



The Yukon Legislative Assembly

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HANSARD

Monday, November 5, 1979 — 1:30 p.m.

Speaker: The Honourable Donald Taylor

Yukon Legislative Assembly

SPEAKER — Honourable Donald Taylor, MLA, Watson Lake
DEPUTY SPEAKER — Geoffrey Lattin, MLA, Whitehorse North Centre

CABINET MINISTERS

NAME	CONSTITUENCY	PORTFOLIO
Hon. Chris Pearson	Whitehorse Riverdale North	Government House Leader — responsible for Executive, Council office, Public Service Commission, Finance and Pipeline.
Hon. Doug Graham	Whitehorse Porter Creek West	Minister responsible for Education, Justice, Information Resources, Government Services
Hon. Dan Lang	Whitehorse Porter Creek East	Minister responsible for Highways and Public Works, Municipal and Community Affairs, Yukon Housing Corporation, and Yukon Liquor Corporation.
Hon. Meg McCall	Klondike	Minister responsible for Health and Human Resources and Workers' Compensation Board.
Hon. Peter Hanson	Mayo	Minister responsible for Renewable Resources, Consumer & Corporate Affairs, Tourism & Economic Development.

Government Members

(Progressive Conservative)

Al Falle	Hootalinqua
Jack Hibberd	Whitehorse South Centre
Geoffrey Lattin	Whitehorse North Centre
Grafton Njootli	Old Crow
Donald Taylor	Watson Lake
Howard Tracey	Tatchun

Opposition Members

(Liberal)

Iain MacKay	Whitehorse Riverdale South
Alice P. McGuire	Kluane

(New Democratic Party)

Tony Penikett	Whitehorse West
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(Independent)

Maurice J. Byblow	Faro
Robert Fleming	Campbell

Clerk Of Assembly
Clerk Assistant (Legislative)
Clerk Assistant (Administrative)
Sergeant-at-Arms
Editor of Hansard

Patrick L. Michael
Missy Parnell
Jane Steele
G.I. Cameron
Lois Cameron

Whitehorse, Yukon**Monday, November 5, 1979**

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

Prayers

DAILY ROUTINE

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

TABLING OF DOCUMENTS

Hon. Mr. Graham: Mr. Speaker, I have several Legislative Returns to be tabled.

Hon. Mr. Lang: Mr. Speaker, I have for tabling an answer to Written Question Number 12.

Mr. MacKay: I have for tabling a critical analysis of the proposed Yukon Medical Profession Ordinance.

Mr. Speaker: It gives me a great deal of pleasure at this time to table before the House, a copy of the Yukon Elections Board Report pursuant to section 66 of the Elections Ordinance.

Hon. Mr. Hanson: I have two papers here for tabling in answer to questions from Members of the House.

Mr. Speaker: Are there any further documents for tabling?

Presentation of Reports of Standing Committees?

Petitions?

Reading of Petitions?

Introduction of Bills?

INTRODUCTION OF BILLS

Hon. Mr. Pearson: Mr. Speaker, I move seconded by the Honourable Member from Porter Creek West, that a Bill entitled An Ordinance to Amend the Yukon Council Ordinance be now introduced and read a first time.

Mr. Speaker: It has been moved by the Honourable Leader of the Government, seconded by the Honourable Minister of Education, that a Bill entitled, An Ordinance to Amend the Yukon Council Ordinance be now introduced and read a first time.

Motion agreed to

Mr. Speaker: Are there any further Bills for Introduction?

Notices of Motion for the Production of Papers?

Notices of Motion?

NOTICE OF MOTION

Mr. MacKay: I would like to give notice of the following motion:

It is the opinion of this Assembly that the Government of Yukon should take steps to ensure the continued existence of a viable rail link from Yukon to tidewater by:

(a) seeking long term financial backing from the Federal Government to enable the Yukon Government, through a Territorial Crown Corporation, to purchase the White Pass Corporation and subsidiaries;

(b) inviting Canadian National Railways to participate in the Crown Corporation to provide management assistance; and,

(c) ensuring a source of capital funding that will enable the new Crown Corporation to extend the rails from Whitehorse to the Pelly River at Faro.

Mr. Speaker: Are there any further Notices of Motion?

Statements by Ministers?

This then brings us to the Question Period. Have you any questions?

QUESTION PERIOD

Question re: Land Transfer Freeze

Mr. MacKay: Thank you, Mr. Speaker, my question is to the Government Leader.

On Thursday, Mr. Speaker, the Government Leader told the House, again, that there was no freeze in the transfer of land from the Federal Government to the Territorial Government, except for recreational land.

It has now come to my attention, Mr. Speaker, that the Minister for Indian Affairs has stated categorically there is an absolute freeze on any transfer of lands for the next six months.

Can the Government Leader explain the discrepancy?

Hon. Mr. Pearson: No, Mr. Speaker, I cannot explain that discrepancy at all.

The facts are as I stated them in the House, Mr. Speaker. The only subject, in respect to land transfers, that was discussed with me or anyone from this Government during the course of that week, was, in fact, the subject of recreational lots.

Mr. MacKay: Yes, Mr. Speaker.

Since this discrepancy appears to have arisen not only from the Minister of Indian Affairs but also from the Council for Yukon Indians, it would appear that there is a major divergence of opinion and I would ask the Government Leader if he would undertake to clarify to the House, in the next day or two, having had conversations with the other two members of this agreement?

Hon. Mr. Pearson: Mr. Speaker, the matters of which the Honourable Member refers are subjects of a Land Claims negotiation and I am not in any position at all to explain to this House those matters that are under consideration.

Question re: Alcohol and Drug Services/Chief of Staff

Mr. Penikett: Thank you, Mr. Speaker, I have a question for the Minister of Health and Human Resources. I would like to ask the Minister if she asked the Chief of Alcohol and Drug Services for his resignation and did she do so before reading the Annual Report of the Alcohol and Drug Services for this year?

Hon. Mr. Pearson: Mr. Speaker, in anticipation of such a question today, I would like to beg your indulgence to state, categorically, that there are fourteen hundred employees of this government. They work under union agreements, or the majority of them.

The continued employment, the termination of the employment, be it voluntary or involuntary, are strictly management matters of this Government and of a highly personal nature between the employee involved and the Government of the Yukon and should not be subject of discussion in this House.

Mr. Penikett: I would like to ask the Government Leader, in response to that answer then, if it is the position of the Government Leader that if a Minister asks a public servant for his resignation, conceivably as a policy dispute with this Government, if he is then saying that it is not fit for this House to question that decision.

Mr. Speaker: I do believe the question is somewhat hypothetical and the Chair has difficulty in ruling it in or out of order. Could the Honourable Member restate his question?

Mr. Penikett: I would like to ask the Government Leader, Mr. Speaker, if it is his view that in a circumstance such as the one before us now, where a Minister may have asked for the resignation of a public servant as a result of a policy dispute, if the Government Leader is saying that this House cannot ask such questions and cannot expect replies from the Minister.

Hon. Mr. Pearson: Mr. Speaker, what I am saying is, obviously the question can be asked ad infinitum. Whether or not we can answer the question is another subject entirely. Now the answer to this specific question asked is "No" and that is where it should begin and where it should end.

The Minister did not seek an employee's resignation as a result of a policy dispute.

But, Mr. Speaker, we have to be very, very careful that we are not bringing, to this House, matters that are highly confidential to the people involved.

Mr. Penikett: Thank you, Mr. Speaker.

Then I would like to ask the Minister of Health and Human Resources, since last week we were advised that the review of alcohol programs was not yet complete, if that review is now complete and is the Minister ready to present such a report to the

House, along with the Annual Report of the Alcohol and Drug Services?

Hon. Mrs. McCall: No, Mr. Speaker, that review is not complete. I cannot answer the Member at this time.

Question re: Ross River/Hiring of a Teacher

Mr. Fleming: Yes, Mr. Speaker, a question for the Minister of Education, one of which I think he is well aware, in the Ross River area where we had some misunderstanding as to whether the school committee really were the people responsible for the hiring of a teacher. I am sure he remembers the issue.

I would ask the Minister, is the Minister now prepared to accept the fact that there was a misunderstanding and that the Government, more or less, took the initiative in the hiring process?

Hon. Mr. Graham: Mr. Speaker, after investigating this case, I agree with the Member opposite that there was a misunderstanding between the Rural Superintendent in charge and the school committee and I would just like to reassure the Member opposite, as well as the teacher in question, that this Government has every intention of entertaining further applications from the person that was refused.

Question re: Social Workers

Mr. Penikett: Thank you, Mr. Speaker. I have another question for the Minister of Health and Human Resources.

I would like to ask if the Minister can confirm that over 50 per cent of the social worker staff in her department have resigned from her department since the spring of this year?

Hon. Mrs. McCall: No, Mr. Speaker, I cannot confirm that.

Mr. Penikett: Thank you, Mr. Speaker.

By way of information, can the Minister say if she has recently received a letter of resignation from a person in that position in the community of Mayo?

Hon. Mrs. McCall: Yes, Mr. Speaker, I can confirm that.

Mr. Penikett: Thank you, Mr. Speaker.

I would like to ask the Minister, has her Department, the administrators in her Department, made it clear, implicitly or explicitly to the staff in this field, that dissenting views about policy could result in either poor work evaluations or poor letters of reference or both?

Hon. Mr. Pearson: Mr. Speaker, once again we are getting into this area. If the Member has a specific question, then let him ask it. But, do not allow him, I beg you, to ask such general questions.

Mr. Speaker: The question would have seemed to have been rather hypothetical again.

Question re: Electrical Franchise Agreements Analysis

Mr. Fleming: Yes, I have a question to the Government Leader, Mr. Speaker. The other morning I asked the Government Leader some questions on the franchise agreements from the Price-Waterhouse and Associates that they made a couple of years ago. It is probably my own fault that the question were not directed quite as they should have been to produce what I wanted.

Will the Government Leader attempt to procure for myself and other Members of the House, the detailed analysis of the franchise agreements proposals by the Price-Waterhouse Associates?

Hon. Mr. Pearson: Yes, Mr. Speaker, I will attempt to do that. I am not certain at this point in time exactly where it is at. There has been a tremendous amount of work done. I will try and bring the House up to date on those franchise negotiations.

Question re: White Pass Inquiry

Mr. Byblow: I have a question for the Government Leader as well. Has this Government made any submission to CTC surrounding the White Pass Inquiry, and if not, will it?

Hon. Mr. Pearson: Mr. Speaker, evidently the CTC Inquiry is a result of a letter that I had written to the President of White Pass and Federal Industries, and a reply that I received from him.

As a normal course of events, I sent a copy of that letter to CTC. The President of White Pass, in his reply, followed suit and sent his reply upon request of the Minister of Indian Affairs and Northern Development, who as well was copied in on both of these letters, the Inquiry is taking place.

The two Commissioners of the Inquiry were in Whitehorse last week and met with me for a few minutes. They indicated that they are hopeful of getting submissions from as many people in the Territory as are interested. They have not yet made a decision as to whether or not there will be public hearings. Evidently their modus operandi in these case is that if they can possibly meet privately

with each group that indicates to them that they have some concerns, then they do so. If it gets to the point where there are that many submissions that they cannot handle them on an individual basis, then they will go to the public meeting forum.

This Government will certainly be making a submission on behalf of the people of the Territory to that inquiry.

Mr. Byblow: Thank you, Mr. Speaker.

I believe the Government Leader should be aware of the October 9th deadline, according to the terms of reference of the inquiry.

I am wondering, though, if the Government Leader could respond to his Government's position over the recent decision by Yukon mining interests to inject some additional capital, of a short-term but of a fairly substantial nature, into the railroad company in order to guarantee its life for another year?

Hon. Mr. Pearson: Mr. Speaker, at first blush, I do not think that has any bearing on the long-term life of the railroad and that, Mr. Speaker, is what our major concern is.

Question re: Taxation Increase/Deficit Funding

Mr. MacKay: Thank you, Mr. Speaker, my question is to the Honourable Government Leader.

I understand, through the media, that the Government Leader may have had an opportunity to meet with the Minister of Public Works, who is also a member of the Federal Treasury Board, over the weekend.

Did the Government Leader ask or obtain any assurances that the deficit funding that Yukon presently has will continue in its present form, an amount in proportion to the total Budget, at a sufficient rate to eliminate the need for any increased taxes in Yukon until we have a referendum of provincial status?

Hon. Mr. Pearson: No, Mr. Speaker, I did not seek that assurance, because I do not think that the Minister of Public Works is in any position to give us that kind of assurance.

However, I think that I can quite safely say that we have come to agreement with the Federal Government, in respect to what transfer payments will be made for next year and those, at the present time, indicate that rather than being a decrease, they are, in fact, increased.

Mr. MacKay: Would the Government Leader indicate that he is not, at this time, proposing, therefore, to bring forward a Sales Tax Ordinance?

Hon. Mr. Pearson: Mr. Speaker, I have not seen anything on any legislative program. I wonder what prompts the Honourable Member to ask such a question?

Mr. Speaker: Order please. The question would be quite out of order for another Member.

Mr. MacKay: Thank you, Mr. Speaker.

My final supplementary is on the same subject and perhaps as a preliminary to that, I could say that the Edmonton Journal said that the Government Leader was seeking authority to introduce a sales tax, if necessary.

My final supplementary then is, is such legislation presently being studied by the Government?

Hon. Mr. Pearson: Mr. Speaker, I have accused the Honourable Member in the past of using scare tactics, and I submit to you this is another example of it.

Question re: Dawson Maintenance Garage

Mr. Penikett: This being Guy Fawkes Day, I am glad to see the Government fired up.

I have a question for the Minister of Municipal Affairs and I would like to ask the Minister in the context of this Government's policy of decentralization, could the Minister explain the reason for the downgrading of the Dawson Maintenance Garage from a workshop to a grader station?

Hon. Mr. Lang: Mr. Speaker, that maintenance shop that the Honourable Member speaks of will be doing some maintenance. At the same time, I think it is fair to say, we have taken on two new highways, one on a year-round basis, one on a six to eight months basis within the total complement of man-years that we had in the previous year. So subsequently it is a case of efficiency and at the same time attempting to place the work force in such a manner that we do not have to come before this House for extra funding in respect to the maintenance of our highways as well as in areas of reconstruction as well.

I think it should be pointed out, Mr. Speaker, at the same time, of the maintenance shop that the Honourable Member speaks of, we

have had the discontinuance of the Boundary Road as well as the Skyline which directly affects that as well.

At the same time, I am hopeful that the situation will develop in such a manner, in the northern part of the Territory, that there may be some mining finds up there that will justify further maintenance of some of these highways on a year round basis.

Mr. Penikett: Thank you, Mr. Speaker. I really should ask the Minister more questions.

I would like to ask the following: can the Minister confirm that, in the light of his answer just now, that the Highways Department is shutting down the two bay garage next to the grader station, which will make YTG maintenance work in Dawson difficult and uncomfortable for its employees in the context of its new responsibilities in the Dempster area.

Hon. Mr. Lang: No, Mr. Speaker, one will be used for cold storage, as the Honourable Member agrees with the idea of conservation, the program that my colleague from Mayo introduced the other day, we are attempting to utilize our space in such a manner that our O&M costs do not continuously rise in our outlying communities. Subsequently, I have been advised by the Department that they can work out of one shop and use the other shop for cold storage and still provide the same service.

Mr. Penikett: Thank you, Mr. Speaker.

Given that the reduction of the Dawson workforce in this plant from nine to four is counter-productive to the policy of decentralization, I would like to ask if the Minister will consider restoring Dawson to the status of a regional workshop, in the light of its new responsibilities in the Dempster area?

Hon. Mr. Lang: Mr. Speaker, I think the Honourable Member has his numbers wrong. The man years allocated for that particular area was eight.

Eventually it will be five and it is not the purpose of laying anyone off. It would be a case of attrition, Mr. Speaker.

Question re: Municipal Capital Assistance Programs

Mr. Byblow: While the Minister is in such an excellent frame of mind for answering questions, I have a couple.

Could the Minister responsible for Municipal Affairs indicate whether the Capital Assistance Program to municipalities will be continued in any form past the next fiscal year or this fiscal year?

Hon. Mr. Lang: Mr. Speaker, unlike the Minister opposite, who believes that I can look two or three years into the future, that is not possible. It is a case of negotiations with the Government of Canada to see what we come up within the forthcoming year.

But I can assure the Honourable Member that the Capital Assistance Program will be continuing for at least one more year.

Mr. Byblow: Thank you, Mr. Speaker. That is excellent.

In light of the fact that we have two more planned subdivisions in my community over the next couple of years that will provide in the order of at least 150 more homes, how does the Minister see the municipality acquiring the \$3.5 million needed for upgrading the utilities and municipal services required for this growth?

Hon. Mr. Lang: Mr. Speaker, I am sure that it will be a case of some monies being made available through the Capital Assistance Program and other methods will have to be devised as well.

My Honourable colleague can well understand that we do have some 22-odd communities and they would like some of the money that is available under the Capital Assistance Program as well.

Mr. Byblow: Perhaps, then, the Minister can give me the assurance that he will be carrying to his caucus the results of his meeting with municipal officials later this week, from my community.

Hon. Mr. Lang: Mr. Speaker, everything that does go on on the Government side is, at one time or another, discussed with our colleagues

Question re: Government Caucus Review of Legislation

Mr. Penikett: Thank you, Mr. Speaker. I would like to direct a question to the Government Leader and hope that he is not feeling too combative after this weekend. I would like to ask the Government Leader if he can confirm that in this Government there is a practice of a caucus review of all legislation before introduction into the House?

Hon. Mr. Pearson: I question whether it is any of the Member's business, Mr. Speaker. But, yes, I can confirm that.

Mr. Penikett: Thank you, Mr. Speaker. I hope to make it my business. I would like to ask the Government Leader if this caucus review includes financial bills?

Hon. Mr. Pearson: No, Mr. Speaker, it does not include the financial bills.

Mr. Penikett: Thank you, Mr. Speaker. I am reassured by the Government Leader's answer in view of the ancient Parliamentary practices of Cabinet secrecy and so forth, would the Minister then confirm that if such bills, one, in fact, is the Capital Budget Bill that we are receiving, has not been referred to caucus, and if it is the normal, traditional oaths of secrecy will be applied to all Members of the caucus?

Hon. Mr. Pearson: Mr. Speaker, it must be understood that none of the bills that come to this House are seen in the format that they come to this House until they do come to this House.

Question re: Statistics Ordinance

Mrs. McGuire: Thank you, Mr. Speaker. I have a question for the Government Leader. Does the Government Leader intend to take the Yukon Conservative Party's order to withdraw the Statistics Ordinance from this House?

Hon. Mr. Pearson: Mr. Speaker, there is a Statistics Ordinance on the Order Paper at the present time being discussed by the House. We are giving serious consideration to allowing that Bill to die in Committee. If we make that decision, Mr. Speaker, it will become obvious to everyone.

Question re: Trap Lines

Mr. Penikett: Thank you, Mr. Speaker. I have a question to the Minister of Renewable Resources. On March 27 I raised the question of compensation for trappers who had their lines cut by the Government. The Minister of the day said that the Department was trying to clear up the matter soon. I would like to ask the new Minister if the Government now has developed a position on this matter?

Hon. Mr. Hanson: Mr. Speaker, as you know, I have only been in this position now two weeks today. I have not had a chance, as yet, between answering questions and whatnot, to come up with anything on it. We are definitely going to look into it and do something about it. We have all decided that something has to be done.

Mr. Speaker: This brings us to the end of the Question Period.

May I have your further pleasure?

Hon. Mr. Graham: Mr. Speaker, I move, seconded by the Honourable Member for Hootalinqua, that Mr. Speaker do now leave the Chair and that the House resolve into Committee of the Whole.

Mr. Speaker: It has been moved by the Honourable Minister of Education, seconded by the Honourable Member from Hootalinqua, that Mr. Speaker do now leave the Chair and that the House resolve into Committee of the Whole.

Motion agreed to

Mr. Speaker leaves the Chair

COMMITTEE OF THE WHOLE

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

At this time I think we should have a short recess.

Recess

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

This afternoon, we are discussing Bill Number 28, An Ordinance to Amend the Game Ordinance.

Hon. Mr. Hanson: If we could just hold on a second, I will scribble my name here a couple of times.

Mr. Chairman: Time is of the essence, Mr. Hanson.

Hon. Mr. Hanson: I am well aware of that. At my age, I should know.

Mr. Chairman, I would like to table these amendments to the Parks Ordinance, at this time, so, in case we have time, the Members will be able to study them.

Mr. Chairman: Thank you, Mr. Hanson.

Hon. Mr. Hanson: I suppose most of you fellows have read the explanatory notes on the amendments. Most of them are just housekeeping amendments, with the changes in measurements and, in some cases, words. So, I think we can go ahead on it.

Mr. Penikett: Mr. Chairman, the Minister may want to take some advice on this. I talked with a lawyer about this section. The phrase here "with the knowledge and consent of the rest..."

Now, I understand this is relatively new and this is the kind of clause that exists elsewhere in criminal law, in connection with drug laws. What it means is that you may not be a party to some

wrong-doing, but one may have knowledge of it. In fact, it makes game wardens out of every citizen who may have knowledge of some thing.

Now, I guess what I want to find out from the Minister, given that interpretation which I received from the lawyer, if that is clearly the intent of the Government—if it is not, I wonder about the use of that word.

In law, I understand the concept is known as "passive consent" and that is how judges have interpreted that word.

Hon. Mr. Pearson: No, Mr. Chairman, the reason for the section is one to get around an ever reoccurring problem in this Territory. In the normal course of vehicle inspections, an illegally shot animal is in the back of a crew cab camper and there are five people in the truck, they are stopped by an investigative officer, be it policeman, game warden or whatever, each one of those five people deny possession of that animal and that is where the case stops, without this clause being in place.

What happens with this clause in place is anyone or, in fact, all five can be charged with possession, at that point.

Mr. Fleming: Yes, Mr. Chairman, I take it, in the same instance, it would not be involving a vehicle, but would be involving a cache, such as at home.

For instance, myself, I can quote myself very well on this one because I have a cache where there is meat locked and so forth. If somebody hangs up something there that is illegal and the inspector or game warden finds it and the onus would be on me to prove that I had no knowledge it was hanging up there.

Mr. Penikett: I am sorry, Mr. Chairman, but I had another question about 2(b). I could probably do it later, it is okay.

In the "outfitting" definition under the same section, I have a little bit of concern about the definition there. Perhaps I will hold asking specific questions about this now because I will be attempting, probably from the Government, to define what they mean by this and see if this is an effort to accommodate present outfitters or see if this might restrict some powers I gather they are trying to have to expand their season, or give outfitters more power or less power under the Ordinance.

Again, in the question of definitions there are some things by inference definitions under Section 3 which I will pursue when we get to that Section.

Hon. Mr. Hanson: Well, of course, at this time we have to work under the Indian Act so we will have to use the term "Indian" as defining a native person as an Indian.

At this time it will have to stand. No matter what the agreement is in the Land Claims, of course, we are doing a completely new ordinance in the near future and so whatever the agreement is there will be written into a new Ordinance. So under the Act as it stands now we have to use the term "Indian" and that is on 2(1). As we come to these other ones we will - or did you want to go into outfitting right now?

Mr. Penikett: Mr. Chairman, the "guiding" definition was the one I did express some concern about there.

Mr. Chairman: Maybe what we should do is take each definition and we will continue on from there.

Mr. Hanson, at this moment I think we should discuss or I should ask, is there any discussion on the definition of "firearms"?

Mr. Fleming: With respect, Mr. Chairman, I wonder because we did not do that in 1(1) and I was only about half way through it when it was gone passed, and I did have one question on 1(1) before but I did not get a chance to ask it. I wonder if I could refer back to it for a moment.

Mr. Chairman: Before I could do that I would have to ask the Members, have I got unanimous consent to go back to Clause 1(1).

Some Members: Agreed.

Mr. Fleming: Merely a query, because I see writing things in Ordinances which are not necessary or something like that.

Where you say "vehicle" and you carry on with "...includes a carriage, rig, wagon, car, sleigh, hayrack, bicycle, motorcycle, automobile, camper, motor home...", I agree with all of them. However, the one "hayrack" I have a little problem as to agreeing why you could not shoot out of a hayrack if it did not happen to be sitting on a sleigh or wagon or a rig. An immobile piece of something sitting in a yard and if you happened to jump in and shoot out of it, would you be condemned for that? I just wondered.

I do not think it needs to be there.

Hon. Mr. Hanson: It is a vehicle. I mean, there is not too much

danger of seeing too many hayracks at this time, but it is still a vehicle and it could be used.

Mr. Fleming: Mr. Chairman, I would submit that a hayrack is not a vehicle. It is something that could be on a vehicle or it could be on a sleigh, on a wagon or a rig, or even maybe set on top of a carriage, but a hayrack is certainly not a vehicle in any sense of the word.

Hon. Mr. Pearson: Mr. Chairman, I would just like to point out for the information of the Member, the only change to the definition section of "vehicle" is the addition of "campers" and "motor homes". Everything else has been there since 1958, Mr. Chairman.

Mr. Penikett: Mr. Chairman, with respect, I think the problem, perhaps, in 1958, in, if I might say the Honourable Member from Mayo's "hay" day, there was probably a fairly frequent practise of chasing a certain kind of game during a phenomenon of those days known as a hayride and, perhaps, that was why this was included in there.

It may not be necessary, given the things here, but I wonder if we ought not to have a specific reference to slingshots, since there are some fairly powerful ones. I am not trying to be facetious, there are some powerful slingshots around in which people can use metal pellets in and so forth.

I do not know whether they are being used here or not, but you can see them advertised in some of the more lurid men's magazines.

Hon. Mr. Hanson: I do not read that type of magazine myself, but if the Honourable Member has a few copies to spare, I will take them.

I think, at this time, it is fairly safe to go with what we have here. I would say, however, we will, if you care, we could put that aside for now and come back a little later.

Hon. Mr. Pearson: Mr. Chairman, I believe that the definition, in fact, is broad enough that if an enforcement officer wished to lay a charge because of the use of a slingshot, depending upon the size and the missile and so on, and the damage that could be inflicted, I think the officer would have that discretion.

Hon. Mr. Hanson: It is clear what it says in there. It says, "firearm means any weapon from which any shot, bullet or other missile can be discharged and that is capable of causing serious bodily injury or death". That would cover slingshots I would imagine.

Mr. Penikett: That is fine, Mr. Chairman. That definition clearly included the Statistics Ordinance. I think that I am satisfied with the assurances from the Government Leader.

Mr. Penikett: Mr. Chairman, I do have a problem with this definition because I am not quite sure if the Ordinance is intended to cover the people that I have described previously who may be guiding not for the purpose of guiding hunters but guiding photographers or perhaps even guiding people into wilderness areas and who may be doing this on a professional basis and may at some time or another be licensed by this Government.

Hon. Mr. Hanson: Right now guiding means of course to hunt, take or locate any big game. But, he would have to specify that in his licence permit and it would be limited to "no hunting" if he is just taking people out. He would have to specify his purpose before he would get a licence.

Mrs. McGuire: I am concerned about this paragraph as well. In talking to a few guides and outfitters, they said that if they were guiding and taking photographers out into the bush for pictures they would come under "guiding" and also under "locating" any big game. They felt quite safe with it.

Mr. Penikett: Mr. Chairman, that is not my problem. I understand that big game outfitters, people who are already licensed under this Ordinance need not be concerned. What I am talking about is the number of people in the Territory now who are not presently licensed under this Ordinance but may be carrying out these kind of activities. Are we not proposing to require, under this Ordinance, that photographic guides and people who are doing wilderness travelling be licensed under the Game Ordinance?

Hon. Mr. Hanson: No.

Mr. Penikett: Mr. Chairman, that was my problem. They may be locating game. I was just suggesting some clarification, that is all.

Hon. Mr. Hanson: They may be locating game, but there is no licence for locating game. The licence is just for the shooting of game.

Mr. Fleming: I have a great respect for this section on "loaded" too. I am wondering if the definition of this is a definition that the Government has come up with on their own, or is this a definition in the dictionary, for instance. I find, in the dictionary, a different explanation for rifle or a shotgun such as has shells in the breech.

That is a loading mechanism. Of course you have the loader of a loaded blackjack and so forth in there.

The dictionary does not define "loaded" as being shells in the breech of a weapon.

Hon. Mr. Hanson: The definition of "loaded" reads: "a loaded firearm is taken to mean: (1) which is in a state of preparedness to be fired". This definition specifies when the condition exists, with respect to cartridge loading and muzzle loading firearms.

Mr. Fleming: I agree, Mr. Chairman, it does not say that a rifle or a shotgun is loaded when the shell is in the breech of that weapon, as far as a dictionary is concerned; however here, it does.

Now, if the definition as you say means what it says here, then I am agreeable, okay, that is what you mean, but the dictionary does not define it such.

Hon. Mr. Hanson: Well, this is the Ordinance. The dictionary is not, unfortunately, so I think we will go with the Ordinance.

Mr. Penikett: Well, Mr. Chairman, I am not going to prolong debate on this. I am still concerned that, since there are two separate definitions here for "guiding" and "outfitting", not these fine gentlemen opposite, but somebody somewhere along the line later is going to be saying to the people we were talking about earlier that they might be covered under this guiding thing, even though they are not outfitters, under the meaning of the law.

The Government Leader shakes his head and I know they are wonderful people over there and they would never do that. I will leave it sit, Mr. Chairman.

Clause 2(1) agreed to

On Clause 3(1)

Mr. Penikett: Mr. Chairman, the Minister may want to take some advice on subsection (b). I talked with a lawyer about this section. The phrase here "with the knowledge and consent of the rest..."

Now, I understand this is relatively new and this is the kind of clause that exists elsewhere in criminal law, in connection with drug laws. What it means is that you may not be a party to some wrong-doing, but one may have knowledge of it. In effect, it makes game wardens out of every citizen who may have knowledge of some thing.

Now, I guess what I want to find out from the Minister, given that interpretation which I received from the lawyer, if that is clearly the intent of the Government. If it is not, I wonder about the use of that word.

In law, I understand the concept is known as "passive consent" and that is how judges have interpreted that word.

Hon. Mr. Pearson: No, Mr. Chairman, the reason for the section is one to get around an ever re-occurring problem in this Territory. In the normal course of vehicle inspections, an illegally shot animal is in the back of a crew cab camper and there are five people in the truck, they are stopped by an investigative officer, be it policeman, game warden or whatever, each one of those five people deny possession of that animal and that is where the case stops, without this clause being in place.

What happens with this clause in place is any one or, in fact, all five can be charged with possession, at that point.

Mr. Fleming: Yes, Mr. Chairman, I take it, in the same instance, it would not be involving a vehicle, but would be involving a cache, such as at home.

For instance, myself, I can quote myself very well on this one because I have a cache where there is a meat locker and so forth. If somebody hangs up something there that is illegal and the inspector or game warden finds it and the onus would be on me to prove that I had no knowledge it was hanging up there.

Mrs. McGuire: Why was the change made there from "continuously" to "habitually"?

Hon. Mr. Hanson: "Habitually" means reside, he actually stays here, lives here. The other word was too loose and could be defined otherwise. It was put in for a legal reason.

Mr. Penikett: Mr. Chairman, I respect the Minister's assertion on that. My reading of English though suggests to me that "habitually" is not even as strong a word as "continuously". "Continuously" implies an ongoing residence. "Habitually" could suggest: "Well, I am habitually resident here but I do spend six months in Toronto every year." It does, to me, seem weaker than "continuously".

Hon. Mr. Pearson: Mr. Chairman, it also goes the other way. In the definition of "continuous", if you leave the Territory for a week or a month, it does not mean that you have "continuously resided". So

"habitually" is actually a better word because I think it more clearly states what we really do mean. If this is your abode, you do live here for twelve months then you are entitled to a licence.

Mr. Penikett: Well, Mr. Chairman, let me ask a couple of questions about this because this residency thing fascinates me.

Did the Government give any consideration to saying that someone, for example, a resident might be defined as someone who was registered for Medicare, one possibility, or had the Minister considered the possibility of saying a resident might be someone who is here, and I raised the prospect of, under the Income Tax Ordinance, someone who is here resident on December 31st.

I worry about both those words being in because I worry frankly about people who may, for all serious purposes, be here only for the summer but may be taking advantage of a resource like this which really should be here for "permanent residents".

Hon. Mr. Pearson: Mr. Chairman, Members may not be aware that what we have in fact done, the major change to this section is that we have doubled the length of the time requirement here. It is presently six months, Mr. Chairman, and we are suggesting that it should now be twelve months. So, hopefully, that takes care of some of the concerns that the Honourable Member has just expressed.

Mr. Penikett: I thank the Government Leader for that assurance but I did understand that though. I understand that, in law, you can be resident in more than one place and someone, who may well, in fact, be legally have a home in Vancouver and be able to declare income taxes in British Columbia because they happen to be there at Christmas time every year, but also legally maintain a residence. Perhaps they do not even pay Medicare premiums.

I am not suggesting a change, Mr. Chairman, I just wondered if the Government could explain all the possibilities they may have looked at in terms of this residency.

Hon. Mr. Pearson: Mr. Chairman, it is very dangerous, I submit, to say "legally resident" and I can recognize, and we do appreciate the fact that you can be legally resident somewhere else because I believe you are legally resident wherever you file your income tax on December 31st. I am not absolutely sure, the Honourable Leader of the Opposition might be able to clarify that for us, that that is the only, I think, known legal residence, that I know of, is wherever you file your income tax form on December 31st.

Some Honourable Member: What is wrong with that?

Hon. Mr. Pearson: Nothing, except that you only have to be there that one day, Mr. Chairman.

What we are saying here is that there is an onus upon the person making application for this license to convince the granter of the license that they have habitually lived in this Territory for twelve months.

Mr. MacKay: Perhaps I can assist a little bit.

I think we are getting hung-up on the words "habitually", or "continuously", and so forth. The word "resided" seems to me to say everything that you really want to say. If you reside in an area, you have to meet certain tests. You have a house, you have a bank account. There are lots of cases in law, related to what your residence or where your residence is, and I think that "habitually" probably is a safety measure, but "resided" in itself is sufficient description, as far as I am concerned.

Mr. Penikett: Okay, Mr. Chairman, I have got two other questions on this section.

One, given the statement by the Government Leader on the previous question on (a)(i), I do not know whether they are clause or subclauses or sub-subclauses, I do not know, but is (ii) really necessary then?

Hon. Mr. Pearson: I do not think it is really necessary, Mr. Chairman, but the reason that it is there is we have more and more citizens of Yukon who, in fact, now reside, for large portions of the year, in southern Canada or the southern United States. They go Out for the winters and we wanted to be able to have a provision in the Legislation that said that those people who may well have been up here for thirty years, as residents, and no longer reside in the Territory other than for four or five months of the year, those people, we are saying, they must be here for at least two months before they make application for that license.

Mr. Fleming: Yes, Mr. Chairman, I agree with what the Government Leader is saying and they have to reside in the Territory, that is in (ii), "sixty days immediately prior to..." which is two months.

I think, before, in the game laws, for the guiding outfitter who is actually not a resident in the Yukon Territory, he only had to come

back to Yukon for fourteen days. Does this section cover, now, the game guiding, too, or is this just for persons?

Hon. Mr. Pearson: No, Mr. Chairman, the guiding situation is covered further on in the Ordinance.

Mr. Penikett: Mr. Chairman, I would just throw this out as a suggestion. Given the reasons just given by the Government Leader and given that the other day we were talking about the losses of revenue to the Territory of people who reside outside of the Territory in the winter and pay income taxes someplace else, and given that at this point in time we are not yet recovering enough money from game management to pay for it, I would like to throw this proposition out for some future consideration, perhaps when you are amending the Ordinance six months hence, that you simply say that you have to reside in the Territory for a year, but for the purposes of getting a licence they have to have been resident on December 31 the year previous.

Let me suggest, Mr. Chairman, that we would achieve two things by doing that. One, it seems to me you would have a simpler definition. Two, also this Government can get some extra money. If someone really wants to hunt here that badly they will make sure they file their income taxes here and we recover those revenues.

Mr. Chairman, it is quite clear what is being done here in 3(1)(b), it is to bring the requirement for non-citizens in line with the requirement for becoming a Canadian citizen. That seems to me to be perfectly commendable. Did the Government receive any representation from any quarter in the community with a view to making the residency requirement longer than a year or three years, or either citizen or non-citizen hunters?

Hon. Mr. Hanson: Yes, Mr. Chairman, we did, quite a few of them. We are receiving them all of the time.

Mr. Penikett: Let me just ask the Minister then, notwithstanding the decision for this Ordinance and given that the Minister has already said that he may be amending it again in six months or so hence, is that still an open question in the Government's mind?

Hon. Mr. Hanson: We are open all of the time for suggestions. You should know that by now.

Mr. Penikett: I just would remind the Minister something that a famous Social Credit Premier of Alberta once said, a fellow by the name of Ernest C. Manning. Whenever he heard a crack like that he used to say, "Mr. Speaker, an open mind is an empty mind." I do not share that view.

Clause 3(1) agreed to

On Clause 4(1)

Mr. Penikett: I am just checking, Mr. Chairman. Do we have a definition for "small game" in here?

Hon. Mr. Hanson: Yes, we do.

Mr. Fleming: Mr. Chairman, I am concerned over the holder of a trapper's license or an assistant trapper's licence "may set out, use or employ snares" and he may hunt this way now, which before he really was not allowed to.

In the case of saying he can do it, that is fine, but I find no place where there is any law set down as to how he may operate as such, other than possibly coming out in regulations. I find it sort of strange that, possibly, there should not be somewhere in the Ordinance a law governing how he would handle his snares and so forth.

In other words, what I am thinking of is the situation where snares can be set so easily through the bush and you could probably lose them and not find them, they can be there for years, they can cause a lot of trouble later on.

Hon. Mr. Hanson: Of course, you realize that the trapper who has these snares or traps left out after the end of the season can lose his trapline and be fined on top of that. So it is a necessity for him to clean up his own act if he wants to continue trapping.

Mr. Fleming: With respect, Mr. Chairman, that is exactly what I am speaking of. Is there, somewhere, something that will govern him? It will be in the regulations, I presume.

Hon. Mr. Hanson: It is in regulations right now. I know of one person who has lost their permanent trapline on account of leaving their snares and traps out.

Not me.

Clause 4(1) agreed to

On Clause 5(1)

Mr. Fleming: Mr. Chairman, I find myself zipping along pretty fast. If I may?

Mr. Chairman: Yes, Mr. Fleming.

Mr. Fleming: In (b).

Mr. Chairman: Are you referring to (b) in--

Mr. Fleming: I am actually referring back to (b), if I may, Mr. Chairman.

Mr. Chairman: No.

Mr. Fleming: No?

Mr. Chairman: Once more I will have to ask for unanimous consent to go back to (b).

Some Members: Agreed.

Mr. Fleming: In the definition of "game", in the old Ordinance, and I do not think there is a change in it, that "game" means big game, fur-bearing animals and, you know. We set it out here as "the holder of a hunting licence may set out, use or employ snares for the taking and killing of small game".

As the Member in front of me just asked awhile ago, is there a definition for "small game"? Otherwise we are snaring moose by the looks of things.

Hon. Mr. Pearson: Mr. Chairman, "small game" means hare, ground squirrel, marmots and any other animal prescribed as "small game" by the Commissioner.

Mr. Fleming: Mr. Chairman, I am satisfied that the Member has the proper Ordinance there. Somehow in the copy here I do not find that. Could he tell me which page it is on in the Ordinance?

Hon. Mr. Pearson: Mr. Chairman, it is on Page 689 of the Consolidated Ordinances of the Yukon Territory, Chapter G-1. The amendment was in 1975.

Mr. Penikett: Mr. Chairman, just for the record so there is no misunderstanding on this thing, under 4(1), 6(2)(b), can the Minister just briefly explain what hunting licences are being referred to there in this section?

Hon. Mr. Hanson: Assistant trappers' and trappers' licences. It is in the paragraph on top.

On Clause 5(1)

Hon. Mr. Hanson: This is all just units of measure changes, inches to millimetres.

Clause 5(1) agreed to.

On Clause 6(1).

Mrs. McGuire: I would like Mr. Hanson to explain why the changes were made there.

Hon. Mr. Hanson: It is just to define the new concepts of firearms for carrying in moving vehicles, that are loaded and carried in vehicles.

Mrs. McGuire: In 8(3), the change was made from--

Mr. Chairman: Mrs. McGuire, I would like to point out that we are on Clause 6, at this time. Clause 8(3), is further down.

Mrs. McGuire: Sorry.

Clause 6(1) agreed to

On Clause 7(1)

Mrs. McGuire: I was just wondering about the change on "maintained" and "travelled". It was changed to travel. Was that to do with sideroads?

Hon. Mr. Hanson: It is a part of a travelled road that most traffic is on. You cannot be shooting across the road, that is all that it means, a travelled road. It could be a maintained road, but it is not travelled on. You could have a road going up to an old placer mine, that they go in once a month, you would not call it a travelled road. It is a maintained road, but it is not a well travelled road.

Mr. Penikett: Mr. Chairman, I am concerned about this, too, because "travelled" is not precise. It does not refer to motor vehicles. I mean, travel could be by foot. It might be a road that has not been maintained for 20 or 30 years, but there may be people walking it still.

Is it the Minister's intention, then, to prohibit the discharge of firearms on such a road? Let me ask you, given the case he cited of a road that may be maintained but not travelled, why would he not want the restriction to apply to such a road, too?

Hon. Mr. Hanson: It does not really need to be that big an issue. It is just not to be shooting across a road. You are on this side, you are in the ditch, you are not shooting across the road. Or, you are in the bush off the road a quarter of a mile, you cannot see anything that is coming and you start shooting across a road.

Hon. Mr. Pearson: Mr. Chairman, I suggest if Members look at the section that is being amended, and this is what it said: "No person

shall discharge a firearm on or across a maintained portion of a public road or a highway”.

Now, Mr. Chairman, that particular section has been amended since the consolidation in 1958, a minimum of four times, probably five. It has always been a contentious one because nobody has ever really been able to determine what the “maintained portion of a highway” is.

It can be that portion of the highway that is maintained for ditches and so on and so forth. That interpretation has been used in this Ordinance at one time or another.

The object of the exercise was to try and make it clear that it is legal to stand in a ditch and shoot down that ditch, even though it might be part of a maintained highway system. But it is illegal for you to shoot across the travelled portion of that road. You cannot do that. You cannot shoot across the travelled portion of the road.

You can shoot down the maintained portion of the ditch, but not across the travelled portion of the road. So that is the object of the amendment.

Mr. Penikett: Mr. Chairman, I thank the Government Leader for his advice and just suggest to him that perhaps since 1958 there are a few fresh political minds on the scene and maybe I could offer a suggestion.

Given what the Government Leader has just said and given the confusion, it seems to me, about the meaning of travel, as it is not a word defined in the Ordinance, and travel could mean a road that people walk on or people drive on, may I make a suggestion that I think will clear things up, this twenty year problem that goes back since 1958?

Why not just say “no person shall discharge a firearm on or across a public highway, road or highway.”?

Hon. Mr. Pearson: Mr. Chairman, the definition of highway in the Highways Ordinance is very broad. Any trail, in fact, is a highway and I do not think it would be enforceable if we said “across a highway”, if we used that definition.

Mr. Penikett: Mr. Chairman, with respect, and I do not want to be niggling here because this does seem to be important. If we have that problem, and I understand it is a problem for the court to define an awful lot of things that none of us here would call a highway as a highway. Surely, if there are people travelling on it, given the way that is there, you still have got a problem under that score. Just by having the word “travelled” does not solve that problem at all.

It seems to me if someone is riding a moped on it or they are walking down it, whatever, you have still got it in terms of the understanding.

Let me say this again, even if you have a trail, most people who are hunting are probably going to shoot from something that may be close to the trail but, perhaps only a fool or an MLA would call a highway.

It seems to me if you simply said “a highway”, notwithstanding some fuzzy-minded, fuzzy thinking by the court, it seems to me it would make it very clear that we did not want people firing guns across highways or on highways that, in fact, they ought to show enough courtesy to the animals to at least step off into the ditch, or whatever it is.

I say, with respect to the Government Leader, that that word “travelled” does not help them out of the problem that he just enunciated at all.

Hon. Mr. Pearson: Yes, Mr. Chairman, it does, because it is our desire to make it legal to hunt along the maintained portions of a highway that are not the travelled portions. The definition of “highway”, in the case of the Alaska Highway, is a three hundred foot right-of-way. Now, we do not want to ban hunting in that three hundred feet of space. What we are saying is that you should not be allowed to shoot across the travelled portion of that highway.

There has been an awful lot of thought given to this section and it is our advice that this probably will clear up a number of the questions that have existed in the past in respect to it.

Mr. Penikett: Mr. Chairman, I do not want to devalue the thought that has gone into it already. I am just trying to put my two bits in. The Government Leader has now just said something very interesting, that it is not their intention to ban shooting within the three hundred foot highway right-of-way. I would like to ask him why they made that decision because it seems to me that it is not such a bad idea, the more I think of it, within the three hundred feet.

Hon. Mr. Pearson: Mr. Chairman, it was a policy decision. We decided that was not the thing to do. What we wanted to clear up, Mr. Chairman, was the ambiguity that exists in respect to whether

it is legal or not to shoot a gun across a travelled roadway in the Territory. What we are saying is that it is not legal to do that.

Mr. Penikett: Mr. Chairman, if I could just pursue the point. The Government Leader did not answer my question of why he set up this policy and I cannot understand that. We are talking about the Game Ordinance.

It seems to me that, in my experience, the worst offenders against the game laws are people who hunt from or near their pick-up trucks on the side of the road, not many of the more industrious and serious hunters, not people who particularly are engaged in hunting either for recreation or for meat. They are in fact people who may be driving along with a gun and happen to see an animal. That may be desirable, but I am just wondering in terms of the game populations that we have here and the fact, as I have mentioned previously, that widespread comment by tourists that you cannot see any wildlife along many of our highways, if it is a very good idea to continue that policy if that is what the Government Leader said.

The Government Leader did not really answer it. I know the practice and I know the habits and I know the fashions of the community, but I wonder if in fact it is a good idea to continue it.

Hon. Mr. Pearson: Mr. Chairman, we do rely to a great degree upon the advice of our experts in this field. Certainly, the decision as to whether or not there should be a ban on hunting within X number of feet of the centre line of a road is one that is in the forefront all of the time. I would suggest that at some time in the future it is a decision that will be before this House. At this particular time it was not deemed necessary that that kind of a restriction go into force.

Mr. Fleming: I am very happy to hear the Minister say those words. I hope sincerely that he will, when coming up with the new Game Ordinance, look into the situation in British Columbia where you cannot fire and kill game animals within a quarter of a mile of a highway, and come up with something that corresponds with that so that the laws are somewhat equal.

I have a problem with this section where it says “no person shall discharge a firearm on or across a travelled portion”, and I agree that you do not fire across the highway. However, I am a little worried about the wording. It says you discharge the firearm across the highway, that is fine. But on the other hand it says discharge a firearm on the highway. In the instance where you have your vehicle and get off the travelled portion and you shoot down the highway and you shoot on a portion of the highway, is that covered in the way it is worded here?

Hon. Mr. Pearson: Mr. Chairman, we went around this section for a long time. I appreciate the concerns that the Honourable Members are raising. I am sure that we have pretty well discussed all of them. What this section is saying, and very emphatically, is that you cannot be standing on the side of the road and shoot across the road; you cannot be standing in the centre of the road and shoot across one half of the road.

You must be standing off of the travelled portion of the road, first, and then you must not shoot across the road.

Does that answer the Honourable Member, Mr. Chairman?

Mr. Falle: May I suggest to the Members across that a lot of hunting by older native people and older people, recreational hunting, is for gophers along the highway, along the ditches and there is a lot of hunting in that area and they use it for food.

Mr. Fleming: I think that the Government Leader has cleared it up pretty well for me, however, he just still emphatically states “across the highway” and I am not really interested in that. I see that. You cannot discharge the firearm across the highway, but because they say “discharged on”, if you fired it over here and you did not fire it across the highway, but just down the edge of the highway and caught something standing just on the edge of the travelled portion of the road, is that completely covered here with that wording?

Hon. Mr. Pearson: Mr. Chairman, if the hunter is standing on the travelled portion of the highway, or the game is on the travelled portion of the highway, then it is illegal. Both the hunter and the game must be off of the travelled portion of the highway.

Mr. Penikett: Mr. Chairman, thank you. I appreciate the intervention from the Honourable Member from Hootalinqua and point out that he is quite right, that there are older native people hunting on the edge of the highway and sometimes they are arrested by the Territorial Government for doing it and one of them is going to court this Wednesday for doing exactly that.

It has got to be, in my mind, one of the most unlightened prosecutions I have ever seen in my life, but that is beside the point.

I was fascinated listening to the Government Leader in his last

answer, because it seemed to me that it was quite clear that it was going to be safer for our moose to walk down the centre line of the highway than it is in the ditch.

What I would be happy with, just to close this point because I do not want to belabour it, if the Government Leader would be prepared, or the Minister responsible, before we amend this Ordinance, he can either look at putting a definition for "travel", which was cleared in the definition section, because it is muddy right now; or, what I might prefer and I hope this question does get raised, is, in fact, we really seriously consider putting some limits on hunting within highways. I agree, though, you are going to have to define highways a little better than you have got it defined right now.

Hon. Mr. Hanson: He just took a shot at us for having somebody up for doing it and now he wants us to make it even worse, a quarter of a mile.

Clause 7(1) agreed to

Mrs. McGuire: We did not cover 8(4), did we?

Mr. Chairman: I was considering, Mrs. McGuire, all of Clause 7 at one time.

Mrs. McGuire: I wonder if I could go make to that?

Mr. Chairman: I need unanimous support.

Some Members: Agreed.

Mr. Chairman: Go ahead, Mrs. McGuire.

Mrs. McGuire: The calibre, 5.6 millimeters, I understand, is a gun in a range of a .30.30, right? A .22? Okay.

Mr. Falle: This does say that you can use a .22, is that correct?

Mrs. McGuire: Mr. Chairman, a calibre of 5.6 is a .22, you say. Is that considered a "rim fire"?

Hon. Mr. Hanson: Centre fire.

Mr. Fleming: Yes, I have a question. On the 5.6, I am sure the Government does not actually mean a .22 is a rim fire cartridge. They may mean a .22 highpower or such that is a centre fire cartridge and is a bigger load, because certainly I would not pass something, I hope, in this House that would allow you to shoot wolves with a .22. Maybe coyotes.

Hon. Mr. Pearson: It must be recognized that these are only wolves or coyotes that are in traps.

Hon. Mr. Hanson: Mr. Chairman, the one section means that you can use a .22 rim fire to dispatch a wolf or a coyote that is in a trap.

The second section says that you must use a centre fire to shoot a wolf or a coyote, if it is not in a trap.

On Clause 8(1)

Mr. Penikett: Mr. Chairman, I now understand it, having read it, but I guess it might be useful for the record if the Minister could explain the exclusion of conibear traps from 9(1). I know that they are covered in 9(2), but the Minister might want to explain that for the record.

Hon. Mr. Hanson: The only change in the sections, actually, are the units of measures, that is all.

The new subsection is added because, to legalize the large spring traps, which are known as being the more humane trap, the conibear.

Mr. Fleming: I might ask the Minister, has the size been changed into millimetres or has the actual size of the trap been changed?

Hon. Mr. Hanson: Just the unit of measure has been changed, inches to millimetres.

Mr. Fleming: In this subsection 9(2), I was just wondering where they restrict the trapping to where the design of the manufacturer, they may let him trap with this that is known as a "humane trap" which grips or strikes an animal on the head, and on the section before they banned the use of the deadfall.

I would submit that even though the manufacturer may not be too good at making the deadfall, the trapper was usually quite good at it and it would strike the animal and does the job. However, now I would presume that you cannot use that.

Hon. Mr. Hanson: They can use a "humane trap" which is called a conibear; more and more people are getting these as time goes on. It is a more humane trap for killing at once.

Mr. Penikett: This makes it quite clear. The only people who can use deadfalls are conservation officers.

Clause 8(1) agreed to.

On Clause 9(1).

Mr. Penikett: It is a good Clause, Mr. Chairman.

Clause 9(1) agreed to

On Clause 10(1)

Clause 10(1) agreed to.

On Clause 11(1)

Mr. Penikett: I might ask the Minister for an opinion here based on his vast experience in the humane killing of game. I am quite puzzled by that expression, "humane killing". I think that Section 10 is highly commendable; I think that Section 9 is highly commendable.

Section 11 which talks about the abandonment of meat in the field which I think has been a serious problem in this Territory, I would just like to ask the Minister if he sees occasions where those two Clauses might be in conflict? For example, it may be that a game outfitter, with the best will in the world, has surplus meat which they would like to transport back to some community or some centre for consumption by human beings rather than it be wasted on the crows and the wolves but does not have any economic or easy way of transporting it back before it gets spoiled except by aircraft. I do not know what the answer is to that problem. I just wondered if the Minister might have thought about it a bit?

Hon. Mr. Hanson: Mr. Chairman, we have gone around and around on that for years in the Yukon. I do not think anybody likes the idea of any meat being left out in the bush. The outfitters say that they use all meat. In fact, I know that in years gone by, I do not know recently, that the guides, who were pretty well all native, used to smoke it right there and then when they got it and then would bring it out in the fall.

I do not know what is done right now. I have not been around an outfitter's camp in the bush for a long time.

I would suggest that there has probably been more game left alongside the road or along river banks that have been shot by people just in a boat or a car shooting and wounding game and not knocking it down, or not seeing it stay there, and never bothered to chase it again, probably a great deal more than what is wasted by the hunters in the bush. In my own riding last year there were two, and from information there have been two so far that this has happened to. There is no excuse for this.

Mr. Penikett: Mr. Chairman, I know the Honourable Member of Renewable Resources and the Government Leader and I am bound to get in arguments with the English language. I am a little bothered by the expression "to become deteriorated" in subsection 14(2). Could we not just simply say "shall allow the pelt to deteriorate, spoil or destroy"?

Hon. Mr. Pearson: Mr. Chairman, the only change in present legislation was the adding of the words "wolf" and "coyote" to the subsection. I do not know any reason why we should change the wording other than that we may not like the connotations of it. It is a fact. It seems that it is legislation that has been in place for awhile, and it is clear to everybody what it does mean.

Mr. Penikett: Bad grammar.

Hon. Mr. Pearson: Bad grammar? We can have it looked at Mr. Chairman. I do not know, it has been in existence for quite a while.

Mr. Penikett: We are going to be doing this six months from now. I am not going to introduce an amendment on it. I just think it is something we can—

Mr. Fleming: If I may, just a query really as to a wolf, coyote and other animals. Is there an animal, such as a coyote, that you may shoot the year round without a licence in the Yukon Territory?

Hon. Mr. Hanson: No.

Clause 11(1) agreed to

On Clause 12(1)

Mr. Penikett: Mr. Chairman, this is a bad clause. I recently had the pleasure of reading something which I would recommend to the Minister of Renewable Resources which is an unpublished work on History of Yukon Game Laws which is in the Yukon Archives.

One of the most unfortunate things in the history of Yukon game laws has been a far too frequently used Commissioner's power to exempt things from the Ordinance. Out of this, I think in the 1920's, if I remember correctly, there were some pretty horrible exemptions to Yukon laws given to friends of the Commissioner who came into the Territory to "do research" and in the process of these researches slaughtered hundreds of animals they had no use for whatsoever.

We also had the precedent during the Second World War when I think on Commissioner's Order the American army were given hunting permits without regular licences. Now, I do not want to draw any cause and effect conclusions from that but we do now know that we no longer have any large caribou herds in the southern Yukon.

I think, given the constitutional developments since that date,

given the serious problem, and I think both the Ministers or all three, past and present Ministers that we are talking to today on this issue understand the serious problem of game populations in Yukon right now. I think this House should be very cautious about granting to anybody an exemption through the provisions of this Ordinance. There may be some of us here, who feel, in fact, that some things are not tough enough now.

Now I know it says "a special licence to guide a non-resident Canadian citizen for the purpose of hunting big game where there is no commercial transaction involved", but I think all of us know about gifts in kind, all of us know about the some of the unsavoury historical things where this kind of power has been given and I frankly say, Mr. Chairman, I would feel a little happier if it was not in here.

Hon. Mr. Hanson: I think it has been a great deal of concern to a lot of us, too, I should point out to the Member, Mr. Chairman.

We are putting this in here because we know that we are going to regulate it in such a manner that it will be, if I had a brother come in it would be once in a lifetime. I will be allowed, possibly, it is to be decided yet, whether I would be allowed to bring anybody in here from three to five years. This is not going to be an on-going thing that you can have 15 relatives come this year and take all 15 of them out in the bush, because then it sort of smells of commercial transactions.

So, you will be allowed to take a person out to hunt and maybe, three to five years from now, depending on the regulations, you will be allowed to take another one and that is all.

Should we find this is not suitable, it will be cut off. This is what you have got to contend with in your fish and game clubs, they feel that if we are allowing aliens to come into Canada to shoot for money, our game then we, as Canadians, should be allowed to invite our brother in or our father or whatever. But it would have to be done with very stringent rules so there would be no danger of it being a commercial operation. We have enough of those now.

Mr. Penikett: Mr. Chairman, I understand and appreciate the reasons that the Minister gives for including it in this section, which does not exactly describe the kind of circumstance the Minister envisions.

I am sure my father, as a former resident, would love to come up here and chase bunny rabbits around for a couple of days, maybe, in the hope of seeing a moose, and it would be nice if he could do it.

I do not know whether it is necessary to change our laws in order to accommodate people like him or not and I understand the reasons the Minister gives. What I am making a case for, and I would urge the Government to consider this very strongly when they are looking at this Ordinance again, take a look at the history of Yukon game laws.

One of the realities of Yukon game laws is every single Legislature of this Territory, since this body came into being, has amended the Game Ordinance. Often, unfortunately, they have amended the Game Ordinance as it appears in terms to bring them into line with the latest fashions from outside. That is why we ended up having elk in the Territory and things like that.

I think shortly following the Second World War, with the construction of the Alaska Highway, we ended up amending our game laws to make them suitable to the prairies. Most of the people here realize that we do not live in the prairies and those kind of changes did not prove meaningful.

I think, given the historical thing, I just say this again, there have been some pretty horrible uses of the Commissioner's power in terms of the game laws and I would, so long as we have a Commissioner and so long as this power is in here, and especially since there is no mandatory reporting of the use of these things in the sense the Commissioner has to give some kind of statement or file somewhere, that so and so be given an exemption, I would like, when the Government looks at this Bill again, within the next year or two, to seriously reconsider this section.

Hon. Mr. Tracey: Mr. Chairman, I think we have to take one thing into consideration and that is that this is only a special licence for any resident to take an outside member of their family or whatever out hunting. But that does not preclude that outside member from having to buy a non-resident licence. He still has to buy the non-resident licence.

All we would have the capability of doing is allowing a Yukon resident to take him out, to guide him.

Mr. Fleming: If I may, I really am going to oppose this section, as I have heard it today.

I did not know whether it involved quite that much, but now that I have heard just how they are going to do it, I would really oppose this section. In fact, I would be almost tempted to vote against this Ordinance, even if I was all alone in this House doing it, for that

very reason.

Ordinances are made for people, not somebody's relatives. I think we can look at conserving our game, slightly. I am not entirely opposed to the section saying that a resident could invite another resident from another province such as British Columbia, to hunt here, under certain licences and so forth.

I agree with the Honourable Member, the idea of charging the price of a full non-resident licence is fine. That portion is fine, but I would caution the Government very much at leaving this section as open as it is here and then saying, well, in regulations we are going to allow relatives, brothers and sisters and so on. That is discriminatory. I do not have any brothers or sisters or relatives in Canada right at the moment and many others do not.

It is either for the people or not for the people, I would say. I would caution them very much and I would hope to see it in this Ordinance, where it states what game you can hunt, not left to the Commissioner or anybody else to decide that so and so can hunt a bear and so and so can hunt a moose and somebody else can hunt a deer or somebody can hunt something else.

In the event that you are doing this and opening it up, more or less, to big game hunting in the area of grizzly bear, I would say it was a very, very, very dangerous practice, because there are so many people who do not hunt who have a licence.

These are the people, and maybe not, but they are there, there are lots of them and they are the type that want to go out and do this type of hunting and bring their relative, as you put it, and I would say that is out anyway, that relative area because it should be any person, but saying they do, and they go hunting and they can get into a lot of trouble.

My sympathies would be with the bear, of course, at any time.

The section should have more in it here as to what we can hunt, not leave it to regulations. It also should be, as BC is, unless they change theirs with regulations, too, that you can bring a person, not just a relative. If we are going to do something and if we feel there are too many persons in the Territory, then we should take it out entirely and not use it, because I do not believe in discriminatory legislation and that is exactly what this section is, if you are going to come out in regulations with just relatives.

Hon. Mr. Hanson: It says "non-resident". It does not specify. I just used brother or sister as an example. It says non-resident. It does not specify whether it has to be a relative or not.

Hon. Mr. Pearson: Mr. Chairman, I recognize that I am very easily confused sometimes, but after listening to the Honourable Member opposite, I really am confused.

Mr. Chairman, I do not know what he wants us to do or what he is suggesting we do.

In the one instance he is suggesting that it is too open. In the next breath, he said that it is not open enough, it should not be restricted to relatives.

Now, Mr. Chairman, the responsible Minister made it clear that we intend that this be a very, very restrictive section and yes, Mr. Chairman, it will be discriminatory and it will be discriminatory towards the people of the Yukon Territory, no one else.

I am not going to apologize for that to anyone.

Mr. Chairman, Honourable Members should remember that, in fact, this legislation was in place in this Ordinance at one time and was taken out of it a number of years ago. We are now proposing that it be put back in.

Mr. Fleming: It is too bad that the Honourable Member gets so confused over something so simple.

As I have stated, in the area of what game you are going to hunt, what type of game, what you are going to be able to hunt, it should be stipulated more clearly in the Ordinance, not just in regulations so that grizzly bear and this type of thing; however, it may not be and we have to trust the Government in this sense.

That is where the legislation should be tightened up, in that area.

In the area of granting the licence, it is an entirely different situation, as to whom you grant the licence to. In that area, I say that it is a discriminatory piece of legislation, if you make regulations for only relatives. If you make it for all persons, other than I would just as soon not see it here at all.

Hon. Mr. Pearson: Mr. Chairman, we cannot be specific about what game can and cannot be hunted or should or should not be hunted in the legislation, because if we are going to properly manage this resource, we have to have the flexibility of being able to establish quotas and determine how much game can be taken in a specific area and during a specific year and not be tied to the requirement of having to come to this House in order to get that changed.

We cannot react fast enough to the circumstances, Mr. Chairman, if we are required to do that.

The one other thing that I would like to bring up that was mentioned earlier, was the reference to the Commissioner. Mr. Chairman, I think all Member should keep in mind that, in an ordinance like the Game Ordinance, which is a purely local matter, the term "Commissioner" is used as just that now, a term. It, in fact, means this Government.

Mr. Penikett: Mr. Chairman, I had hoped the Government Leader would not do that number on us.

I understand what he just said, but also would remind him that there are sections in the history of this Territory when it comes to game when that one power, which is very definitely given to a legislature or to the people of Yukon under the Yukon Act, was very rudely and pre-emptorily usurped by the Commissioner.

This thing does still say "the Commissioner" and what I was just talking to the Government Leader about, and I do not want to get into a long constitutional debate about it, but it was so long as we got that person, whoever she is, in the Ordinance, I think this House has got to be watching what we allow them to do, that is all.

Mr. Njootli: I do not see any problem with leaving this section in. It is not withstanding subsection (1), but it is subject to regulations. I think that clarifies everything concerning comments made by the Member from Campbell with regard to being specific and describing which game should be hunted.

I think that the regulations as put out by the Department are quite clear. The Yukon is divided into different zones for different animals. They are under regulations. For instance, if the non-citizen is taken out to a zone for hunting goats, I would say that the regulations there would be quite strict in that sense of the word.

Mr. Chairman: Shall Clause 12(1) carry?

Some Members: Agreed.

Some Members: Disagreed.

Mr. Chairman: I will ask Madam Clerk to poll the House please. All those in favour of passing Clause 12, will you please rise?

Those Members against passing Clause 12, will you please rise.

Six Yeas and Five nays.

Clause 12(1) agreed to.

Mr. Chairman: At this time we will have a recess.

Recess

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

On Clause 13(1)

Mr. Penikett: Thank you, Mr. Chairman. I have just got one concern here that the Minister may be able to settle in my mind and that is the portion in 24(1)(b) which talks about furnishing an affidavit setting forth the circumstances of the killing referred to in Section 1. I am curious as to whether an affidavit here requires the notary and if they will always be available.

I am trying to think of a case of an old guy I know up in the White River who is in his nineties and who is still trapping. He does not speak English, much less read and write it, and who might be in, I think, somewhat of a quandary here the risk of losing his licences or rights because he does not make this kind of reporting. I suppose some of the other sections, I am not sure that if I asked him to recite what is in this Ordinance, he might have some problems with it. I am really concerned about his ability to even write a statement, you know, laying out the circumstances of such a thing because, I am sure in his lifetime, there have been several occasions when he has had to, in fact, kill an animal in defence of his life. I do not know about property and I do not know what kind of property he would have to defend in those circumstances.

I would like to have the Minister explain about what is meant by the "furnish of an affidavit" and perhaps ask if that section is really necessary in view of the circumstances of some of the people, perhaps some people in Old Crow or perhaps some people out in the bush beyond Mayo and so forth, who might, as a matter of course in the carrying out of their trapping activities, have to kill an animal and would have some problem, I think, complying with this rule.

Hon. Mr. Hanson: Most of the time what it refers to here is, you have an exploration camp and there is a nuisance or something like that, and you cannot get rid of it any other way, you know, we are a benevolent government, we are not asking that if you run into a moose, you kill it with your car, the car is damaged and you are probably dead, we are not asking that the Member report it.

Hon. Mr. Graham: But we will find you if you do not.

Hon. Mr. Hanson: But it is mostly for these people that do camp

out, exploration camps and that. That is really who we are after there—not after, but they must report.

In the past I have known places where they just shot everything that came around there. They cannot do that anymore. If anything is shot, it has got to be reported and an affidavit sworn that that is actually what happened.

Hon. Mr. Pearson: Mr. Chairman, one of the other major reasons that the section is here, we have known instances of a person shooting at one animal and accidentally killing two, then, for fear of being prosecuted, because there was no recognition of the possibility of the accident occurring in the legislation, leaving that animal there.

Now, we want to stop that. We want to be able to give them opportunity to dress out that meat, bring it in with them, get to a conservation officer.

I think the matter of the affidavit is very, very nebulous. It is really a written statement that is required and if a person cannot write then it is going to get down one way or another, but the object of the legislation is to say to people, look, if you accidentally kill an animal, do not leave the meat to rot and report it to us. You are not going to be persecuted for accidentally killing that animal.

That is the whole object of the section.

Mr. Penikett: Mr. Chairman, those were good examples given by the Government Leader and the Minister of Renewable Resources, and as far as it goes that is a commendable object.

I do not want to let this pass without saying that I am concerned about some of those old people such as I have described who may be out there, and they have not had time to keep up with what is going on in the world anyway. They do not read the papers; they do not read all these Bills; they do not get them in the mail probably. I am very worried about someone losing their licence or finding themselves falling afoul of the law because something that may have happened to them all of their life. Once in awhile they get into problems with an animal in the bush and have to kill it and they are not killing it for meat; they are killing it to protect their own lives, and then finding that while they are out in the bush trapping, we are passing a law which may get them into trouble. I worry about that.

Mr. Fleming: Yes, Mr. Chairman, I commend the Government Leader for the things that he has said because that is a good thing in this section.

However, I have a couple of concerns in this section. One of them is that it states emphatically here that every person who accidentally, while hunting, kills any protected game, and I am wondering if somewhere else we have some protection for a person who is not hunting but who does kill with a car or something as the Minister has spoken about in this section or if there is somewhere else that we have legislation for that. That worries me a little, the wording there. And then I have a problem with where they "shall immediately and properly dress the carcass, take away the meat and hide, keep them in good state of preservation..." the meat and the hide and you are speaking of big game.

If you go back to 14(2) it says, "No person who has killed a fur-bearing animal, wolf, coyote or bear" and you include "bear" there, and "shall allow the pelt to become destroyed", and you mention only the pelt. Down here I am saying that you are actually mentioning the fact that bear meat should be saved also. I wonder why bear was not excluded from that somewhere?

Hon. Mr. Hanson: It does not say "bear meat" in here. I threw bear in as an example. Once again, I guess I have got to be very careful with my examples. It does not say "bear meat" in here. It says "meat"; and, bear meat is pretty good to eat, too. I have eaten it a lot of times.

Mr. Fleming: Mr. Chairman, with respect, the Minister is saying that it does not mean "bear", but it says "big game" which is protective under this section. Go back to "game" and read "game". It means big game. Is a bear not big game? It is a question that I ask, and if it is big game, then this section says that you will bring home the bear meat.

Mr. Tracey: I would like to refer the Member across the floor back to Section 11(1), 14(1), where it says that "No person who has killed game other than bear, wolf, coyote..." can abandon the flesh.

It states in the previous section that you can abandon the bear meat.

Mr. Falle: I would like to clarify one thing. Clause 24(1), does this make the driver of a vehicle responsible for moving, if he hits a moose on the road, he has to dress the moose out and take it to a game officer? That is just a question?

Hon. Mr. Pearson: No, Mr. Chairman, he might not have a knife.

Mr. Penikett: Let us be serious about this for just a second. Pre-

sumably he is responsible, but he has to, as soon as he can, find someone who will, in fact, dress it and take care of the meat.

Hon. Mr. Pearson: This section does not apply to that at all.

Mr. Penikett: Just let me read it. It says "Any person who accidentally, while hunting or in defense of life or property", property perhaps being a car, or the attempted defense of the property, kills a moose, let us talk about a moose, "shall immediately and properly dress the carcass, take away the meat and hide, keep them in a good state of preservation and deliver them to the nearest conservation officer who shall dispose of the meat and hide in accordance with instructions from the Director; and shall at the time of delivery of the meat and hide to a conservation officer, furnish an affidavit setting forth the circumstances of the killing."

In other words, let us say they are not competent, they are not able to dress the carcass and butcher the animal. Presumably then, they will be discharging their responsibilities if they get to a conservation officer as soon as possible.

Hon. Mr. Pearson: Yes, Mr. Chairman.

Mr. Penikett: Mr. Chairman, as soon as you clear 24(2), I just wanted to ask one last general question about the whole section, if I could.

Mr. Chairman, in regard to this section and the one that follows, presumably, the Department has, given its experience in this field, some well-established means of communicating these new laws and new regulations to trappers and to people and to hunters and so forth in the Territory.

I wonder if the Government Leader could tell me, though, sometimes there are disputes concerning our ordinances that go to court. The courts, if they are not clear from the strict reading of the words, sometimes, I understand, deal with questions of what was the intent of the Legislature.

I would just like to know, if the Government Leader could say from his experience, given that we have a previously stated intent here not to harass some traditional hunters or whatever, who might be out and might kill an animal in defense of their lives, who might not know about affidavits and so forth, if the Hansard record of this Committee would stand as a clear expression of the intent in those kinds of questions?

Hon. Mr. Pearson: I do not think that it does, Mr. Chairman. I believe that it is a prerogative of a magistrate or judge to "read between the lines" when it comes to intent. But I cannot recall Hansard being used by either prosecution or defence as a statement of intent of a legislature. It may well have been done at some time or another, but I am sorry, I do not believe that I have ever known of such a case.

Mr. Penikett: Mr. Chairman, just let me serve notice then for when we are dealing with the Ordinance when it comes up again, that I understand and respect the Government's reasons for wanting to have this Section 13 in but I hope the question of the affidavit and the requirements under it for people who, such as I have mentioned, can be clarified in some way that it is clear to them that they may not be harassed for just protecting their own lives.

Hon. Mr. Pearson: Mr. Chairman, I am certain I think for every Member on this side, that we, as Government, would be very disturbed at any suggestion of that kind of harassment even now. So, if the Member has an instance or instances, I would encourage him to bring them to our attention at the earliest possible time.

Clause 13(1) agreed to

On Clause 14(1)

Mr. Fleming: Nothing in particular, Mr. Chairman, except that I have a little problem with the area "of not more than 800 metres". I realize that the Game Department can put up many signs which could be 100 metres or even 50 metres if it advisable or if it is in an area where they would not be seen very well. Hopefully, they would do so.

However, there is the possibility they could go the 799 metres and in an area such as lakes, I will give you an example, in Alberta, British Columbia, places where maybe the area is farmland and you can see very well for long distances without too much timber, that is fine. If they did not cut down possibly on the metres here, and went that limit, because they are allowed to, I would find possibly in some areas that it might be very hard to find their signs even though you are in the area at all, because of the timbered area in the Yukon Territory.

Hon. Mr. Hanson: The only difference between this amendment and the old one is the unit of measure. It is the same as it has always been.

Mr. Penikett: Mr. Chairman, just so I can be clear, because I do not remember this section in the old Ordinance, does that mean that if I own a piece of land, for example, in Hootalinqua, which

might be country that I could post these signs and keep people out for this purpose? It would have the effect of law?

Hon. Mr. Pearson: Yes, Mr. Chairman. If you own land, fee simple, you can post it.

Clause 14(1) agreed to

On Clause 15(1)

Mr. Penikett: Mr. Chairman, I assume this is just for data-gathering purposes, for planning for the department.

Hon. Mr. Hanson: That is right, it is just for data purposes.

Clause 15(1) agreed to

On Clause 16(1)

Clause 16(1) agreed to

On Clause 17(1)

Clause 17(1) agreed to

On Clause 18(1)

Clause 18(1) agreed to

On Clause 19(1)

Clause 19(1) agreed to

On Clause 20(1)

Mr. Penikett: Thank you, Mr. Chairman. I have been talking to some people who are worried about this section. They are of the view that hunting infractions, which are made consciously or unconsciously, and I asked about this power of Assent earlier, they believe should have no bearing on the trapping licences because of two very important reasons that I mentioned earlier. One, that trapping might be the livelihood of the person, and in this day and age it is not unusual for people to find themselves afoul of the law, not consciously but because of ignorance of the law.

I know that in our tradition that is not an excuse. It is not a defense before the law, but it is quite possible given the kind of situation we were just describing, the pace of events for that to happen. I am sure that there are people in every single one of the communities that we represent that have only the vaguest ideas about the new laws we are passing.

If we have the hunting and trapping sections too closely coordinated it means that if somebody in Mayo or up the highway gets caught hunting too many gophers, for example, out of season, or something similar, they could be open to losing their trapping rights. Five years is a very long time for them to be taken away. The people who I have talked to who are concerned about this and really feel that the trapping rights and licences should be clearly separate from the hunting rights under this law.

Hon. Mr. Hanson: They are, Mr. Chairman. You cannot lose your trapping licence unless it were a very major hunting violation.

Hon. Mr. Pearson: Mr. Chairman, the trapping is done by permit. This does not refer to the permit or the licence. The safeguard is in there and it is clear. We, too, had that concern and have been assured, legally, that our concern has been met. A person's livelihood is not jeopardized by this section.

Mr. Penikett: Mr. Chairman, I hope the Government Leader and the Minister responsible will not take offense when I say this. I had some problem getting that understanding simply from reading it. I hope that whoever is responsible will make it very clear. It was not clear to me, and I think I read at least as well as the Honourable Member from Mayo.

Hon. Mr. Pearson: Mr. Chairman, I acknowledge what the Honourable Member is saying. It really was not clear to me in the first form that I saw. I really believed that there was a serious question. I am personally satisfied now that it is clear, and our advice is that that is so.

Mr. Fleming: I think, possibly, I should wait until we get further down, however, when we pass the section and we get down to 41(5), where a licence or a permit or a certificate of registration is cancelled, and I am just wondering that it does cover permits in that sense then.

Mr. Chairman: I think we will discuss that when we get down to it.

Mr. Penikett: Mr. Chairman, I guess I might as well ask this question just so that it is clear. I would ask the question, also, of 41(3), does this include trapping, where it says that hunting, killing or taking a species or any type of wildlife, et cetera?

Hon. Mr. Hanson: No, it does not.

Mr. Fleming: Mr. Chairman, I think it is clarified now, from here. Thank you.

Clause 20(1) agreed to

On Clause 21(1)

Mr. Penikett: I do not know if this is the problem but it just occurred to me that I know of some Indian people in Dawson City, and there may be some in Old Crow as well, there certainly are in Beaver Creek, who were born on the other side of the border and technically, and legally, are therefore American citizens. I do not know if anyone of them hold trapping licences right now, but it just occurred to me that even though they though they are band members of Canadian Bands, they are also American citizens.

It just occurred to me that we might have a very funny thing here in terms of someone being excluded. I assume that if the department had ever run across a case they would know about it.

Hon. Mr. Hanson: I imagine that if they had run across it, there would have been something down on it. I do not know if there is any problem with it at all, because we have Canadians applying for American land settlement money.

Clause 21(1) agreed to

On Clause 22(1)

Mr. Penikett: I have got a question here. Does this apply to the taking of wildlife on traplines, especially without notice to the trapper? Maybe the Minister of Renewable Resources knows something about that kind of thing?

Hon. Mr. Hanson: I did not quite get what the Member asked, but I presume it was the taking of wildlife on somebody's trapline, is that what you are referring to?

I think, though I am not sure, I think they normally allow that. It is a common thing. If I have otter and the fur branch wants to take some otter off my line, well, it is not a hard thing to get along with. They have the right to take it anyway. It is live trapping.

Mr. Penikett: Yes, Mr. Chairman, everybody knows how good natured the Member from Mayo is and how co-operative. What I would seek to find out is does the Department see themselves as having an obligation to at least get the trapper's consent or compliance or agreement on something like this, because you may be talking about some very valuable species?

Hon. Mr. Hanson: Normally, the trappers give their consent. I think it is up to the trapper to give his consent. It is not a hard thing to get.

Clause 22(1) agreed to

On Clause 23(1)

Clause 23 agreed to

On Clause 24

Mr. Fleming: I take it, from this Section, that the Director has, more or less, control over the number of hunters in the field, and can change that from one hunting area to another, due to the possible depletion of game in one area or something like that?

Hon. Mr. Hanson: What this paragraph means was that the outfitter should ordinarily reside in the Yukon to have an outlet, and that his equipment is kept in good repair, is the main thing. The Director has control of the number of licences that are taken out by any one hunter. I like the amendment.

Clause 24 agreed to

On Clause 25(1)

Clause 25(1) agreed to

Mr. Penikett: Mr. Chairman, we are in a fascinating area here. This assertion, since that is what it is, is something clearly very new, and, let me say, imaginative, and probably necessary, in view of what has been happening in the industry. I look forward to hearing some of the public comment that this section will no doubt promote.

Mr. Fleming: There might be a controversy in this section by the outfitters possibly some day. I would like to have everything clear and out in the open and let the outfitters know what this really means. I think I know, but I would like to hear it from the Minister just what this section does mean.

Hon. Mr. Hanson: What it is is a redress of a misconception that once you have a licence to be an outfitter that you own the wildlife and the land. You do not. You have a licence to outfit on that land as long as the Government wishes to give you. We are not compelled to continue this forever is what this means.

Mr. Fleming: Mr. Chairman, I do misunderstand it a little bit then because I understand it to say that the outfitter can operate on that land, can hunt the game on that land but he in no way can have any title or rights to that land in any way, shape or form as to selling it, peddling it or doing anything that he wants to do with it. Is that not true?

Hon. Mr. Hanson: That is correct.

Mr. Penikett: Mr. Chairman, just let me say what I think it is all

about. What I think it is all about is, in fact, an important Territorial resource, one of the few that this Government has control over, a resource and a type of business which at one point, some people can perfectly conceivably see as ideal for operating on a small scale for Yukon residents. Perhaps it is one of those kind of things that I think a lot of native people might have at one time aspired to. At one time, under the Territory's game laws it was illegal for native people to own outfits.

What we have had in the past years is a situation where hardly anybody who works in the business, I think, could ever capitalize themselves from the wages they made in the business to the point where they could ever buy an outfit, not unless they were working at something else.

Progressively, what we have been seeing is, in fact, the removal of the ownerships of these outfits more and more to the outside of the Territory, further and further beyond our control. In fact, somehow, the perception being developed over a period of time is that somehow these owners of these outfits had some rights to the land and resources of the Territory, which I think, quite properly, this House is now asserting they do not have. To put it in a nutshell, Mr. Chairman, I would say that it is a good Clause.

Clause 25(2) agreed to

On Clause 26(1)

Mr. Penikett: Mr. Chairman, the section here says, and I just may read it for a second because it is important, that "Every guide and outfitter shall report to a conservation officer any offence contrary to this Ordinance or the regulations committed by a person whom he is guiding or outfitting within 48 hours from the time that the offence becomes known to him."

We were talking about time limits the other day. It seems to me there may be times when 48 hours is clearly impractical. I understand in mining legislation, some of which covers the Territory, there is a provision which provides for a factor of one day per number of miles from a community. I am not going to hold this up now nor do I suggest an amendment but I would suggest to the Minister before we come back with a new Ordinance, six months or a year hence, that he look at such a revision because it seems to me that would make a little more sense. There may be some outfitters operating so far away that 48 hours is impractical.

Hon. Mr. Pearson: Mr. Chairman, this was of concern to us as well. We were assured, however that outfitters in the Territory operate in such a manner that forty-eight hours is not an unrealistic number, at any given time. Primarily because of safety, and this type of thing, two-way radios, and so on. We were assured that the forty-eight hours is a very realistic number.

Mr. Fleming: Mr. Chairman, that might be the case where they use plane service, and where they do always have their radios, and everything is working. However, I can cite a case where a hunter is in the field in the southern part of this Territory, in the area of Downey Lake, and up in there, where I am sure that forty-eight hours would not really give him time to get out, even if he rode out on a horse as quick as he could, as he might possibly have to in this case. There are some exceptions.

Hon. Mr. Pearson: Mr. Chairman, it must be understood that we are not saying that anybody has to go anywhere to report this. The anticipation is that this would be reported by radio.

Mr. Penikett: Just before we get off this section, I would like to try out an idea on the Minister.

Notwithstanding his previous assurances that there is little meat wasted in the field, and so forth, and I would want the Minister to know, in all fairness, that there are people who allege otherwise, and given that the game resources in the Territory are pretty finite and valuable, and further given that we are not recovering from this renewable resource revenue sufficient to pay for the management of the resource, and further given that in Europe, from whence come many of the clientele for big game outfitters, the enforcement of the conservation laws in the area which the persons are hunting become a cost to the outfitter. I wonder if the Department, or the Minister, has considered the introduction on a large scale of that European tradition, whereby a conservation officer is assigned to a large outfitting area, and their wages and their costs of operation become a charge to the outfitter. Perhaps, in this Territory, we could do it such as one conservation officer per outfitter, at this point.

It seems to me, given the financial picture, that we really ought to, at some point, be thinking about having a conservation officer with each outfit, since the outfitters themselves are no longer conservation officers in law, and that is probably a good thing.

Hon. Mr. Hanson: I must say that we have given this a great deal of consideration, and if the Renewable Resources Branch keeps on receiving the letters that we are getting back from hunters, it could

well happen that we would have to have a conservation officer in some particular camps, for certainty.

Mr. Penikett: What I am getting at is, if the Minister does that, it may be a very good idea. Would he seriously consider making the charge, or the cost of having that officer in the camp a direct charge to the outfitter? It seems to me not an unreasonable position, if you are talking about user-pay.

Hon. Mr. Hanson: We have considered it all, the whole bit.

Clause 26(1) agreed to.

On Clause 27(1).

Hon. Mr. Pearson: All that is happening here, is that the onus for reporting is put upon the outfitter. In the present legislation, it is put on the guide, and we deemed that to be wrong. It should be the outfitter's responsibility.

Clause 27(1) agreed to.

On Clause 28(1).

Mr. Penikett: I would like to have a little narrative from the Minister as to exactly what kind of discretion is envisioned here, the kind of circumstances under which the Director would be exercising these discretionary powers.

Hon. Mr. Pearson: Mr. Chairman, we perceived these certificates as a very, very important management tool in the overall sphere of game management, wildlife management in the Territory.

What we are proposing is that a certificate can be granted for a period shorter than the five year term that is now in the legislation and would be done primarily, I would suggest, in relation to game harvesting studies that may be carried on in that particular area and this kind of thing.

It is a management tool. We want to be able to use that certificate as a management tool.

Mr. MacKay: Perhaps while we are on this section, if we could have a brief outline of what kind of criteria that you employ right now in awarding a licence to an outfitter. Are there any specific guidelines or is it just whoever comes in through the door recommended by their predecessor, or, how is it done?

Hon. Mr. Hanson: Well, they have many things checked out. As of now, he would have to be buying a line, so his financial background would have to be checked out.

His personal background, we are getting them coming in from outside, that have been turned down for outfitters' licences outside and it is quite a thorough check before they can get a licence in Yukon for outfitting anymore. Gone are the days when they came pretty easy. There is a pretty thorough investigation into their background, what their past has been, and their experience. It is quite a lengthy procedure, right now, to get it. I think there are a couple in the offing right now, but it is debatable whether they are going to make it, or not.

Mr. MacKay: As the Minister is probably aware, these licences are a finite number and are becoming quite valuable in the eyes of any potential purchaser.

Perhaps it is maybe time that we got a little chauvinistic about it and said that, perhaps, it should be Canadian citizens, as an initial cut at it. Is there any thought in that line?

Hon. Mr. Hanson: They have to be a resident of Yukon and if they do not own anything, they buy it. That misconception that because they have a licence that they own it, that is taken out in this Ordinance. And, they must reside in Yukon.

Mr. Penikett: Yes, Mr. Chairman, as Members all know, I am a man of the people, not of property. I would be curious as to whether, in the kind of case of ownership that has been raised by the Leader of the Opposition, if someone might hold a licence here for an area, and be the owner in name, this Government would permit someone other than the registered owner to, let me say, have a mortgage on it, or have rights in it, or have some kind of financial interest in it, someone other than the person who is the legally licenced outfitter in the designated area.

Hon. Mr. Hanson: We will check it out pretty thoroughly, and be assured I might be a very, very unpopular man in the next two weeks. Unfortunately, it is a step that we have to take to protect our wildlife, and I am prepared to take that step. So is this Government, it is our policy.

Hon. Mr. Pearson: Mr. Chairman, for the edification of the Honourable Leader of the Opposition, the requirement for an outfitter's licence is that he must be a Canadian citizen, at the present time. Section 48, Mr. Chairman.

Mr. Fleming: I might just ask again, seeing that I am through this section now, what is the criteria for that person, if we said he can be back in 60 days and so forth? What is required by an outfitter? Does

he have to be a resident in this Territory? I think, in the old Ordinance, he could stay in Vancouver, be a resident there, and also be included as a resident here for his hunting licence if he was here 14 days or 30 days before starting hunting.

Hon. Mr. Pearson: Mr. Chairman, the existing Ordinance prior to today, or prior to this Ordinance being amended, says, "The Director may, upon application therefore, issue or renew an outfitter's licence to any natural person who is (a) a Canadian citizen, (b) a resident, and (c) a bona fide owner of equipment", et cetera.

Mr. Chairman, "resident" has not been defined. We have proposed and passed an amendment to that section that says, "So that the section will now say (a) a Canadian citizen, (b) a resident who makes his home and is ordinarily present in the Territory, and (c) a bona fide owner of equipment."

Mr. Penikett: I am going to help the Minister get his message across to the public just so that everybody knows and understands the situation here. In the absolutely unlikely event, and I am going to use a totally exaggerated and impossible situation, that a West German corporation were to decide that they wanted to buy an outfitting licence in the Yukon, because they were not a natural person described by Mr. Pearson, they might be a person in law since corporations are that—one of the more ridiculous things about Canadian law, but they are not a natural person—the Minister is then saying quite clearly that such a West German corporation, just to use this unlikely example, would not be permitted to buy an outfitting licence in Yukon.

Hon. Mr. Hanson: They cannot do it at the present time.

Clause 28(1) agreed to.

On Clause 29(1).

Clause 29(1) agreed to.

On Clause 30(1).

Mr. Penikett: I think we are going to need some explanations from the Minister here. I would like to know why the group traplines are limited to four people, and about the safeguards here against an individual within the group attempting to control a trapline. I understand that this may or may not have been a problem to the Department, and, also, to understand the sequence by which a person enters a group, the group perhaps becomes part of a party trapline, and what status the party has in relation to the group, and the group to the individual, and so forth.

I know the Minister is waiting to provide an explanation, and I hope he can do that.

Hon. Mr. Hanson: I will read what it says here. Subsection 65(3) provides the mechanism for as many as four trappers to enter into an agreement which will allow them to trap their respective areas in common. Trappers may have made representation to the Government for such a provision to be written into the Ordinance.

Subsection 65(4) specifies the entitlement of each person pursuant to the agreement under Subsection (1), and designates the duration of such agreement.

Subsection 65, paragraph 5, 6 and 7, that is what the top two have specified.

Mr. Tracey: Mr. Chairman, I would like to add a few words here because I was very much involved in having this put in this Ordinance.

The reason for this being put in the Ordinance is that it is mostly for native peoples and people of native ancestry that would like to trap in the old style of trapping, where a group of people would go out in one area and trap beaver and then move to a different area and trap muskrat, or whatever.

So, what we are doing in this section is making it possible for as many as four trappers to pool their traplines and all of them trap in any one of those areas. They have to do it for the total year.

This, notwithstanding section 1, that that group does not necessarily mean that there is a group, that group trapping is going to now form four groups and go party trapping. That is not the intent there. It is just as many as four people, four registered traplines could be assimilated into a party trapping area.

Mr. Penikett: Mr. Chairman, I asked two questions of the Minister and I say to the Minister, perhaps, one or the other of the previous Ministers may want to jump in and answer, too, but I put it to the Minister.

Why limit to four, that is one question, and two, does the Department anticipate any problem from an individual who may persuade three other, let us for the sake of argument, say relatively inactive trappers in the same area, joining a group and then effectively gaining trapping rights in a much larger area. If that is not a problem then the Minister could quite simply say so and that is fine.

But I would be interested in knowing why the limit to four is and if the Minister could explain the relationship between whether these four are grouping into parties and how that would work, from an administrative point of view?

Hon. Mr. Hanson: I do not know particularly why they were grouped into four, but I imagine that is what the requirement has been in the past.

As a rule, I think, the grouping is because of native people, they have always done that. They have gone up river, usually it is predominately used when they are trapping beaver and they charter a plane and go over in one fellow's trapline and they build their moosehide boats and float down river and so they trap all of that whole drainage system, going from one another's trapline all the way down the river. I think that is the reason why it was done, as a rule.

The reason why it is four, I have no idea, but four traplines would cover quite an area.

Mr. Fleming: Thank you, Mr. Chairman. I appreciate the Minister's little speech on the native people, and I appreciate the fact that that is the way they used to hunt and trap, but in the day that that used to happen there were also very few trapping laws. You could do what you wished to do, and when you wished to do it, and trap by numbers or not by numbers. Nobody, except themselves, was concerned. There was not a government to be concerned. The tribe might be concerned, and wished to do it a certain way. However, now we do have laws that say if you have a trapping area you will trap a certain amount of game in that trapping area, and you will not let it go completely to waste, and just hold a trapper's licence just because you wish to have one.

I am a little bit worried of the fact that the white man is not quite like the Indian either. He will take all he can get, usually, and do what he can whenever he can, for gain. I am just wondering if the situation came along whereas the four people had one trapline and decided to say, John, you trap this year, I will be busy doing something else and making money over in construction. I will trap it next year, and you trap it the next year, and you trap it the fourth year, and then we will start over again, making it a very profitable situation, probably, for all of them, and very easy to actually take care of the trapline.

I suppose there would be no problem, other than that one person trapping a trapline must appear there most years to do that, or hire somebody to do it, or something. I am just wondering if it would not give the rights, more or less, to those people, more so than the others. Let us come out and say it, it might be a little discriminatory, in some ways.

Mr. Tracey: Mr. Chairman, the reason for it only being four is, I think everybody here recognizes the size of a trapline, and four traplines grouped together for party trapping would be a fairly extensive area and, as Mr. Fleming stated, one member, perhaps, could do most of the trapping on this party trapping area, which, as far as the Government is concerned, we feel that that trapline should be harvested to the best of the ability of the trappers, and it would be beneficial, at least, to have one person doing a good job of trapping on that area. But the main idea was, as has been stated on more than one occasion, that it would allow the people to hunt in their traditional way of trapping. That does not preclude any white man from trapping, or any group of white men from doing exactly the same thing.

Mr. Penikett: Sorry, Mr. Chairman, I missed one section. I am just a little confused about why we had this automatic expiry date in 65(4)(b). What I am a little concerned about in these sections here that we are talking about, and there is a group of them together, is why they need to be in the Ordinance. It seems to me that if you are going to have a party trapline like this, that there may be bylaws or some kind of agreement which the people will make which probably would cover the kind of withdrawal of a number of the group. I do not quite understand why we need to have that written into law.

Hon. Mr. Hanson: This is more or less the constitution for these people that do go into that sort of a program, Mr. Chairman. That is why we set out the program here for them, for the protection of all. As you say, it protects anybody in that group; it is their constitution and they have to abide by.

Mr. Penikett: Mr. Chairman, surely in the principle of democratic society, these groups, in a more ideal situation, should be allowed to make their own constitution, even if it is rules of one page written up on one sheet, surely they might be preferable if they wanted to set other rules to govern and protect each other than the ones here. They might want to set rules that are different than the ones that are here. It seems to me that we foreclose on that option for them by writing them in here.

Hon. Mr. Hanson: No, we do not. One minute he is talking about protection for the people who cannot read and write and a lot of people that are in this program do not read and write. They are native people and they want to stick together as they have through the centuries. This is to protect all of them in that. They could draw up their own rules and regulations of how they are going to act, but this just makes sure that nobody gets hurt by the agreement.

Mr. Penikett: That is fine, Mr. Chairman, but when I ask the Minister a question all he has to do is give an explanation. I am not looking for a fight this afternoon, nor necessarily an argument. If that is his reason, well and good, all I was suggesting to him was that maybe here that you might want us to have, when you get around to doing the real work in this Ordinance later this year, some kind of provision which allows the people who have a properly adopted constitution under the Societies Ordinance or some darn thing, that maybe they do not need to be covered by these things. That is all.

Hon. Mr. Hanson: It could be there choice. We are a benevolent Government.

Mr. Chairman: At this time I think we shall recess until 7:30 this evening.

Recess

The following Legislative Returns were tabled November 5, 1979

79-2-34

Report on Continuing Education — re Reference Committee
(Oral Question — Oct. 18, 1979 — Page 450)

79-2-35

Report on Continuing Education — additional expenses for further consultation
(Oral Question — Oct. 25, 1979 — Page 513)

79-2-36

Teacher Training Program — re Native student enrolment
(Oral Question — Oct. 29, 1979 — Page 524)

79-2-37

Impost fee to private land developers
(Written Question No. 12)

79-2-38

Trapping in game sanctuaries
(Oral Question — Oct. 30, 1979 — Page 541)

The following Sessional Papers were tabled November 5, 1979

79-2-42

A Critical Analysis of the Proposed Yukon Medical Professional Ordinance

79-2-43

Report of the Yukon Elections Board: Recommended Amendments to the Elections Ordinance, 1977