



# The Yukon Legislative Assembly

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Number 42

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25th Legislature

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## **HANSARD**

Thursday, November 17, 1983 — 1:30 p.m.

Speaker: The Honourable Donald Taylor

# Yukon Legislative Assembly

SPEAKER — Honourable Donald Taylor, MLA, Watson Lake

DEPUTY SPEAKER — Bill Brewster, MLA, Kluane

## CABINET MINISTERS

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

## GOVERNMENT MEMBERS

(Progressive Conservative)

Al Falle	Hootalinqua
Bill Brewster	Kluane
Kathie Nukon	Old Crow

## OPPOSITION MEMBERS

(New Democratic Party)

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

(Independent)

Don Taylor	Watson Lake
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Clerk of the Assembly  
Clerk Assistant (Legislative)  
Clerk Assistant (Administrative)  
Sergeant-at-Arms  
Deputy Sergeant-at-Arms  
Hansard Administrator

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

**Whitehorse, Yukon**  
**Thursday, November 17, 1983 — 1:30 p.m.**

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

*Prayers*

## DAILY ROUTINE

### INTRODUCTION OF VISITORS

**Hon. Mrs. Firth:** I would like to welcome today Mrs. Mary-Lynne Penner and her Grade Six class from Selkirk Street School to the legislature.

*Applause*

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

### INTRODUCTION OF BILLS

#### Bill No. 104: First reading

**Mr. Kimmerly:** I move that a bill, entitled *An Act to Amend the Mental Health Act*, be now introduced and read a first time.

**Mr. Speaker:** It has been moved by the hon. member for Whitehorse South Centre that a bill, entitled *An Act to Amend the Mental Health Act*, 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?  
 Statements by ministers?  
 Are there any questions?

### QUESTION PERIOD

**Question re: Government Leader not meeting with DIAND Minister**

**Mr. Penikett:** I understand, from media accounts, that the government leader chose not to meet with the northern development minister, John Munro, on his recent trip to Ottawa. I wonder if the government leader would care to explain to the House why he was not able to take advantage of that opportunity?

**Hon. Mr. Pearson:** Yes. I was able to ascertain that there was really going to be no opportunity to do anything constructive. I felt that so strongly that I, in fact, had one of our people in Ottawa phone the minister's office and leave a message for the minister to the effect that, in view of what he had to say in the House of Commons that particular day about this territory and this government, if he thought that anything constructive could be gained by him and I meeting — of course, I was more than willing and I was available to meet with him — I would be happy to meet with him.

I did not receive any word. It must be understood by the leader of the opposition that the minister and I have met on numerous other occasions, particularly in his Ottawa office, and those meetings sometimes have, in the past, been very tense. He made it clear, I think, in the House of Commons, that he did not want to meet with me; he confirmed that after the meetings.

**Mr. Penikett:** I wonder if I could ask the government leader to elaborate briefly on his answer, if there have obviously been many exchanges of insults between the two levels of government? The government leader refers to ascertaining no opportunity to do anything constructive. Could he indicate if it was solely the dialogue or the debate that he overheard in the House or was there something else that indicated that there was no basis for discussion?

**Hon. Mr. Pearson:** I had said, and I am still of the opinion, that if the Council for Yukon Indians was to indicate to the Minister of Indian Affairs and Northern Development that they, for whatever

reason, have determined that it would be advantageous for all of the people of this territory to have development on the North Slope and proceed — specifically the Peter Kiewit proposal — then I thought that there was a fairly good chance that the Minister of Indian Affairs and Northern Development would reconsider his decision.

What transpired was that a question was put to him by a member of the House of Commons in question period: if that was to happen, would he reconsider? He did not say yes, but he did not say no, either. He also indicated that he was going to have a hard time reconsidering because he blamed this government for his decision. That is entirely different from whom he was blaming a few days before.

He also then threw the blame on others, as well, during his answer to the question. He made it very clear that he was not at all interested in anything that I, representing this government, might have to say to him.

**Mr. Penikett:** Notwithstanding the impression gained by the government leader of a lack of interest in any dialogue with this government, does the government leader plan to initiate any further discussion either with the CYI or with John Munro on the subject of the Peter Kiewit and Sons proposal in the near future?

**Hon. Mr. Pearson:** As I am sure the leader of the opposition is aware, there is a definite timeframe on the Peter Kiewit and Sons proposal. I understand that that timeframe has in fact been extended two or three days. I am not absolutely certain of the length of time but I believe it is imminent, like this weekend, sometime. I am aware of the fact that the chairman for the Council for Yukon Indians is, in fact, in Ottawa now. I am personally hopeful that he will meet with the Minister of Indian Affairs and Northern Development and talk about this issue because I still believe very strongly that the minister has made a wrong decision, notwithstanding his reasons for making that decision. But, it was a wrong decision; it is not for the benefit of anyone in this territory if that project does not proceed. I am of the opinion that, if the chairman for the CYI says to him that they have reconsidered and they think it would be to the benefit of the people of the territory for it to proceed, I am hopeful that the minister would reconsider.

I base that on hope. I have no other grounds, now. I had been told that there was a good chance this might happen, by people who I thought should know. After hearing what the minister had to say in the House, I am not so hopeful but I cannot give up hope on this, nor do I want anybody else to at this point, because it is so important to the territory.

**Question re: Electrical Public Utilities Board**

**Mr. Byblow:** I have a question for the Minister of Consumer and Corporate Affairs, in his responsibility for the Electrical Public Utilities Board. The minister is quoted as saying that he will be making legislative changes to EPUB in order to bring decisions of that board in line with government policy. Could the minister clarify his government's intentions on this matter?

**Hon. Mr. Tracey:** Yes, it is our intention to introduce legislation in this House to change the *Electrical Public Utilities Act* to bring gas under the regulation of the *Electrical Public Utilities Act* and also to make it possible for the board to follow the policy direction of the government of the day that is in power.

Under the existing act, there is no provision there provided to give any type of direction to the Electrical Public Utilities Board on the policy of the government.

**Mr. Byblow:** Since the minister's answer seems to raise questions about the independence of utility boards and their right to make decisions, exclusive of government interference, could I ask the minister if his government's intentions are a first step towards the elimination of the board?

**Hon. Mr. Tracey:** No. When I do table it in the House, the members will be fully aware of the intentions of the government.

**Mr. Byblow:** Does the minister anticipate any future conflict between its planned ownership of 50 percent of Yukon Hydro and the fact that the Electrical Public Utilities Board is apparently going to lose some of its quasi-independent status? In other words, how will the public interest be protected?

**Hon. Mr. Tracey:** The public interest will be protected in

exactly the same manner as it is today. The board will sit on rate hearings, which is the major responsibility of the board, and they will make a decision on them. All we will be doing is providing the vehicle to express the opinions of the government and, in some certain circumstances, perhaps it will be necessary to direct the board that the government wants a certain thing done.

For example, you might want to extend a powerline into a certain area — a power grid that, under the mandate of the board under ordinary circumstances, they would not be able to do because of the cost — and the government could express that that is the direction that they would want to go and instruct the board, through, most likely, an Order-in-Council that will be available to every member of the public. There would never be any intention of doing anything behind closed doors; it would all be open and above board and available to the public.

**Question re: Mayo banking services**

**Mr. McDonald:** I have a constituency question for the government leader. He was informed, recently, of the Imperial Bank of Commerce's rather unacceptable offer to provide banking services to the communities of Mayo, Elsa and Keno. Has the government leader had discussions with the bank and can he inform the House of what progress has been made?

**Hon. Mr. Pearson:** I am aware that the Deputy Minister of Finance had discussions with the bank. As the member opposite is aware, this bank is the corporation that does business with this government and we will continue to have discussions with it. I was unhappy to hear that the opinion of the local manager at United Keno Hill was that the negotiations between the company and the bank have broken off. I do intend to follow up on it as quickly as I possibly can.

**Mr. McDonald:** It is my understanding that the negotiations are, in fact, continuing and have continued recently, in the last day or so.

Can the government leader say specifically what the government is prepared to do to encourage the bank to station a branch in the Mayo riding?

**Hon. Mr. Pearson:** As I have explained to the member, not only in this House but privately, specifically, there is not very much that they can do. The bank is a business and they are entitled to run it like a business. Now, we have business methods of dealing with that bank and we will exercise those business methods, but I cannot, nor will I, get into any specifics publically. That just does not happen.

**Mr. McDonald:** The government leader has stated publically and to me, privately, that he is willing to put pressure on the bank to encourage the bank to provide banking services to the Mayo riding. I would like him to, perhaps as a repeat to the question, provide a definition of the word "pressure", in this case, and state whether or not he is prepared to bank with a bank which provides rural banking services to communities such as Mayo, Elsa and Keno?

**Hon. Mr. Pearson:** If the member is asking me whether I would consider, as the Minister of Finance, changing our banking facilities to a bank that would be prepared to provide banking facilities in that particular area, certainly that would be a consideration, if we could find a bank that was willing to do it. The fact of the matter is that the bank we are presently doing business with is the only bank that is even prepared to talk to us about it at the present time. So, respectfully, I think the member should recognize that not only is this bank the one that does business with this government but it is also the one that does business with the company, and there are all kinds of pressures that have been put on and they are continuing to be put on.

As I explained, this is a business deal and it may or may not go. But it is a decision, in the final analysis, that the bank will make, not that this government will make, nor that the company will make.

**Question re: Canada Oil Substitution Program**

**Mr. Byblow:** I have a question for the Minister responsible for

Yukon Housing, on a constituency matter that I gave the minister notice on. I have been advised that Yukon Housing is discouraging tenants from taking advantage of the oil substitution program which, as the minister knows, is a federal energy saving initiative. Could the minister advise why the corporation is taking this position?

**Hon. Mr. Ashley:** Yes, I was given notice on the question by the member opposite; I will read the answer out to the member. In August of this year, the Yukon Housing Corporation was notified that the federal government's local conservation and renewable energy office had a grant available under the Canadian Oil Substitution Programs, available on a one time only basis. The intent of that program is to improve the capital asset or the house by prudently installing a wood stove and chimney. In Yukon Housing Corporation rental units, only the chimney becomes part of the house or capital asset.

The stove, itself, is the personal property of the tenant. The implication, of course, is that when the tenant vacates, he takes the stove with him, just as he takes all other chattels. Therefore, as the stove is not permanently part of the capital asset, conservation and renewable energy people have, by their policy, determined the grant is not available. The Yukon Housing Corporation, in recognition of the dilemma which then faces staff tenants, have taken the following initiatives to encourage staff tenants to convert from oil to wood heating systems. Subject to the applicable building and safety regulations, staff tenants will be allowed to have wood stoves installed.

The corporation will pay 50 percent of the fire insurance policy premium surcharge resulting from the installation of wood burners and the corporation will reimburse the tenant upon his vacating the unit, a portion of the cost of installing the chimney.

**Mr. Byblow:** I appreciate the minister's answer. Perhaps we should identify the new policy of Yukon Housing as the blazing chimney fire...

**Mr. Speaker:** Is the hon. member now making a speech?

**Mr. Byblow:** ...chimney policy.

I would like to ask the minister if, based on his answer, his corporation would be prepared to change the policy if the tenant signed over the stove to the assets of Yukon Housing?

**Hon. Mr. Ashley:** It is not my corporation. There is a board of directors that controls the corporation, that is responsible for it. I report for the housing corporation. I, during a Cabinet tour of Yukon, found that there was a problem, possibly, with the wood stove policy that they do have. I have asked the board to look at that in November, when they had their meeting. They could not fit in on the agenda. It will be on their December meeting's agenda to look at the overall policy for wood stoves.

**Mr. Byblow:** Given that some tenants have offered to install, with or without the oil substitution program money, stoves at their own expense, but are prevented from doing so because the corporation will not give the required authorization, is the minister prepared to examine that policy of Yukon Housing?

**Hon. Mr. Ashley:** The member opposite did not listen very carefully or closely to what I just advised him. That was not what was said at all. The corporation is not against it if the people will follow the safety regulations and the terms that I just advised the member opposite of.

**Question re: Public Service Commission, employment policies**

**Mr. McDonald:** I have a question for the government leader, regarding employment policies within the Public Service Commission.

Can the government leader tell the House what the government's policy is for hiring persons for a determined time? Are employees hired on a contract basis or a term basis, giving them union status?

**Hon. Mr. Pearson:** It depends upon the length of time and, also, it depends to some degree upon the job. We are in negotiations, in consultation with the bargaining units, on a continuing basis with respect to positions becoming part of the public service establishment. Or, as the member has referred to them, becoming union positions as opposed to those that are, in

fact, contractual. It primarily depends upon the length of time that we foresee the position being necessary and, in some cases, the kind of work that is being done.

**Mr. McDonald:** Perhaps I will get back to that specific question later. I have a different, but related, question for the government leader. Can he tell the House whether or not it is the government's policy to hire casual employees who have either exceeded the six-month limit or are required longer than the six-month limit to full-time positions?

**Hon. Mr. Pearson:** I am sure the member is aware I have answered one question in the House at this session, that over the course of the last couple of months we, in fact, have converted some 35 positions from casual to permanent positions in this government, because it was determined that they were required for longer than the six-month period.

The six-month period is not a figment of someone's imagination. It is in legislation. It is a requirement of legislation that if we foresee that a position has to be in place for longer than six months, then it becomes a permanent position. That is why casuals normally are hired for terms of less than six months.

**Mr. McDonald:** A question was asked earlier about the provision of an orientation program for casual workers to inform them of their duties and obligations to their employer and to make them aware of any disciplinary program. Can the government leader tell the House whether or not such an orientation program exists?

**Hon. Mr. Pearson:** I am sorry. I must have misunderstood. I did not anticipate the member asking that question again. I thought that I had advised him outside of the House that he was quite free to go up and see the Public Service Commissioner any time he wished. That information would be made available to him. If he wishes me to get the information for him, I will be happy to do so.

#### Question re: Children's receiving homes

**Mr. Kimmerly:** About children's receiving homes, the minister received a complaint on Tuesday, November 8th concerning the Watson Lake receiving home. He indicated that he or his department would answer the complaint on the 9th. No answer has yet come. When is the minister going to answer that complaint?

**Hon. Mr. Philipsen:** A confidential request was made of me. I find it very interesting that the member opposite is privy to those confidential memos. I will look into the complaint, as I said I would, and I will get back to the people who are keeping it confidential to me, afterwards.

**Mr. Kimmerly:** Is the minister ordering an investigation of the complaint and when will the minister answer the complaint to the people complaining?

**Hon. Mr. Philipsen:** Once again, I must reiterate. That was given to me in confidence. I feel that I have been abused somewhat by having that confidence broken and the member opposite having the knowledge that he has. The investigation was to take place quietly so that I could have a true picture of what was happening. Obviously, that is not going to be the case now. Possibly the investigation will go nowhere from this point.

**Mr. Kimmerly:** If you wanted that, why did you not reply to the complainers? When is the investigation expected to be complete and when will the complaint be answered?

**Hon. Mr. Philipsen:** I have said it twice now, and I am going to say it again. I am very sorry that the matter, which was to be confidential, has not remained confidential. I have difficulty taking in seriousness something that could not be kept confidential for that amount of time.

#### Question re: Federal Task Force on Violence in the Family

**Mrs. Joe:** I have a question for the Minister of Justice.

The federal Task Force on Violence in the Family released a report in May, 1982, and recommends that members of the RCMP receive training specifically related to answering calls in cases of wife battering. Could the minister tell us if this training is offered to members of the force in Yukon?

**Hon. Mr. Ashley:** That was a federal initiative and, federally, it has been programmed throughout Canada. It is being offered all across Canada. That is what my information was.

**Mrs. Joe:** I would like to ask the minister if the training program in Yukon includes members of the community who are responsible for providing those services to battered women?

**Hon. Mr. Ashley:** It is the RCMP who were doing it nationally. I just advised the member opposite. The director of Kaushee's Place, I believe, was involved in it. She has spoken with the RCMP and has been involved in things that were going on in that field.

**Mrs. Joe:** The report also recommends that the RCMP introduce an affirmative action program, a hiring program, to increase the number of women officers. Can I ask the minister if, in fact, that program is in place in Yukon?

**Hon. Mr. Ashley:** That is a federal RCMP initiative and, so, I will not have control over that.

#### Question re: Canyon Crescent wells

**Mr. Penikett:** I have a question for the Minister of Municipal and Community Affairs.

I have been informed by a constituent in Canyon Crescent that some of the wells in that area have been drying up. I have just received this complaint and I wonder if the minister has been made aware of these problems?

**Hon. Mr. Lang:** No.

**Mr. Penikett:** Perhaps I could ask the minister a general question, not about the specific case: has the Department of Municipal and Community Affairs been able, as a matter of practise or has it had any experience in offering well users any assistance or expertise or advice in situations like this, where they have occurred in the past?

**Hon. Mr. Lang:** Not to my knowledge.

**Mr. Penikett:** On another water problem, I understand that further problems with water and sewer services in the Ponderosa Road area have recently developed. I understand that, previously, the minister has assumed responsibility for the problem, but I wonder if the minister can tell the House what kind of regular inspections or what kind of inspections are made by his department during the construction before such utilities are put into service?

**Hon. Mr. Lang:** The general method employed is that we contract to the private sector for the purpose of putting in water and sewer, the actual installation. It has been our common practice, also, to utilize a contractual arrangements with an engineering company, for the purpose of inspection, whose primary responsibility is to oversee the project.

With regard to the project in question, we are pursuing legal recourse with both the contractors, in view of the situation.

#### Question re: Liquor inspectors' duties

**Mr. Kimmerly:** About the Liquor Corporation and liquor inspectors. In my review of alcohol statistics, I note that there are no charges for underage drinking. Is the law concerning underage drinking, in fact, enforced by the liquor inspectors?

**Hon. Mr. Ashley:** I believe it is. If the law is on the books, it would be enforced. But, for any details or information on that, I would have to get back to the member.

**Mr. Kimmerly:** It is strange there are no charges. There are also no charges for serving liquor to intoxicated people in bars. Is that law enforced by the liquor inspectors at all?

**Hon. Mr. Ashley:** Yes, I believe it is. I am almost positive that one is. It is enforced by the licensee basically, and the liquor inspector then enforces what regulations the licensee has to follow.

**Mr. Kimmerly:** Is the minister able to say if it is the policy of the government that inspection visits are made by liquor inspectors on these two issues?

**Hon. Mr. Ashley:** There is a list of things that the liquor inspectors check over in conjunction with the licences issued to the licensee, and certainly that is on the list.

#### Speaker's ruling

**Mr. Speaker:** There being no further questions and before proceeding with Orders of the Day, I would like to remind hon. members of the presence on the Order Paper of Bill No. 102, *An Act to Amend the Motor Vehicles Act*. The Chair notes that the

House has now passed Bill No. 31 of the same title and as these two bills deal with substantially the same subject matter I therefore order the Clerk at this time to drop Bill No. 102 from the Order Paper.

We will now proceed to Orders of the Day, under Government Bills.

## GOVERNMENT BILLS

### Bill No. 23: Second reading

**Mr. Clerk:** Second reading, Bill No. 23, standing in the name of the hon. Mrs. Firth.

**Hon. Mrs. Firth:** I move that Bill No. 23, *Recreation Act*, be now read a second time.

**Mr. Speaker:** It has been moved by the hon. Minister of Education that Bill No. 23 be now read a second time.

**Hon. Mrs. Firth:** It gives me great pleasure to address the members respecting the act before this 25th session of the Yukon Legislative Assembly.

This act is the result of a very extensive public review over the last two years. Fifty-nine written briefs were received and summarized by a nine-member public review committee. A major seminar involved over one hundred presentations of communities, sports and arts groups to discuss the review committee's summary. A Green Paper Committee was then struck to release the discussion paper. Over twenty public meetings were held to discuss the paper and bring about further consensus. Finally, the Green Paper Committee's report was completed, a copy of which I have already tabled.

Besides the hundreds of people who contributed to this major recreation review, I wish to acknowledge the dedicated efforts of three very special people who worked very hard to complete the final Green Paper Committee report.

They are: Glenda Johnson, community recreation representative; Don Galbraith, sports representative, and Geri Walsh, arts representative. These three volunteers spent much time listening, discussing and helping resolve the direction this new act sets out. I would like to read from the Green Paper Committee report the forward, which so well expresses the Green Paper Committee's view of the whole process.

"This report is a collective effort. It reflects months of time volunteered for debate, thinking and writing on the part, not only of the committee members, but also of the numerous people across the territory who have participated in the recreation review process. It also reflects months of work by the Recreation Branch as they pushed forward the review while continuing their regular responsibilities. The committee was established originally to develop a green paper, or discussion document, on recreation, following the publication of the Kylo Report, the work of the Recreation Review Committee and the monumental deliberations of the Recreation Review Seminar. This report represents our advice to the minister. It is neither a green paper nor a white paper, but a documentation of the direction in which we believe the government should move, given the public briefs, meetings and debates. We hope it will provide the foundation and focus for revised recreation legislation and guidance for recreational policy development and administration for several years to come.

"While our recommendations are unanimously endorsed by each member of the committee, we make no pretense that they will all be equally acceptable to all segments of Yukon. There were many issues on which the various interests groups could not reach a consensus. In each of these cases, we tried to determine the root problem, the real cause of everyone's concern, and arrive at a recommendation which addressed that concern. Whether all groups will agree that we have succeeded remains to be seen. Issues on which all groups reached agreement we have simply reiterated the resulting resolutions.

"Our special thanks to Rick Butler of the Recreation Branch for his patience in teaching us all facets of the recreation business, willingness to leave us alone when we needed to think things through for ourselves."

The act I table today is a reflection of Yukoner's recreational

needs. It will allow this government to capitalize on the initiative, enthusiasm, skills and plans of volunteers. The act forms a framework for increased future involvement of Yukoners in more creative, athletic, and other recreational pursuits. It is important to note that this act, along with the regulations, policies and programs which will be finalized over the next few months, once the act is passed, responds basically to all recreation-related recommendations made by the review. These new regulations, policies and programs will include: funding programs for community recreation, funding criteria and formulas for territorial sports, arts and special recreation development, along with an integrated games policy to ensure that the Yukon Games, Arctic Winter Games, Canada Games, and other multi-sport events meet Yukon's sport needs. The act defines recreation to include amateur sport, fitness, arts — including visual, performing, and literary activity — and outdoor recreation. It embraces all these major leisure activities into one fully integrated package without precluding other social, intellectual or creative recreational activities. The act fulfills what all of Yukon's communities desire - to clarify the local community jurisdiction for recreation with that of the territorial groups, and to clarify the role of government as enabler or volunteer, not replacer or obstacle to their initiatives.

This clarification paves the way for a larger mandate for more authority and resources at the local level, while still supporting important, complementary territorial services.

With jurisdictions clear and firm, future policies and programs will be more effectively directed to those in charge, preventing overlap, duplication, over-centralization and inefficient use of resources. More funds and programs will be directed to the grass roots, to the volunteers who are the real strength in the recreation movement.

Territorial groups and communities can now work together, complementing each other in their respective aspects of recreation development. Yukon is too small and financial resources too limited for interest groups and communities to be competing amongst each other. The framework is now set for the equitable sharing of resources and a spirit of teamwork amongst all those involved.

The Green Paper Committee's recommendation to increase recreation grants to communities was received favourably by Cabinet. However, because such dollars are an operating budget item, new regulations and dollars will have to be considered with the 1984-85 operating budget. Certain restrictions will be taken off grants, giving communities the necessary authority to meet recreation needs.

Future Yukon lotteries, commissions, lottery commission funding and profits of Yukon lotteries will also respect the need for more resources at the local level. Under proposed new regulations, the commission may distribute portions of its profits in the form of discretionary recreation grants to the communities. Unorganized communities, which have been without assistance for the operation and maintenance of community recreation facilities, will, under the new act, be eligible to receive funds to assist with this important area. This will free volunteers in the unorganized communities from their disproportionate efforts spent in maintaining facilities and will also defray excessive facility user fees in these communities.

The new act and proposed regulations will address a specific concern expressed by residents of the Keno-Elsa area. Keno and Elsa may now form its own local authority for recreation purposes, thereby receiving the same recreation grants that other communities receive under this act. This includes grants for recreation programs and grants to assist with recreation facility operation and maintenance costs. Formerly, these two communities were included under the funding to the Mayo and District Recreation Board.

Territorial arts groups have, for some time, felt left out of government funding and support. The new act establishes important funding programs for administration, skill and leadership training, product audience development and other important support programs requested by territorial arts groups. The recently announced art program to fund advanced artists is another much-needed program requested by the arts community. This program is also confirmed in the new act.

Sports groups will receive continued and, in some areas,

increased support for administration, training and competition. Further opportunities will be provided to involve their affiliates from across Yukon for the training of advanced athletes and the acquisition of the necessary technical and other support for the continued future development of Yukon's competitive athletes. Funding to sports groups will be based on the sport participation base, its organizational ability and efforts to develop the organization across Yukon.

Special recreation groups who provide outdoor recreation, fitness services and services to special populations, such as the disabled and aging, will now more clearly qualify for Yukon government recreation funding under this act.

<sup>11</sup> Another area in which the review called for change is the structuring of the Yukon Recreation Advisory Committee. In order for Yukon to effectively support the rapidly growing and increasingly complex needs of recreation, sports and arts groups, the Green Paper Committee has recommended that the composition of the committee change. The new committee will be made up of nominees from recreation, sports and arts groups, and the communities. Nominations will be made to the minister who will select 12 members: four representing arts, four sports and four community recreation, with an equal split between rural and urban. The committee will continue to act in its other capacity as the Yukon Lottery Commission. This restructuring will ensure a proportion of Whitehorse and community representation similar to that on the existing committee. Also, the minister will be more able to pick the most qualified mix of persons for advice respecting grants and future recreation policy and will ensure appointments are those representative of Yukon recreation.

I wish to note that in provincial jurisdictions such advice and approval with respect to government grants is a function of civil servants and the minister. We, however, wish to maintain public involvement while ensuring well-balanced representation and expertise.

I wish to acknowledge at this time the current Yukon Recreation Advisory Committee members who have provided valued input into the recreation review and initiated several important changes to grants and grant procedures in the 1983-84 year. This restructuring is not in any way an attack on these people or their abilities. The new structure is something that was called for in light of the many changes and the new complexities in the recreation, sports and arts areas.

Simply put, people wanted change. Current committee members are aware of this and have accepted this decision. With the new act's far-reaching response to Yukon's many and varied recreation needs, Yukon Lottery Commission profits may share in the commitment to new or enhanced programs. This will take the full burden off the taxpayer by using lottery profits to share in the financing of new directions.

Finally, I wish to make one last, very positive announcement. Departmental reorganization was another subject of much discussion throughout the recreation review. This government has accepted the Green Paper Committee's recommendation that the recreation branch be relocated from the Department of Education, Recreation and Manpower to the Department of Tourism, Heritage and Cultural Resources and that the new department be named Tourism, Recreation and Culture. This new department will foster a higher profile for recreation and facilitate important linkages with similar leisure-related programs of tourism and other activities of this department, including the art gallery, libraries and heritage.

I wish to emphasize that recreational use of schools will not be compromised with the departure of the recreation branch from the Department of Education. I might add that the Government of Ontario has just released a report indicating not only that the areas of tourism and recreation are closely linked but that recreation generates massive economic impact. The report notes that every dollar spent on recreation by Ontario's Ministry of Tourism and Recreation sparks nine dollars in private sector spending. From this, it would appear that recreation may not only be a strong force in Yukon's social, cultural development but it may also have strong economic impact as well.

I hereby table the new *Recreation Act*. In closing, I wish to

reiterate that this act paves the way for a renewed partnership between communities, territorial sport, arts and recreation groups and the Yukon government; a partnership which will allow Yukon to grow and develop in the area of recreation. Thank you. I am sure the members opposite will agree this is a positive and direct response to a clearly-articulated and important need of Yukoners.

<sup>12</sup> **Mrs. Joe:** I would like to thank the minister for her long and thorough explanation as to why we have this act in front of us. The act was a long time in coming and I believe that there had to be some definite changes.

First of all, I would like to also commend the Green Paper Committee. I think that they have done a marvelous job in putting together the report that we have before us and that they have spent an awful lot of hours doing what they have. The interest that was shown from the communities with regard to recreation, the briefs that were submitted, the people who appeared at meetings, is a strong indication that recreation is very, very important and of interest to a lot of Yukoners. We cannot say enough about recreation, as far as we are concerned. I think that wherever you go and wherever you are, there is always the interest of recreation, whether you are young or old.

The Green Paper report had 77 recommendations in it and some of them were incorporated into the new act, and many of them were not. I would like to possibly have more assurance that a lot of the recommendations would be implemented or would be coming into regulation in the very near future. The minister has just indicated that recreation will be going into another department and I have no real concerns about that. I think that, as she has indicated in the past, recreation is a good tourist attraction as well, because those athletes who travel out of the territory are ambassadors and they do a lot of advertising about the Yukon. I do not have any definite conflicts with any of that.

The *Recreation Act*, as we have it now, is eight pages long. I think that, as I said before, we had to have a new act. I think that we should have had more assurances on what is in it. It was a long time in coming. The minister has indicated many reasons for making the changes. The bill before us is not a perfect bill. There are many things in there that are good. There are also many things in there that are not as we would like to see them.

The minister has had, in the past, many strong objections to the composition of the YRAC and I think that the Green Paper committee described it well when they said that the YRAC was the most hotly debated and unresolved item, and I believe it. I think that it will probably be hotly debated in this House. I am sure it has been hotly debated in communities. The minister has indicated time and time again, and it is on record, that she was not in favour of how it was structured right now, and has indicated in this House and at public meetings that she wanted only people on that committee that she could trust.

<sup>13</sup> I do not think that this bill would have been tabled in this House unless the minister had her own way. We have many reasons for wanting the committee structured as it is now. What the bill is asking for, right now, is that we have representation from urban and rural areas and also that we have representation from three different recreation and arts groups.

I have no objection to that. I think that what we have, right now, is probably not equal representation, but we do have that representation on there, whether it is by our own nominations or because of the interest of the people who are on that committee. I think that those things are already in the committee.

The Green Paper Committee, in its first report, had said that the number one option — or there was indication that it was the number one option — was the same structure of YRAC as it is now, with two additional people: one who would represent territorial sports and the other to represent territorial arts. Now, that was not a bad recommendation and I think that, if that were the case, right now, that there would be no harm because, certainly, there would be nothing lacking.

I have other problems in trying to understand exactly how this group is going to be selected. The Green Paper recommends that arts and recreation groups nominate three people and that each nomination be supported by a summary of the nominee's credentials

and that the minister select and appoint members from those nominations. That sounds good, it sounds like it is something that we can all live with. However, the bill does not give us any assurances that those nominations are going to be taken very seriously because the bill says that she may select members from nominations that may be made by municipalities and local authorities.

I have the understanding that there is no real assurance in this bill that that can be done, and that the minister can appoint whomever she wants to, whether or not they are nominated by a special interest group or anyone else. I have some very serious problems trying to deal with that, because I keep going back to the last session, or the session before, when the YRAC composition was a very hot issue. It is a hot issue today and it will continue to be as long as this is in the House.

I would like to know from the minister what qualifications these nominees have to have. Does she have something written down that asks for different qualifications for YRAC members?

**16 Or, will she make certain rules as we go along, depending on a person?**

The other problem that I have that I would like some answers for from the minister is that the bill has indicated that we want representation from rural ridings and from urban ridings, and I would like to know how those areas are covered? Does she have a geographic plan that indicates to us where those nominees, or where those committee members, are going to be selected from, or are we just going to have six people from in town and six people from out of town?

The other concern I have, but I think will probably, hopefully, be corrected, is the continuity of this committee. There is provision for it in the bill — there will be continuity and the committee members will stagger their terms — but in the first phase of the new committee I would certainly like to see some kind of continuity on it, and some of the old members being appointed as well.

We do not fully support the bill. We will be going into Committee of the Whole and I am sure the minister is expecting that we will all be speaking on the bill; and that is a fact, we will.

**Mr. Speaker:** The hon. Minister of Education, now speaking, will close debate.

**Hon. Mrs. Firth:** I find that last comment extremely interesting; that all of the members will be speaking to the bill. I notice that half of the opposition caucus is absent for what I felt ...

**Mr. Speaker:** Order please.

**Mr. Penikett:** On a point of order, I believe the minister is in violation of Citation 316, reference (c), Beauchesne?

#### Speaker's ruling

**Mr. Speaker:** Order please. I do not believe that a comment as heard by the Chair of the hon. minister, noting the absence of an individual, was dwelt upon and therefore would, in that context, not be in violation of 316(c).

**Mr. Penikett:** Point of order. I cite the reference in Beauchesne: "besides prohibitions contained in Standing Order 35, it has been sanctioned by usage that a member while speaking must not refer to the presence or absence of specific members".

**Mr. Speaker:** The notation must be taken in the context. I ruled that no members may be allowed to dwell on that subject. I do not believe, from what the Chair heard, that the hon. member was alluding to any more than a member being absent.

**Mr. Penikett:** On the same point of order, I accept your ruling but I do not believe Mr. Speaker can rule in opposition to Beauchesne.

**Mr. Speaker:** I must advise the hon. member that I have now ruled, and that rule shall now stand.

Would the hon. Minister of Education please continue?

**Hon. Mrs. Firth:** I will continue with my presentation. As I was saying, I feel, and I believe my colleagues on this side of the House feel, that this bill is extremely important to people of Yukon and I think we can tell that by the amount of preparation and the amount of work that has gone into the legislation and the

accumulation of the information and recommendations to formulate the legislation. We, on this side of the House, felt very strongly about that and we felt that it was very important, I am sure, by our enthusiasm to present the bill.

There are several comments, rather specific comments, that the Member for Whitehorse North Centre has made, and I think I would prefer to respond to them in Committee of the Whole. However, those comments which deal with the principle of the bill, as we are discussing in second reading, of the 77 recommendations that came forward through the hard work of the Green Paper Committee, we have fulfilled 75 of those recommendations in the legislation. We felt that, in order not to have cumbersome legislation, if we could cover those 75 recommendations and principles in a bill that was eight pages long, that would be acceptable because it would present something to the public that they could handle, that they would find readable and understandable, and we felt that that would be acceptable, and I believe it will be.

**17 As for the makeup of the Yukon Recreation Advisory Committee, I cannot really believe that the members opposite would in any way feel that the government getting recommendations and resumes from sports groups, arts groups, and communities groups, — from which they were bound to choose, on those recommendations — that that committee in any way could not work in an effective and positive manner. I find that quite shocking that they are already criticizing the committee before it has even had an opportunity to prove itself.**

The bill is not this government's bill, it is not the minister's bill. The minister did not get her way in this bill. This bill belongs to the people of the Yukon and we are very proud to do it on their behalf. We are very proud to do it for the people of Yukon. I am very proud of the Green Paper Committee and of all the people, the many, many volunteers who spent time at meetings, coming and giving their recommendations, and their suggestions, for the past two years to the government, as to how recreation should grow and develop in Yukon. I think we have done well. I think the people of Yukon have done well in assisting the government. Thank you.

*Motion agreed to*

#### Bill No. 24: Second Reading

**Mr. Clerk:** Second reading, Bill Number 24, standing in the name of the hon. Mrs. Firth.

**Hon. Mrs. Firth:** Mr. Speaker, I move that Bill Number 24, *Public Lotteries Act*, be now read a second time.

**Mr. Speaker:** It has been moved by the hon. Minister of Education that Bill Number 24 be now read a second time.

**Hon. Mrs. Firth:** A short presentation. I wish to speak to the *Public Lotteries Act*, which is now before the members for second reading.

This act is enabling legislation which allows Yukon to participate in those lotteries of the Western Canada Lottery Foundation; specifically, Super Loto, Western Express, The Provincial, 649, and other lotteries that are implemented by the Foundation from time to time. The act's parameters are broad enough to include any other type of public lottery in which Yukon may wish to participate.

The new act makes two major changes to the current *Lotteries Act*. Firstly, it fully clarifies the role of, and gives statutory recognition to, the Yukon Lottery Commission and the Executive Council member with respect to the operations of public lotteries. In doing this, the act meets the new requirements of the *Financial Administration Act* and absolves personal liability of individual Yukon Lottery Commission members respecting agreements, contracts, and other legal obligations of the Commission. Under the new act, the Commission remains with the authority to make decisions respecting the distribution of lottery profits. The Executive Council member, however, will now act as signator on behalf of the Commission for all legal instruments. It should be noted that the minister will enter into agreements upon approval of the Commission, and that the Commission is in turn responsible to the minister for its recommendations and decisions.

Secondly, this act spells out more specifically the operating procedures of the Yukon Lottery Commission in its conduct and management of public lotteries.



<sup>18</sup> Procedures are consistent with those of the Yukon Recreation Advisory Committee, as proposed in the new *Recreation Act*. Regulations to this act will call upon the Yukon Recreation Advisory Committee to act as the Yukon Lottery Commission and will require that profits be distributed for the orderly development of recreation. This is consistent with current regulations to the present *Lotteries Act*.

As noted in my comments respecting the *Recreation Act*, further regulations for distribution of lottery profits may be developed to better align funding with recommendations of the recreation review. These regulations would, of course, be upon the advice of the Yukon Lottery Commission.

Thank you.

**Mrs. Joe:** I think that what some of the people who were concerned wanted to know is if the committee was going to be the same committee that is with the YRAC. I understand from the minister that it is, so we have no concerns with regard to that.

One part of the act that I had wanted more information on was the provision of the secretary and the administrative support services for the committee. I wondered if those people were going to be from within the department or whether they were going to be specifically hired people to deal with the commission.

We will be going into Committee of the Whole and I doubt that we will be debating this as strongly as the recreation bill.

*Motion agreed to*

#### **Bill Number 29: Third Reading**

**Mr. Clerk:** Third reading, Bill Number 29, standing in the name of the hon. Mr. Pearson.

**Hon. Mr. Pearson:** I move that Bill Number 29, entitled *Fourth Appropriation Act, 1983-84*, be now read a third time.

**Mr. Speaker:** It has been moved by the hon. government leader that Bill Number 29 be now read a third time.

*Motion agreed to*

**Mr. Speaker:** Are you prepared to adopt the title to the bill?

**Hon. Mr. Pearson:** Yes, I move that Bill Number 29 do now pass and that the title be as on the Order Paper.

**Mr. Speaker:** It has been moved by the hon. government leader that Bill Number 29 do now pass and that the title be as on the Order Paper.

*Motion agreed to*

**Mr. Speaker:** I will declare that the motion has carried and that Bill Number 29 has passed this House.

#### **Bill No. 33: Third Reading**

**Mr. Clerk:** Third reading, Bill Number 30, standing in the name of the hon. Mr. Lang.

**Hon. Mr. Lang:** I move that Bill Number 30, *An Act to Amend the Municipal Act*, be now read a third time.

**Mr. Speaker:** It has been moved by the hon. Minister of Municipal and Community Affairs that Bill Number 30 be now read a third time.

*Motion agreed to*

**Mr. Speaker:** Are you prepared to adopt the title to the bill?

**Hon. Mr. Lang:** Yes, I move that Bill Number 30 do now pass and the title be as on the Order Paper.

**Mr. Speaker:** It has been moved by the hon. Minister of Municipal and Community Affairs that Bill Number 30 do now pass and that the title be as on the Order Paper.

*Motion agreed to*

**Mr. Speaker:** I will declare that the motion has carried and that Bill Number 30 has passed this House.

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

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

*Motion agreed to*

*Mr. Speaker leaves the Chair*

## COMMITTEE OF THE WHOLE

**Mr. Chairman:** I will call Committee of the Whole to order and declare a short recess.

*Recess*

<sup>19</sup> **Mr. Chairman:** I will call Committee of the Whole to order. We shall proceed with Clause 1, general debate, of *An Act to Amend the Elections Act*.

#### **Bill Number 32: An Act to Amend the Elections Act**

**Mr. Kimmerly:** I was going to be some time talking about the process, although, in the light of recent discussions, it is more efficient to deal with the clauses as they come up.

**Mr. Chairman:** Will that be all for the general debate, then?

**Mr. Penikett:** Unless you very much wanted some more, Mr. Chairman.

**Mr. Chairman:** No comment from the Chair.

*On Clause 1*

*Clause 1 agreed to*

*On Clause 2*

**Hon. Mr. Pearson:** I might say that the changes to Clause 2 are primarily definition sections. The changes are with respect to the chief electoral officer replacing the Elections Board.

*Clause 2 agreed to*

*On Clause 3*

*Clause 3 agreed to*

*On Clause 4*

*Amendment proposed*

**Mr. Kimmerly:** I would move an amendment: that Bill Number 32, *An Act to Amend the Elections Act*, be amended in Clause 4(2), on 'Clause 4(2)', at page 2, by deleting the subsection "'4(1) The Commissioner in Executive Council shall appoint a Chief Electoral Officer'" and substituting for it "'4(1) The Commissioner in Executive Council shall appoint the Clerk of the Legislative Assembly as Chief Electoral Officer'".

In speaking to the amendment, what we are talking about, in laymen's language, is the referee of the battle, or the game, or the fight, and it is appropriate that the referee be impartial and be seen to be impartial.

<sup>20</sup> We identified this concern at second reading. The government leader indicated an intention to appoint the clerk in his speech, and we feel that it is more of a protection, it is fairer, and it appears fairer if the legislation reflects the intention identified in the second reading speech made by the government leader. It also avoids a potential abuse in some jurisdictions. There are dishonest elections, or rigged elections, we all know. This would make it absolutely clear that the possibility of that is substantially reduced.

**Hon. Mr. Pearson:** The points made by the member are quite well taken. I want to reiterate, though, that it is our intention to appoint the clerk as the chief electoral officer. However, it is perceived that there could be an situation whereby someone else should have to be appointed chief electoral officer. It is considered that this is the best way to write the legislation to avoid having to, in fact, amend the legislation to overcome that possibility. I think that certainly it would be a matter for debate in any legislature, if members opposite were not satisfied with the appointment by the government of the chief electoral officer. I do not think there is any doubt about that at all. That was the reason that at second reading I wanted to make it clear what our intentions were. I believe that any government would, in fact, make their intentions known with respect to the appointment of chief electoral officers. In every case that I know of, it is the clerk who does this function. However, it is perceived that there can be occasions when that would not happen. I hope they never happen here.

**Mr. Penikett:** I want to surprise everybody by joining my colleague in supporting this amendment. I have two reasons for doing so. I accept the undertaking of the government leader that the clerk of the House will receive this appointment. For that reason, I had thought it would be a simple matter to simply enshrine that in law. I understand the government leader pointing out that there

might, in certain circumstances, have to be an alternative such as the clerk being ill, or away, or running for office, or something like that.

21 There are definitely clerks or assistant clerks that might fill in, but I want to be quite frank: one of the reasons I support this amendment is because of subclause (2) in the same section. It says the chief electoral officer shall refrain from any active or public support or criticism — that is the important thing — of any candidate or any political party endorsed in an election, and I would be very, very pleased to be free from the kind of criticism I have experienced privately from the Clerk of this House from time to time, and I think by having it put in law that he was not allowed to do that anymore I think it would be a wonderful thing for all of us.

The other thing is — I guess I should perhaps ask the government leader in debate on this point — a question which has bearing on this matter. Would it be his intention, or the intention of the executive council, to have such an appointment processed and gazetted immediately upon passage of the act?

**Hon. Mr. Pearson:** Yes, that would be necessary. It would, in fact, be an Order-in-Council appointment and all OIC appointments are gazetted. We would be passing the Order-in-Council immediately upon assent of the bill.

*Amendment defeated*

*Clause 4 agreed to*

*On Clause 5*

*Clause 5 agreed to*

*On Clause 6*

*Clause 6 agreed to*

*On Clause 7*

*Clause 7 agreed to*

*On Clause 8*

*Clause 8 agreed to*

*On Clause 9*

*Clause 9 agreed to*

*On Clause 10*

**Mr. Kimmerly:** On subclause (2), just a question: I would ask for a word of explanation as to why this is done?

22 **Hon. Mr. Pearson:** It was a recommendation of the board. What it is doing is changing the requirement or maximum size of a polling division in an electoral district from a maximum of 250 to a maximum of 300. It is primarily done because it has been our experience that economically we can, in fact, save money by doing this. It is not deemed that it is going to be too much more of a hardship upon the elections people if the polls are increased, in the cases where it is necessary, by 50.

*Clause 10 agreed to*

*On Clause 11*

*Clause 11 agreed to*

*On Clause 12*

*Clause 12 agreed to*

*On Clause 13*

*Amendment proposed*

**Mr. Kimmerly:** On clause 13(2), I would move an amendment that Bill 32, entitled *An Act to Amend the Elections Act*, be amended in Clause 13(2), pages 3 and 4, by deleting subsection (29) and, in subsection 20(11), deleting the phrase "(9) or".

The purpose is to delete the section that deems a non-resident who is working for the territory to be an elector. We fully recognize that there are arguments on both sides of this question. It effects primarily two groups of people; probably a small group of people employed in Ottawa, or some other future regional office of the territory, and, perhaps, another provincial capital of the future — I do not know — and, primarily highway workers at Fraser in BC and, perhaps, other places, I am advised.

It is our perception about the Ottawa people, for example, that there are several problems. One is the polling division and the constituency of those people is a practical problem unless their residence in the territory is actually maintained in a constituency. If the residence is actually maintained they would otherwise be eligible in any event.

23 Another is that those people are entitled to vote in either Ontario or Quebec, where they live, and they do exercise a provincial

franchise there. It will probably involve only a small number of people; however, it is entirely possible that the people it involves are not Yukoners in the future, in any residency sense, possibly never living here and with no intention of living in Yukon in the future.

It is open to some abuse and I realize this is almost an absurd speculation. However, there could be, in the future, a dozen or so people employed, either on contracts or on specific lobbying efforts or particular liaison activities, and all of those people residing outside the territory could all vote in one constituency, where they do not live. Now, that is a worse case scenario. I suppose, however the legislation should be that that is impossible. There is a potential for some abuse in this section.

Concerning the highway camps, it is our position that probably many, most or all of those people would have residences in the territory in any event, outside the camp. There could be a better way of deeming their residence to be their primary residence within the territory and it is our view that the present election residency requirement covers those people, in spirit, in any event. Those people who are just outside of Yukon in a government camp will, for the most part, be residents.

24 **Hon. Mr. Pearson:** Once again, the suggestions made by the member to a degree are valid. However, I would like to think that if we are going to err at all, we should, in fact, err on the side of making sure that anyone who has a legitimate right to vote in an election should be allowed that right. It is common legislation in provinces now, in all of the jurisdictions in Canada. It was a recommendation from the Elections Board that this amendment go in. The Elections Board, for the edification of members, went further and suggested that we should allow Yukon residents working for the Government of Canada, who happen to be outside of the territory at the time of an election, the opportunity to vote as well. We did not feel that that, in fact, was legitimate, but rather, Yukon residents who are working outside the territory on behalf of this government should have the right to that franchise.

The member is correct. It affects people working, for instance, in the Yukon office in Ottawa. It affects people working at Fraser, British Columbia. It affects people working at 75 Mile, on the Haines Road. The Chairman will be reminded that there has, in fact, been one controverted election as a result of that very problem. I do not know whether he agreed or disagreed at the time with the outcome but the fact of the matter is that it has been a source of problem in the past. We would like to make sure that people who have a legitimate right to vote should, in fact, be able to exercise that franchise.

**Mr. Penikett:** I want to speak briefly on this section.

I have absolutely no problem with the notion that people who have a legitimate right to vote should be able to vote and that we should provide mechanisms to allow them to do that. When I look at this clause, I am a little puzzled about some of the consequences when I start to think through it in terms of specific cases.

Let me try to share with the government leader, and you, Mr. Chairman, my thinking in this regard. I would assume that most people who would have a legitimate claim on this score would have some kind of residence in Yukon. Let me make the point that unless they are resident, and residency is the fundamental prerequisite for voting — well, citizenship of Yukon is one, but residency is another — is the fundamental requirement before you can be allowed to vote, before being enfranchised. If a person is outside of the territory working, temporarily, such as they have been sent out to school, or they are on some kind of temporary assignment or in Ottawa, whatever, and their principal residence and permanent residence is clearly here, I do not have such a problem. I must say I have a problem, though, with the kind of case I shall describe. I will use a hypothetical case, because I do not want to get into specifics.

Let us conceive of the day when the Government of Yukon takes on contract someone, a person who provides some service, and they may work out of the Ottawa office. They are not a resident of the Yukon but may have been in the service of the Government of Yukon for some time. I would think that person definitely would not qualify. But now let me talk about someone who is in a gray

area in between.

<sup>25</sup> If someone, who has lived here for a long time, is relocated outside for some purpose — they may be near retirement, as you said, as a hypothetical thing — and we know they are going to serve the last two years of their service with the Government of Yukon in Yukon House in Vancouver — that is a good example because we do not operate it any more — my attitude in that case is that if that person is going out of here to retire — they sell their house here — they still are an employee of the Government of Yukon but they are no longer a resident of Yukon. My attitude would be such a person could not vote or ought not to vote in the election. Because one of the tests I would find is, if you are eligible to vote somewhere else — in a provincial election, not a federal election — if you are eligible to vote in a provincial election in Ontario or eligible for provincial election in Quebec or provincial election in BC, I think you ought not to, as a general rule, claim a right to vote here as well. It is one thing to have a portable federal vote but I think as a general proposition, and that is probably not a perfect way to say it in law, but as a principle I would not like to see someone have an ability to vote in two provinces in elections that were happening at the same time. And I think that is something that I want to avoid.

**Hon. Mr. Pearson:** I believe we do in fact avoid that very thing because this section says that "a person who has his residence outside of Yukon in order to pursue his ordinary occupation with the Government of Yukon and who is otherwise qualified as an elector is deemed to be ordinarily resident in Yukon." The wording is quite specific in that, further on, there are amendments in respect of what a resident is and who is qualified as a resident. I can assure the members opposite that there is no intention to allow a person to vote twice or to have two votes, one in Ontario and one in Yukon, but we feel quite strongly that they should have the ability to vote here if in fact that is their franchise.

**Mr. Penikett:** I am sorry, I missed the intervention of the Minister of Renewable Resources, but let me ask the government leader, because I do not want to be frivolous about this point, but the concern I have as I said to the government leader is about the language he has just quoted. Perhaps I can share my concern with him and he might be able to read it. A person who has his residence outside Yukon, "his residence outside of Yukon", that means he is living somewhere else; he has a house or home or apartment down south, "...in order to pursue his ordinary occupation with the Government of Yukon...", so he has been there at this other place some time, and was "otherwise qualified as an elector", now, "otherwise qualified as an elector" — it does not say that here — but the principal qualification is residency, I assume? So we are really only talking about, and I want to be assured of this point, someone who is in fact — and I do not know what the law would call this — has dual residency but who, for purposes of paying their medicare or maintaining whatever, would still regard their domicile or principal residence as the Yukon Territory. That is what that clause means, even if I do not read it exactly that way. Is that right?

**Hon. Mr. Pearson:** Yes, it is virtually the same clause that Canada has in respect of armed forces personnel being entitled to vote in Canadian elections even when they are out of Canada, or even just after they have returned from somewhere else.

You see, I should point out that it also works the opposite way around. We are quite specific about a person being entitled to vote given that they have been in the territory for a specific length of time. Now, if that person happens to have had the bad luck to have come back to the territory three weeks before the election, legitimately back here, they are denied their franchise at that point unless we have this kind of a section in place. So it does in fact work on both ends.

<sup>26</sup> One other thought has just come to mind. This is one of those "judgment calls" that is made by the chief electoral officer. It is true that it could be the cause of a consideration of controversy if somebody believes that someone has exercised a franchise wrongly.

**Mr. Chairman:** Shall the amendment carry?

**Hon. Mrs. Firth:** Agreed.

**Hon. Mr. Pearson:** Disagreed.

**Hon. Mrs. Firth:** Oh, disagree, sorry.

**Mr. Penikett:** Thank you, Bea.

*Amendment defeated*

*Clause 13 agreed to*

*On Clause 14*

*Clause 14 agreed to*

*On Clause 15*

*Amendment proposed*

**Hon. Mr. Pearson:** I move that Bill Number 32, entitled *An Act to Amend the Elections Act*, be amended in Clause 15(2), 'Clause 22(1.1)', at page 4, by deleting the phrase "subsection 22(1.1)" and substituting for it the phrase "subsection 22(2)".

*Amendment agreed to*

*Clause 15 agreed to as amended*

*On Clause 16*

*Clause 16 agreed to*

*On Clause 17*

*Clause 17 agreed to*

*On Clause 18*

*Clause 18 agreed to*

<sup>27</sup> **Mr. Chairman:** In Clause 19(1) on '6.1', I might point out there is a typo error, "advance poll". It is on the second line.

**Mr. Penikett:** You mean where it says "ddvance pll", Mr. Chairman?

**Mr. Chairman:** Can we take that as a typo error?

**Some members:** *Agreed*

**Hon. Mr. Philippsen:** Excuse me, Mr. Chairman. There are two typos. That is not right either.

**Mr. Chairman:** We have that?

**Hon. Mr. Philippsen:** You said one typo.

**Mr. Chairman:** The Chair did not. The Chair said two typos, "advance poll". Is that right, Mr. Philippsen?

*Clause 19 agreed to*

*On Clause 20*

*Clause 20 agreed to*

*On Clause 21*

*Amendment proposed*

**Hon. Mr. Pearson:** I move that Bill Number 32, entitled *An Act to Amend the Elections Act*, be amended at clause 21 at page 6 by deleting subclause 21(2).

**Mr. Kimmerly:** We are in favour of that amendment.

*Clause 21 agreed to as amended*

*On Clause 22*

*Clause 22 agreed to*

*On Clause 23*

**Mr. Chairman:** Clause 32 agreed to as amended.

**Hon. Mr. Philippsen:** You made a mistake, Mr. Chairman.

**Mr. Chairman:** I might suggest, Mr. Philippsen, if you would be quiet I would not be making these mistakes.

*Clause 32 agreed to*

*On Clause 24*

*Clause 24 agreed to*

*On Clause 25*

*Clause 25 agreed to*

<sup>28</sup> *On Clause 26*

*Clause 26 agreed to*

*On Clause 27*

**Hon. Mr. Pearson:** I would like to advise you that it is the intention of members on this side to vote against this clause. There is a procedure in respect to the deletion of total clauses in proposed legislation if it becomes necessary. We would like to have this clause deleted from the bill and it becomes necessary for us to vote against it. I would respectfully request that you call it as one section and, possibly, we can deal with it then as one section. I do not believe that there is going to be any opposition from members opposite as a result of this.

**Mr. Penikett:** I would be pleased to second that motion, even though it may not be necessary, and speak to it very briefly. I cannot let it go by without saying anything because, in fact, we had planned to say a fair amount. I understand that the government leader may have something to say with respect to this, too.

It is a very interesting clause and, in fact, it motivated us to go to unusual lengths in research. We went further than we normally do.

**Some hon. Member:** What is normal?

**Mr. Penikett:** Normally, we just go downtown. We very rarely go as far as Porter Creek. On this occasion, we actually made some enquiries at universities: Carleton University, Queen's University, University of Regina and the University of Victoria. The replies we have had to date have been very interesting. According to Professor Dan Debelieger on the Faculty of Political Science, at the University of Regina, the inclusion of this section would give an advantage of between two and 15 percent to the incumbent. Of course, the advantage could diminish; the more educated, the more informed the electorate, the less significant the distortion, he says. The constitution of the electorate is the major factor in the effect.

We have another opinion from Dr. Alan Whitehorn, who teaches at that famous left-wing academic institution, known as the Royal Military College in Kingston, Ontario, and he says that there is tremendous advantage, a definite statistical advantage, and he thought that the estimate of two to 15 percent was a reasonable estimate of the probable effect. Of course, based on that kind of objective scientific evidence, not on anything else, we would have really no choice but to join the government leader in supporting the removal of this clause.

**Hon. Mr. Pearson:** I want to say that this section was not put forward frivolously. It was, in fact, something that we gave a lot of serious thought to. There is a strong school of thought in this country that the alphabetical listing of names on ballots is grossly unfair. Most of the provincial legislatures in Canada, in fact, still use that system. It is our advice that there is going to be a change in most of those constituencies.

<sup>29</sup> It is deemed to be very unfair. It was interesting to us, in the research that we did, to find that not one, but two of the provinces in Canada, at the present time, use this particular system. We thought that it might be acceptable, given that parties have been dealing with the system in the past and have had the opportunity to change it, have not done it. There have been elections run with different governments in power in Canada and the provision has stayed in place.

I would suggest that, possibly some time in the future, it will be suggested as an amendment, once again, to this legislation because, probably, it will be deemed to be, in the final analysis, the fairest way of preparing ballots. However, we recognize that it is perceived that there would be an unfair advantage and we certainly do not want to have it said that we were trying to take an unfair advantage of the opposition. After all, that just is not necessary.

**Mr. Penikett:** I appreciate the Christian charity with which the government leader made his remarks. I must express my bemusement, though, at the notion that somehow Richard Hatfield, having had advantage of this system for the last five elections, would have been interested in changing it at all.

**Mr. Kimmerly:** Just a brief comment. If it is going to be raised again, or raised in other jurisdictions, I would put a comment on the record that, if the order is to be determined by legislation, a fairer way would be to put independents first. If there is an advantage, the people least likely to succeed in a party system should probably get it, in order to avoid the criticism by any of the parties that one is advantaged over the other. It would be relatively infrequent that an independent would have a serious advantage by that procedure in a strong party system, which exists everywhere except the Northwest Territories.

So, for the record, if a standard listing occurs, the fairest way would be to not put the government candidate first, but somewhere in the middle, or at the bottom.

<sup>30</sup> Clause 27 defeated

On Clause 28

Clause 28 agreed to

On Clause 29

Clause 29 agreed to

On Clause 30

Clause 30 agreed to

On Clause 31

Clause 31 agreed to

On Clause 32

Clause 32 agreed to

On Clause 33

Clause 33 agreed to

On Clause 34

Clause 34 agreed to

On Clause 35

Clause 35 agreed to

On Clause 36

Clause 36 agreed to

On Clause 37

**Mr. Kimmerly:** On subclause (3), I have a couple of questions. I would be interested in a defence of this section. It strikes me that it is an area where there could be a suspected abuse. For example a blind or a very elderly person would not be able to check or ascertain for themselves that the ballot is in fact properly marked and they may wish a trusted friend or, for example, a spouse or a relative to assist them. I recognize there may be problems there, as well, and I am interested in a rationale for this particular provision.

**Hon. Mr. Pearson:** Yes, it is true. The reason for the change in this section is to try to eliminate either any abuse or any perceived abuse. It is suggested, respectfully, that the DROs are in fact apolitical; they are there as elections officers and do not have any interest in the specific outcome of the election.

<sup>31</sup> As a consequence, it is felt that although there is a valid point on the other side, that it is very nice to have, as the member said, a trusted friend or member of the family accompanying that person into the booth to mark the ballot. It is deemed to be fairer and safer should that, in fact, be someone who has an acknowledged disinterest in the outcome of the election.

**Mr. Penikett:** Let me express a mild concern about this provision. I do so on the basis of personal experience. Some years ago — in fact it was 13 years ago — I had the occasion of observing the balloting in a territorial election in a community hall in the company of, in fact, Bob and Rusty Erlam. We were sitting watching the balloting. There was in this community an interpreter who was, I guess, assigned. I do not know whether she was an election official or not. This person who was the interpreter was functioning as if she were part of the officialdom of the election, if you like. In this community there was a significant number of old people. I counted 12, and so did the other people with me, who came in to vote, and probably could not read and write, although I do not know that, or may have been incapacitated in one way or another. I watched this person, who may or may not have been an election official, literally take the hand of the voter, put the pen in the hand and then physically, actually move the hand on the ballot. I am reasonably sure, in that case, that that person was probably communicating the wishes of that elector, but I would guess, had I been a Philadelphia lawyer or had someone else there had an interest in, in fact, upsetting that election, just watching that would have been grounds for a controversion.

Now, my concern here is, in fact, for similar situations. We have to deal not with the theory here, but what is a practical situation in Yukon communities. We can have a small community where the DRO, who may not be a partisan politician, remember, but may not be, let us be practical here, someone who has the trust and confidence or the friendship of the elderly, or incapacitated voter. That can be a problem. I do not mind this provision being in law, except for one thing. Everything that the DRO does, at a polling place, is observed by the candidates' agents or the scrutineers, except, it seems to me, the way this is worded, this. If I were a candidate, say, who had any reason — let me not suggest any motives, but any reason — to doubt the impartiality or the objectivity or the faithfulness of the servant who was carrying out the deputy returning officer's function, I would be concerned if the scrutineer could not observe this activity too. The one thing I must say I am little concerned about here is because the actual voting is not something scrutineers could watch, and it is, in fact, a place where the DRO plays a role in the actual marking of the ballot. For that reason, good arguments can be made for the scrutineers not observing. However, there is a very good reason in our election process for having scrutineers there who observe literally everything else that the DRO does. I must confess, I have a slight problem with this section, for that reason.

**Hon. Mr. Pearson:** I am quite confident that, if you asked anyone who had been a DRO or intends to be an DRO in the future, they would just as soon not have the responsibility because it is a very onerous responsibility. The leader of the opposition is absolutely correct. I truly believe that this is the only function that they would perform that is not subject to scrutiny.

I guess, it is considered that this section is likely to be abused, written this way, as opposed to the way it was written in the past.

**Mr. Penikett:** Because I think we are obliged in these kinds of situations to think it through the worst cases. Let us, for example, think that I was blind, okay? I was voting in a poll with a very few number of voters — and there are a few of those around the territory — and I went in to vote and I said to the DRO, "I want to vote for Mr. Pearson". The DRO — let us be generous — say, made a mistake and did not mark Mr. Pearson, did mark Mrs. Firth, or whomever, as she was the next name on the ballot. The results come in and, in this poll, it is fairly decisive; Mrs. Firth has won all ten of the votes in this poll. In fact, that happens in small polls — there were no votes for Mr. Pearson.

It seems to me that, in most cases like that, there would be grounds for some kind of complaint because there is someone certifying that they have voted or there has been a witness to the expression of the opinion, or something or other. I do not want to make too much of a big deal about this, but I think there remains a little bit of a problem because there is no witnessing of the instructions to the DRO. There is no one to verify or to confirm or to sanction that the wishes of the elector have been properly expressed.

Again, I do not want to make too much of it, but I think it is a problem. I guess, if the practice were that, somehow, in front of the scrutineers the voter expressed his wishes to the DRO, that would solve the problem, except, then, the voter would lose the right of the secret ballot. So, it is, perhaps, six of one and half a dozen of the other, but it is a problem in my mind.

**Hon. Mr. Pearson:** We gave very serious consideration to, instead of it being one person, it be two, for all of the reasons the leader of the opposition has espoused. We felt, though, in the final analysis, that the right to the privacy of the ballot box should be maintained as much as we possibly could. That is the only reason we have gone with just the one person.

**Mrs. Joe:** I was just thinking back to a time — it was not a territorial election, as a matter of fact it was the election at Champagne-Aishihik — I was appointed as one of the scrutineers — I do not know whether they are called scrutineers or whatever it was — but, because I was not an elector, I and another person, where two people who had to deal with people who could not come in and read or write, found a very difficult time trying to explain to a large number of those people the procedure they had to take.

I can certainly see that there would be a problem in this case, where you had somebody who has some kind of a handicap and cannot understand the situation. That person, I believe, should possibly have somebody with him who could act as sort of an interpreter, a mediator, or whatever else it is. I did run across the problem myself and I can see it affecting possible electors, in this case.

**Hon. Mr. Pearson:** There is no problem with interpretation and so on. That is looked after in the act now, at the present time. This is the actual marking of the ballot, that we are dealing with.

**Mr. Chairman:** Shall we clear all 13 clauses at once, or do you want to do the a-b-c's? It is up to the Committee.

*Clause 37 agreed to*

**Mr. Penikett:** I smell coffee.

*On Clause 38*

*Amendment proposed*

**Mr. Kimmerly:** I move an amendment that Bill No. 32, *An Act to Amend the Elections Act*, be amended in clause 38(1), page 11, by deleting in subsection 55(1) the word "Yukon" and substituting for it the phrase "his polling division". It is clear that the provisions concerning proxies have been tightened and we agree with that in a general sense; however, this leaves us open to other problems. For example, if a Whitehorse resident is away working at the North Slope in Yukon during an election day — which may

happen — that person would be a long way away, would be in Yukon and unable to vote by proxy although the person in Tuktoyaktuk would, and that is an inequity; it is a potential problem.

Another problem is of a person who is a rural person by lifestyle and is trapping during an election in the winter or something like that. I would ask serious consideration for that particular problem and a defense of the very restrictive provision here.

**Hon. Mr. Pearson:** A tremendous amount of consideration has been given to this specific subsection, '55(1)'. The concern, once again, as I said at the outset, is to try and make sure that as many people as are legitimately entitled to vote, get the chance to exercise that franchise with respect to Yukon elections. However, I must say that it has been my experience in the past two territorial elections that probably there has been more controversy and more problems and more questions about proxy votes than anything else in the *Elections Act*. It has been a monumental headache. There have been more perceived cases of abuse, with respect to proxies, than anything else in the *Elections Act*, and probably that is going to continue forever.

I do not see any way around that because I believe that we have to have proxies. Given that we have, in fact, now instituted an advanced poll, given that we have mail-in ballots, on the off chance that we were going to get support from the members on the other side with respect to development on Yukon's north coast — that was one of the reasons that mail-in ballots were put there. If a person is fortunate enough to be working on the north coast come election time, they, I guarantee you, will have the right to vote, if they are a qualified elector in the territory. The reason that they are away from their regular polling place, being on the north coast, would not affect them under this legislation. They do not need a proxy to do it. The effect of the member's amendment is to put the proxy situation back to where it was in 1978. I submit that for members that were in this House during the debate that went on with respect to the amendments to the *Elections Act* after that election, it was deemed desirable by everyone that proxies had to be changed, had to be tightened up in some way, shape or form because of perceived misuses. This would put us back to that time. I believe that the section as proposed is, in fact, one that will be safer for everyone in the territory.

**Mr. Penikett:** Just briefly; I completely share the government leader's point about not wanting to disenfranchise anyone. Could I just ask his thinking though, with respect to two specific cases asked by my friend for Whitehorse South Centre: the trapper who may be in the bush at the time of an election, who is away from their home? The advance poll may not be convenient if they are, in fact, some considerable distance from their home, and, in fact, someone who might be within Yukon, not outside Yukon, but at a workplace for a certain specific period of time and who may also be many hundred miles from their home.

**Hon. Mr. Pearson:** Both of these specific issues, interestingly enough, the one with the worker on the North Slope and the one with the trapper, have been discussed in detail with the proposed chief elections officer. It is his considered opinion and his advice to us that this section, the way it is written here, is very workable and it would not jeopardize either one of those people who have a legitimate right to vote. It would not jeopardize their right to vote, it is just that they would not do it by proxy. We have the alternatives in the legislation.

**Mrs. Joe:** I would just like to know what alternatives you have, in the case of an election, when the people of Old Crow are out at the Flats?

**Hon. Mr. Pearson:** One of the things that is possible to happen in Old Crow is to actually have a ballot box out on the Flats. It is something that can be, and is, in fact, considered every time there is an election. It depends upon how many people are out there and whether they want a ballot box out there.

*Amendment defeated*

**Mr. Chairman:** I shall now declare a brief recess.

*Recess*

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

**Hon. Mr. Pearson:** We were discussing '55(1)' and proxies, prior to the recess, and I want to make sure that I do not leave a mis-impression in respect, specifically, of trappers and the use of mail-in ballots.

When we were discussing this and considering it, it was felt that it was not practical for a trapper to use a mail-in ballot. He would have to be somewhere where he could pick it up and he would have to then be somewhere where he could mail it in order for it to arrive in time for the election because there are, in fact, time constraints in respect of mail-in ballots. Given the time constraints of the election period, if the trapper was not going to be here at the time of the election but was going to be in his constituency at a suitable time to pick up a mail-in ballot or, conversely, could be in the constituency at a suitable time to mail it in, then he, in fact, could make it to the advance poll. He would either make the advance poll or he would be there on polling day, one of the two. It was deemed that it was not practical that there should be a suggestion that mail-in ballots would be used by trappers, simply because they would just be out of luck if they could not make one of those two days.

**Mr. Kimmerly:** I was confused also about the answer about the worker on the North Slope. If that person lived in Whitehorse, any of the urban ridings in fact, and was on the North Slope prior to the close of nominations and subsequent to polling day, the mail-in ballot and advance poll and proxy would not be open to him under this legislation. I am told that a mail ballot is possible but I believe that that was an earlier draft of the bill where a mail-in is only possible in certain small rural polls and for institutions and jails in the final draft.

**Hon. Mr. Pearson:** I would anticipate that if, in fact, there was a poll on the North Slope, it would be exactly that; it would be a small rural poll.

**Mr. Kimmerly:** The problem is the residence is in Whitehorse, not on the North Slope.

**Hon. Mr. Pearson:** It can be counted the same way as someone who is in an institution. It would be counted in their polling division.

**Mr. Kimmerly:** I will ask the question again at the mail-in sections, because I am confused about that point.

**Mr. Penikett:** May we take it that our amendment carried, Mr. Chairman?

**Mr. Chairman:** What amendment? There was no amendment?

**Some hon. Member:** Yes, there was. We defeated it before we went to recess.

**Mr. Chairman:** The amendment was defeated.

**Some hon. Member:** No. That was the one that Danny defeated.

**Hon. Mr. Lang:** By myself.

**Hon. Mr. Pearson:** All by his lonesome.

**Mr. Penikett:** Danny did not like it, so it was defeated.

*Amendment proposed*

**Hon. Mr. Pearson:** I would move that Bill Number 32, *An Act to Amend the Elections Act*, be amended in Clause 38(1) at page 13 by deleting in paragraph 55(8)(b) the phrase "the deputy returning officer" and substituting for it the phrase "each of the deputy returning officers".

*Amendment agreed to*

*Clause 38 agreed to as amended*

*On Clause 39*

<sup>37</sup> *Clause 39 agreed to*

*On Clause 40*

**Mr. Kimmerly:** With regard to Clause 41(1), on '55.3(1)(a)', this is where my previously announced question is appropriate. As I read the section, mail-in ballots are allowed for people in jails or hospitals and one other provision about a sparsely populated poll, later on.

If a person is resident in an urban poll and working at the North Slope, I believe a mail-in ballot is not provided for. I would again ask the earlier question I asked about proxies.

**Hon. Mr. Pearson:** It certainly is my impression, and is my

recollection, that we were going to allow — and that we do allow — for mail-in ballots in isolated instances. I can recall discussion, when this legislation was being drafted, with respect to what we were going to determine would be an isolated instance. I believe we decided that if there were 15 electors or less we were going to consider that an isolated instance.

**Mr. Kimmerly:** I understand that intention but I have looked through the bill and I cannot find it. I also spoke to the clerk and he was troubled about the same question. Perhaps I will leave the question, but I have thoroughly looked at the bill and I cannot find that. I will raise it at the very end if we get that far.

**Hon. Mr. Pearson:** At the bottom of page 22, section '55.4' provides, "Where in an electoral district after enumeration it is found by the returning officer that 15 or less electors are resident in a polling division, the returning officer may direct the electors to vote by a mail-in poll." Now, if there are more than 15 electors, there is going to have to be a polling division set up. It just seems to me that is straightforward and that simple to me.

**Mr. Kimmerly:** I understand '55.4(1)' and I understand it is for situations like Francis Lake. I would ask, is it the intention that a person who resides in Whitehorse permanently and lives temporarily on the North Slope vote in the Old Crow constituency, or in the Whitehorse constituency where he lives? The only way '55.4' could be appropriate is if the construction site contains 15 or fewer electors and the votes are counted in Old Crow.

**Hon. Mr. Pearson:** Of course there is no intention of having the voters that might be on the North Slope counted in Old Crow unless they happen to be from Old Crow, and we are going to have to be very careful that we do not allow that kind of thing to happen, because in fact our electoral district boundaries would have to be changed to make sure that that did not happen.

The whole concept of this act is that a person is entitled to cast their ballot and to have their ballot counted in the electoral district in the constituency in the polling division that they live in. The primary qualification is in fact residency. If a person is working on the North Slope, be it one week in and one week out, two weeks in and one week out, three weeks in and two weeks out, it does not matter; that does not change the fact that they are a resident of somewhere else in the territory, if they are qualified to vote.

**Mr. Kimmerly:** I understand that very well and totally agree with it. It is my opinion, and I have spoken to the clerk and he agrees, if I am expressing it properly, that there is a problem concerning mail-ins for workers, for example, on the North Slope or Mac Pass or wherever.

<sup>38</sup> I would ask that serious consideration be given this before the committee stage is finished. It is a problem, I believe, and there is confusion about it. I am confident I am right about that.

**Hon. Mr. Pearson:** The fact of the matter is that what we are trying to do is make it easy for people who are resident of the territory, who are in the territory, to cast ballots. We are even trying to make it easy for them if they are not in the territory, we are giving them a proxy.

People do have a responsibility, too. It is not the case of the government being the panacea. Government should go to people, I agree, but there are limits. If we say that everybody is going to be allowed a mail-in ballot, why bother having booths set up at all? Send everybody in the territory a ballot by mail, have them all vote by mail. It is not practical and there has to be a division, there really has to be a dividing line.

It is our preception, if there is ever any development on the north coast, people will not be living there permanently. I am sure that anybody who has been there and seen it will recognize that there is never any intention of anyone living permanently on the north coast. Yukoners, who can vote in an election, will, if they are working there, be in their constituency. Given the only acceptable method of travelling rotations, and so on, it is just going to happen that way. They are going to be able to be in their constituency, either on advance polling day or on polling day.

Once again, it is very difficult to make law that covers every eventuality. I agree, given a set of circumstances, a specific set of circumstances, the member is right, but, then, I can think of other circumstances where he would be right, as well. It is virtually

impossible, to cover them all.

**Mr. Penikett:** I think the government leader is probably right about his last observation, but let me just try and bundle up a couple of contradictions that I see in what he says — not that I am saying he was speaking at cross purposes, but I can give you, I am sure, an example of what could produce some confusions and, possibly, a controversion.

He said that he would not want, perhaps, workers working on some site on the North Slope, to vote in the Old Crow election in the Old Crow riding, if they were clearly...

**Hon. Mr. Pearson:** Unless they were residents there.

**Mr. Penikett:** ... unless they were residents of Old Crow, especially if, or, let me put it the other way around, if they were normally resident somewhere else.

My guess is, if I were there not on the sort of 10-days in 10-days out or two weeks in, one week out, but I had some job on a site up there — it does not matter for whom, but I was there for — well, for a single worker it might well be the case — someone who normally lives in Whitehorse but, when I am working, I am working on construction, I live wherever I am working.

If people like that are up on the north coast doing some work, or happen to be in that Old Crow riding, my guess is that nobody in the world could prevent me from, in fact, voting in that riding, if I, in fact, was there on the day of the writ, if I am, in fact, a resident of the Yukon. I do not have a permanent address in Whitehorse, a post office box maybe, I am there on the job, I have been on the job for three months say, I am there on enumeration day, I am there on filing day, and I am there on election day, and I am not outside of it, my guess is that I could claim a right to vote there and I doubt if anyone could stop me.

**Hon. Mr. Pearson:** If the member was in Old Crow at the particular time, I would agree. What I did say was that we have to look at the electoral boundaries to make sure that that does not happen. If there is ever going to be development on that north coast, it must be recognized that those electoral boundaries were drawn on the premise that there was not going to be any development on that north coast. If there is going to be development on the north coast some day, then it is going to be beholden upon whoever is governing at that time to make sure that no election is jeopardized in Old Crow because of those electoral boundaries. There will have to be something done with respect to that.

While I am on my feet, section '5.2' of the act gave to the board, and now the amendments here would be giving the chief electoral officer, the power that he would need to make the kind of provisions, in spite of what it says with respect to mail-in ballots at '55', with respect to the 15. If it was deemed by the chief electoral officer that there should be mail-in ballots used, then he has that power to be able to do that. If he deems that there should be a polling division there, he has that power to do that.

Once again, it was recognized when the act was written the first time around that it could not cover all of the situations. I think we should be careful that we do not, while legislating for the few, spoil it for the many. I am concerned that we do that. If there is development on the north coast, then I am positive that under this legislation we can handle everybody's right to vote.

Also, we have to be very careful because we cannot do it under this legislation. The factor raised by the leader of the opposition with respect to who would vote specifically in the Old Crow constituency is a major one, and it is a concern, one that I know will be looked after prior to the need arising for it to prevent it jeopardizing an Old Crow election.

*Amendment proposed*

**Hon. Mr. Pearson:** I would move that Bill No. 32, entitled *An Act to Amend the Elections Act*, be amended in clause 40(1) at page 24 by adding in subsection 55.4(6) the phrase "a name" after the phrase "a revising officer enters".

*Amendment agreed to*

**Mr. Kimmerly:** I would move that the remainder of the bill be deemed to be read in Committee and cleared. I believe it requires unanimous consent.

**Mr. Chairman:** Is there unanimous consent?

**Some Members:** Agreed.

*Motion agreed to*

*Clause 40 agreed to as amended*

*On Title*

*Title agreed to*

**Hon. Mr. Pearson:** I would move that you report Bill No. 32 as amended.

*Motion agreed to*

**Mr. Chairman:** I declare that *An Act to Amend the Elections Act* has passed out of the Committee of the Whole. May I have your further pleasure?

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

*Motion agreed to*

*Mr. Speaker resumes the Chair*

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

May we have a report from the Chairman of Committees?

**Mr. Brewster:** The Committee of the Whole has considered Bill No. 32, *An Act to Amend the Elections Act*, and directed me to report the same with amendments.

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

**Some hon. Members:** Agreed.

**Mr. Speaker:** May I have your further pleasure?

**Hon. Mrs. Firth:** I move the House do now adjourn.

**Mr. Speaker:** It has been moved by the Minister of Education that the House do now adjourn.

*Motion agreed to*

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

*The House adjourned at 5:08 p.m.*

