitting here and not raising a finger.

Mr. Veale suggested in his speech concerning these two issues, that sinister plots were hatching within the provinces, that the provinces were looking upon our lands and our resources with greedy eyes. I am sure that this government's Leader knows all about it. And I only wish he were here to deny it. I am very suspicious of all the foot dragging that he has been doing, and his refusal to accept motions on the floor to discuss this matter, his supposed lack of knowledge of what is going on. We know, and he knows, that he has a hot line into every province of Canada, yet he comes out in the news media, on November 11, saying, it is too early to tell what the proposed Canadian Constitution can mean to the residents of the Yukon. Well, I will tell you that the *Toronto Globe and Mail* had this information on November 6, and I am suggesting here today that the Government Leader also had that information on November 6.

I understand that the Government Leader is going to present a motion dealing with the issues of this Constitution. I now feel that this is a useless exercise. There is no point in closing the barn door after the horse has left. We are too late.

Right now I feel deep resentment towards this government for leaving the Territory, my Territory, open for abuse.

Applause.

Mr. Speaker: Is there any further debate?

Motion to adjourn debate on Motion Number 12.

Mr. Byblow: I would like to move, seconded by the Leader of the Opposition, that debate on Motion Number 12 be adjourned.

Mr. Speaker: It has been moved by the Honourable Member from Faro, seconded by Honourable Leader of the Opposition, that debate be now adjourned. Are you prepared for the question?

Motion agreed to

Mr. Clerk: Item Number 2, standing in the name of the Honourable Mr. Pearson.

Mr. Graham: He was forced to step out of the room for a few minutes. I sure he will be right back. He wished to proceed with this Motion today.

Mr. Speaker: It is not possible for the House to recess at this time and it is the duty of the Chair to proceed with the Order Paper. Perhaps we could proceed with another item.

Mr. Penikett: On a point of order. It appears to me that the next two items are standing in the name of the Government Leader. I wonder if the Government Leader cannot be here to proceed with these items, if in fact that I could move, seconded by the Member for Porter Creek West, if he is willing, that Mr. Speaker do now leave the chair and that the House resolve to the Committee of the Whole?

Hon. Mr. Lang: On a point of order. The Government Leader is on his way down and will be prepared to continue discussing these issues.

Mr. Speaker: I am afraid that the House cannot stay in recess. It is the duty of all members of the House, as members, to proceed with the business on the Order Paper as it is placed on the Order Paper and it is very difficult for any Parliament to hold up proceedings for the service for any Member. I will entertain the Motion as presented by the Honourable Leader of the Opposition. Do I have a seconder?

Mr. Veale: Yes, Mr. Speaker.

Mr. Speaker: It has been moved by the Honourable Leader of the Opposition, seconded by the Honourable Member for Riverdale South that Mr. Speaker do now leave the Chair and that the House resolve into Committee of the Whole. Are you prepared for the question?

Some Members: Question.

Motion agreed to.

COMMITTEE OF THE WHOLE

Mr. Chairman: I call the Committee of the Whole to order. We will be discussing Bill Number 70. I will call a short break at this time.

Recess

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

Hon. Mr. Graham: I move that you report progress on Bill Number 70 and beg leave to sit again.

Mr. Chairman: It has been moved by Hon. Mr. Graham that report progress on Bill Number 70 and beg leave to sit again.

Motion agreed to

Hon. Mr. Graham: I move that Mr. Speaker do now resume the chair.

Mr. Chairman: It has been moved by Honourable Mr. Graham that the Speaker do now resume the chair.

Motion agreed to

Mr. Speaker resumes the Chair

Mr. Speaker: I will now call the House to order. May we have a report from the Chairman of Committees?

Mr. Njootli: Mr. Speaker, the Committee of the Whole has considered Bill Number 70, *First Appropriation Ordinance*, 1982-83, and directed me to report progress and asks leave to sit again.

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

Motion agreed to

Mr. Speaker: We will now proceed with Government Motions.

GOVERNMENT MOTIONS**Motion Number 19**

Mr. Speaker: Is the Honourable Member prepared to deal with item 2?

Hon. Mr. Pearson: Yes Mr. Speaker.

Mr. Speaker: It has been moved by the Honourable Government Leader, seconded by the Honourable Member from Whitehorse Porter Creek West THAT the membership, as established by Motion Number 15 of the Fourth Session of the 24th Legislature, of the Special Committee on Food Prices be revised:

(1) by rescinding the appointment of the Honourable Mr. Tracey, and

(2) by appointing Mr. Hanson to the said Committee.

Motion agreed to

Motion No. 20

Mr. Speaker: Is the Honourable Member prepared to deal with item 3?

Hon. Mr. Pearson: Yes Mr. Speaker.

Mr. Speaker: It has been moved by the Honourable Leader seconded by the Honourable Member for Whitehorse Porter Creek West that the following address be forwarded by the Speaker, on behalf of the Members of the Yukon Legislative Assembly, to the Prime Minister of Canada:

WHEREAS Members of the Yukon Legislative Assembly support the land claims negotiations taking place between the Governments of Canada and Yukon and the Yukon Indian People wherein aboriginal rights held by Yukon Indian People over certain Yukon lands are to be extinguished and replaced by new clearly defined rights to be enacted in settlement legislation;

AND WHEREAS the aforesaid members desire the settlement legislation to be entrenched in the Canadian Constitution;

AND WHEREAS the aforesaid Members recognize the present aboriginal rights of Yukon Indian people and are desirous that they be recognized and affirmed in the Canadian Constitution, but in a manner that will not impede the settlement of the Yukon Indian Land Claims and the ultimate entrenchment of

the settlement legislation;

BE IT RESOLVED THAT the Members of the Yukon Legislative Assembly urge the affirmation of the aboriginal and treaty rights of the Aboriginal Peoples of Canada in the Canadian Constitution provided that the aboriginal rights shall be construed as having the legal status of rights cognizable at common law;

AND BE IT FURTHER RESOLVED THAT the Members of the Yukon Legislative Assembly urge that provisions be made in the Canadian Constitution whereby the aboriginal rights of Yukon Indian people may be extinguished and replaced by new clearly defined rights to be negotiated and enacted in settlement legislation and entrenched in the Canadian Constitution.

Hon. Mr. Pearson: This is a very, very important Motion, which comes before this House, at this particular time. It is made all the more important by the fact that the proposal for a new Canadian Charter of Rights and Freedoms in the constitutional package, has just been tabled in the House of Commons, by the Prime Minister. It will undoubtedly be debated at some length

For the edification of Members on the other side, the proposal now before the Members of the House of Commons does not include what was Section 34 in the old proposal.

Section 34 was the section commonly referred to as the one that gave aboriginal rights to the Native peoples throughout Canada, and in particular those that we are most interested in here, the ones in Yukon.

I have been made aware of objections to the Motion as it is written, and as it is before you, but I want to assure you, and all Honourable Members, that it has been very, very carefully written.

We are saying, in as clear a manner as we can, exactly what we said a year ago, that we feel very strongly on this side that aboriginal rights for Native People in the Yukon Territory must be enshrined in any Canadian Constitution that is written.

I would like to quote from my submission to the Special Committee of the House of Commons and Senate in respect to this issue, "The Canadian Constitution should recognize not only the essential duality of Canada, but also the fundamental cultures of all its regions. We believe a clear and direct declaration that Canada recognizes the rights of its original peoples, must be contained in the Charter of Rights. We cannot detail these rights because, in Yukon, they are now subject to negotiations."

Now, no matter what anybody else says, that is what I said to the Committee. That is word for word what I said to the Committee. And that thought is reflected exactly in this Motion. There is no flip-flopping, there is no changing by anyone in respect to this. I might say that most of the Native people in the territory do understand why we, on this side, feel that we have to take this particular stand, and why we feel that Section 34, the way it was written, was just too much.

Our legal advice in respect to Section 34 was, and is, that if it prevails and for some reason we cannot get not only an agreement in principle, but a land claims settlement in Yukon with enabling legislation, with settlement legislation, within the prescribed time, which was, at that time, two years. I understand in this new legislation it has been rolled back to one year. Then, not only would the Council for Yukon Indians, who are negotiating on behalf of the native people of Yukon, with the Government of Canada, this land claim that they have been at for some long years, not only would they have to get the Government of Canada's approval for their settlement legislation, but, they would have to get the approval of two-thirds of the provinces.

Now, as I say, that is legal advice that we have received. My assessment of it is that it is good legal advice. I am confident that there is other legal advice that says no, that is not so. But, in fact, I know that the provinces interpreted Section 34 that way.

So, our number one priority, from the day we were elected, is a settlement of land claims. That is what we are here to do.

That is what we want done first and foremost in this territory.

And, our perception is that more people want a land claims settlement than anything else in this territory right now, Native and non-Native alike. And it is our legal advice that Section 34, the way it was written, would be a hindrance, and could be a complete stumbling block to a land claims settlement, ever. I recognize that there are some people with legal backgrounds on the other side of the House, but I do want to assure them that this is a factor that has concerned us for a long time. It is also one, as I said, that has concerned a number of the provinces. It is also one that I know concerns the Department of Justice, because at the time that Section 34 was put into the Constitution, that little problem was not perceived.

I would respectfully suggest it is just another one of those instances whereby something was done without our consultation, that may well have caused severe hardship on everyone in this territory. It could have been avoided if only they would have asked us before they put it into place.

We, as concerned Canadians, have looked at the Constitutional package in as constructive a manner as possible and we want to continue doing that. This Motion makes it clear, then, that Section 34 should not be what goes into the Constitution. But we want to make sure that the aboriginal rights of the Indian people of Yukon are protected between now and the time that there is a land claims settlement. We are confident there is going to be one. We are confident there is going to be one soon. But we have absolutely no quarrel with their concern that, if there is not something there, they are going to be ignored.

There is a strong possibility that section 25 of the new Accord will, in fact, protect aboriginal rights. I know that it is the feeling of most of the provinces that were signatories of that Accord, that section 25 does, in fact, protect aboriginal rights. I kind of suspect, although I do not know it, that that is the reason that the Prime Minister refused the Natives last week, when they were with him, and he had the opportunity to put section 34 back in. He told them, at that time, that he would not do it. I believe, because he has taken another look at that, he has also looked at Section 25, which provides some protection for aboriginal rights. It says that they cannot be abrogated in any way.

Now I do not think that anyone has any argument with the second half of our Motion and I certainly hope no Members on the other side have any argument with it, because the Council of Yukon Indians and the Indian people in the territory do not have any argument with it.

We intend, through the process that is now in place, to carry out our mandate and the mandate of the government of Canada, which was to extinguish an aboriginal right that existed in this territory for native people, and to replace it with another set of aboriginal rights. They will be clearly defined.

What we are saying is, when those rights are clearly defined in settlement legislation then they should be part of the Canadian Constitution. That is really what the objective has been for the past three years that we have been in office, to get the land claims settlement, to get settlement legislation, which will be federal legislation, in place, to clearly define exactly what the aboriginal rights of all of the native people in Yukon are. At that point in time we want to make sure that the Indian people, the Native people are protected forever as a result of those negotiations. We do not want to see those rights taken away from them again or deteriorated in any way, shape or form. Therefore, we have said, in the second half of the motion, that, once the settlement legislation is in place, it should be enshrined and protected by the Constitution. I have read and heard that we have done flip-flops, that we have done all of these horrible things, but we have not. I think maybe I should point out one other possibility that does arise. The major objection that the Council for Yukon Indians expressed to us in respect to the Motion was the suggestion that the entrenchment that happens now be cognizable at common law, no more and no less.

That is a safeguard for all of the rest of the people in this

territory, in particular. We have learned from bitter experience, that there are a lot of people outside the Yukon that have very covetous eyes on this territory and on specific parts of it.

I respectfully suggest that under Section 34, the way it was written, if those rights are not cognizable at common law, then all federal legislation goes by the board. Things like the *Fisheries Act* do not apply any more, if they affect aboriginal rights.

What is an aboriginal right for a member of C.O.P.E.? What is an aboriginal right for a Native person, an Indian person that lives in northern British Columbia? They can lay claim to some parts of this Territory. We would be subject, I would suggest, to a series of court cases, that could well tie up things for years, at least, until it is finally resolved, or until we finally have some settlement legislation, if it would ever be possible to get some kind of agreement under those circumstances.

We are afraid that Section 34 would allow for that kind of an action to be taken against the people of this Territory. We do not think that that should happen.

Mr. Penikett: It is, I think, quite a moment here for us today, because it was not until the Government Leader said it on his feet, that I think those of us on this side of the House, and indeed the public of Yukon, realized that the Government of this Territory, the majority party in this House, was opposed to Section 34.

Most people had understood, those of us who are not professionals on matters of constitutional law, or experts in constitutional history, privy to land claims negotiations, or journalists close to negotiations surrounding the Constitution, had assumed, I think, until now, that this Government had taken an exemplary position, and supported Section 34.

Today we hear the Government Leader say it was too much. Today we are debating a motion from the Government Leader which lays great emphasis, in its drafting, on the word, "extinguish." That is a key word for the government, not only legally, but symbolically.

The Government Leader will know, as I know, that the Indian people on the other side of the negotiating table, have a different word which is key to their perception of the negotiations of aboriginal rights, and that word is "enshrinement." That word does not appear in the resolution.

The resolution makes it clear, I think, that the Government sees some kind of successor rights to those now enjoyed or claimed by Indian people. It is clear that from the priority of this Government, extinguishment has a far higher priority than enshrinement. While I have not had detailed discussions with the Council of Yukon Indians or any other native group on this particular matter, I do not doubt that from their point of view, enshrinement is the operative ideal.

I must say, with respect, to the Government Leader, that I have had some opportunity to discuss with a few people the wording of his motion. I must say that I dispute his interpretation. There are a number of people who, I would guess, are at least as expert as his advisors, who dispute his assertion as to the implications of Section 34. I will not get into a detailed constitutional debate about that, because I doubt, frankly, if there is anyone competent in this House to engage in that kind of discussion.

Let me say, and I want to say that I speak, I think, for most people who are genuinely concerned about this question, that Section 25 is simply not enough. It is not an affirmation of aboriginal rights.

The Government Leader is right in one respect. The vast majority of people in the Territory want land claims settled. We have come a long way on this issue in the Territory. I can recall a few years ago, going around knocking on doors, and talking to people about this question, and finding probably a majority of people in this territory who were distinctly hostile to the proposition of any settlement. I think there has been a process of consciousness raising, and education, and information that has been more by accident than by design, unfortunately. I think, slowly the community as a whole has come to some kind of appreciation of what is involved. But I do not have

the feeling that there is, as yet, the kind of frank and open and respectful dialogue between the Indian and non-Indian community at all levels of this society, such that there is a real understanding and appreciation and sympathy to each other's point of view. I think that there is a long way to go on that, yet.

The Member for Kluane expressed her heartfelt concern earlier today that this motion was too little, too late. I agree that it may be a little too late, however, I think that she may find that it is too much too late, because there may be more words here than may be really warranted.

I was chastised by some Member, I forget which one it was, for not having made a pilgrimage to Ottawa on this question. Let me say, the pilgrimage to Ottawa on this particular question probably would have been a wasted effort for me, since I had two weekends ago met with the national executive of my Party, which is known as the New Democratic Party, for the information of the Minister of Tourism. And I had, on that occasion, a chance to have a very long discussion with the national leader of my Party, answer members of the caucus and the leadership of the Party, generally, which includes the leadership of a number of provinces where we are in opposition, or government. And there is no question, let me say, of what my Party's position on this question is nationally. There is no question what the federal caucus of my Party will be doing in the House of Commons. Let me say that my going to Ottawa to talk to them about it would not have changed very much. I had access to the leadership of my Party, and on behalf of the caucus and members of my Party, the views of the New Democrats in this territory have been made well known.

I do know a little bit about this question of aboriginal rights because going back almost a decade now, I had a hand in helping a couple of M.P.s, one Tom Barnett, an M.P. from British Columbia, and Wally Firth, M.P. from the Northwest Territories for drafting what became the policy of my Party on aboriginal rights. While my association with this question, while not as intimate as some members, has certainly been a long one and I have been party, I guess, to practically all the discussions on this question at the national level of my Party, with the obvious exception, of course, of weekly caucus meetings.

I want to say that the voice of the members of my Party in Yukon has been heard well, and we try, wherever possible, to speak with one voice on these questions. And we are not the only party that occasionally has problems in that. But I am sure that the federal caucus of my Party will be doing everything it can to make sure the aboriginal rights of Indian people in Yukon and other places in Canada, will be affirmed strongly in the new Constitution. I have reason to believe, in a brief conversation I had this morning, that that will be the position as well of the Premier-elect of Manitoba.

Let me say that, at the federal level, because I know something about the number of meetings that took place, that the fact that Section 34 was there at all, whatever flaws it may have in its specific drafting, has a lot to do with the efforts of the federal caucus of my Party and the federal leader of my Party, in negotiations with the Prime Minister. I know that while we now have a Constitutional Accord between the federal government and the provinces, the support of the New Democratic Party in Parliament is not so valued by the government any more on this question. It was absolutely key to obtaining some measure of national support and regional support in this country at an earlier stage of this ongoing debate.

I want to emphasize, though, whatever members participated, Members of Parliament, Senators, in getting that clause, that affirmation of aboriginal rights, in the original resolution, that when it came to a vote in the House of Commons, it was supported by all three parties represented there, The Liberal Party, the Conservative Party, the New Democratic Party. The Member of Parliament for Yukon, the Senator for Yukon, presumably, supported it. The Members of Parliament for Northwest Territories. All the Members of all Parties. The idea behind that statement was that there be a simple

declaration, an affirmation that these rights exist. The idea was not that we dot the t's and cross the i's. Not that we detail those rights, but that they be affirmed as part of a national component of our Constitution, the basic laws of the land.

I believe the idea was that those rights would be defined, in time, through negotiations, through the courts, whatever process went on in the different parts of the country. I do not doubt from the perception of the people in these different areas they had different perceptions of what those rights meant. What they were? How they would be expressed? How they had been exercised? How they had been realized? How they had been obtained? How they had been retained? How they had been preserved?

I want to say to the Government Leader, to certain Members opposite, and to the Member for Kluane, that one of the most satisfying and perhaps proudest moments of my brief time in this House was my work and the participation in the Constitutional Committee of this House, in advising on and participating in the framing of the position presented by the Government Leader to the joint Senate-Commons Committee in Ottawa. The Government Leader has alluded to his statement and we all remember well his making that long journey back from Hawaii just to make the presentation in Ottawa, dragging him away from his holiday. We all learned that it was an important event and we all realized something that is pretty unusual, even in this House, there was all-party agreement. It was not the perfect statement from my point of view, it was not a perfect statement from some of the Conservative Members' point of view. It may not have been a perfect statement from the Member for Kluane's point of view. It was a statement which we had agreed to. I want to read back to the Government Leader part of the statement he quoted to us, the second part of it, "We believe a clear and direct declaration that Canada recognizes the rights of its original peoples must be contained in the Charter of Rights." The next sentence says, "We cannot detail these rights," because in Yukon they are not subject to negotiations.

This week, at the opening of this session, we again had a chance to do the big thing, to do the right thing, to make the clear, simple statement, the kind of affirmation, the kind of simple statement that would have been unifying. That would have brought Yukoners together. That would have consolidated the support the Government Leader has described for a land claims settlement. It would have been an expression, whatever our other differences, for that universal desire for a just settlement of aboriginal rights. We had a chance to make a statement that would have united, on this particular subject, Liberals, Conservatives, and New Democrats.

It would have joined Indians and non-Indians in a bold, proud declaration to the Government of Canada, that we wanted those aboriginal rights affirmed in the Constitution.

We had a chance to do that bold, direct, simple thing, to do the brave thing. Not to go into the details. Not to get division among ourselves about what the exact particulars are, what the exact definitions are. Because it was to be a statement that would be defined in time, through negotiations, through the courts, in different places in the country. But what have we instead? The resolution, as I see it, has some fairly inoffensive parts. It sounds good in certain sections. Except that in the first object clause in the Motion it, in effect, seems to be an expression of the bargaining position of the Government of Yukon at the land claims table. The statement that reads, "BE IT RESOLVED that Members of the Yukon Legislative Assembly urge the affirmation of the aboriginal treaty rights of the aboriginal peoples in Canada in the Canadian Constitution..." If it ended there, I could not have objected to that. But the part that then goes on, "provided that the aboriginal rights shall be construed as having the legal status of rights cognizant in common law." I have a problem with that as does the Council of Yukon Indians. It seems to me that instead of the bold, decisive statement, we have a statement, a definition if you like, of aboriginal rights that narrows those rights, that limits those rights, that

defines the rights, that shaves our position. What it does is define aboriginal rights in a way that will not be acceptable to any of the aboriginal peoples in the country. What it, in fact, says is that aboriginal rights are not aboriginal rights. It says that they are common law rights. It says that they are not aboriginal rights. That is what it says.

If this resolution is passed and transmitted to Ottawa, what it will tell the government in Ottawa, is that this government does not support section 34 and this government does not support aboriginal rights as they are understood by any of the aboriginal peoples in this country. But it will be a message saying that, in spite of our posturing on the issues, in spite of all previous proud declarations, that we believe a clear declaration that Canada recognizes the rights of its aboriginal peoples must be contained in the Charter of Rights, it, in fact, says yes we recognize those rights but they do not have any aboriginal rights. That aboriginal rights, as far as we are defining them, are simply common law rights. That we do not accept Section 34, not that it is slightly wrong, that we want to amend it slightly, or we want slight improvements, that we do not agree with it. What is now proposed is that we be asked to vote for a statement that says the Indian people of Yukon do not have aboriginal rights, they only have common law rights, and I do not have to be a lawyer to understand the implications of that. I am sorry, profoundly sorry, that we do not have a statement that can win the support of all Members of the House. I am sorry that we could not have a statement that, instead of being drafted by the negotiators, was drafted by the Members of this House as the previous statement was. And I am sorry that unless I am persuaded by Members opposite that, in the words of the famous Padraic O'Donohue, this clause does not mean what it says, I and my colleagues in my Party, cannot support this Motion.

Mr. Veale: Let me make it clear at the outset that the Yukon Liberal Party cannot support this Motion before this House.

This Motion deals with probably one of the most fundamental issues that Yukoners have ever dealt with and will ever deal with, because we are talking about cultural heritage, we are talking about equality in the future, we are talking about partnership among all Yukoners, we are talking about unity. We are talking about going forward in this territory, hand-in-hand, and doing the things that every individual wants to do and with everybody starting from the same position, with everybody being in a position to maximize their potential and to do the things that they want to do in Yukon for the reasons that they came here to do. And it is so frustrating and so disappointing to have to debate this Motion when we know the government party is going to pass it regardless of what is said about it.

I was very pleased and I was a proud Yukoner on November 27, 1980, when I read, "Canadian Constitution - Where Does Yukon Fit?" The statement on page 4 entitled, Aboriginal Rights, was a change in direction by the Government of Yukon and by the Conservative Party of Yukon Territory. They came forward, in that document, with as clear a statement as has ever been expressed by any provincial or territorial government in this country. It was indeed a very proud thing to be able to say, we are carrying the ball, we are in the forefront on an issue that is important to every Canadian, but very important to every Yukoner.

That statement did not contain two words that this Motion does. There was no statement about extinguishment. That is an issue that is being negotiated. That is a fundamental issue that is at the negotiating table now. We all hope it is going to be resolved, but it is being negotiated. And negotiations and compromise are what it is all about. But that word did not appear. A second thing that did not appear was the word, limit, or the words common law. Everyone knows the meaning of the words common law, and limiting something to the common law. It means that you are going to limit all rights to what old court cases have said about the subject. And that is a step backwards, because if there is one thing that this government realizes, they have been negotiating the land claims settlement

now for some years, which is an expansive concept. They have never sat down at the table and gone through the old court cases to argue about what aboriginal rights is. Nobody has done that at the negotiating table. That would be a fruitless exercise. What the government has been doing with Yukon Indian people is negotiating concepts and negotiating statements about how this territory will be run in the future, because they have as important an interest in that as any of us in this Assembly.

And it is clear that that is what has been happening, because the public information that has been coming forth, from the negotiating sessions, indicates that they are not staying at the common law, or even the legislative law of this Territory. They are in fact moving ahead and saying, let us do something new, let us change our legislation, let us change the common law. This motion brings us back to say let us toss out all that common law, let us throw the negotiation process out the window, let us throw all those agreements out the window, and go back to the common law.

I will read the Government Leader Section 34. It does not mention the word common law. There is no mention of the word extinguishment or common law in Section 34. If the Government Leader can find Section 34 and determine that it does, I would certainly be willing to change my position on that, but it is not there, and it is not in the aboriginal rights section of his own document.

The Government Leader says that he is not doing a flip-flop. The first flip-flop he did was when he wrote that page four and delivered it in Ottawa, and that was one that I commended him for, because it was a tremendous statement.

We believe a clear and direct declaration that Canada recognizes the rights of its original peoples must be contained in the Charter of Rights, and that was delivered, in Section 34.

Section 34 did not go on and detail the rights. That is why it was left general. It was a recognition and affirmation of aboriginal rights in a very general way, so that the negotiating process in this Territory can continue to detail those rights in a manner that is acceptable to the Yukon Government, and to this Assembly, and to the Indian people in this Territory.

Mr. Speaker: Order please. I must advise the Honourable Members and the Honourable Member now speaking that it is now 5:30 p.m. and it would be my duty to recess the House, and I must also advise the Honourable Member that he has 30 minutes upon resumption of the sitting to complete his remarks. This House now stands in recess until 7:30 p.m.

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

Mr. Veale: Mr. Speaker, at point of adjournment I was discussing the statement made by this government in its presentation to the Special Joint Committee of the Senate and the House of Commons in November of 1980, and saying how much I personally was pleased by that very forthright statement which supported aboriginal rights in this country. I still support that statement. I note that the words in the operative sentence, the words 'clear' and 'direct declaration' were used. The use of those words is very unmistakable because it means that there are not qualifications, there are not limitations, there are not detractors. It is clear and direct. That is precisely what Section 34, which was in the original Constitutional resolution, as supported by all the parties in the House of Commons, was. It was a clear and direct statement of aboriginal rights on behalf of the native people of Canada.

The motion that the government is now placing before us is a complete withdrawal and backing off, flip flop, from the position expressed by the government in November of 1980. It reduces the aboriginal rights of native people in this country to the common law. The common law is a misunderstood term, I expect, by Members on the opposite side. The common law means law as established in courts of this country. The courts in this country are limited by the legislation that bodies such as this Assembly passed, and they are limited by precedent. In other words, what was said 100 years ago bears some weight and is a limitation on how far that court, today, can move in a

new direction.

It is precisely for that reason, that no one ever suggested that the common law be the definition of aboriginal rights. Let's look back at the most recent watershed case in the Supreme Court of Canada, which talked about aboriginal rights. That case is commonly known as the Nishga Case, and came from the Nishga part of British Columbia just south of Yukon. That case, which was considered to be a watershed and a victory for native people in this country, did not establish any precedent for aboriginal rights in the common law, because the case was decided against Native people on a technicality. Nevertheless, the Supreme Court of Canada decided against the Native people. What happened, though, when the Supreme Court of Canada made that decision was that the Prime Minister of the Country at the time said that the Supreme Court has gone as far as they can on this but it is enough for him, it is enough for me, it is enough for the House of Commons, to say that we have a very strong moral obligation and we are going to commence negotiations with native people all across the country, and in particular in northern Canada. That is when the negotiation process started. The very negotiation process that the Yukon Government is involved in is a departure from the common law. It is moving away from the restrictions of the common law. That is a very important thing. The common law is not binding the negotiations which this government is having at the present time with Yukon Indian people and with the government of Canada. I cannot understand, for the life of me, why the Yukon Government now wishes to say aboriginal rights are really limited by the common law. Why is it necessary to take that giant step backwards, when we could have negotiations proceeding, and negotiate the issues. Make your case at the negotiation table but you do not have to come down and say that we are going to go back to the common law, because if you really go back to the common law and pursue it to its logical conclusion, there are not any negotiations. You ignore the rights. That is something this government does not want, I am sure. No member of this Assembly would want that to happen. That is why I take very strong exception to the wording in the resolution.

The Government Leader referred to the Royal Proclamation of 1763, which is still in the Constitutional Accord, as being significant and being enough to satisfy the aspirations of Native people and protect their rights.

There is no question in anyone's mind, in the House of Commons of this country, all parties, that that was not enough. That is why the House of Commons passed Section 34. They wanted to go beyond the Royal Proclamation. Let me just read an excerpt from the Royal Proclamation of 1763, so that the Members of this House know what one part of it says, "Whereas it is just and reasonable and essential to our interests and the security of our colonies that the several nations or tribes of Indians with whom we are connected, and who live under our protection, should not be molested or disturbed in the possession of such parts of our dominions and territories as not having been ceded to us or purchased by us are reserved to them, or any of them, as their hunting grounds." This government, Government of Yukon, has never made the statement that aboriginal rights are limited to hunting rights. They have negotiated, we know it for a fact, well beyond that. The recent information that was released from that process and the agreement that was made public stated quite clearly that the government and Yukon Indian people and the Government of Canada have gone well beyond hunting rights. They are actually going to be consulting and coming to joint decisions. I support that. The government supports it. I question why it is necessary now to come forward with this resolution, which suggests that that is enough, that hunting rights is enough. The government does not take that position.

The other issue raised by the Government Leader was that he feared that the consent of the provinces might be required, with Section 34. At the same time as he is saying that, the Prime Minister of Canada has stated, over the airwaves, that

the consent of the provinces is not required in northern Canada because that is the exclusive jurisdiction of the federal government. So how do we arrive at the position that the consent of the provinces is required to have a negotiated and entrenched land settlement in Yukon? I do not know.

I do not know what interest the provinces have in our land settlements here, but their consent will be required. Reference can be made to the demands or interests, whatever they may be, of Indian people not presently in the Yukon borders, but that does not mean that the province from which they come is going to have to consent to the land settlement.

The Government Leader indicated that he also was concerned about how the Courts might interpret Section 34. The Courts have a lot of problems with interpreting the words aboriginal rights, and that is why the Nishga Case ended in a saw-off, because the Courts need political direction. They cannot look back at the legal precedents, cases that have gone before for the past 1400 years and say, we will find something there that will tell us how to govern, how to make this decision. That is why we are at the position we are at now, where this Government, the Yukon Government, the Government of Canada, and the Indian people are negotiating a settlement on a political basis. It is not in a court of law. It is well beyond that stage.

I have taken the position that the three party leaders in this Assembly should have gone to the federal government long before this to present a joint position. The Leader of the Opposition and I have the same view on aboriginal rights. I understand now why the Government Leader did not want to go. He does not share our position. He does not share the view that Section 34 is a just description of aboriginal rights, a clear and direct declaration of aboriginal rights, so he could not go.

I should also comment on my concern with the Leader of the Opposition for his refusal to go. I am pleased to say that we share the same position on aboriginal rights, but as far as taking that position, and going to Ottawa with it, and making a presentation to the federal government, well, my position is that, as Members of this Assembly, on issues like this, which have such incredible national importance, and importance in the Yukon, that we should go as one body and make a strong submission. It is not adequate for us to say, well, I have called my Party Leader, or I have called the National Office and they are going to fight for it.

Our obligation is greater than that when we come down to an issue of national importance such as aboriginal rights. And I regret that we, as three party leaders, were unable to come to that consensus to make that trip.

Mr. Speaker I have an amendment to move at this time. I move, seconded by the Member for Kluane, THAT the address in Motion 20 be amended as follows: by deleting the first three paragraphs, by deleting all words following the word, "Constitution," in the fourth paragraph and by deleting the fifth paragraph and replacing it with: "AND BE IT FURTHER RESOLVED THAT a Yukon Indian Settlement Agreement be entrenched in the Canadian Constitution."

Mr. Speaker: I would thank the Honourable member for providing me with a copy of the amendment. The amendment reads as follows, it has been moved by the Honourable Member for Whitehorse Riverdale South, seconded by the Honourable Member for Kluane, THAT the address in Motion Number 20 be amended as follows: 1) by deleting the first three paragraphs, 2) by deleting all words following the word, "Constitution," in the fourth paragraph, and 3) by deleting the fifth paragraph and replacing it with, "AND BE IT FURTHER RESOLVED THAT a Yukon Indian Settlement Agreement be entrenched in the Canadian Constitution."

Mr. Veale: Mr. Speaker the amendment essentially does away with the "whereas" clauses, because with "whereas" clauses most people get to "whereas" and stop reading, but the "whereas" clauses do not advance the case at all and are very convoluted and unnecessary, in any event, for this resolution.

I could have gone through and picked them apart, and it

would have been very difficult to determine what the amendment was actually driving at. Mr. Speaker it was most convenient to take those three clauses out completely. The fourth clause is the first clause that essentially makes a statement urging the affirmation of aboriginal treaty rights for the aboriginal peoples of Canada in the Canadian Constitution. That clause would stay in to the extent it would read, "BE IT RESOLVED THAT Members of the Yukon Legislative Assembly urge the affirmation of the aboriginal and treaty rights of the Aboriginal Peoples of Canada in the Canadian Constitution."

The fifth clause, which would be the second clause if the amendment is passed, reads, "AND BE IT FURTHER RESOLVED THAT a Yukon Indian Settlement Agreement be entrenched in the Canadian Constitution."

The motion as amended would set out precisely what the Government intended to set out on November of 1980, when it stated that we believe a clear and direct declaration that Canada recognizes the rights of its original peoples must be contained in the Charter of Rights. We can not detail these rights because in Yukon they are now subject to negotiations. And that would result in a very clear and direct declaration of the Yukon Legislative Assembly to the people of Yukon, to the people of Canada, to the Government of Canada, about where we stand on this most important and fundamental issue. I hope that members of this Assembly will support this amendment.

Mr. Kimmerly: The amendment, in the view of the Yukon NDP is a good amendment and we are in favour of it.

It is basically an either/or situation that this House accept the amendment put forward by the Leader of the Liberals.

For too long this House has been engaged, basically, in divisive debate concerning the question of the most fundamental importance to Yukoners today. This is a matter that ought to require Members, by their conscience, to rise above party affiliation, and even party loyalty, and speak for the good of all Yukoners.

When the Government Leader was speaking to the Motion he said, "We have no quarrel with their concern", and he was referring to the concern of the Council of Yukon Indians or some Native peoples or the Native leadership with the wording of the Motion, or his expected reaction from the Council of Yukon Indians to the wording of the Motion. The Government Leader, in the past, has consistently said that this House speaks for all Yukoners. There is not a "we" and "them" or "their" concern. Yukon native people are Yukoners and this House ought to speak for Yukon Native people as well as Yukon non-Native people. It is not "their" concern, it is "our" concern.

We intend to vote in favour of the amendment.

Hon. Mr. Lang: I am having a lot of difficulty with the debate that has been put forward so far. It has been said to by a number of people and I have read it in many books, that it is a very hypocritical world that we live in.

When I hear what is coming across from the Members across the floor I have a lot of difficulty in accepting the principle that it is philosophy that is being espoused or whether it is political expediency. I think, for the record, that it be reiterated where the Conservative party is coming from in respect to the negotiations of the land claims and also for the Yukon. I recognize there is one Member who was not here when the formation of the Conservative party took place, and perhaps he did not have the opportunity to understand the philosophy and the basic ideology that the Progressive Conservative party of the Yukon Territory believes in. It was one of the first resolutions passed at our founding convention of the Conservative party in 1978. Just for the record, I would like to let people across the way here know exactly what it is. It is called the "Yukoners Claim," and the philosophy behind it is that we all have a right to be here. We all are Canadians, we are all raising our families here, Native and non-Native. It is not a question of being divided by race, not a question of being divided by religion, not a question of being divided by a creed. In other words, what I am talking about is equality. It goes like this, "Whereas the

citizens of Yukon throughout their history have long sought a greater degree of direction and control of Yukon affairs and resources; and whereas the citizens of Yukon are against political structures and political divisions based on race; and whereas the citizens of Yukon desire but do not currently enjoy a place in Confederation like that of their fellow citizens of the provinces of southern Canada; and whereas the former Prime Minister of Canada and the Minister of Indian Affairs and Northern Development are committed to assisting the citizens of Yukon to assume their rightful place in Confederation, be it resolved that there be one government structure for Yukon, fully representative and fully responsible to all citizens of Yukon."

I have to take to task the newly elected Member from Whitehorse South Centre, who comes forward and says, "we must represent all people of the Territory," because, I for one, in Porter Creek East, and I am sure that I can speak for every Member on this side of the House, believe we speak for all the people of the Territory, because that is the responsibility we are charged with.

Let us lay the cards on the table. We are talking race, we are talking blood test, we are talking of who is eligible for certain rights and who is not. I just want to go back a step and recall the constitutional talks which have been taking place for 6 years, according to the Prime Minister, 50 years. I found it rather distasteful, when I saw my rights as a Canadian, being dealt at a poker game in which I was not invited. When I looked and I saw the so-called fathers of Confederation, the Prime Minister, the parliamentarians, the premiers, discussing rights as they were adding one and discarding one, I found it very, very distasteful, disgusting, when I felt, as a Canadian, first of all, I was from Yukon, I did not have an opportunity to have my voice heard, and secondly we were totally disregarded.

In respect to the issue that we have at hand here, I do not think that Members opposite clearly understand the position we are putting forward. We have as much concern for the Native people of this Territory, as we do for the non-Native people of this Territory, because we all have a right to live here. I have listened to the Leader of the NDP proudly saying that he is the national president. Sometimes he has problems, I understand, deciphering exactly what his position is, whether it is first the national president, or the Leader of the NDP in Yukon, or where the allegiance lies. He is proudly saying that one individual, or group of individuals, should be above the common law.

It was very clearly explained, and the Members opposite chose not to listen to what the implications were, if there was not a clear, definitive statement in respect to the affirmation of aboriginal rights in the Constitution. I want to go through it. I want everybody to listen, and we have no reason to think that the advice that we have received from constitutional, as well as legal, experts, is wrong. I will go through the list and I will refer to other statements that were made, not here in Yukon, but by other knowledgeable people across this country.

With section 34, the way it presently exists, aboriginal rights would, by advice we have received, be put above the common law.

The Leader of the Liberal Party says that is fine. Let us look at the implications of that and then I will ask the Member opposite if he is representing all the people in the territory. The first implication we definitely hope would not happen if there was a breakdown in respect to negotiations, and that clause was in the Constitution, and there was a radical change in leadership; that clause would permit, if it was included in our Constitution, without the saving clauses that we have in our resolution, the ability to shut down the industries in the Yukon Territory. They laugh and they say that does not really matter, because we are looking in the short term for votes. I think we have an obligation to come forward with the advice that we have received, from various channels, constitutional experts and legal opinions, of what the effect would be unless aboriginal rights construed as having the legal status of rights cogniz-

able at common law. If we do not have that, in respect to the position taken by Members of this House, what they are saying is the people who are working in this country, Native and non-Native, would allow, if the leadership dictated, those people to perhaps stop industry such as the community of Faro. You say it is not going to happen, but if it were to go to court it could well happen. Maybe the decision would be reversed, but meanwhile, a year has gone by, because we know how fast the Supreme Court works. They put the Constitution in last spring and we just got it out here a month and a half ago, and that was an urgent matter. This is very serious situation, if we were to say that does not matter. My second point in respect to the resolution we put forth, and it affects the Member from Old Crow probably more so than any other MLA, directly, other than the Member from Campbell, is that, as our Government Leader has indicated, Native organizations seek land in the Yukon, and certain rights to lands, that I, as a citizen do not have. Like the C.O.P.E. claims. We have land down below Teslin that apparently is being looked at very covetously by some Native people from the northern part of British Columbia. They could go to court and conceivably cause nothing to happen in that area. Even if the Chief of Teslin wanted to do certain things he could well be stopped from going anywhere until it was solved by the legal profession, which we have such a high opinion of.

Carrying that further, I think it is very, very important. The part that really bothers me is when I hear Members across the way, in particular the Leader of the Opposition, saying very proudly that somebody should be above the common law. In other words, what he is saying is that one person's children should have more rights than another person's children.

I am here to stand up and tell you that I am a Canadian. I am a Yukoner and my ethnic background is, in most cases, my own business unless someone else wishes to talk about it. I will not refer directly to the individual who knows what I am talking about.

Carrying that through, I think that it is very important that people recognize, and Members of this House recognize, the implications of what they are asking, in the amendment to the resolution that has been put forward.

We have on this side of the House done everything in our power with respect to coming to a conclusion of the land claims negotiations. I do not think, on the Native side, or the Government of Canada side, that they would argue about that. We have done everything, even delayed a piece of legislation which the Leader of the Liberal Party was criticizing the other day because they did not have the authority to do certain things. He knows full well why. We said that in view of this situation we are prepared to delay it for one year, and therefore it did not give the rights and responsibilities to those communities to enact laws and take action they wanted to take.

I can say, from my point of view, and I think from a good segment of the population's point of view in the Territory, Native and non-Native, that they do not believe that any organization, or any individual should have the right, or even the potential, to block other people's right to work.

I find it totally ludicrous that Members across the way would be prepared to support that type of position. To support my argument, I would like to quote from the Whitehorse Star, about which I sometimes have my doubts, and it has to do with Ontario, which had a look at the clause and what it meant, and what it could mean. It is very clear and I want to quote Mr. McMurdy's letter, which says, "that although the nature of aboriginal rights is unclear, it appears that they are property rights of a kind." The letter states that, "entrenchment of such rights in the constitution could lead to a situation where land subject to aboriginal title could not be expropriated in the public interest."

I would be surprised if there is any nation in the world in which any private property rights enjoyed, under the national Constitution, the absolute immunity from the law which is apparently contemplated in Section 34.

We are not saying that there should not be an affirmation of aboriginal rights. We are saying that there should be an affirmation of aboriginal rights, considering everybody else's rights, which the Members opposite forget we do have. We are saying there is a balance that must be found. I have heard the speeches on the other side. I have never heard anything so divisive as when they stand up and say to us, "We want a consensus, we want to bring everybody together," and at the same time they are cutting down what we believe to be a common sense and balanced approach to a very major political issue facing Yukon Territory.

There is no doubt in my mind that if we went the way the Members opposite did, and the Government of Canada were to incorporate it, I think that a good section of our population would conceivably have to leave if certain things were to happen, such as court injunctions, and the list goes on.

I, as one Member of this House, could not support this. I do not believe the Member for Kluane could support that type of action. And I do not believe the Member from Riverdale South could. And if they can, then I would suggest they go back to their constituencies and tell them the truth, not the half-truths, but tell them exactly what their position is, and exactly what the implications are. Not as some local scribe thinks they are, but looking at what the top constitutional experts of this country say. That is what you have to relate to.

I referred earlier to the situation in Ontario, and they get their legal opinion from a different source than we do, and their constitutional opinions. It seems to me that I do not believe, and I cannot for the life of me understand the Members across the way believing it either, that they would be prepared to put forward a resolution which could put the Yukon in jeopardy. Not only jeopardy internally, but also from external forces from Native organizations, which could conceivably come in here and force those injunctions I spoke of earlier. And then they would stand up and say, "well we did not know that." We have been told this is a possibility and we feel, as elected Members, we have a responsibility to bring that forward to the public's attention.

If the Members opposite are not prepared to accept this advice, good, bad, or indifferent, because, even if they do not accept it, it could well wind up in court, and we would spend a year, or two years, finding out whether it was right or wrong, and in the meantime, the White Pass truck driver who I spoke of yesterday from Porter Creek East could be out of work. I recognize you do not worry about him, the Leader of the Liberal Party, but I do. I happen to represent him. Taking that further, I say to the Members opposite that they have a responsibility. I am not worried about the word extinguishment. You can use the word replaced, or whatever. I am not going to argue that. The point is, we are defining the rights that they shall have when the land claim negotiations come to a conclusion.

I want to make it very clear that, I, as a member of this House, am far removed from the leader of the NDP who proudly proclaims, for whatever reasons, that people should be above the common law. I cannot accept that. I do not believe I should be above it and I do not believe my brother should be above it no matter what his colour, his religion or his creed, because we all have a responsibility to society.

I would like to say in conclusion to the Members opposite that I would strongly emphasize that they reconsider what they are doing here, because what they are bringing forward, in my view, is a very divisive resolution, a resolution that is not meant in the good will of the total territory. It is setting off one segment of our population to fight with another. I believe we have brought forward a balanced resolution, which states specifically where we stand, where we are going and that all Yukoners have a claim to the territory.

Mr. Njootli: I would like to thank the Honourable Member, the previous speaker, for putting it so well. I would like to read the paragraph that the Honourable Member for Riverdale South would like to delete from the resolution at hand, "Where-

as the aforesaid Members recognize the present aboriginal rights of the Yukon Indian people and are desirous that they be recognized and affirmed in the Canadian Constitution."

He wants to delete that and put it in the fifth paragraph. The Liberal amendment, which is supported by the New Democrat members, does very little to change the resolution in that particular way, I think. When you deal with court cases, like the Honourable Member says, I have been in court many times. Possibly some of you were involved in that particular case. Never before have you ever recognized aboriginal rights, you always say common law, everybody is equal in those court cases, and you deal with me in that way.

I do not want to refer to any particular cases, because that is not in the Standing Orders, however, I know for sure a lot of people who are involved in law in the Yukon tend to separate the two, common law and aboriginal law, when they are dealing with people in the courts of law. Some of us have to live with these things when we are not perfect.

Another thing I would like to point out is that Trudeau, who is the leader of the Member for Riverdale South, who refused, rejected and, unjustly, refused to put the aboriginal rights in the Constitution, came forward with a resolution to delete paragraph three from the exact thing we are trying to approve here in the legislature. I feel sorry for the Member, myself. He has worked for the Indian organization for many moons and makes a lot of money. Where is his resolution? Where are your results from all the time that you have been spending at CYI, what have you accomplished? That is what I would like to know right now.

A lot of Yukoners want the land claims to be settled, and why should five people hold up this process that is going so well, and at the same time we are trying to get the Canadian government to recognize my rights as well as anybody's rights.

Indians have to deal with provincial governments before they go to Ottawa, and that creates a problem, I understand that. But up here we have a very delicate situation and our resolution states the fact that we would rather see a settlement act entrenched into the Constitution instead of fighting with various governments and various premiers.

I know the government here represents some 6,000 Indians living in the Yukon and I understand that we are all unique people, and nobody is the same, as I stated earlier, in the courts of law. In terms of responsibilities, with half of these particular people, the most important rule is to negotiate this particular land claims settlement that we have been talking about all the time. I am speaking particularly for Old Crow because we are different and we have to recognize that. Does anyone argue with me about that?

The rights as original owners and occupants of the Yukon should be clearly defined, but that is already understood by most of us. Again, section three that the member wants to delete is straight forward; the present aboriginal rights of Yukon Indian people should be recognized and affirmed in the Canadian Constitution. I can not see why we could eliminate that particular section.

We have seen considerable progress and in the last few years we have bright expectations for our peoples' future and we are debating here today because the federal Government's Constitutional proposal will, if enacted, jeopardize our hopes of establishing recognition of the rights and protection of our people so we are here today to support the resolution, which is a long awaited resolution, and which reflects on the policy of the majority of Yukoners.

If you look at the ratio which just recently has been changing from one member to three members, however, you still have the majority of Yukoners based on the number one policy of Progressive Conservative government, that we are here today to debate.

We all know that the Honourable Government Leader has stated his position that the rights must be protected and entrenched in the Canadian Constitution and we support that position. Since 1973 the Council for Yukon Indians and Canadian govern-

ment have been attempting through negotiations, consultation, meetings to produce a comprehensive settlement of the aboriginal rights, freedom, for not only Old Crow people but other people in the Yukon Territory.

So, what I see, we would finally arrive at an agreement after negotiations, the final settlement, for instance, it will have an impact on my people, Old Crow people, and on Yukon, in general. This agreement will determine what it means to be a Yukon Indian. It will define the social, political, cultural, economic and, in some cases, differences in situations as we see today in Yukon. That standard of living, as well. The land claims agreement will establish a new social and political arrangement within Yukon Territory. We all know that. For, in addition to the things I just mentioned, the land claims settlement will allow the Indian people to work together with non-Yukoners, like I do with Mr. Lang and the rest of the caucus to build a Yukon society of which all Canadians will be proud. I know a lot of people in the rest of Canada are looking on the Government of Yukon and on the C.O.P.E. Agreement and on the southern Yukon and northern B.C. Indians claims. So, where in the Government of Canada's Constitution do you see special rights for Indians? Nowhere. That is the Member's government, over there, that I am talking about. 113 years now we have been waiting for an entrenchment of some kind of right, whether it is aboriginal rights or special kind of rights, under common law, whatever. We will be glad to see some kind of a protection for Indian people and I think we are here today to speak on aboriginal rights as contained in the resolution in such a way where it can be enacted in the land claims legislation. I foresee that there will be a settlement act which will be entrenched in the Constitution some day. We ignore the fact that people have been waiting many moons, much longer, for a simple declaration of rights for Indians. I think the federal government should give some thought to just how long we have been waiting and, at the same time, think a bit about the immense personal and cultural costs that the Indians have incurred while they have been waiting. The Accord that we have been talking about firmly entrenches the fundamental rights of Canadians, including the rights of future Canadians not even born. And the rights of future Canadians that are not even Canadians, who are immigrating to Canada.

I ask, why cannot our rights be entrenched in the Accord? Why does that have to wait until after repatriation of the Constitution? Have we not already waited long enough? We do not have to study the Old Crow people forever to define what particular rights they should have, because they already have them. We are worried about the ordinary Joe walking down the street with no rights. People in the Opposition should be happy that the Native people in the Yukon have a higher standard of living than their counterparts on 97th Street or Yonge Street. It seems to me that, if my people cannot convince the Federal Government to try their hand at re-drafting that particular Accord in order to acknowledge and protect our special status, I just ask the Federal Government to try to explain to me and my people how we will find it easier after repatriating that particular Accord. In view of the proposed amending formula and the known attitudes of various provincial governments how is it possible that I will find it easier to entrench recognition of my rights after patriation? Surely, in the circumstances it would be far more logical for the federal government to exercise its own authority now and amend the proposals and take a look at their resolution. The Honourable Mr. Trudeau might have different thoughts about Yukon Indians. I do not really care what happens to the Indians in Saskatchewan, Manitoba, and down the line, I am worried particularly about the Indians in the Yukon Territory. The particular way in which I want to speak is that the questions I have been talking about speak for themselves on the nature of the Constitution. It is either the Charter of Rights, the Accord, the Constitution, whatever you want to call it. It creates new relationships or confirms old injustices that we are experiencing. The decision is firmly in the Federal Government's hands. The outcome of

Mr. Trudeau's deliberations whatever they may be strike directly at the future of Yukon Indian people. We must understand that. The settlement, which we are, in good faith, attempting to negotiate deals with all our rights and freedoms: land claims, resource hunting, trapping, education, social and economical policy, programs for elders and government institutions. Unless our settlements are in that particular Constitution, I feel that the problem will not be solved.

The government happens to be supporting the settlement of the land claims negotiations, and has been supporting the entrenchment of aboriginal rights in the constitution. What more could we ask for?

Discussing the rights of Indians, we have even established a Constitutional Committee to discuss on a committee level, the rights of Indian people in the Yukon Territory.

What I do not want to see is provincial governments interfering with the settlement of Yukon Indian land claims, because the negotiations are going so well. We have talked about it here and the performance of the Government since our last sitting, how well the negotiations have been going. You have two thirds of the provinces and the federal government putting their thumbs down on the settlement of Yukon Indian land claims. Would you run as a Conservative then?

We support the resolution as it stands, without the stupid amendment. We would be better off establishing the rights of Indian people in the Yukon Settlement Act, where it belongs. The Yukon Settlement Act will be here with the rights in it, not in a premier's hand in British Columbia or Quebec.

I thought about suggesting an amendment myself, but I changed my mind, because I was going to put Deputy Speaker in the first line, instead of the Speaker.

I am going to vote against the amendment.

Hon. Mrs. McCall: Clearly, this is a matter of a gross misinterpretation. I am astonished and surprised at the stance taken by the Members opposite. I am at a loss, really.

If Section 34 is entrenched, two thirds of the provinces would have to consent to a constitutional amendment, in order to agree to any land claim settlement we come to. It is a fairly tenuous chance that we take when we depend on two thirds of the provinces agreeing. Do the Members opposite not realize that this would open the gates to other claims on the Yukon, such as C.O.P.E.?

I agree with Mr. Kimmerly. A matter of such grave importance should cross party lines. The Leader of the Opposition does not seem to grasp that the word, "extinguished," in this case, means "exchanged." The exchanging of new rights for the Indian people. The demands that the Indian people are demanding and successfully negotiating with the Yukon Territorial Government. These are the rights to be entrenched. It would appear that the Leader of the Opposition, in order to fall in with the opinion of his national Party, is taking the side of the Indians in other parts of Canada against our Indians. By taking such a stand in Yukon, it would seem that anyone who takes such a stand cannot care whether a land claims settlement is ever a reality, cannot care whether the people of Yukon ever live in peace and harmony together. Surely this is what we have been working for all this time. Taking the stand of his national party, against the future wellbeing of Yukon, is incredible to me.

Mr. Veale, by taking this stance as well, effectively votes against a land claims settlement. These are surely men of good will, I know that they are. They must not understand what this Motion means. Common law contains the rights of the Indian people as they know them, right now. The rights of the Indian people remain exactly as they are right now. Talk of flip-flop is ridiculous. There is nothing this government wants more than a land claims settlement, and there has been no shadow of a flip-flop. There has been no change whatsoever. I must believe that the Members opposite are under a colossal misapprehension. I cannot explain it any other way. I am surprised. It is they, and not this side of the House, who are putting the rights of Native people in other parts of Canada before the

rights of our own Indian people in Yukon. I cannot see how they do not realize this.

Again, I am appalled at the stance of the very responsible Members opposite. Is their loyalty to their own national interests greater than their loyalty to Yukon? We must all wonder. I must believe their stance is a monumental misunderstanding of the meaning of this Motion. We have been struggling for eight years for a land claims settlement in Yukon. That is what must be entrenched.

Mr. Fleming: I do not support this minor amendment. It is minor because there is nothing in the amendment, absolutely nothing. An easy way out, I take it. An easy way out for some people who are really putting themselves, their parties, ahead of the good of all of the people of Yukon. With the hopes that that particular group may be on their side. I think the basic role of this House is to take care of all of the people of Yukon, to the best of our ability.

We have to be fair and just to everyone in every society and any kind of society, religion or race, anything. I find that in this House today it does not seem to be quite that way. It just seems as if there is somebody trying to come up at somebody else.

The Motion that was put before us could be, according to the powers that say they are the lawyers, who know all the words, and all the rest of it, and possibly there is an offensive word here and there in that Motion, as a whole. I might agree. In fact, I think there will be more amendments of this later. However, when you read it, "WHEREAS Members of the Yukon Legislative Assembly support the land claims negotiations taking place between the Governments of Canada and Yukon and the Yukon Indian People wherein aboriginal rights held by Yukon Indian People over certain Yukon lands are to be extinguished and replaced by new clearly defined rights," then I think that is what we are all here for, and I think that is what the Native people have been asking for for years, clearly defined rights, so that they know exactly where they are going, and I think we are asking for it. As I say, there may be a little offensive word there. We could stand it up among 12 lawyers and they would all have a different definition of it. The Member is asking to delete that section. Forget about that section.

In the next section he wants to delete all the words following "Constitution." I have been told by lawyers that this is written to account for everybody concerned. Now I hear lawyers say, no, that is not right. Common law is this and common law is that and it does not have anything to do with aboriginal rights whatever. They are coming across with all sorts of things. However, I read it as just plain reading. Common law usually has to be settled in the courts. I think that I am right on that. I think before the land claims started there was nothing. There were no aboriginal rights and it has not been defined, I do not think, today. I think that I am right there.

There was no way that a Native person, or anyone else, could go up and say 'I own the sun, I own the trees, I own this, I own that,' other than he felt he did by common law.

I think that all we are asking here is that it does not go beyond there, and I, for one, for the rest of the people in Yukon Territory, and all of Canada, for that matter, the white people, too, have a right, as a Member on the other end has spoken well to. I am not trying to, in any way, go against Indian land claims settlements, because I want them to have the fair and just rights that I have, and I have the ones they have. I think we are not asking for anything by saying that it should not go beyond the common law until, of course, the land claims settlements are made. We ask in this Motion for a just and fair settlement clearly defined so that we know where we are. I just do not understand how anyone could oppose that for any reason, other than something back here that is going to help somewhere else.

Now I am sure that the Honourable Leader of the Democratic Party is going to have an answer. I am sure. I am certainly not accusing anybody of that. It sounds a little off, you know. I would hope there is nothing like this happening. We do have the good of the Indian people at heart and the white people of the Territory and anyone else who is in Yukon Territory. I see no

sense in voting for a resolution that says, "AND BE IT FURTHER RESOLVED THAT a Yukon Indian settlement agreement be entrenched in the Canadian Constitution," after we take out everything, almost. I will read you the last section of this one, "AND BE IT FURTHER RESOLVED THAT Members of the Yukon Legislative Assembly urge that provisions be made in the Canadian Constitution whereby the aboriginal rights of Yukon Indian People may be extinguished and replaced by new clearly defined rights, again, to be negotiated and enacted in settlement legislation and entrenched in the Canadian Constitution."

Now, I might not be a lawyer, and I might not be very sharp, but that sounds to me like it is very, very fair. I do not care how many lawyers take it and tear it apart and say something else about it. I, and I am sure that many of the Indian people if they could see it and understand and talk to each other about it, would feel the same way. We are trying to do the very best we can for them. The only way you are going to do it is to have some unity and get together and send something to Ottawa that says something definite. This does not say very much.

It does not seem to make any difference if it is a fair agreement, I guess. I think the Honourable Member would like to see a fair agreement, at least, not just a resolution. I said a just a settlement, never mind what the settlement is. Take everything away from them for that matter but enshrine it in the Constitution. I do not agree with that. I want it definitely put in the Constitution.

Mr. Falle: I too, would like to oppose this resolution. I have heard this motion. I have heard people on the other side accusing the government of cop-outs. Well, this is the biggest cop-out that I have ever seen, right here. We all represent people of the Yukon, people, that includes all. This is a cop-out and I just simply refuse to support it.

Hon. Mr. Tracey: I have listened this afternoon and this evening to some unbelievable statements from across the floor.

I thought I was born and raised in a country where all men were equal under the law, and here we have five Members from across the floor that are saying how we are not all equal, there is one race of people in this country that are more equal than others. What they are really saying is Indian people are above the common law.

Mr. Speaker, I find it hard to believe that any time the federal government or a provincial government wants to pass a law it is going to be subject to Section 34 of the Constitution. It is just unbelievable to me. The Members across the floor want to enshrine in the Constitution a right that has not been defined. I would like one of those Members across the floor to define what aboriginal rights are to mean. I can see court cases for the next fifty years trying to define what aboriginal rights really are. As the Minister for Tourism and Economic Development said, the Yukon Territory and half of the rest of Canada will be shut down while those rights are being defined.

Mr. Speaker, I cannot support them. I cannot support a resolution that does that for the Canadian people. I cannot support a resolution that does that for my constituents. Half of my constituents are Native people and they want to see a land claims settlement. How are they going to have a land claims settlement when it is all in the courts? They are going to suffer as much as I and the rest of the people are. I have to say that I will not support the amendment and I fully support the original resolution.

Mr. Speaker: Is there any further debate on the amendment? I must just caution the member that if he speaks to the amendment one more time, all debate will cease. I am sorry, the Member cannot speak to the amendment. I had been making a note here and I had not noted that. Is there any further debate on the amendment? Question has been called. Are you agreed with the amendment? BB

Some Members: Division.

Mr. Speaker: Division has been called. Mr. Clerk, will you kindly poll the House.

Hon. Mr. Pearson: Disagree

Hon. Mr. Lang: Disagree

Hon. Mrs. McCall: Disagree

Hon. Mr. Lattin: Disagree

Hon. Mr. Tracey: Disagree

Mr. Njootli: Disagree

Mr. Falle: Disagree

Mr. Hanson: Disagree

Mr. Fleming: Disagree

Mr. Penikett: Agree

Mr. Byblow: Agree

Mr. Kimmerly: Agree

Mr. Veale: Agree

Mrs. McGuire: Agree

Mr. Clerk: **Mr. Speaker, the results are five yea, nine nay. Motion defeated.**

Mr. Speaker: It would appear the nays have it and the amendment is defeated. The Chair will now entertain any further debate on Motion Number 20.

Mr. Hanson: Mr. Speaker, sometime ago, probably two or three years ago, the now leader of the NDP and myself used to quite often have a cup of coffee in the coffeshop next door. We always used to say, "God help this House if we ever get a lawyer in it". Damned, if we did not get two, and my old coffee partner sounds like a lawyer too, but he will not get my business either when he does hang up his shingle.

I think that we have kicked this around pretty good. I think that for the educated people on the other side, not only have they confused me, they did that right off, but they have themselves confused now. I think that everybody is in the jackpot and that nobody knows where they are going.

I would like to make an amendment to the Motion. I move, seconded by the Honourable Member for Campbell, THAT Motion Number 20 be amended as follows: by deleting the words "extinguished and" in the sixth and seventh lines of the first paragraph; and by deleting the words "extinguished and" in the fifth line of the last paragraph.

Mr. Speaker: It has been moved by the Honourable Member for Mayo, seconded by the Honourable Member for Campbell, that Motion Number 20 be amended as follows: by deleting the words "extinguished and" in the sixth and seventh lines of the first paragraph, and by deleting the words "extinguished and" in the fifth line of the last paragraph.

Mr. Hanson: Though I do not feel really that I should even be making this amendment, I think perhaps that it may be an answer. It is an effort on my part and on the part of this side of the House to end the debate on the matter. We all hoped, and have been led to believe, that aboriginal rights would be extinguished when land claims were settled.

I am a little confused as to what the aboriginal rights are that we keep on talking about and why those must be in the Constitution. Is it because the people up here, we and the Government of Canada, are now getting close to a just settlement that is satisfactory to all three sides? Outside pressure is being brought on the Native people up here, and now it will be brought on to us more and more as time goes on. I think that as we get closer to a settlement people outside do not want to see that settlement. If this settlement is recognized by the people up here as being just and fair to all they might not look at it the same way. They might want to keep on having their aboriginal rights, and never a settlement and still have the right to have their cake and eat it, too. I would like to caution the members, and I felt about it myself for quite a while, that we must think of the Native people we are negotiating with, the amount of pressure that has been brought on them from outside pressure groups, and sometimes we do not agree with them, but we must think about the pressure that they are undergoing and the pressure they will have to undergo when this land claims settlement is finally settled and done with.

Mr. Penikett: I appreciate the touch of humor from the Member from Mayo, who lightens an otherwise fairly heavy discussion. He is as we all know, a good old soul, and a good

coffee partner. I just want to say very briefly that we on this side will support the amendment and I ask that question be called.

Motion agreed to

Mr. Speaker: Is there any further debate on Motion Number 20 As amended?

Mr. Kimmerly: This is an extremely important day in the political evolution of Yukon. As the votes are obviously going to be cast, Wednesday, November 18th will be looked back upon as the beginning of the end for the settlement of land claims.

The prediction I make is that if the position of this government does not change then there will not be a Native land claims settlement. Members on the other side have talked about a misunderstanding, a colossal misunderstanding, and I was enjoying the barbs and the innuendos against the legal profession. I, of course, am a member of that profession, but I do not speak, today, as a lawyer. I wish to define for the Members opposite a few common terms, and I am not doing that as a lawyer. I am doing that as a person who understands the Queen's English.

The phrase, "common law," or the word, "common," with reference to law, has a very clear and simple meaning. Common law is the law that judges make. There are two kinds of law. There is common law and there is statute law. Statute law is the law that legislatures make. Common law is the law that judges make.

Members opposite wish to put this most important question in the hands of judges, not legislatures. There were comments made that if Section 34 remained in the Constitutional Accord, the way is open for legal battles and constant court cases. The opposite is true. The phrase, common law, means law as defined in court cases, as defined by judges and that is the measure that Members opposite wish to put to the definition of aboriginal rights.

The Government Leader has told us that the Motion is very carefully worded and it was worded according to legal advice. This question is far too important to be left to the experts, to be decided solely on the basis of legal advice, advice by lawyers that the Members opposite chide. We, the legislators, must make the decisions, not the lawyers. I am pleased with the amendment deleting the word, "extinguish". Extinguish, of course, is a commonly understood word and it means the end of aboriginal rights. The land claims negotiations are not talking about the end of rights. They are talking about the defining of rights. Finally, Members opposite appear to understand that.

Another Member opposite made the statement that, "if Section 34 were enacted then two-thirds of the provinces would need to consent." That is an inaccurate statement. The consent of the provinces is nowhere mentioned in the old Section 34.

There was a Minister on the other side who talked about the right to work and the possibility of people leaving the Yukon. That kind of statement made publicly saddens me. Nothing could be further from the truth. The Indian land claims settlement, as far as we know it, as far as it has now progressed, has been explained publicly from the Indian point of view. Recently, David Joe, the negotiator, made an extensive address to a conference on native lifestyles. It attracted much media attention, and the two central things that he said were that native land claims was a vehicle to get Indian people off welfare at, I might add, the taxpayers' expense, and that all Yukoners should be able to get land. Not only people of Indian descent. That is the Native position. That all Yukoners ought to be able to get land.

What Indian people are working for is a fair shake in this society and to live alongside any other citizen in this society and to get out of the welfare straightjacket that they are now in, for the most part.

Comments about the right to work and the possibility of people having to leave the Yukon are the most divisive kind of comments that I can think of on this issue. They sadden me.

This government has spoken previously to the federal government. The statements were quoted at length by both the

Leader of the Opposition and the Leader of the Liberal Party, and I am going to quote them again.

The position is that: "a clear and direct declaration that Canada recognizes the rights of its aboriginal people to be included in the Canada Act." Simple, clear language that all peoples of the Yukon could agree with and do agree with. It is only now that the language is changed, that this motion is attempting to seriously limit the whole concept of aboriginal rights, that the social division becomes apparent, and it becomes a political fact.

Another word is treaty. Now, treaty is a simple word, you do not need to be a lawyer to understand what the word treaty means. A treaty occurs when two peoples or two nations make an agreement.

The motion before us defines aboriginal and treaty rights as of the class of common law rights, rights defined by judges not by legislators. That is inconsistent on its face.

The wording of this particular motion is blamed by all the Members opposite on the experts, on the lawyers. We ought to be able to rise above these divisive, narrow definitions, and make a clear, bold statement that in this House, we are in fact in favour of aboriginal rights. A vote for this motion is a vote against aboriginal rights.

Hon. Mr. Pearson: I have listened with great interest to the debate in respect to this very, very important motion.

I am going to start off first by telling the Honourable Member for Whitehorse South Center that I really do not think that there is a thing that he can tell me about land claims. I personally have been involved in land claims since 1973, since the day that they started.

Since that time, it has been a very personal objective of mine to see a fair and equitable settlement of land claims in this Territory. We are just getting close to that day now to have it fouled up by something done in Ottawa or Edmonton or Victoria, or anywhere else. We just cannot abide it. We do not dare let ourselves get caught in the trap of having what everyone in this Territory has worked for so hard, for so long, taken away from us by this new Constitution.

Irrespective of what has been said by the other side, they have not convinced me today that the fear that we have, and the advice that we have received is not well-founded. Nor have they been able to convince me that the advice which we have had, is not only well-founded, but is also widely held. It is advice that has been given from many many parts of this country.

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they been able to convince me that the advice which we have had, is not only well-founded, but is also widely held. It is advice that has been given from many many parts of this country.

I was very pleased to support the member from Mayo's amendment to the motion because one of the Members opposite said that we seem to be hung up on extinguishment. Well Mr. Speaker I want to tell those Members that the mandate of the federal government, the mandate set down by the Prime Minister of Canada in respect to land claims in the Yukon Territory, and not only in the Yukon Territory, but in all over the North, is the extinguishment of aboriginal rights.

It is a federal word. Our mandate on this side of the House, given to us by the people of this Territory, was to negotiate a land claims settlement. The mandate of the federal government is the extinguishment of aboriginal rights and the replacement of those rights by some negotiated rights and the only reason that that word shows up there is because we know that it will be understood for exactly what it means in Ottawa, where this motion properly should go. So, we are not hung up on extinguishment. It surely must be obvious, with what has happened at the land claims table, with what the Indian people have agreed to make public so far, that we see a settlement to be something far more than the extinguishment of rights for the Indian people. We see it to be a granting of what we think their aboriginal rights are, and what we think they should have been all the time.

The other major issue that Members opposite seem to be hung up on is the fact that, we feel that in the interim between now and the time that we do get entrenched settlement legislation, aboriginal rights should be cognizable at common law, and nothing more.

All we are saying is that the status quo should remain in place, that is all we are saying. That is what it is all about. Aboriginal rights as they are defined today, and they are not clear or concise and they are nothing like what we talked about a year ago, no matter if it is by the courts by convention, or what, are defined at common law.

We are not asking for a change to anything, at this point in time. People must understand. I am confident that the Native people also understand that that is our stance. And they appreciate where we are coming from when we take that stand. It is the only fair and equitable stand that can be taken. However can anyone expect to write into a Constitution aboriginal rights that no one can define? It is just preposterous.

Section 34 would put the whole question of aboriginal rights into the courts. It would take it out of the legislatures, it would take it away from the politicians, and put it into the courts. That is a fact. We do not want to see that happen.

Applause

Motion agreed to

Mr. Fleming: I would move that Mr. Speaker do leave the Chair and the House resolve into Committee of the Whole.

Mr. Speaker: I would draw the attention of Honourable Members to the time. There may not be sufficient time to go into Committee.

Mr. Penikett: I would move, seconded by the Government Leader, that we adjourn.

Mr. Speaker: It has been moved by the Honourable Leader of the Opposition, seconded by the Honourable Government Leader, that we adjourn.

Motion agreed to

The House adjourned at 9:07 p.m.

The following Sessional Paper was tabled Wednesday, November 18, 1981

81-4-29

Yukon Annual Report for the year ended March 31, 1981

The following Legislative Return was tabled Wednesday, November 18, 1981

81-4-8

Proposed Day Care Subsidization Scheme

