

the matter heard by the courts without any question, a decision by Parliament should not impinge on that.

● (1120)

The second point I would make is that my friend may say that this is a political matter, but in the motion the reference is that the Government should seek to restore existing rights of Canadians in Yukon and the Northwest Territories to the Constitutional Accord, 1987. I do not think there is any question that we have not diminished in any way the rights of Canadians in Yukon and the Northwest Territories. I think we should try to separate what is properly the matter which should be dealt with in Parliament and properly the matter which should be dealt with by a court of law.

**Mr. Broadbent:** Mr. Speaker, as the mover of the motion, I would like to reply very briefly to the Government's arguments and to support what our House Leader has just said. The wording, as is my wont, was chosen with care. The words at the outset are that the Government should seek to restore existing rights of Canadians in Yukon and the Northwest Territories to the Constitutional Accord, 1987. It does not say legal rights nor does it say moral rights, it simply says rights.

With foresight, I thought the Government might try to make even what on legal grounds I would regard to be a spurious argument, but certainly if the House gives the wording of the motion the latitude of interpretation it deserves, we may be talking about moral rights. That is one case that can be made and I will make it.

A stronger kind of case could be made that in addition to moral rights that are being infringed upon there are certain legal rights. If the wording had been "legal rights", the Government's case might be somewhat stronger than it is now. It certainly would not have been persuasive, but since the word "rights" is used and can be interpreted as meaning moral rights, I think that slight degree of credibility the Government had in its argument falls completely to the ground.

**Mr. Boudria:** Mr. Speaker, I would like to address two issues which have come to the attention of the House in the last few minutes. First, Rule 337 of Beauchesne's as it applies to *sub judice* refers quite clearly to the fact that no set practice has been developed in relation to any civil case. Certainly, the civil case convention does not apply after it reaches trial stage in any event.

It is quite different, of course, when dealing with criminal cases because then Rule No. 336 applies. Rule No. 336, as the Parliamentary Secretary to the Government House Leader indicated quite truly, indicates that debate at that point would be inappropriate if this were a criminal case, which it is not.

Finally, discussions about existing rights or rights of any other kind is a point of debate and not really central to the point of order, or to whether Rules 336, 337 or any other rule applies. Whether or not rights have been taken away or

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whether they have been taken away morally, legally, constitutionally or otherwise is a point that could be raised during debate, but that discussion does not in any way affect whether or not Rules 336 or 337 of Beauchesne's apply in this particular case.

**Mr. Robinson:** Mr. Speaker, I would like to make one very brief point. I would suggest that the precedent which the Parliamentary Secretary is seeking to establish would in fact be a very dangerous one in that it would significantly limit the powers of Parliament to debate issues of public concern.

The Parliamentary Secretary suggests that the mere issuing of a writ in the courts would cut off parliamentary debate and discussion. Surely Members of the House would recognize the implications of that. I know Your Honour recognizes the very serious implications of that. The Parliamentary Secretary sought then to shift ground. He probably recognized that the soil was eroding rapidly beneath him so he then started to suggest that perhaps the nature of the litigant made a difference. He said that it was a territorial Government that was suing and somehow that made it different. I would ask Your Honour to recognize that the fact that a writ has been issued and a civil action is under way should certainly not preclude a discussion by the House of the very important issues that have been raised by my leader.

**Mr. Speaker:** In the interests of not holding up debate, the Chair has decided that, rather than reserve in this matter, the Chair will rule immediately.

In the interests of Hon. Members and of the public watching and listening, I want to be sure that everyone understands the issue that has been raised here. It is an issue that is always likely to be raised in the House, especially with respect to a matter being debated here which may be the subject of consideration by the courts.

I would say at the outset that the Hon. Parliamentary Secretary raises a matter of concern to Hon. Members and a matter upon which the Chair has had occasion to comment in the past. In order to make the issue absolutely clear, I will read the motion. Mr. Broadbent, seconded by Mr. Riis, moves:

That the government should seek to restore existing rights of Canadians in Yukon and the Northwest Territories to the Constitutional Accord, 1987; and further, to make a commitment to hold a First Ministers' Conference to discuss aboriginal concerns, in particular self-government.

One of the points the Hon. Parliamentary Secretary has made is that the view of the Government is, and I think I have his words correctly, that it has not diminished the rights of Canadians in Yukon and the Northwest Territories. That may very well be, but that is of course a matter of debate. However, I have taken the Hon. Parliamentary Secretary's point.

The reason that there has been throughout the centuries the admonishment by Speakers, contained in the learned comments on procedure, with respect to debates which concern matters before the courts is of course fundamentally to ensure that the rights of those who are before the courts are not prejudiced. Again, so that all Hon. Members and the public