

Whitehorse, Yukon**Tuesday, April 1, 2008 -- 1:00 p.m.**

Speaker: I will now call the House to order. At this time, we will proceed with prayers.

Prayers

DAILY ROUTINE

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

Tributes.

TRIBUTES**In recognition of Cancer Awareness Month**

Hon. Mr. Cathers: I rise today on behalf of the government members to pay tribute to Cancer Awareness Month. Cancer is perhaps one of the most frightening words in the English language as it strikes fear into the hearts of men and women, mothers and fathers and friends. It is something that has touched the lives of each and every member of society, whether it has hit an individual personally or hit a family member or friend.

I want to rise today to pay tribute to those who work to eradicate this disease and those who assist people who are facing their own fight with this illness. I am speaking about survivors, of those who are facing it today and family and friends who support them, as well as our health care professionals and volunteers across the territory and across the country who raise funds for research in the quest to make cancer history.

Everyone has a cancer story, and of course each of us has been touched by it. In some small way, every one of us is a part of the fight, whether we have purchased daffodils as a part of Cancer Awareness Month or made a donation when a volunteer came to our door. We are all doing something to fight the growing cancer rates and to help make life better for those who are stricken with the disease. The Yukon is a very close, caring community and so we are perhaps more aware than our larger jurisdictions of the many events that happen here in the name of cancer education and awareness and fundraising.

We hear about individuals who shave their heads to raise money for their friends and colleagues, and we know about the events that raise money to cover unexpected costs faced by individuals with cancer and their families. Cancer Awareness Month is only 30 days long, but I ask each and every member of this Assembly to commit to doing their part and assisting with the fight year-round, and of course extend our best wishes to those who are facing challenges with cancer.

Thank you, Mr. Speaker.

Mr. Fairclough: I rise on behalf of the Official Opposition to pay tribute to Cancer Awareness Month and notably, the Canadian Cancer Society. The Canadian Cancer Society is a national community-based organization of volunteers whose mission is the eradication of cancer and the en-

hancement of quality of life for people living with cancer. Funds are raised through the donations by individual Canadians and by door-to-door campaigning. The kick-off to the April campaign, the purchase of daffodils, is the Cancer Society's single most important drive to fight against cancer.

The bright, cheerful daffodils are the society's symbol of hope. This year's daffodil luncheon held on Thursday, March 27, was a very successful event. The luncheon and the sale of daffodils locally raised over \$35,000. Money is raised for breast cancer every year in the Run for Mom event which is held on Mother's Day, May 11. The money raised stays in the Yukon.

This year, the Relay for Life, in Dawson City, will be held on May 24 and 25. In Whitehorse, the Relay for Life will be held on June 7 and 8. All of these events contribute to the ongoing fight against cancer. We encourage all Yukoners to get involved, become a volunteer, help sponsor a team or make a donation. It's about making cancer history. This year, Yukon will have a rider in the Cops for Cancer Tour du North, to take place in northern B.C. this fall.

We all have a cancer story. We all have been touched by cancer directly or indirectly in some profound way. Until the day we can eradicate cancer, the goal for cancer patients is to become cancer survivors.

The Canadian Cancer Society offers many support programs. The toll-free number for cancer information service is 1-888-939-3333. This is a free service to all Canadians.

On behalf of Yukoners, I would like to express our sincere thanks and pay tribute to the Yukon Cancer Society's volunteers. We also would like to congratulate Fae Jamieson, this year the Yukon region's cancer volunteer of the year. We also thank the many donors for their support and to generously give every year for this worthwhile cause. The fight against cancer will be advanced through your contribution and support. We will make cancer history.

Thank you.

Mr. Hardy: I rise on behalf of the NDP caucus to recognize April as Cancer Awareness Month. I'm especially pleased to have the privilege of making this tribute because of my own personal experience with cancer over the last few months now.

I want to first recognize the many committed people who provide care to those of us suffering from this harsh disease. It is important to remember that it is not only the patient who must deal with the enormous changes that cancer brings but those around them as well. My family and I will always be grateful for the kindness that has been shown us from the caregivers we have worked with in dealing with my illness, and I think I express that knowing that that's also what many other cancer survivors would say. These people have always been there to provide not only physical care but to give all of us hope for the future. Without their optimism, based in reality, this ordeal would have been much harder for many, many cancer survivors.

Medical science approaches cancer from a curative stance, and there have been many effective treatments com-

ing from substantive research, but most cancers are preventable, Mr. Speaker. Chances of survival can be greatly enhanced through prevention and risk reduction. This requires us to make fundamental changes to our lifestyles. We must all make a commitment to healthy eating and routine exercise. If we are smoking, we should make efforts to quit -- today, not tomorrow, and to be conscious of the harm of second-hand smoke. We should practice protecting ourselves from the sun. Timely screening leads to early detection, a very important factor in the prevention of cancer.

I also want to especially point out the environmental causes of cancer: our air, water and even our food have changed from past years. They have become more and more dangerous to our health. We must consider the health implications of decisions made in support of our economy that cannot continue without severe risks.

Our past carelessness means our present health is being affected. It is imperative to support the efforts of environmental organizations to reduce the carcinogens in our environment and in the food we eat. A high priority should be given to ensure that these are monitored and products are labelled. One day, we hope they will be banned. Much more research needs to be done to identify where cancer rates are higher than expected. This is especially true in the north.

Cancer patients have a greater chance of survival based on community support. The Yukon is one community that helps others, and this is seen and felt daily by those suffering from this disease -- and it does have a tremendous impact on the survival rate.

In closing, our gratitude must also go to the volunteers, researchers and health professionals I have been blessed to know. They ensure that Canadians with cancer have access to the highest quality treatment and care if they are stricken. Their ongoing work in the Yukon and across Canada has made this disease much more bearable.

Speaker: Are there any further tributes?
Introductions of visitors.
Returns or documents for tabling.

TABLING RETURNS AND DOCUMENTS

Hon. Mr. Lang: I have for tabling, the 2007-08 progress report on the recommendations from the Auditor General and the Public Accounts Committee.

Speaker: Are there any further documents for tabling?
Are there any reports of committees?
Are there any petitions?
Are there any bills to be introduced?
Are there any notices of motion?

NOTICES OF MOTION

Hon. Mr. Cathers: I give notice of the following motion:

THAT this House urges the Department of Health and Social Services to launch a new health promotion initiative to:

(1) further assist Yukoners who wish to quit smoking by funding a portion of the cost of nicotine replacement therapies; and

(2) work in partnership with the motor vehicles branch to provide drivers with information on the increased health impacts of smoking within the confined space of a motor vehicle.

Mr. Nordick: I give notice of the following motion:

THAT this House urges the government to examine options for investing in its share of the new police officers recruitment fund that will help Yukoners achieve a better quality of life by creating safer communities through investing in funding to enhance public safety and policy initiatives over five years.

I also give notice of the following motion:

THAT this House urges the Leader of the Official Opposition to explain his comments made on page 2155 of *Hansard* of March 26, 2008, promoting teen smoking by advocating that 16- and 17-year-old Yukon youth be allowed to smoke "to their heart's content".

Mr. Mitchell: I give notice today of the following motion:

THAT this House urges the Deputy Premier to explain to Yukoners why she said in the Legislature, "The asset-backed commercial paper is backed by the banks. It is also backed by assets that are highly rated by Canada's primary rating agency", when the *Financial Administration Act* requires two rating agencies.

I also give notice of the following motion:

THAT this House urges the Government of Yukon to further the primary objective of the Yukon's health and social services policy to protect, promote and restore the well-being of residents of the Yukon by ensuring that all Yukoners have access to a wide range of health care treatment options by including the cost of acupuncture under the Yukon health care insurance plan.

Mr. Inverarity: I rise to give notice of the following motion:

THAT it is the opinion of this House that the Yukon needs a legislative library to:

(a) serve the information needs of members and staff of the Legislative Assembly; and
(b) to collect, preserve and make accessible the publications of the Legislative Assembly to members, media and the public.

THAT this House urges the Government of Yukon to enact a Legislative Assembly library act prior to the centennial of the first sitting of the Yukon Legislative Assembly.

Mr. Edzerza: I give notice of the following motion:

THAT this House urges the Government of Yukon to expedite the establishment of collaborative health clinics in

the Yukon and to provide suitable financial support for that purpose in order to:

- (1) bring Yukon standards of health care up to best practices in the rest of Canada;
- (2) respond more efficiently to the health care needs of Yukoners; and
- (3) attract health care professionals whose current training has prepared them to practise in this type of working environment.

Mr. Hardy: I give notice of the following motion:

THAT this House mark this auspicious occasion by directing the Members' Service Board to authorize the Conflict of Interest Commissioner to purchase polygraph equipment, commonly known as a lie detector, for use as required in future dealings with Yukon MLAs.

Speaker: Are there any further notices of motion? Statements by ministers.

This then brings us to Question Period.

QUESTION PERIOD

Question re: *Liquor Act* amendments

Mr. Inverarity: Yesterday the minister responsible for the Liquor Corporation said in this House that two ministers with whom he discussed the *Liquor Act* were not ministers but merely candidates. He claimed they were not ministers of this government. Well, I quote from *Hansard* of March 27, 2008. The minister said, "For the record, there were two ministers who owned hotels; I spoke at length with both of them..."

I ask the Premier: why would this minister refer to supposed candidates as "ministers"?

Hon. Mr. Fentie: You know, Mr. Speaker, instead of the continuance of these wild accusations, the government has chosen to clear the matter up. I have, effective today, formally requested that the Conflicts Commissioner look into the matter to provide that clarity.

Mr. Inverarity: That's very good, Mr. Speaker. I'm happy to hear that it's going to be referred to the Conflicts Commissioner because, in fact, if the Premier hadn't done it, I would be doing it. I'm excited to hear that.

The minister went on to say, and I quote *Hansard*: "As I say, I have spoken with our two ministers who own hotels and many other people who have owned hotels." Twice he referred to the ministers, and not once did he refer to them as candidates. The reason for this is obvious: they were ministers and not candidates.

I ask the Premier again: did the minister have conversations regarding the *Liquor Act* with the two ministers who at the time owned hotels?

Hon. Mr. Fentie: My first response to the Member for Porter Creek South is that it's not often the government side generates excitement on the benches of the Official Opposition, so we'll accept the member's comments as intended. But I also would caution the member that it's time to move on from the script and allow the Conflicts Commissioner to

do the work necessary. The formal request has been made and I'm sure the Conflicts Commissioner will quickly get to the job and provide us the clarity that we all seek.

Mr. Inverarity: I would like to ask if the Premier will now admit that the minister responsible for the Liquor Corporation had discussions concerning the *Liquor Act* with two ministers who owned hotels.

Hon. Mr. Fentie: Same script, same question, same answer -- and I think it's important we get that clarity so the wild accusations coming forth from the Official Opposition are dealt with as they should be. We'll allow the Conflicts Commissioner to do his work now.

Question re: *Watson Lake care facility*

Mr. McRobb: Long before the Auditor General of Canada investigated the Premier's bad investments, she examined another example of this government's poor fiscal management: the ongoing health centre project in Watson Lake. What did her investigation find? Because we don't get real answers to our questions, allow me to respond.

Her 2007 report on this mess reported a lack of accountability, poor management and massive cost overruns. Since the Auditor General's report was released 18 months ago, the situation has worsened. The new budget tabled this week revealed the cost of the project has ballooned to nearly \$12 million -- well beyond the original amount of \$5.2 million.

Does the Health and Social Services minister expect this to be the final budget number, or will the cost overruns to Yukoners go even higher?

Hon. Mr. Cathers: This is another wild wandering by the Member for Kluane. The member suggesting the Auditor General has reviewed and reported on this matter here and come to conclusions -- the project is underway. The member is making accusations and citing reports incorrectly. The member has previously, in debate with me on this same project, cited a reference in a report which he claimed applied to this project, but it was in fact another entirely -- the review of property management. This government works with the Auditor General; we appreciate the Auditor General's review.

In the case of the Watson Lake multi-level care facility, the work is ongoing and the member's assertions of how much money has been spent do not reflect the budgets here in front of us. I would encourage him to review the supplementary estimates that we discussed and voted on yesterday, and of course this year's budget, and to pull out his calculator. The member will see that his wild wanderings are completely out to lunch.

Mr. McRobb: I did refer to last year's supplementary as well as this year's budget, and asked a question yesterday afternoon that was not answered by this government. The real answer is that this government's poor fiscal management has caused the overruns, which are expected to go even higher.

For the minister, it was the Auditor General's own words that said lack of accountability, poor management and massive cost overruns. I'm merely repeating what the Auditor General of Canada said in her report.

A consequence of this government's poor fiscal management is the delay to the long-promised health centre in Dawson City. It has been cut entirely from the budget. I guess that's what happens when you gamble \$36.5 million on bad investments. Other projects get delayed, and in this case, the residents of Dawson are missing out. The Yukon Party promised Dawson a new health centre years ago, and they're still waiting. How much longer does the minister expect Dawson residents to wait?

Hon. Mr. Cathers: Listening to the Member for Kluane is always a bit of a surreal experience. The member should stand accountable for the accusations that he has made, for the assertions of cost, that are completely out to lunch. He claims we spent \$12 million on the Watson Lake multi-level care facility. Actual expenditure for construction to date is \$4,179,974. The member is not reflecting the facts; he is deliberately doing so and misleading Yukoners.

Speaker's statement

Speaker: Order please. I'm just going to put a cautionary note in here. I understand there are diverse opinions on this issue, but I would ask the honourable members to watch their language.

You have the floor, Member for Kluane.

Mr. McRobb: Thank you, Mr. Speaker. I'm merely reporting the Auditor General's report. No matter how much the government side attacks me personally, it doesn't matter. I will stand here and do the public's business and ask the tough questions when they're required. Now is the time for that.

This Yukon Party government has kept the Auditor General quite busy with its poor financial decisions. There is the Premier's \$36-million investment fiasco; there is the Watson Lake health centre overrun, which the minister himself refused comment on to a reporter recently, when asked how much beyond \$12 million the cost overrun was going to go.

The Yukon Party also committed to delivering a follow-up to the Auditor General's 2007 report, which was promised for delivery on the first day of this sitting, but we only had tabled today. Shame on this government.

Why is the government withholding this report beyond when it was promised, and why was it only tabled today?

Hon. Mr. Cathers: The member, in his own comment, admitted that he is referring to an Auditor General's report regarding the Property Management Agency, not regarding the Watson Lake multi-level care facility. Yet the member continues to quote in reference to this -- a quote that he claims is there. I would have to check the document to see if it is there. The member is not reflecting the fact the Auditor General has not completed a review of the Watson Lake multi-level care facility. We look forward to the Auditor General doing so.

In reference to Dawson City, the facilities will be built in Dawson. The planning work has been done. As the members ought to recall, the plans that had been established before were presented to the public for review; the resulting feedback necessitated a change. That work will be ongoing. In

answer to their questions about why it isn't done yet -- have the members not noticed that the Yukon economy is booming and that there is shortage of trades? There are a limited number of capital projects that can be completed in one year and to have the tradespeople to do so. The facilities will be built in Dawson. It is our commitment to the people of Dawson City and the riding of Klondike, and we are very confident that they will be pleased with that outcome once it is complete. Again, regarding the member's assertions of costs regarding the Watson Lake multi-level care facility -- the member has inflated those costs by a factor of three.

Question re: Children's receiving home

Mr. Edzerza: Mr. Speaker, for many months we have tried to help make the Minister of Health and Social Services aware of problems being experienced in the children's receiving home on Fifth Avenue. We have brought to his attention how the staff have experienced allergic reaction to mould, how the design of the building itself is problematic and how ineffective the programming is. Changes are long overdue, but nothing seems to be happening. What specific steps have been taken to rectify the deplorable conditions in the present receiving home?

Hon. Mr. Cathers: I appreciate the member's concern. We recognize that there are issues that need modification at the children's receiving home.

Department officials of Health and Social Services, despite the member's failure to recognize it, work with the Property Management Agency, with the Public Service Commission, with health and safety branch, and they have been proactive in responses to concerns raised about the children's receiving home.

Testing has confirmed the existence of mould and asbestos in the building; however, as I have indicated before, the experts in these matters assure us that only if these areas are disturbed are there any health risks. They have been contained, and right now officials from my department are working with the Property Management Agency in reviewing whether it is most effective to repair or replace this building. Upon completion of that, recommendations will be presented to Cabinet for their review.

I am so eager to answer the member opposite, I am tripping over my words. The member knows what it's like to be on this side; we are doing the good work, and the appropriate action will be taken.

Mr. Edzerza: I believe the member opposite is stumbling because he has been caught.

Last fall, my colleague from Mount Lorne and staff members toured the receiving home. At that time, they were told that the department was looking for a suitable alternative to the current site, possibly with separate facilities for male and female youth.

We've since learned that there was a plan to move the girls in the receiving home into a Yukon Housing facility, on Cook Street, that had recently been renovated.

Will the minister confirm that his department even went so far as to purchase furniture, bedding and other equipment for the proposed move?

Hon. Mr. Cathers: The Member for McIntyre-Takhini is partly correct, but is not wholly so. Other options were looked at, including the options of moving the residents and staff of the children's receiving home into alternative accommodation. However, none of the accommodations reviewed were suitable; there would have been significant renovation costs and delays as a result. Therefore, the officials from my department are working with Property Management Agency -- who, of course, they are obligated and I am obligated to work with and through -- on developing a plan and options to present to Cabinet for whether to repair or replace the children's receiving home. That work is ongoing. Once it has been presented to Cabinet and Cabinet has made a decision, I look forward to announcing it.

Mr. Edzerza: We sincerely hope that the receiving home doesn't become another Thomson Centre. Apparently this proposal hasn't gone anywhere because of a zoning problem. We shouldn't have to explain to the minister what the process is to have an area rezoned. It takes an application to the City of Whitehorse and a decision by city council. But there has been no indication from city council meetings in the past several months that the department has even tried to get the area rezoned. It makes me wonder how serious this minister is about finding a solution to the long-standing problem of children in government care who need emotional support and decent housing.

Has the minister simply given up trying to find a suitable building or does he have new plans to address the needs of children in his care and the workers who attend to them?

Hon. Mr. Cathers: I appreciate the member's question and I also appreciate that he does sincerely feel concern for children there and for the staff. However, the member knows -- his question this time, I've already answered that before on the floor. Unfortunately, he chose to stick to his script.

The member understands that, although zoning is part of the challenges faced, it is not the primary reason. As I indicated, other options were looked at -- alternative housing -- but there were challenges faced in proceeding down that road for the suitability of that accommodation and the fact it would not have adequately addressed the need to house all those in the children's receiving home. As I indicated in my previous response to the member, officials from Health and Social Services, working with the Property Management Agency, have reviewed the facility and are preparing a recommendation that I will present to Cabinet on whether to repair or replace the children's receiving home. Once Cabinet has made a decision, I look forward to announcing that.

Question re: China-Yukon government relations

Mr. Hardy: The Premier's response to my questions about Yukon's trade relations with China yesterday were very revealing, in light of that country's brutal repression of the people in Tibet. The Premier began by praising his government's efforts to attract offshore investment in the territory. That answer speaks volumes about the difference in priorities and values between the NDP caucus and the government side.

The Premier then went on to say that dealing with China's abuse of human rights is a federal government matter, with the support of the provinces and territories. Perhaps the Premier can enlighten the House on how this territorial government supports a strong Canadian voice of concern.

In the five years the Premier has been in office, has he ever once had a face-to-face meeting, or even a phone call, with the Prime Minister or the Minister of Foreign Affairs, urging them to take a strong stand against human rights abuses by the Chinese government?

Hon. Mr. Fentie: The member is incorrect in his opening remark about a difference between the NDP caucus and the Yukon Party government side of the Legislature with respect to human rights.

Neither this government, nor anyone in this Assembly, promotes the abuse of human rights in any form, in any place on the globe. However, I think it's fair to say that Canada, internationally, has taken a stand on issues with respect to human rights matters in China, but also, as stated clearly, that China is a large trading partner with this nation. We understand that also.

Of course we will continue to solicit investment from offshore in building Yukon's future. However, there are more matters to this that go far beyond this debate we are having. I would suggest to the member opposite that any time he goes into Wal-Mart, Canadian Tire, and other stores, he takes a very close look at where a huge percentage of all goods that are in those stores is made.

Mr. Hardy: Talk is very cheap. What counts is action. I can assure you that when I shop, I always look at where the products are coming from.

When our Minister of Economic Development will hop on a plane and go to China to talk trade and investment without saying a single word about China's human rights policies or its terrible environmental record, his actions are saying this government does not care about such things, never mind the little trinkets in Wal-Mart. The bottom line is keeping those cash registers ringing.

So what if people are dying? So what if the global environment is taking a beating from China's air pollution? All that counts for this government, by their actions, is making deals and attracting investments.

Just for the record, does the Premier believe it is okay for Yukon companies and the Yukon government to conduct business with any company from any country regardless of that company's track record or that country's track record on human rights, labour standards or the environment?

Hon. Mr. Fentie: I think it's clear that the member obviously has a very emotional attachment to the issue -- as we all do -- but we all must address these things in a manner that bears our responsibility.

As far as dealing with China, the nation itself is dealing with China on a pretty significant level in many areas of trade. That's a fact and we all understand that. Yes, we have had investment in the Yukon Territory by Chinese companies, and we all recognize that, but we don't in any way promote the abuse of human rights, regardless of these initia-

tives that are transpiring not only in Canada, but here in the Yukon.

I wish the member opposite would understand something. If the member wants to take the position that we should chase any investment from China out of the Yukon and out of Canada, say so. If the member wants to say that stores like Canadian Tire and Wal-Mart should send all the goods that they have on their shelves back to where they were made, he should say so. That's not what the government is going to say or take a position on at all. We're going to continue to work on addressing human rights along with our national government as we should, and we're going to continue to go out and encourage investment in Yukon, especially from offshore.

Mr. Hardy: I am not afraid to say what I believe when it comes to using our trade power to try to improve people's lives. Less than a month ago, the Minister of Economic Development was bragging about this government's role in facilitating a partnership between North American Tungsten Corporation Ltd. and China's Hunan Nonferrous Metals Corporation. The purpose would be to exploit the Yukon's huge deposits of tungsten. Tungsten is widely used in military armaments because of its exceptional strength, and it's not a stretch to imagine that Yukon tungsten could soon be used in Chinese-made weapons, used against the people of Darfur, Thailand, Burma, Tibet and elsewhere. The Premier says this is a federal government matter, but it's his government that's handing out these mining licences.

Will the Premier agree not to permit the mining of Yukon tungsten -- and I'm saying it -- destined for China, unless the Chinese government changes its human rights policies and stops providing weapons to other oppressive regimes to use against their own citizens? Will he make that humanitarian commitment?

Hon. Mr. Fentie: Mr. Speaker, the government is not going to compromise our developing future in that manner. We all understand that across this globe there are human rights issues. We understand that China and other countries have major trading relations, not only with Canada but others. We recognize clearly that our national government has taken a different approach from the former Liberal governments, who used to, on an almost annual basis, have trade missions with China and travel to China on a regular basis. All those things have been happening, Mr. Speaker. But to suggest, as the member just had, that we chase away investment, probably from companies that have no involvement in what the Chinese government might be doing in Tibet -- at least we don't have any evidence to show that -- is not the approach that we will take.

We want to address issues of human rights, just like any other responsible government would do in a democratic nation, but so, too, do we want to build our future and continue to grow our investments here in Yukon.

Question re: Land development

Mr. Fairclough: Mr. Speaker, yesterday at the chamber luncheon, the Premier was asked by a member of the audience to explain why there are no service lots avail-

able in Whitehorse to build new homes. The Premier responded by stating that it was a simple matter of making a decision about where to develop. He told the gathering that as soon as this decision is made, the government will be ready to go forward with infrastructure development at a cost-recovery basis. This is an issue about our current housing shortage and it affects a lot of Yukoners. If resolving this matter is as simple as making a decision, then why is it taking so long?

Hon. Mr. Fentie: I didn't notice the Member for Mayo-Tatchun at the chamber luncheon, but obviously he has been provided some information. Quite frankly, the government and I really appreciate that type of question in a public forum such as a chamber AGM, because it's important.

We do not want the lack of available property for individuals who may want to move and invest in the Yukon -- move to the Yukon, live and raise their families in the Yukon -- to impede our growth. Our position is clear: we would much rather increase the size of the tax base than increase taxes. That's the key here.

We are very ready, willing and able to proceed with development within the boundaries of Whitehorse. We have a new protocol in place and, because there were no decisions to move ahead in developments over the course of the last number of months, the member opposite will have noticed in the supplementary that millions of dollars have lapsed that were made available to do such development.

We're there, ready to go.

Mr. Fairclough: And no action, Mr. Speaker.

The current housing shortage has driven real estate beyond the realm of affordability for most Yukoners. Buying a single-family home on the open market right now costs somewhere around \$300,000. The cost of rental accommodation is escalating beyond reason.

Good luck if you're trying to find something affordable for a first-time home buyer. People cannot move to the Yukon because there's no place for them to live. Meanwhile, government sits on its hands, doing nothing about making more service lots available to builders.

If resolving this impasse is as simple as making a decision, when will the decision be made?

Hon. Mr. Fentie: In the first place, when the member mentions affordable housing, the member conveniently ignores the massive investment already made over the last few years toward affordable housing. The member conveniently fails to recognize the 500 units plus in the Yukon Housing Corporation's inventory to provide housing to Yukoners who need housing.

The member also conveniently ignores the fact when he states that no one can move to the Yukon, but statistics show that our population is growing. I wish the member would explain that one. Furthermore, Mr. Speaker, the decision we await would be decisions by the city on rezoning. It has to do with the official city plan. We are not going to break our protocol agreement that we signed with the city. We recognize the role and the responsibility of other orders of government.

If the member opposite would like to apply the heavy hand of public government to municipalities and dictate what they should do, that's the member's business. That is not what we are going to do. We will work with orders of government to address the issues that we face and the challenges we face. That is why the statement was made yesterday at the Chamber of Commerce luncheon.

The Yukon is heading in a very positive direction. We need now to face the challenges of the future, and that is one of them -- ensuring we have land available for those who want to move here.

Question re: Asset-backed commercial paper investments

Mr. Mitchell: The Auditor General said the Premier's asset-backed commercial paper investments of Yukoners' money were made outside the law. There are clear rules in place, and the Premier didn't follow them.

Section 69(1) of the *Financial Administration Act* states, "If public money is lost or is not collected through the misconduct, neglect of duty, or negligence of a person responsible for handling public money, the person is liable for the money and it may be recovered from them as a debt due to the government."

Mr. Speaker, the Finance minister is the person ultimately responsible for handling public money. What is the Justice minister's response? Has she looked into whether or not the Premier met his obligations under the FAA? No, she has not. Will the Minister of Justice, who is responsible for enforcing the law, investigate whether the Minister of Finance is guilty of neglect of duty under the pertinent section of the *Financial Administration Act*? Yes or no?

Hon. Mr. Fentie: This is a strange question coming from the Official Opposition, who some days ago launched into the public domain a press release, stating the Premier was under investigation. Now I wish the Leader of the Official Opposition would explain that.

Furthermore, that is not what the Auditor General said at all. Yes, there is a contravention of the *Financial Administration Act*, based on the definition of what a liquidity agreement is and/or the backing-up of a bank on any investment or trust. We all understand that and we accept and respect the ruling. But it also doesn't address the fact that 200 investments were made in this area. Is the member suggesting that, through those 200 investments, we sue every one of the individuals involved?

This is a witch hunt by the member opposite and has nothing to do with the realities of addressing the issue in a manner of finding solutions.

Unparliamentary language

Speaker: Order please. Before the honourable member asks his next question, I would just like to remind the Premier that "witch hunt" as a terminology has been ruled out of order in the past and I ask the honourable member not to use that terminology.

You have the floor, Leader of the Official Opposition.

Mr. Mitchell: Just to be clear, the Auditor General said no such thing. She said there was no guarantee. She didn't concern herself with interpretations of liquidity agreements. She said no guarantee.

Yukoners are angry that the *Financial Administration Act* was not followed. They want answers. They want to know why the Premier wasn't doing his job. The only way to answer that is to investigate the Premier's actions or, in this case, his lack of action.

It is clear that the Justice minister is unwilling to do so. Will the Justice minister hand this over to an independent legal counsel, who can look into whether the Minister of Finance is guilty of neglect of duty under section 69 of the *Financial Administration Act*, and report the findings back to this Assembly? Will she do that?

Hon. Mr. Fentie: Well, Mr. Speaker, once again the member is not factually addressing what the Auditor General has reported on, nor is the member factually addressing the issue of liquidity agreements; they were in place and so was a triple-A rating by a bonding company. In this case, only one bonding company, however, rated these investments. I understand what the member is up to. The Official Opposition has already publicly stated that I'm under investigation, so maybe the member's so-called investigation should be concluded.

Mr. Mitchell: Mr. Speaker, the Premier said that he knew nothing about these bad investments until he was informed by his officials. He was out of the loop, and that is the cause of our financial problems, not liquidity agreements. He was neglecting his duty. Yukoners trusted him to look after their money and he failed them. They want some accountability from the top. The Finance minister is ultimately responsible for what happens in the Department of Finance, and his role in this entire mess should be examined.

The Auditor General confirmed that the Yukon Party government didn't follow the law and the Justice minister's response has been to look the other way. Will the Justice minister demonstrate some accountability and begin an investigation into the Premier's complete neglect of his duties under the FAA to look after Yukon's money?

Hon. Mr. Fentie: Well, Mr. Speaker, there you go. Once again, the member opposite is ignoring the facts of the issue, so this is a pointless debate. We all understand how the law in this territory has been contravened in the past; it is that Liberal Party that allowed the City of Dawson to overextend its debt limit under the *Municipal Act*, which this government has addressed by finding a solution. But the member opposite is now referring to an issue of investment that has been going on since 1990. Suddenly the member wants an investigation. Has the member just woken up to the fact that 200 investments were made in the area, some \$1.7 billion? I think that the investigation should go the other way, on who was asleep at the switch.

Speaker: The time for Question Period has now elapsed.

Notice of opposition private members' business

Mr. McRobb: Pursuant to Standing Order 14.2(3), I would like to identify the items standing in the name of the Official Opposition to be called on Wednesday, April 2, 2008. They are Motion No. 346, standing in the name of the Member for Copperbelt, and Motion No. 352, also standing in the name of the Member for Copperbelt.

Mr. Edzerza: Pursuant to Standing Order 14.2(3), I would like to identify the items standing in the name of the third party to be called on Wednesday, April 2, 2008. They are Motion No. 355, standing in the name of the Member for Whitehorse Centre, and Motion No. 349, also standing in the name of the Member for Whitehorse Centre.

Speaker: We'll proceed to Orders of the Day.

ORDERS OF THE DAY

GOVERNMENT BILLS

Bill No. 53: Second Reading -- *adjourned debate*

Clerk: Second reading, Bill No. 53, standing in the name of the Hon. Mr. Fentie; adjourned debate, Mr. Mitchell.

Mr. Mitchell: We in the Official Opposition support the stated intent of this act: to deter young people starting to smoke and to encourage existing smokers to quit. We have stated that publicly before. We have said so in this Assembly, and I say so again here today. We will vote in favour of this bill.

Despite that, the Finance minister continues to bring incorrect information to this Assembly. Yesterday he claimed that we were opposed to this act, that we were opposed to government programs that would support smokers in dealing with their addictions to tobacco, and that we were encouraging 16- and 17-year-olds to be smokers. None of this information is correct.

It is just silly partisan politics, and it's really too bad because it also diminishes the all-party support that was shown for Bill No. 104, the *Smoke-free Places Act*.

Let us examine the facts: regarding the new *Tobacco Tax Act*, which we are addressing today, I have stated in media interviews and in this House that I support it and its stated goals. At the same time, we did question the flip-flop that occurred on the government side.

Last year, the Health and Social Services minister reaffirmed his absolute opposition to any tobacco tax increases. He said his party's position on tax increases was clear and irrevocable: they were opposed. Let me read some of his past statements about a tax increase.

"This government keeps its commitments. I'm committed to keeping the commitments I made to Yukoners. We are committed to keeping the commitments we made in the platform that we ran on and we did not leave any wiggle room or question about whether or not we would raise certain taxes."

"We said no tax increases, and I would point out that this is not a small thing within the platform. This is something

that our party is well known for -- our commitment not to raise taxes. We will keep that commitment. We will honour the commitment that we made in the 2006 ..." and so forth.

Elsewhere, the minister said, "Our platform document says, on page 19, in the second commitment under promoting small business trade and investment, no tax increases. We did not say no tax increases except potentially tobacco. We said no tax increases." The Minister of Health and Social Services said that.

As my colleague, the Member for Mayo-Tatchun, pointed out the other day in Question Period, that was a flip-flop. He asked if it was a tax grab, because that is what many Yukoners are asking. He suggested, by notice of motion, that aids for quitting smoking should be provided at no cost to Yukoners who want to quit. And I will note for the record that, today, in response to that, the Health and Social Services minister has taken a half-measure. He said there should be some economic support for such measures.

Some Hon. Member: (Inaudible)

Mr. Mitchell: In a motion, yes.

So hopefully he's getting the message -- at least he's getting half the message.

Now, as my colleague from Mayo-Tatchun suggested, providing smoking cessation aids to Yukoners who want to quit would be a good use of this tobacco tax revenue and, in the long term, it would probably save Yukon's health care system a lot of money, as well as save lives. The government should listen more carefully to what is said in this House and stop trying to characterize other members' positions based on half-statements.

As for our opposing the Yukon tobacco reduction strategy -- which the Premier stated yesterday again, that's just silly partisan politics. The Premier is referring to the fact that we have voted against budgets that may have included tobacco-reduction measures. The Member for Watson Lake knows full well that we support many items that appear in the budget. In fact, in my budget reply speech last week, I listed a great number of measures that we do support. Nevertheless, when in opposition, we express our concern and dismay at the items that are missing from budgets -- items that Yukoners are asking for by voting "disagree".

The Member for Watson Lake should know this from his time on the opposition benches. He also knows, as do we, that in the current situation, with a majority government, the budgets will inevitably pass. We vote "disagree" to make the point that the budget is lacking in many areas -- not to oppose health measures as he suggested yesterday in his remarks.

Finally, the Finance minister suggested that we oppose Bill No. 104. That is not so. We voted for it at each vote in this Assembly, and we will do so again at third reading. We did ask questions on behalf of Yukoners, about some sections and make suggestions on how the bill might be improved and how it might be made more clear. In fact, the Health and Social Services minister indicated that he was bringing forward amendments to make sure that the bill

would not face legal challenges and be found unenforceable. He proposed an amendment to that purpose, which we supported, but he didn't go far enough.

Yes, we moved to lower the age at which a driver in his or her own vehicle, driving by himself or herself, could smoke. It was not to encourage new smokers, Mr. Speaker. That is because no other party, no second person will be affected by second-hand smoke and we think that the law, as it is passed, is almost unenforceable. We don't really expect RCMP officers to be trying to judge the age of drivers going by at 90 or 100 kilometres per hour. They have better things to do than try to determine whether it is an 18-year-old driver -- they can smoke -- or "That's a 17-year-old driver -- they can't smoke, so I had better pull her over."

We felt that it was much more logical to say that if someone is licensed to drive, then they can smoke when by themselves. That is how Ontario did it, Mr. Speaker. They understood the burden that this other approach would place on police officers or bylaw officers. We tried, but we were out voted and that is fine.

We should not have to accept every bill without discussion or amendment. That is why we are here -- to debate legislation, ask questions and seek improvements.

Similarly, the Member for Klwane proposed an amendment that would have allowed for ventilated smoking areas to exist in some establishments. His amendment found some support on the government side but did not pass. I asked whether the intent of the legislation was to prevent smokers from being able to smoke at a table outside a self-serve restaurant, of which there are a few in rural Yukon. I didn't propose an amendment; I asked a question for clarity.

We aren't supporting smoking, Mr. Speaker. In fact, no member of the Liberal caucus is a smoker. I can't speak for the other side, but I can say that there are no smokers sitting on these benches. We are asking whether the measures in the bill are logical and if they achieve the stated purpose of protecting people, including workers, from second-hand smoke. We were asking whether there was latitude to allow for smokers to co-exist when not endangering others.

We asked those questions because Yukoners asked us to do that, as the Official Opposition. The third party tabled a bill. They weren't going to ask these questions, and apparently the government didn't want to ask them either, so we did.

Similarly, I asked questions about consenting adults, not 16- and 17-year olds. For clarity, I wanted to know whether a 45- or 50-year old person, driving with a colleague in one of their own vehicles, in the course of employment, would be banned from smoking by this bill. I asked the question; the answer was, yes they would.

That very day, I informed such a person, a realtor who was driving on house tours. I asked whom he was driving with, he told me, and I said, "If you're smoking, enjoy it, because you won't be as of May 15." He said, "Yes, I will." I said, "No, the Legislative Assembly has just outlawed that." He said, "Well, that's silly, and I'm going to do as I please." That was the point, Mr. Speaker: don't put adults, consenting

people, into the position of saying, "The law is ridiculous and I'm going to ignore it." Don't do that.

Back to my colleague's amendment about inside ventilated smoking areas. This would not be in any community where it was prohibited by municipal bylaw or by First Nation law. It was just to put in place the opportunity in other areas where it was not already banned. It's clear the intent of the act was not to interfere with existing municipal laws.

We asked questions. The members opposite, by their approach, seem to think we should just stand up, say everything is perfect, and move on. Perhaps that's how they will view opposition when they next have their turn on this side. It's not how we see it or how Yukoners expect it to be done.

I hope I've clarified that for the record. We do support the *Tobacco Tax Act* amendments; we do support Bill No. 104; we're doing our due diligence when we ask questions in this House.

It is good, as I said the other day, to see a number of the proposed amendments to this act. It covers some housekeeping issues with the existing act that benefit by being cleaned up. It will streamline how the taxes are calculated and collected, and it does make us more consistent with other jurisdictions within Canada. It allows for a bit more clarification on penalties for offences against the *Tobacco Tax Act*, and we support that. Altogether these amendments will, we believe, improve the administration of this act. We also think that it is logical for the tax structure in Yukon to be similar to that which exists in the other territories and certainly not to be significantly lower than our neighbouring provinces, which would only encourage people to break the law by travelling back and forth across the border and treating cigarettes as contraband. We have seen how that happened back east, and it's not something we want.

We do support those measures. Tobacco dealers and retailers will have a clearer indication now of what is expected of them. These amendments to the act also add a section for appeals that was lacking in the previous act. That's an improvement.

I want to repeat that we do have some concerns about the implementation date being July 1, 2008, because that is right in the middle of the tourist season, and it may add undue pressure to current dealers and retailers. While we understand that the intent of the delay in this change to the tax was to allow retailers to have additional time to prepare for its implementation, I would point out that in many jurisdictions, when new tax measures such as these tax measures that will go into effect at the retail level are announced, they are put into effect immediately.

I have been in the retail industry in the past, and we simply had to cope with it. It prevents people from trying to hoard the items in question to get around the new taxes and then perhaps re-sell them, which is an illegal act.

At the same time, we have pointed out that the increase in taxes, although we understand their purpose and support them, will put additional stress on many people who can least afford it: seniors, elders, pensioners, people on fixed incomes, people on social assistance and people who are living

on very minor incomes. This increase in taxes will now tie us, I believe, as having the highest rate with the other territories. It will be difficult for a portion of our society and that was expressed, as I mentioned, just the other day by the Yukon Anti-Poverty Coalition. It is not a position of the coalition in total, but a number of the members said that they saw a real concern on behalf of poor people.

Again, Mr. Speaker, we in the Official Opposition do support the stated intent of this act, to act as a deterrent to young people starting to smoke and to encourage existing smokers to quit. In that spirit, we would again like to suggest that the government use the proceeds of this increased tax on tobacco to assist existing smokers directly in quitting.

There was a notice of motion today by the Health minister to do that in some part, and I see that as a friendly response to the comments that I made yesterday. I applaud him for going part way in saying that we should debate a motion of paying or defraying part of the costs of these measures. I'm saying that he should go all the way and simply use some of this revenue to cover the full costs, because we're really talking about a health issue, Mr. Speaker. If we made items like the special gums, the prescription items such as the nicotine patches and others available at no cost to smokers who self-identify, we think that it will more than be offset down the road by the economic savings to our health care system, and more importantly, the human savings to our friends, neighbours and relatives, as we heard earlier today during the tributes to Cancer Awareness Month.

Cancer is only one of the many diseases that are caused by smoking. There's emphysema, there's congestive heart disease, and there are a lot of others. We think that this would be very logical. We don't think there is any need to debate it. We think the minister should use his powers to just do so.

Finally, I'd just like to reiterate our support for the bill. We will vote for it, and I do look forward to hearing from the Health minister whether he will go all the way -- not just with half-measures but with full measures -- and make these tobacco cessation aids and programs available at no cost to those Yukoners who wish to avail themselves of them.

Thank you, Mr. Speaker.

Mr. Edzerza: I'd just like to make a few comments with regard to this increase to the tobacco tax. The traditional approach to an issue facing society is to seek understanding of the big picture. One must ask what is meant by this. It means we must look at the impact smoking has on those who smoke and those who do not.

Let's review a few facts that may provide answers to understanding this issue a little bit better. Smoking is destructive to one's health; there's no question about it. It's the number one cause of lung cancer. I don't believe the intention of having a set of lungs was to hold smoke from tobacco. I honestly believe that. Your lungs were put there for a far more important reason than that.

Is adding an increase to the cost of tobacco really a deterrent? It hasn't proved true for the increase to alcohol prod-

ucts. A very large percentage of people still consume alcohol. It would be a real blessing if, by increasing the taxes on tobacco, it would really deter hundreds of thousands of people and encourage them to give up smoking. Then it would have done its job.

Society is responsible for trying to minimize things like the use of tobacco, and having it set at a very high price to purchase is just one tool.

When we talk about -- and I've heard the Leader of the Official Opposition talk about -- wanting to allow smoking on decks, for example, I've sat on decks where smoking was allowed and it affected me. There's no doubt about it. Just because it's on a deck doesn't mean you're not going to be breathing in any smoke. I can prove that. As I said, I've actually been on a deck when somebody was smoking, and you do smell the smoke.

Some people have a lot of different reactions to smoke. One of the things we heard on the tour quite frequently was, "Don't allow smoking on decks even." One lady said she was highly allergic and gets an allergic reaction to cigarette smoke which prevents her from going on a deck.

I also have problems with cigarette smoke. As soon as I come in contact with it, my eyes burn and I've never been able to understand why that happens, but they burn to the point where I basically have to leave because I can't stand it. So it affects everybody differently, and I know that some people have said that we're violating their human rights. Well, again, we need to look at that statement.

It is your right to smoke; sure it is. Nobody is saying that it isn't, but one individual's rights do not and should not be paramount over those of many. I think that if one person is allowed to inflict an unhealthy situation on another, that would really undermine all the safety precautions we have within the *Workers' Compensation Act*.

We all know that smoking is dangerous to your health. We all know that driving a heavy piece of equipment with faulty brakes is dangerous too. Both will kill you. It is just a matter of when. I do support the increase to these taxes, and I know that it is not a solution that is going to stop everybody from smoking cigarettes.

One other interest that I have in trying to seek understanding of what this really means at the end is: what is going to happen to the profits collected from this increase in taxes? I have a concern when I hear that it is just going into the general coffers, because we might be increasing the price of tobacco to support a feasibility study on a railroad, for example, as opposed to putting it back into trying to help those who are addicted. It is basically going to fall back on the same principles as the use of alcohol, and they are going to make a lot of money off it, but it doesn't go back into trying to correct the issues that these addictions cause.

I know there was a tour -- and I'm pleased to hear the Health minister say today that some of the money might go back into helping those who have the addiction. I would have felt much better if the minister had said 100 percent of that money is going to go back into addressing the addiction.

I just wanted to get those few comments on the record. I look forward to voting on this bill. Thank you.

Mr. Hardy: I am very pleased to stand here and support this *Act to Amend the Tobacco Tax Act*. I think it's going to complement the work that people have done regarding trying to address the smoking dangers in our society and the costs in health to people, lifestyle, and costs to government to treat the illnesses in our society that tobacco products bring about. There is a cost to people out of their hard-earned money in trying to support an addiction, a cost to children who have no say in being in situations where they are subjected to a high degree of second-hand smoke, a cost to workers who have to be around people who are smoking in establishments -- whether it's a designated smoking area or not, the cost is still there.

Carcinogens in tobacco are known, and almost impossible to contain. There is a multitude of costs and, frankly, no benefit to people -- none.

Smoking does not benefit anyone in our society. So when I hear arguments for allowing age limitations or designated rooms, or things like that, I understand where they're coming from and I respect those arguments. But, from my perspective, they fall a little short of what we're trying to achieve. Sometimes we just have to take the big step to assist our society to deal with something that's so devastating in people's lives.

The increases in the tobacco tax are long overdue; there's no question about it. I believe we were the lowest in Canada. It's not a race to the top or to the bottom to deal with this; it's recognizing that increasing the tobacco tax may be a detriment. Studies have actually shown that it is a detriment to people either starting to smoke, making that choice, quitting smoking or even reducing the amount they smoke.

There have been a lot of concerns raised. Up until even yesterday on the street, at the demonstration I attended regarding the Chinese human rights issues in Tibet, I talked to some people who are involved in the anti-poverty movement. Some of the issues they had concerns around were related to the cost for those who live in poverty. Many people who live in poverty smoke.

This was going to be another level of burden, that they would continue to smoke and more money would be going to pay for it, with less money for food and shelter for their children, if they have children. I respect that argument, but I would like to say that it's not an argument that I can support.

This may help people quit. People living in poverty need help too. This may help them reduce the amount they smoke. This would be a good thing for those who live in poverty. This may protect their children a little bit more. That's also a good thing.

We need to have in place education and mechanisms to assist them in getting off their addictions, which has to be part of this. It has to be part of the *Act to Amend the Tobacco Tax Act*.

We have to also have incentives to help them live a healthier lifestyle, and that's for all people of the Yukon of

course. For those who also live in poverty, that has to be in place and has to be affordable, if not free.

I'm not aware of any smoking cessation initiatives that are being proposed out of the increase in the tax revenue this would bring about. I would like to hear about some of that money being clearly directed toward that.

The Yukon has the third highest number of smokers per capita and was the only jurisdiction that continued to show an increase in the number of smokers. This will be very significant in stopping that trend. We don't want to see an increase. We definitely don't want to see young people starting, who have never smoked before, because it's so available, because it's cheap, because everyone around them smokes -- peer pressure, and all that.

That's where some of the smoking cessation initiatives can come into play. We want to see a change in that for a variety of reasons that have already been mentioned by other people as well as me. There is also the tremendous cost to our health care system. It would be much better to see the costs drop in that area with fewer people smoking. There are so many studies out there that say the same thing time and time and time again. Over 45,000 people die a year from illnesses caused by smoking. There are so many people in the Yukon who die from lung cancer and other direct results of smoking.

It is really disturbing to see young people smoking -- 14, 12, 15, whatever their ages are -- before they even realize the consequences of what it is going to mean down the road. It is an addiction and it is a very, very hard addiction to quit. The sooner that you start it, the harder it is to quit. We have got to deal with that. We have a responsibility in our society to try to discourage people from becoming addicted to these kinds of substances that are known to cause very serious health issues. The *Act to Amend the Tobacco Tax Act* is one of those steps and it is a very significant step.

I have heard the debates between various members in the Legislative Assembly, and I have even asked the Premier himself about bringing forward a tobacco tax. It was a year ago that I asked him whether they had considered this. I said, "Look at the tax base. We're so low that it is ridiculous. This would have a direct impact. Would you consider this?" At that time, there were concerns that during the election the current government had made the promise not to raise taxes.

Of course, no one -- I don't think anyone in here -- likes to break their promises, but sometimes promises made are not always the best promises. Maybe they are not well thought out. Maybe there was not enough consideration given to how that ties your hands when you see an opportunity to improve the health of the people of this territory, lower the cost of health care, hopefully decrease the percentage of smokers. You realize that an increase in the tax on tobacco would be very significant in having an impact in those areas. It far outweighs the promise made in an election.

When I was told, later on, -- fairly recently, actually, along with everybody else -- that the government was going to increase the taxes on tobacco products, I had very mixed feelings. I applaud this. Just as I applaud the work that all

MLAs in here did in regard to Bill No. 104, I applaud this step as well. However, I also recognize that the Yukon Party was breaking one of their election promises. But, within seconds, it really wasn't an issue with me. This was the right thing to do. Sometimes you have to take another look at those promises. I would say, "Make promises very carefully. Think it through." You don't want to be in a position where you have to break your own promise to the people of this territory in order to do the right thing, and this is the right thing -- the increase in the tobacco tax.

From the NDP's perspective and I speak on behalf of the NDP -- I know my colleague spoke earlier -- we're all together in applauding this move, supporting this tobacco tax increase. We look forward over the next few years, coupled with Bill No. 104, to seeing the Yukon not being the third highest in number of smokers per capita, but a significant drop and not being the only jurisdiction to show an increase in smokers, but showing a very significant decrease.

We do need to have education available. I believe the Minister of Health and Social Services mentioned today that there was going to be information passed out regarding smoking in vehicles, and I applaud that as well. That's a good step. A lot of this money should be directed toward helping people kick the habit -- get off it or prevent them from starting in the first place. They will start at any time. That's the interesting thing. I've never smoked in my life -- ever. I've never had to face this addiction. Yet people and medical professionals have told me that it's one of the most difficult addictions out there. I grew up in the Yukon and some of my friends started smoking at a very young age, like 11 or 12. A couple of my friends started smoking at 18 or 19. It doesn't make sense. By that time, you are kind of aware of the harm it can do, and it's an offensive habit in many ways -- the smell -- and it's an expensive habit. A lot of people in that age group are saving their money for a lot of other things. Yet they start smoking at that age. I can remember my closest friend starting to smoke at that age. I was completely puzzled -- why? It didn't make any sense.

If tobacco products weren't so cheap and available, if everywhere you turned, people weren't smoking, or every store you go into didn't have walls of tobacco products, they probably wouldn't have started.

Yes, it's a challenge for people who live in poverty, and it's a challenge the government has to help them address, to work with them and with the anti-poverty organizations to see what we can do to help them kick the habit or reduce their need or dependence on this substance. Overall, it's a good move and I support it wholly.

Mr. McRobb: I won't take up too much time. I would just like to put a few points on the record. First of all, I will be voting in favour of this bill, as will my colleagues in the Official Opposition. However, I do wish to express some concern that will hopefully be considered before government takes any similar future action.

My concern relates to those in our society who are on a fixed income, such as seniors, who are resigned to continuing

their smoking habit until the day they die. I'll give an example: when I was Outside recently, I visited an old family friend in Coquitlam who is 81 years old. This individual has smoked all his life. He recently visited his doctor and the subject of his smoking habit came up. The doctor told him there's no use in him bothering to quit smoking; just keep smoking, enjoy your lifestyle while you can; that's the story.

Not everybody who will be afflicted by this tax grab will examine the option of quitting smoking, and in a lot of cases it will impugn financial hardship on people with fixed incomes. Let us try to appreciate the strength of this addiction on some people. Not everybody can quit smoking. Simply put, those in a financial squeeze will do without other necessities to pay the extra cost of this tax grab. In some cases, doing without other necessities will cause hardship.

Again, the demographic of my concern is especially the seniors in this territory. Those negatively impacted will include many of them and possibly family members if they have to cut back in their spending on necessities to be able to afford to pay this tax grab. That is my concern with this bill, Mr. Speaker. The Leader of the Official Opposition spoke eloquently to how we would like to see these tax revenues spent -- on programs and aids to assist those who do smoke in their attempt to quit the nasty habit. Unfortunately those measures are not part of the budget that is now before this House.

Earlier today we saw the Health and Social Services minister read a motion on the record regarding doing something to that effect; however, a motion such as that put on the record really means nothing. If the minister is truly convinced that that is the path he should take, then he could have made a statement to the effect that the government will be doing that and the appropriations to sponsor such a course of action will be in a future supplementary budget, but the minister didn't say that. He simply read a motion on the record. That leads to nothing. It does not amend the budget before this House. It does not provide aids to help those smokers quit the habit. It does nothing to that effect.

Mr. Speaker, I will be voting in favour of this bill, but I did want to put these concerns on the record. Thank you.

Motion for second reading of Bill No. 53 agreed to

GOVERNMENT BILLS

Bill No. 48: Second Reading

Clerk: Second reading, Bill No. 48, standing in the name of the Hon. Ms. Horne.

Hon. Ms. Horne: I move that Bill No. 48, entitled *Act to Amend the Summary Convictions Act*, be now read a second time.

Speaker: It has been moved the Hon. Minister of Justice that Bill No. 48, entitled *Act to Amend the Summary Convictions Act*, be now read a second time.

Hon. Ms. Horne: I am here today to present the second reading of the amendment to the *Summary Convictions Act*. Amending this act will allow territorial prosecutors the authority to enforce probation orders that are made as a

result of a conviction under the territorial *Summary Convictions Act*. The *Summary Convictions Act* is legislation under which offences are prosecuted, that occur under territorial legislation, such as the *Wildlife Act*, the *Occupational Health and Safety Act*, and the *Liquor Act*.

Let me explain to this Assembly why probation orders made under this act are currently not enforceable. The territorial *Summary Convictions Act*, while allowing for probation, does not allow for the enforcement of probation. There is no clause in the *Summary Convictions Act* that permits the territory to charge offenders when they breach probation. Breaches of territorial probation can only be charged by federal prosecutors under the Criminal Code of Canada. However, the federal Crown has indicated that it is reluctant to prosecute breaches of probation for territorial offences.

This has resulted in probation orders being unenforceable, since there is no provision for prosecuting their breach. If we are to support probation orders made under territorial legislation, with the provision to prosecute breaches, we must amend the territorial legislation accordingly.

The proposed amendment places provisions in the *Summary Convictions Act* for both the making and breaching of probation orders under territorial legislation. We believe probation orders can be an effective tool in addressing the underlying causes of criminal behaviour. At present they can be ignored, because there is no provision in territorial legislation for prosecuting their breach. This amendment will support the effectiveness of probation orders.

There is another reason for placing these breach prosecutions under territorial legislation. Prosecution, under the Criminal Code of Canada, results in a criminal offence, and the offender would have a criminal record. Prosecution under the territorial *Summary Convictions Act* does not leave the offender with a criminal record.

In addition, the imprisonment penalty under territorial legislation is less than the federal legislation. The amendment calls for a maximum of 30 days as opposed to the federal maximum of two years.

For the members of this House, the scale we are talking about is this: in the last fiscal year, only 56 of 1,175 summary convictions had probation orders attached to them.

As you know, this government has committed to working cooperatively with First Nations. This amendment could directly affect First Nations in the future, because when they have their own legislation, penalties under those acts will fall under the *Summary Convictions Act*.

The Department of Justice determined that there was a duty to consult with First Nations under the terms of the land claims agreements -- those First Nations who have settled them.

Our government did not pursue a full public consultation because the legislation merely transfers certain powers to the territorial government, replacing a federal regime already in existence. It was felt that, even though there were important implications for future First Nation laws in the amendment, the general public would have little interest in the amendment and it would have a minimal effect on Yukoners.

I will remind this House that we have signed consultation protocols with nine First Nations, and we followed those protocols in consulting on this amendment with those First Nations. We also followed the same protocols with the other two First Nations, with whom we have not yet signed protocols.

Let me inform the members of this Assembly what actions this government undertook in accordance with the consultation protocol to ensure consultation with First Nations was carried out effectively. The Department of Justice contacted all 11 settled Yukon First Nations in the summer, informed them of the government's intent to amend this legislation, and asked for their comments. Some of the First Nations responded to our contact and asked to review the actual text of the draft amendment to the *Summary Convictions Act*. Our government responded by providing all First Nations with the draft amendment.

In addition, when requested by First Nations, a number of face-to-face briefings were arranged with the First Nation staff persons who were designated under the protocol. The Department of Justice staff also dialogued with First Nations who responded under the protocol by e-mail or by telephone.

Several First Nations responded with the concern that the amended legislation, although an improvement to the federal system, would result in an increased incarceration of First Nation people as prosecutions for breaches of probation would increase. We responded that, in part, these concerns were not well-founded because the amendment provided other alternatives to incarcerations, such as a fine or community service work. The jail term, if used, was shorter than that provided for under federal legislation.

Fines or community service work would be the most common disposition. In addition, the amendment would allow a territorial prosecutor to amend a probation order, changing its terms.

Two First Nations proposed revisions to the amendment to address the potential for increased prosecution for breaches of probation. One revision proposed that the probation order be explained to the offender so that there would be less likelihood that the offender would breach it. Since this is already current practice in the courts, the Department of Justice has incorporated this revision in the revised amendment.

Another revision proposed is that instead of the prosecutor proving that the defendant wilfully breached the probation order, the defendant could offer a reasonable excuse for having done so, which the judge would take into account when sentencing the breach. This revision would provide flexibility and discretion to the Territorial Court to take into account circumstances surrounding an alleged breach of a probation order. A defendant might have a plausible excuse for failing or refusing to comply with the order, and the Territorial Court would be able to take that into account. The Department of Justice felt that this revision accorded with its vision for a client-centred approach to the justice system and has therefore decided to incorporate it into the revised amendment.

Mr. Speaker, this willingness of our government to accept revisions suggested by First Nations demonstrates our commitment to meaningful consultation. Our decision accords with procedure 13 of the consultation protocol to give full and fair consideration to any views or recommendations presented by the consulted party and will make reasonable efforts to accommodate those views in its decision.

Thank you.

Mr. Inverarity: Just before I begin, I would like to thank the Minister of Community Services for honouring the commitment he made in the House yesterday to ensure we all get our sugar fix for the day. I appreciate that and I think the Girl Guides are that much further along in attaining their fundraising goals.

With regard to the bill that's before us in second reading, first I'd like to thank the hard-working officials from the Department of Justice. They've gone out of their way again to bring in a piece of legislation that is clearly something the Yukon requires. The minister did an excellent job of explaining the reasons behind why we need this change in our legislation.

The most significant factor she outlined was the fact that individuals who may have breached probation in the Yukon would not end up with a criminal record, and that's a fairly significant reason to bring this one forward. It also obviously raises the question of why it wasn't brought in six years ago.

The minister indicated there were 56 probation orders issued this year. She didn't indicate how many breached those probation orders this year, but if you look at that over the past six years, that's 300 or 400 individuals who have received probation orders. I would be curious to find out how many ended up with criminal records. I think that's a significant number and would be worthy of some further investigation and perhaps a question during Question Period.

It goes again to the lack of commitment on the part of this government to actually move forward with legislation. Had this been a priority for this government, they would have brought it forward six years ago and we would clearly be that much further ahead. Plus there would be a number of individuals who would not have received criminal records.

You have to understand, if you do have a criminal record in Canada, that is significant. You can't travel abroad; if you go to Customs, or attempt to enter the United States without a pardon or something along those lines, you're blocked from going into the United States unless you have a special order from a governor or someone in the United States.

So it's important for us to look at the reasons why this legislation is coming forward. A year ago, the minister indicated also that she was going to review the human rights legislation. Perhaps it's going to be another six years before we see any activity on that. Certainly nothing has been done on that at the present moment in time.

We're getting back to the biggest single issue as to why this act is being brought forward at the time with regard to the criminal record issue. I'm wondering if the minister would also give us some insights as to what she is going to

do for those individuals who have breached their probation, have been arrested by the federal government, received criminal records over the past six years. Does she intend to bring forth a piece of legislation that might grant them pardon, for example? Or might there be some other recourse for these individuals? Perhaps they need to ask for a pardon because of the particular problems around this. I'm not going to dwell on this bill too long; I think I've made my points; I've pointed out the flaws -- the reason that it hasn't been brought forward sooner. I think that it should have been, and we could have alleviated a lot of problems.

I believe we will be voting in favour of this particular motion, because clearly it's needed within the Yukon. I'd to thank the minister for bringing it forward.

Motion for second reading of Bill No. 48 agreed to

Bill No. 47: Second Reading

Clerk: Second reading, Bill No. 47, standing in the name of the Hon. Ms. Horne.

Hon. Ms. Horne: I move that Bill No. 47, entitled *Miscellaneous Statute Law Amendment Act, 2008*, be now read a second time.

Speaker: It has been moved by the Hon. Minister of Justice that Bill No. 47, entitled *Miscellaneous Statute Law Amendment Act, 2008*, be now read a second time.

Hon. Ms. Horne: I am here today to present the second reading of the *Miscellaneous Statute Law Amendment Act, 2008*. This act corrects inadvertent errors in several statutes. This set of amendments does not make substantive changes to the statutes. The correction of errors in legislation enables greater clarity in Yukon laws.

This legislation will address errors in the following acts: a drafting error in the *Ombudsman Act*, an omission in the *Personal Property Security Act*, a numbering error in the *Economic Development Act*, a drafting error in the *Legal Profession Act*, and a drafting error in the *Act to Amend the Employment Standards Act*.

This is a housekeeping amendment. We are all humans and make errors. A *Miscellaneous Statute Law Amendment Act* was last introduced in 2005. These errors are very minor, but the public expects that the government will keep our statutes in good order. This act will do just that.

Thank you. Gunilshish.

Mr. Inverarity: I'd like to thank the hard-working officials within the Department of Justice who have brought these things forward. I am not going to spend very much time on this because it is basically a housekeeping bill to correct, mostly, some typographical errors.

The one point I'd like to bring forward would be under the *Legal Profession Act* where we are looking at trying to broaden the special fund that they have. I would just caution people that it's usually the narrowness of spending within budgets -- acts are put there for the intention of making them more secure and for prudence purposes.

I think that, while we'll be supporting this -- I think this was in fact just a clerical error -- it's something that should also be looked at. Thank you.

Motion for second reading of Bill No. 47 agreed to

Bill No. 49: Second Reading

Clerk: Second reading, Bill No. 49, standing in the name of the Hon. Mr. Fentie.

Hon. Mr. Fentie: I move that Bill No. 49, entitled *Act to Amend the Financial Administration Act*, be now read a second time.

Speaker: It has been moved by the Hon. Premier that Bill No. 49, entitled *Act to Amend the Financial Administration Act*, be now read a second time.

Hon. Mr. Fentie: Mr. Speaker, it is my pleasure to introduce Bill No. 49, which is an act to amend the FAA. Bill No. 49 is a very brief bill so my points will be equally brief.

This bill repeals section 46 of the *Financial Administration Act*. Section 46 of the act establishes the property management revolving fund. The property management revolving fund is no longer required with the Property Management Agency operating as a branch of Highways and Public Works in this fiscal year of 2008-09. Utilization of a branch model with Highways and Public Works is part of the process to yield a higher and more cost-effective standard of repair and maintenance of Yukon government buildings. This process is in response to the recommendation of both the Auditor General of Canada and the government audited services.

Thank you, Mr. Speaker.

Mr. McRobb: I am pleased to put a few comments on the record with respect to this amendment to the *Financial Administration Act*. I agree with the Premier; it is a brief bill and it is good to see the proposed amendment to the act coming forward.

First of all, I would like to thank the departmental officials for the briefing. I understand that it was very informative. This covers at least one recommendation from an Auditor General's report. The change was brought forward actually from two auditor reports, one being the 2007 Auditor General's report, which was the main driver for the change.

Bringing back the centralized management system will hopefully streamline building maintenance and allow for better long-term planning.

With the charge-back system removed, no invoicing will take place to each department. It will just be provided straight from Property Management Agency in the Department of Highways and Public Works. O&M budgets from all departments have now been transferred to that department. Capital budgets, from what I understand, are anticipated to be transferred soon. This will help other departments avoid having to plan or come up with extra funds to cover emergency maintenance in their buildings. In doing this, it makes it easier to attend to repairs faster in an emergency.

Funds are now available to those with the technical knowledge, and control is also in their hands by centralizing

management to the Property Management Agency in Highways and Public Works. This account was basically a flow-through account.

I'm also glad to hear of technical updates, mainly the new software package for Property Management Agency. I understand it will take two to three years to get up and running. We would just like to make sure the funds have been allocated for training and will be accounted for in upcoming budgets.

One concern is with the cost of now heading back to a system we were previously operating under. It is too bad we changed to this business model to begin with, even though there was no competition out there to justify that switch to this business model at the time. Consequently, this has produced unnecessary spending.

On a personal note, I have talked to some officials in the government over the past few years, who shall remain anonymous, with respect to their concerns about the revolving fund. As a consequence of those discussions, that helps to validate the position of the Official Opposition today, which is to vote in favour of these amendments.

Speaker: If the member speaks, he will close debate. Does any other member wish to be heard?

Hon. Mr. Fentie: On behalf of the government side, I want to extend my appreciation to the members opposite for their comments. They reflect factually on what this measure is all about. It is intended to meet recommendations that have been brought forward by not only our internal audit services in looking at the matter, but also by the Auditor General. Of course it will have an impact on how we now continue to maintain the infrastructure of government overall. So I'm pleased that the opposition benches will be supporting this. It is somewhat of a housekeeping measure, benign to the degree that it's not making any major and significant departure from our ability to measure Yukon government facilities, save and except to improve Property Management Agency to do that.

Motion for second reading of Bill No. 49 agreed to

Bill No. 51: Second Reading

Clerk: Second reading, Bill No. 51, standing in the name of the Hon. Mr. Cathers.

Hon. Mr. Cathers: I move that Bill No. 51, entitled *International Child Abduction (Hague Convention) Act*, be now read a second time.

Speaker: It has been moved by the Minister of Health and Social Services that Bill No. 51, entitled *International Child Abduction (Hague Convention) Act*, be now read a second time.

Hon. Mr. Cathers: With the introduction of the *Child and Family Services Act*, we severed one portion from the act in favour of enacting stand-alone legislation.

Today, I'm introducing that piece, the *International Child Abduction (Hague Convention) Act*. This bill covers a lengthy international convention and puts us on an equal

playing field with other jurisdictions that have enacted this as stand-alone legislation. I would point out to members that it is very different in what it accomplishes and what it focuses on from the intent of the *Child and Family Services Act*, which is a key part of the rationale for keeping it as a separate piece of legislation.

The Hague Convention on the Civil Aspects of International Child Abduction is a multilateral treaty which seeks to protect children from the harmful effects of abduction and retention across international boundaries, through providing a procedure to bring about their prompt return.

One of the most difficult and frustrating elements for a parent of a child abducted abroad is that Canadian laws and court orders are not automatically recognized abroad and, therefore, are not directly enforceable outside of Canada.

The Hague Convention was drafted to recognize the need for cooperation between countries to address wrongful removals or retentions between countries. The countries that are party to the Hague Convention have agreed that a child who is habitually resident in one party country and who has been removed to or retained in another party country, in violation of the custodial or access rights of the parent who was left behind, shall be promptly returned to the country of habitual residence.

The convention applies throughout Canada and in approximately 80 other countries. The Hague Convention was incorporated into Yukon law as part of the *Children's Act* and came into force and effect on February 1, 1985. It is the civil legal mechanism available to a parent and, as a civil law mechanism, the parents -- not the governments -- are party to the legal action.

Canadian cases involving signatory countries to the Hague Convention are managed through special offices or central authorities in each of the provinces and territories. In Yukon, the central authority is the Yukon government's Department of Justice. Action can be taken by the central authority to seek the whereabouts of a child, to ensure the child is not harmed, to take steps to arrange the voluntary return of a child, to take legal steps in its own courts to obtain an order for the return of the child to his or her country or ordinary residence, or to secure the effective exercise of the rights of access.

The central authorities offer considerable assistance in the case of children abducted to signatory countries, and over 400 Canadian children have been returned under the arrangements. The Yukon Department of Justice has assisted in a handful of cases in the last decade. The Hague Convention applies habitually residing in a contracting country prior to the breach of custody or access rights. It ceases to apply when the child reaches the age of 16. While the Hague Convention attempts to ensure that orders are respected, in exceptional cases the courts may not order the return of a child if it can be shown that the parent seeking the child's return has consented to the removal or if the child is at risk of physical or psychological harm if returned.

This is an important piece of legislation to protect Yukon children and to give parents peace of mind. As I indi-

cated to members opposite, it has been the law of the Yukon since 1985. It is now being introduced as a separate piece of legislation largely for purposes of clarity, because the purpose of this act and its focus and the purpose of the *Child and Family Services Act* are very different. Although they are both dealing with children, they are dealing with very different issues of law and very different matters. With that, Mr. Speaker, I commend the bill to the House.

Mr. Mitchell: On behalf of the Official Opposition, it is my pleasure as the Health critic to rise to speak to Bill No. 51 at second reading, the *International Child Abduction (Hague Convention) Act*. We on this side are supportive of this bill. First of all, I want to thank the minister for his explanations. Although he said that it is a very simple act of severing this from an act with somewhat different purposes, I wouldn't call it "housekeeping" because it is very important. I also want to thank the department officials, including the deputy minister and several other officials who gave us a very thorough briefing about the reasons for separating this measure from the new *Child and Family Services Act* as well as a very good briefing on the *Child and Family Services Act*.

There is nothing more precious for us to look after than our children. I think we can be non-partisan and agree on that. When the minister says that some 400 Canadians have been returned to their rightful families as a result of the Hague Convention, including a handful of Yukoners, since we signed on in 1985, that's encouraging. We support this measure fully. We think that if we have any questions, they can certainly be answered in Committee.

Thanks to the minister and thanks to the department for their good work.

Mr. Edzerza: We also support this move.

I would like to put on record that we know this bill is able to return children and to stop abductions from other countries. However, for First Nations within the territory, there still is an issue with their children being removed from the Yukon to other locations within Canada. In the opinion of a lot of First Nation people, you may as well move them to a foreign country outside of Canada, when you move them to Saskatchewan. I have had some elders say to me, "Where is Saskatchewan?" They don't know. That's where their grandchild went, to somebody's place down in Saskatchewan.

I just put that on record for the minister to realize that this bill is of importance. It's not to minimize or diminish the importance of this bill, but it's to make the minister aware that for some traditional communities within the Yukon, Alberta is a long way away.

Thank you.

Speaker: If the member speaks, he will close debate. Does any other member wish to be heard?

Hon. Mr. Cathers: I'd like to thank the members opposite for their comments, and I encourage all members to support this bill.

Motion for second reading of Bill No. 51 agreed to

Bill No. 50: Second Reading

Clerk: Second reading, Bill No. 50, standing in the name of the Hon. Mr. Cathers.

Hon. Mr. Cathers: I move that Bill No. 50, entitled *Child and Family Services Act*, be now read a second time.

Speaker: It has been moved by the Hon. Minister of Health and Social Services that Bill No. 50, entitled *Child and Family Services Act*, be now read a second time.

Hon. Mr. Cathers: I'm very proud to be able to speak to this new bill, the *Child and Family Services Act*. As members are well aware, this follows a historic process that the Yukon government embarked upon in working with Yukon First Nations to jointly seek public consultation on the former *Children's Act*. I guess I should say "current" until this legislation passes the House. We embarked upon a process with First Nations to jointly do public consultation on the *Children's Act*, to jointly develop the policy around changes to the act and to jointly form the legal drafting. Today the new *Child and Family Services Act* is the outcome of that process.

We're proud of the work that has been done to bring us here today and the involvement of the many individuals who have shared their thoughts, concerns and histories with us, and of course we're proud of the hard work of officials within Health and Social Services and the Department of Justice. As well, I would like to thank the officials within First Nations who participated in this, the Council of Yukon First Nations and the elected representatives of those governments for their involvement.

This work has helped us create a piece of legislation that will serve Yukon children and families well, and the new bill provides many options and alternatives that were not there before for supporting families while still maintaining the integrity of the fundamental value of protecting children.

We began a review of the 24-year-old *Children's Act* with a view to update it and committed that the review process would be an inclusive one. I am very pleased to tell you with confidence that I believe we have succeeded in that goal. The new bill was developed in consultation with First Nations, and we hope our new process will be historic and an effective way of doing business with First Nation governments to achieve areas of great importance to the Yukon government and First Nation governments, as they affect a significant number of their citizens. They have significant concerns of course and interest in this area. We're pleased that, although having taken a little longer than expected, this process has been very successful in its outcome.

Even before the legislation was ready to table, by working collaboratively, we developed a new family and children's services policy to provide more inclusion by those governments in affairs affecting children of their citizens. After review by the First Nations Health Commission, the

policy was implemented more than a year ago and is currently being monitored through the First Nations Health Commission.

The review of the *Children's Act* looked at how to best meet the day-to-day needs of children, to investigate concerns about child safety and to establish a family-centred approach to caring for children. The review searched out matters of fundamental importance to the participants and to Yukon family life. We have met and spoken with a myriad of individuals representing parents, children, extended families, grandparents and child and youth advocates.

We have worked with First Nations and their citizens through this joint process. We have spoken to caring individuals who took children into their home, and to the children themselves. We have talked with lawyers and judges and with agencies that provide services to families and children, and to social workers who have been working with children and their families.

As I have mentioned before, but can't say enough to remind members opposite, this is an historic process that the Yukon government embarked upon. I believe that members will see, upon looking through the bill, particularly if they compare it to the *Children's Act*, that this is a significant step forward in modernizing Yukon legislation. It will make Yukon legislation more inclusive of family members and processes involving children, whether directly of the family or of extended family and, of course, of involving First Nation governments in matters affecting their citizens. It provides a mechanism within public legislation and public jurisdictions that First Nations can contract or provide services through this legislation through their citizens without having to enter a formal process of drawing down their powers -- an ability, of course, which they still retain under the final agreements.

Within Yukon legislation, this serves as a model to allow their participation, working directly with the Department of Health and Social Services in administering these matters. Alternatively, if they wish to draw down their powers, it provides framework legislation that they can adopt to allow those services to their citizens to flow in an equitable and similar manner to that provided to all Yukon citizens.

A key reason that it is a brand new bill and a brand new titled act is that this is a very significant change in focus. What is included in this act is very different and a significant step beyond what was in the *Children's Act*.

The purpose of the new bill remains the same: to provide protection of Yukon children and, of course, to provide for the inclusion of the family and to ensure that taking the child into protection remains a last resort. There will be a series of steps to allow greater involvement and assistance to those who are having challenges in maintaining a stable family situation.

Three themes are woven into the bill. Those are support, inclusion and accountability.

As well, support for families and extended families to care for their children, and support for parents to fulfill their

parental roles -- even during those times when their children may not be living with them -- is incorporated into this bill.

The bill recognizes the importance of culture and community in the lives of children and families and ensures the involvement of First Nations in planning and decision making for First Nation children involved.

Perhaps the most significant change in the legislation is the focus on preventive measures and strengthening families through supportive and voluntary services.

These changes, coupled with the emphasis on cooperative planning and involvement of families in decisions that affect their children, bring the legislation in line with current best practices. In fact, these make this piece of legislation one of the very best in the country. It will make the Yukon system second to none in Canada.

It is important that we are able to meet the unique needs of children and families in ways that best keep them safe and support them as a family unit. We want to strengthen families and believe we can best do that by supporting them and involving them in the planning, either for the child or for the support services that the family receives.

Another very positive inclusion in this new act is the ability of parents of special needs children to receive our support in out-of-home care for their child, if it is needed, without having to give up custody of the child.

In simple terms for the members, this allows them to transfer the ability for the government to make decisions as a guardian within specific areas, without being faced with the previous situation of either having the child under their guardianship or transferring them to government custody. This is a much more flexible arrangement.

In fact, I am pleased to inform members that one area in which we have already acted that supports this is a change from the previous situation whereby parents whose children had a mental health challenge who had to transfer that child out of the territory for services. Previously the only alternative was to give that child into government custody. Those services were available to clients of social services or to those with children in custody, and only to those with children in custody. It was not available to children who were in the custody of their parents. We have made that change, and that is available to all Yukon children who need those services as diagnosed by a psychiatrist.

Although that is not a commonly-needed requirement for most cases, in a select number of situations it is necessary and important that is in place. As I indicated, that step has already been taken in advance of the passage of this act.

Another new feature of the bill is the mandate to provide voluntary services to youth ages 16 through 19 years, and transition services to youth up to the age of 24, who have been in the continuous care of the director until their 19th birthday. The services and supports will assist youth with the transition to independence and adulthood because, as members will likely understand, youth leaving government care are faced with a similar situation to others leaving their parent's home and venturing forth on their own into the world. They often need that linkage and some transitional support

services. In the past, although staff did the best they could, they were limited by the legislative ability to provide services and support similar to that which a mother or father would typically provide to those youth aged 19 to 24.

Under the new act they are not required to enter into that contract for transitional support services at the date they leave government care, recognizing that it's a very common situation with children leaving government care or leaving their parent's home and venturing out on their own. They are often ready to charge out into the world and think they can handle it all, and it isn't until a year or so down the road when they realize that they perhaps do need a little bit of assistance in coping with the challenges life brings. Those services and supports will assist youth with the transition to independence and to adulthood.

Other changes of note in the new legislation include the mandatory reporting of child abuse and neglect. This change further emphasizes the importance of community involvement in the safety and well-being of children. Also for members' information, it does include the mandatory reporting of child pornography.

The adoption section has also been updated to reflect best practice by including provisions for cooperative planning, open adoption agreements, expanded disclosure of adoption information and including and recognizing, for the very first time, First Nation custom adoptions and their practices around that, providing a method within the public system to recognize those practices.

The bill also includes a number of measures to ensure continuous quality improvements and accountability. Those measures include complaint procedures, annual reports, establishment of minimum standards of service and a review of the operation of the legislation every five years, in addition to program audits and advisory committees to advise the government.

As well, there is a provision in response to comments heard from public and stakeholders during final consultation; there is a provision to establish a child advocate through separate legislation to be presented to the Legislative Assembly no later than the anniversary date of the proclamation of this act.

Of course, as I indicated before in this House, the details of that office and exactly how it interacts will be established in consultation and discussion with stakeholders and the public.

Government cannot provide for the safety and well-being of children on its own, and a major change in this legislation is that the planning and decision making for children will become open and include the people who are important in that child's life. Parents, grandparents, extended family and others significant to the child will be invited to participate in planning for the child. Where the child is a Yukon First Nation citizen, that First Nation will also be invited to plan with the family, social worker and officials from the department.

The citizens of the Yukon want children who are receiving services through the child welfare system to receive qual-

ity services. They also want the services to be accountable to the public; hence the inclusion of a five-year review.

It is important that the Yukon public not have to wait another 24 years for a review of this legislation.

I would like to take this opportunity to thank all who participated in this process: the First Nation governments and the Council of Yukon First Nations for their involvement in this process, the staff of those First Nations for their work, and the staff of Health and Social Services and of the Department of Justice, and those who have worked under contract to assist us with this, for their work on this legislation.

I look forward to going through this new bill in detail in Committee of the Whole, and I encourage members to support this important legislation that will affect the lives of Yukon children and their families. It will assist the Yukon government in having up-to-date legislation that leads the country in its inclusion and involvement of families in processes affecting their children, while ensuring the highest standards of quality assurance and safety and the protection of those children.

Thank you, Mr. Speaker.

Mr. Mitchell: It is my privilege to rise today to speak to what in my mind is probably the single most important piece of legislation before this House this spring. That does not, and should not in any way, reflect on the stature of other matters being considered by this Assembly. It is meant to simply emphasize the importance that we as legislators put on this subject.

The preamble to the new act makes it explicitly clear. I will just read a little bit of that, Mr. Speaker: "Every child is entitled to personal safety, health and well-being; children are dependent on families for their safety and guidance and as a result, the well-being of children is promoted by supporting the integrity of families; every child's family is unique and has value, integrity and dignity; members of society and communities share a responsibility to promote the healthy development and well-being of their children; and, this Act has been developed through the combined efforts of representatives of the Government of Yukon and First Nations as well as groups and organizations with an interest in the welfare of children."

It's obvious that much hard work has gone into the preparation of this act. That became obvious in the Q&As that we went through during the briefing with departmental officials. I have to say it was obvious the officials are vested in the work they have undertaken on behalf of Yukoners, and we want to commend them for that work. It's clear they've endeavoured very hard to meet the great expectations of all Yukoners. Sometimes, inevitably, those will be expectations that are in some degree of conflict with the expectations of others. Certainly the officials have tried hard and they did answer a number of our questions.

The bill addresses many concerns that have been raised over a long period of time with the present act. We in the Official Opposition think it is a significant step in the right direction. Is this bill utopia? No, of course not. Does this bill

address the concerns of every Yukoner? No, of course it doesn't. Do I have questions concerning certain aspects? Of course I do. Do I think there should be amendments? Possibly; we'll see. That will depend on some of the explanations in response to the questions we ask. Do we intend to support this bill and see that it is made the law of the land? Of course, yes, we do.

This bill is about the protection of the child. Part of this potpourri includes the concerns of First Nations and the concerns of extended families, especially as it applies to grandparents, in many cases.

We've had a great deal of input from constituents from across Yukon, both First Nation and non-First Nation, on a great many aspects of the old act and of the draft for this act. We will certainly bring some of the questions provided to us forward in debate when we get into debate in Committee.

With all due respect, the concerns or questions that we ask must not in any way deter from the primary purpose of this act, which is the protection of our children. I tried to take notes, but it's difficult to write as quickly as the minister may be speaking. I hope he will pardon me if I missed a word or two. I heard the minister say that this act is how to best meet the needs of the children. We heartily concur that this has to be above and beyond all the filter through which we look at everything in the act. The minister also said that there is a focus on preventive measures and strengthening families by incorporating them in the planning for the child. I heartily concur and agree with those sentiments.

We will be raising several points as we move through general debate and clause-by-clause analysis within Committee. Our motives for doing so are to seek clarity. We do not want them perceived as an objection or an obstruction to this bill moving forward. They are not and they will not be so.

I am pleased to see that children who were placed in adoption and have reached the age of 19 may or will be able to identify their history prior to their adoption and that the director will assist them in that effort. We all cherish that sense of identity, regardless of how traumatic or painful it may once have been. Who we are as persons cannot be totally detached from where we came from. For many people, that lost part of their lives is very important. It's crucial to their identity and to their sense of wholeness and well-being.

I note that clause 144 gives birth parents the opportunity to make a no-contact declaration. I would be interested in seeing exactly under what conditions, if any, a parent can make such a declaration and how that is meant to work. We also would like to express support for the measures within this bill to assist adoptive children beyond their 19th birthday with transitional support up to, I believe, their 24th birthday. We think that this is a positive measure and will probably be helpful to many young adults.

I look forward to exploring clause 168 regarding the establishment of a First Nation service authority agreement and what might be included under such an agreement. I know that some of the concerns raised by some First Nations may be addressed in such an agreement.

I want to say we've heard many things over the years -- during the review of the old act and the development and consultation process for the new act, from First Nations and from First Nation individuals in particular. There's no doubt there's a very sad and tragic history in Yukon of how First Nation children were treated by society over many years, how they were uprooted and removed from families, how they were denied access to their culture, how they were punished for trying to maintain their original languages and how, as a result, many First Nation Yukoners lost the ability to communicate in their original native languages. In many cases, as has been eloquently stated by the Member for McIntyre-Takhini, it meant they lost the ability to even converse with some of their respected and revered elders, who only spoke their native languages, not the English or French languages.

I will leave it to others who can speak from first-hand knowledge of some of these issues to bring some of them forward, although we will also address some of them in Committee, but not here today.

The establishment of an act to provide for a child advocate, independent of the director, appears to be another positive move but one that does raise many questions. We know that many Yukoners, both First Nation and non-First Nation, were strong proponents of there being a child advocate. We do recognize the commitment within this act to establish this position no later than the anniversary date of the proclamation of this act or, to be more precise, to present a bill to establish this position no later than the first anniversary of when this act is proclaimed.

Our thoughts initially were that it would be better had it been able to be incorporated within this act. We understand from the briefing by the department officials that the intent is to get it right, rather than to get it quickly and we understand that. We look forward to those discussions down the road regarding the definition of what exactly will be the duties and the responsibilities of a child advocate.

Finally, as the minister noted in his opening remarks, clause 183 ensures that the act must be reviewed every five years. Hopefully, as the minister stated, this will ensure that the legislation will be examined thoroughly and that additions, deletions or modifications that have become necessary or self-evident as this act is put to use can be made as required, rather than waiting for such a long period of time as was previously the case.

So I want to thank the minister for bringing forward this legislation this sitting. We certainly had been questioning him for a long time about where it was. We know that it will not meet the expectations of all Yukoners, but we think that it is a step in the right direction. We look forward to debate and we will be supporting this measure.

Mr. Edzerza: I want to thank the minister and all of the staff for taking on the initiative of revising this act, because it is one that was in desperate need of restructuring. I remember being involved as an advocate some 20 years ago plus and butting heads with the department and the govern-

ment when trying to resolve some of the cultural clash that we have in this territory and probably right across Canada with different laws that govern First Nation people.

It is the firm belief of First Nation people that we did have our own government structure at one time, but that was sort of destroyed throughout history through such things as the laws that came into place to inflict punishment on First Nations for speaking their own language and for practising their traditional ceremonies. All those things contributed to the destruction of a culture.

Traditionally, we believe that one must seek understanding of the big picture and what it really means to have so many issues at stake here.

This law was put in place to basically govern how children and families should work. Well, the First Nation family structure was basically destroyed when the federal government introduced mission schools. Many First Nation children -- not all -- were mentally, physically, sexually and emotionally abused. The intent of the mission schools may have been good, but the outcome was devastating to the family structure within First Nation communities. Unfortunately, this legislation will become law, which will affect many of the First Nations who were victims of mission schools or offspring of mission school victims.

It is important to acknowledge that many of the victims of the mission schools never had any intervention whatsoever to overcome the mental health issues resulting from all the abuse of many First Nation people. Many First Nation citizens firmly believe, because of many unattended to, inflicted abuses, First Nation children account for the highest number of children in care. You can look back through history; you can talk to many psychologists and they will tell you the same thing, that when the family structure breaks down, that opens the door for a lot of social issues to become active within the family structure. If one is deprived of any bonding or any teaching of a family structure, one only has to believe that when that individual grows up and starts having a family of their own, there are going to be problems, because a parent who has no bonding with their child is going to have a difficult time. It is going to have a negative impact on that child.

Mr. Speaker, that is why First Nations want to play a key role in the design of a new child welfare law in the Yukon. Yukon First Nations want to see a new law that would be responsive to the needs of First Nation children and their families. First Nations want to be involved in all stages of child protection. Unfortunately, the First Nations still feel that their voice has not been totally heard. There are issues that may seem somewhat unimportant to the government or to the minister, but they are of very high importance to First Nation people. Not all of them agreed that this legislation should have been tabled this sitting. I have only heard of one who opposed it. I am not going to mention any First Nation here; they know who they are. For the ones who would have liked to have had a little bit more time, I am led to believe that they may have had only three to four outstanding issues that were critical to their full support of this act.

I know that the *Education Act*, under the Liberal government, was not implemented by the Yukon Party government when they were elected to government, because the First Nations were not behind that act. That was the sole purpose of doing consultation on the *Education Act*.

I would now say that the Yukon Party is guilty of doing exactly the same thing. They are going ahead to implement this act without the full support of First Nations across the territory. As I stated earlier, the majority of children in care are First Nation children. It is all due to historical trauma and abuse inflicted by other governments -- the majority of it, not all of it.

So, today, as much as I would like to say I am 100 per cent in favour of this act going forward, I really can't do that, simply because some major concerns of First Nations are being neglected here.

Again, it's basically the bigger government being able to outmuscle the little one.

The Yukon government knows that the First Nations can't, at the drop of the hat, take over all responsibilities for child welfare. They know that. I think they are taking advantage of that by not giving another few months to look at this act. I feel somewhat disappointed that, again, there is going to be an act implemented here without full support of First Nations across the territory.

Maybe that has a lot to say about why First Nations have really lost trust in governments, such as the Yukon territorial government and the federal government. Time and time again -- and history will prove it -- First Nations are not taken seriously.

Sometimes I've heard it said by First Nations that even the immigrants have more rights than we do, and we were the first people here.

First Nations opened their arms to the Europeans who came to the shores, only to be destroyed, only to be totally in the control of foreign people.

There are all these issues that we traditionally say you must understand and must seek understanding of, so you understand why it is a race of people feel as though they are being totally controlled and dominated by another race of people.

First Nation people don't look at the non-native person in a discriminatory way. We look at the federal government as being that non-native person who has destroyed our culture. We say that the federal government is that non-native person who continuously has to be in control of our people. We have known for many years that we're the only race of people in Canada who have an act to govern us. Why is that? You have to ask yourself why that is. Because we weren't strong enough to defeat the non-native people who came to the shores of our land.

Instead, we opened our arms and accommodated them, because First Nation people are generally good-natured in spirit. We learned over many years of abuse to become somewhat radical and violent, and understandably so. Any person -- it doesn't matter if you're white, brown, green or

yellow -- at some point in time, you will start resisting things that are inflicted upon you that you don't like.

As a First Nation person myself, I really despise the *Indian Act*. I think it's something that should be scrapped. Only then will we be able to feel as though we're not being controlled and under the thumb of someone else. We've never had the opportunity to become our own decision-makers.

I see a lot of things in the act that are all to do with law. We talk a lot about the legal rights, but I believe that sometimes there is confusion here as to whether it should be legal rights or more of a social approach to child welfare. I know that I pointed out to the officials who gave the briefing and I've pointed it out before on the floor of the Legislature that there was differential treatment with regard to the apprehension of children. For example, I know of a case where a non-native person was charged for doing things that he shouldn't have been doing in the home. The adult male was removed. When it came to First Nation homes it was always the children who were removed and not the offender.

I know there is a section in the act now that sort of corrects that, and that is a good thing. I know that I may sound like I paint a picture of doom and gloom, but people need to know that that is why. Some First Nations are saying that we need to do a little bit more on this act. I respect their decisions. I think that the government could have very easily honoured that to minimize -- it probably wouldn't diminish but minimize -- the hard feelings that several of these First Nations have.

In fact, I know of at least three for sure, and maybe four, who went through the expense of hiring legal counsel to give them an opinion of how this act is going to affect their First Nations.

Needless to say, I have read one of those opinions and it certainly points out a lot of flaws in this act, as it's being proposed. Those are the ones that the First Nations are saying they need to look at before they go ahead with the act. I believe wholeheartedly that it would not have hurt the government one iota to get this right so that the First Nations could get behind it. In the future, when something goes wrong, the First Nations are going to be able to point their finger at the government and say they told them, but they wouldn't listen; whereas, if they had had the blessing of all the First Nations and something didn't work well, they would all be responsible. Now it is a one-sided affair again.

Some of the concerns of the First Nations were put in there, but the major ones that had a lot of substance and meaning were probably left out. I will raise some of those major concerns when we get into Committee of the Whole in order to put it on record that there is backup to support what I am saying about First Nations and how much they wanted a little bit more time.

Mr. Speaker, this government has another four years in government. They could have waited six months or even a whole year. One more year would not have made any difference. The consultation on this act has probably been going on for more than four years, as it is. At the end of the day we are going to end up with laws that govern the majority of

First Nations kids. They are going to feel that they weren't totally respected when it becomes law.

Thank you.

Hon. Mr. Cathers: I thank the members for their comments, and I look forward to getting into more detailed discussion during Committee of the Whole debate. I will leave most of my remarks and answering of questions for when those questions are asked directly.

However, the Member for McIntyre-Takhini just said that delaying this a year wouldn't have made a difference. I would point out to the member that on February 15, he said something very different in the media with regard to this act. In fact he indicated that review and consultations have been going on for long enough and "the longer it's delayed, the more negative impact it has on the citizens who really needed something in place 20 years ago." The member had it right on February 15. In his comments today, he did not have it right unfortunately.

As I indicated in response previously to questions on the floor of the House, yes, we recognize that there were a few First Nations who wanted us to delay the tabling of this legislation, who wanted further review and further discussion on these matters. However, as I've also indicated, there were others who said to us, "Please table the legislation; let's get on with business." There are others who wanted us to move it forward and that is what we are doing. The Yukon government followed the process that we commenced. I will remind members that it was not an obligation we followed. It was a commitment we entered into, because we believed First Nations should have the opportunity to be involved in the updating of this legislation because of the significant impact it has -- disproportionately, I might add -- upon their citizens.

We involved them in that process; we involved them in the historic endeavour of jointly consulting the public, jointly developing policy and jointly in forming the legal drafting. At the end of the day, if members compare this legislation with the *Children's Act*, I think that members will have to agree that it is a significant step forward.

Does that mean there are those who cannot come up with an issue they personally believe should have been dealt with in a different manner? Of course, with any legislation there is always a wide breadth of opinions. What we did was to enter into this process with First Nations and CYFN to do this review, to consult with the public and, as I indicated, to jointly develop the policy in this area and to inform the legal drafting. That has been done. We have all the processes we committed to. As members are aware, it took longer than originally anticipated, but we took the time to get it right.

The Member for McIntyre-Takhini also said he felt First Nations are not taken seriously. Mr. Speaker, if the Yukon government is not taking First Nation governments seriously in this process, we would not have embarked upon this type of historic endeavour. We worked with them as partners. We worked with them, recognizing they are a level of government and that their citizens wished them to be involved in matters that affect them. At the end of the day, this legisla-

tion is a major reform of the laws of the Yukon, and that is the result of this joint process.

I think that covers the high-level points, and I look forward to further discussion and debate on this in Committee of the Whole. I want to conclude by again thanking all those who worked on this legislation, to thank the officials of Health and Social Services, the officials of the Department of Justice, the elected members of the First Nation governments who worked on this, and their staff for their work. In my introductory remarks I missed thanking my own colleagues, the members of Cabinet, for their support for this process which has been going on for some time.

I would also be remiss in not thanking my predecessor as Minister of Health and Social Services for his work in embarking upon this historic process.

With that, Mr. Speaker, I commend this bill to members.

Motion for second reading of Bill No. 50 agreed to

Bill No. 52: Second Reading

Clerk: Second reading, Bill No. 52, standing in the name of the Hon. Mr. Cathers.

Hon. Mr. Cathers: I move that Bill No. 52, entitled *Workers' Compensation Act*, be now read a second time.

Speaker: It has been moved by the minister responsible for the Workers' Compensation Health and Safety Board that Bill No. 52, entitled *Workers' Compensation Act*, be now read a second time.

Are you agreed?

No, sorry, I did it again. Honourable minister please. My apologies for getting ahead of you.

Hon. Mr. Cathers: Thank you, Mr. Speaker, and thank you for your eagerness and enthusiasm this afternoon in conducting the business of the public and moving forward with the valuable legislation that we have this afternoon.

In introducing the *Workers' Compensation Act*, I would point out that it is a new act rather than simply a revision to the old one. Rather, it is being defined by our legal beagles as such because there are such significant changes in the legislation and some of the wording.

Key points of the new *Workers' Compensation Act* include a focus on recovery and return to work. This means moving away from simply focusing on maximizing financial payment to injured workers -- which was the focus of the old act -- to a focus on getting those who are able to return to work back to work and providing the ability for the system to assist the employers with the cost of rehabilitative supports and other measures to assist that employee's early return to work.

As well, it sets out the duties of injured workers to mitigate the effects of work-related injuries.

This portion of the legislation is based on successful legislation in other jurisdictions. It is aimed, of course, at reducing the amount of time that injured workers spend requiring compensation. This is a key part of reducing claims costs and reducing, ultimately, the assessment rates paid by employers because -- as they put it in explanatory terms -- if we could

reduce every injury on the claim system by one day, it would have the impact of reducing by millions the cost of claims.

Of course, we will not be able to reduce every injury by one day in the amount paid out but, for some, we will be able to reduce it by much more than one day. This has been successful in other jurisdictions and we look forward to its implementation here.

That portion of the legislation sets out, for both workers and employees, a duty to cooperate in early and safe return to work and applies to existing and future claims upon its proclamation.

As I indicated, this type of legislation in other jurisdictions has resulted in better recovery for injured workers, reduced duration of claims, decreased economic and productivity costs from workplace injuries and, ultimately, lower claims costs and lower assessment rates paid by employers.

Key point number two is the act provides cost savings by allowing more efficient operations. Canada Pension Plan disability pensions will now be calculated into long-term benefit payments and will be offset by 50 percent.

Third party payments to injured workers, such as insurance payments from vehicle collisions, will now be calculated differently, allowing the Yukon Workers' Compensation Health and Safety Board to recoup all costs and to pay the remainder to the injured worker. The calculation of permanent impairment awards has also been simplified.

Another key point is that the act provides for better and more timely appeal processes. The Workers' Compensation Health and Safety Board will now be allowed standing at appeal hearings for the purpose of clarifying information, thus allowing a speedier process. When new information becomes available regarding a claim under the appeal, the claim is returned to the decision-maker in the Workers' Compensation Health and Safety Board administration to review and reconsider, rather than continuing the lengthy appeal process if the information has made it clear that a mutual agreement can be reached on the matter. That has been an issue in past proceedings, whereby once the appeal process is launched, it cannot be unlaunched, so to speak. This provides the ability for this process to be resolved partway through, if that new information comes to light.

The board of directors will also be able to revise appeal rules to improve the process, and appeals will be limited to within 24 months of a decision, rather than providing an endless window as to when an appeal might occur, creating significant uncertainty for the system. We're following the process and standards in other jurisdictions, which provide time limitations to the ability to appeal.

The act also provides for a better governance role by the board of directors by clarifying the governance role of the board of directors and the operational role of administration.

As I indicated when I introduced this, the act is easier to read and understand through its rewording. The act has also been reorganized to assist people in reading it by having the claims section follow the flow of the claims process for ease of reading. The assessment section now follows the flow of the employer assessment process; therefore, the structure and

wording make the act more accessible to people and more readable to the general public. That, of course, is similar to what we did with the new occupational health and safety regulations, which were also put into plainer language and revised to be more clear in their intent.

As members will be aware, the legislation follows the commencement of review, and follows a panel that did a review on public consultation. Then, partway through, we had the very beneficial unexpected outcome of major stakeholders coming together and agreeing on 88 identified issues. We are pleased that, although one employer stakeholder later developed concerns with matters they had previously agreed on, the majority of the representatives of employers and labour agreed on the overwhelming majority of issues.

We are pleased that we were able to act, in most areas of the legislation and in most of the significant changes to the legislation, based on a joint agreement of those major stakeholders. I thank those who were involved in that for their work in coming together and trying to reach an outcome that met the needs of their respective members, rather than simply relying on government to pick between different opinions, as has been the case in the past.

Again, I am very pleased with the work that has gone into this and the participation of staff at the Workers' Compensation Health and Safety Board. I thank all who contributed to this process and who contributed their comments to this ultimate outcome. I would note that although there has been some debate by one group proposing that perhaps we should contract out the administration of the Workers' Compensation Health and Safety Board to another jurisdiction, that is not an option that was part of the review. It is not an option that was brought up until late in the day, and is something that we do not believe fits the best interests of Yukoners.

The review of such matters that was done compared the assessment costs in the Yukon versus other jurisdictions, but we do not believe that it adequately assessed what was causing those changes. We are bringing forward an amendment to the act to address the root cause of increased claim costs and increased compensation through measures such as those I laid out. They are designed to ultimately reduce the cost of the system and ensure that this legislation meets the highest level of standards from other jurisdictions and creates a system that provides adequately for workers, reduces claims costs and reduces assessment rates to employers.

With that, Mr. Speaker, I look forward to comments from members opposite.

Mr. Fairclough: I will be brief in my comments in regard to Bill No. 52, *Workers' Compensation Act*. I would like to thank the officials for their briefing this morning. A lot of the issues and questions that we had were clarified in the briefing. I am surprised that we are dealing with this act so quickly, though. We are awaiting some information from the officials to come to us.

I'm sure that every elected member in this House has dealt with casework in regard to workers' compensation. It

has always been a very touchy issue when talking with these injured workers about how they felt they were dealt with through the system. Some of the casework has been very, very difficult to deal with and a long time in the process.

There are many complaints about how things are done, procedures and so on. I know that this has resolved into the piece of legislation that we see before us. Bill No. 52 is a result of many years of work and I believe that, about five years even before that, we had amendments to the *Workers' Compensation Act* and, like the minister said, this is a new act and the result of approximately five years of work.

I have to say that the two officials who gave us the briefing did a pretty good job and they were quite knowledgeable on the act itself and answered a lot of questions.

The questions that we had, the public has given us, so we would like to see this going into Committee of the Whole so we can debate it clause by clause.

We feel that some of the questions we did ask in the briefing should be asked again for clarification; some were quite touchy, I think, or very clear.

I hear what the minister is saying. These are the same words that are coming from the officials. We feel that this act is a good one, at this point. We are supportive of it. We would like to ask a lot of questions in regard to how it's written. We want to do it as we go through clause by clause.

I think it's important that we focus and make improvements in the workplace and focus our attention on the workers themselves to try to get them back on the job, by recovery, and return them back to work.

We had some issues with regard to what it would mean dollar-wise; we had some issues about whether or not employers were going to be absorbing some of the costs, as the act has changed from the previous act, and lots of those questions were cleared up in the briefing, although we would still like to ask some of those questions.

We asked whether or not those who did the review had considered joining in with the two northern territories. It was considered, but they did not go there, and neither did they join in with the rest of Canada, or B.C. or Alberta.

There were many areas that we touched on a bit. I want to go through that in some detail when we go clause by clause. I do have to thank the Workers' Compensation Health and Safety Board for bringing this forward, because it's long overdue. As we understand it, they were observers in much of the work that was done, and it was the Yukon chambers that took on the lead role in making these amendments. We understand that. Sometimes -- particularly in this case -- it's a good thing to have the input from those who probably know better.

As the member said, 88 issues were worked on and we understand them. The big section, I guess -- from the board's point of view -- is their accomplishment of the appeal section. They were a bit surprised at how the different sides came to an agreement. We're going to have questions about that also. We are also glad to see that a lot of the results of the *Workers' Compensation Act* amendments were reached through consensus of both sides.

For now, we're willing to have this go into Committee of the Whole for more detailed debate at this point.

Thank you.

Mr. Edzerza: The NDP is pleased to see a new act come forward. It has been a long time coming. We've long been calling on the Yukon government to modernize the way that the Yukon workers' compensation system is governed. We have a lot of questions, many of which we will get into during Committee of the Whole debate. We thank the stakeholder groups representing workers and employers for all their hard work.

Since the stakeholders released *Making Sense and Moving Forward: Report on the 2003 Yukon Youth Smoking Survey* with its 88 recommendations, the NDP has been pushing the government to make the legislative changes. It is great that there was a collegial spirit on the part of the stakeholders to move forward and it is good to hear that the proposed act contains most of these recommendations.

We are most interested that injured workers are treated fairly in the new act. We are also interested that the Yukon compensation system is properly administered. We are glad to see that the preamble reflects a commitment to the Yukon having its own system and not outsourcing it to another jurisdiction, like B.C. or Alberta.

Injuries are too high in the Yukon. There have already been 370 workplace injuries. Last fall, we called on the government to release the names of employers with the worst record from a health and safety perspective. Having said that, we look forward to discussing this bill in Committee of the Whole.

Speaker: If the minister now speaks, he will close debate. Does any other member wish to be heard?

Hon. Mr. Cathers: I thank members for their comments and look forward to further discussion on this once we get into Committee of the Whole.

Speaker: Are you prepared for the question?

Some Hon. Members: Division.

Division

Speaker: Division has been called.

Bells

Speaker: Mr. Clerk, please poll the House.

Hon. Mr. Fentie: Agree.

Hon. Mr. Cathers: Agree.

Hon. Ms. Taylor: Agree.

Hon. Mr. Rouble: Agree.

Hon. Mr. Lang: Agree.

Hon. Ms. Horne: Agree.

Hon. Mr. Hart: Agree.

Mr. Nordick: Agree.

Mr. Mitchell: Agree.

Mr. McRobb: Agree.

Mr. Fairclough: Agree.

Mr. Edzerza: Agree.

Clerk: Mr. Speaker, the results are 12 yeas, nil nays.

Speaker: The yeas have it. I declare the motion carried.

Motion for second reading of Bill No.52 agreed to

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

Speaker: It has been moved by the Government House Leader that the Speaker do now leave the Chair and that the House resolve into Committee of the Whole.

Motion agreed to

Speaker leaves the Chair

COMMITTEE OF THE WHOLE

Chair: Committee of the Whole will now come to order. Do Committee members wish to take a brief recess?

All Hon. Members: Agreed.

Chair: Committee of the Whole will recess for 15 minutes.

Recess

Chair: Order please. Committee of the Whole will now come to order.

Bill No. 48 -- Act to Amend the Summary Convictions Act

Chair: The matter before the Committee is Bill No. 48, *Act to Amend the Summary Convictions Act*.

Hon. Ms. Horne: Amending this act will allow territorial prosecutors the authority to enforce probation orders that are made as a result of a conviction under the territorial *Summary Convictions Act*. The territorial *Summary Convictions Act*, while allowing for probation, does not allow for the enforcement of probation. There is no clause in the *Summary Convictions Act* that permits the territory to charge offenders when they breach probation. Breaches of territorial probation can only be charged by federal prosecutors under the Criminal Code of Canada.

This amendment will support the effectiveness of probation orders, while still addressing the need for a client-centred approach to justice. This client-centred approach is fundamental to our correctional redevelopment plan.

Mr. Inverarity: I'd like to take the opportunity to thank the department officials for coming today. I know they have busy lives and they need to break it off to come here and assist us with the discussion this afternoon. I promise I won't be very long, as I did speak to this earlier this afternoon. In general, I think that this act is well-meaning and well-intentioned, and it needs to come forward. As I commented earlier today, I think that it should have been here six years ago, but as life goes on, we'll see how we do.

The only questions I have today revolve around those individuals who have breached their probationary order un-

der the old regime. I'm trying to determine what their status in life would be. The minister alluded earlier in the day when she made her remarks that there were, I believe, 56 probationary orders given out in the past year against approximately 1,175 summary convictions.

My first question for the minister: of the 56, how many actually breached their probation -- and as a secondary question -- or received a criminal record from that breach?

Hon. Ms. Horne: As I indicated earlier, the federal Crown has been reluctant in pressing any charges for breach of probation. As far as we know, there have been no criminal charges laid against any offenders. We are double-checking that figure.

Mr. Inverarity: Thank you, Mr. Chair, I still have to get the routine down here.

Subsequent to that, if there were none in the past year, I think that's good. If the minister is going to be providing that information, would the minister also provide it for the past six years at the same time? It can come by ministerial submission.

The second issue that I have revolves around the same problem. If there are any individuals who have received criminal records since this government took office in 2002, I would like to know if there are any provisions for them to have that criminal record expunged or pardoned. Really, it was no fault of theirs that they were picked up by the federal government and given criminal records when they received 30 days and \$500, which is what I think the current act has for a penalty. Obviously, criminal records are significant, so it might be more damaging to those individuals than the actual crime they committed the first time around. I don't think that the punishment should be worse than the actual crime in the long term. Perhaps the minister could fill us in on whether or not there are any additional plans to go back and look at those individuals who might have been affected by this new change in legislation.

Hon. Ms. Horne: The information requested will come by legislative return to you. We do have a process, the pardon process, which exists for any individual who has a criminal record. That avenue can be used.

Mr. Inverarity: That's great. However, I think that some extra effort should be made, because those individuals who fell into this sort of grey area, where they were convicted under Yukon statutes but picked up under federal statutes, should perhaps be sent a letter that that particular offering is available and that they might want to look at some sort of pardon, or something along those lines.

Would that be possible?

Hon. Ms. Horne: Yes, of course but, as I said earlier, as far as we know, no person has received a criminal record because of a breach of probation. But that will also be looked into.

Mr. Inverarity: I guess that means that the laser printers won't be working very hard.

Mr. Edzerza: I would like to thank the minister and the officials for bringing this amendment forward. I have some questions around probation. The minister stated in the

notes from the briefing that the proposed amendments would allow the territorial Crown to prosecute breaches of territorial convictions to a maximum penalty of \$500 or 30 days, or both.

Having said that, does the minister feel that this could possibly be a vehicle for a real increase in the number of people who will be incarcerated? Most people I know who have been involved with probations wouldn't be able to pay the \$500 fine. Knowing the condition of the correctional facility, do you think that there may be an issue with overcrowding at the facility with this implementation?

Hon. Ms. Horne: The maximum term of imprisonment for a breach of probation under this amendment would be 30 days, whereas under the Criminal Code of Canada it would be up to two years. To address that, there are several options other than jail terms in this amendment for dealing with breaches of probation.

The most common situation would be for the individual to receive a fine or community service work. Another option is that the probation term may be extended, so the individual has more time to meet a condition of the order.

Other variations of the condition are also possible. It is unlikely that this amendment will result in any increase in the number of First Nation people in our correctional facility.

Mr. Edzerza: Well, it would be nice to believe that, but the indicators are that there probably would be an increase, just knowing the number of people who are usually handed probation orders. I think that in itself would be a sign that there could quite possibly be a drastic increase to the number of people having to go to the correctional facility.

I talked somewhat earlier today about seeking understanding of who you are, and that's part of the traditional ways for First Nations. Again, for the record, I want to state that due to the mission school era and historical abuses of First Nation people -- and never, ever having any intervention whatsoever to address those issues of mental, physical, sexual and emotional abuse of First Nation people. First Nation people believe that a lot of that is a direct core or root issue, and the results are that most inmates are First Nation people.

Having said that, when we talk about probation, it's very difficult to put a person who has a lot of mental and historical abuses on probation. Maybe if one really studies that issue, like many other issues are studied, one may find a correlation between all of those abuses and the inability to follow a probation order. If an individual is a chronic alcoholic or drug addict -- or both, which is quite often the case -- and a probation order is made to abstain from alcohol, it's quite easy to understand why a lot of probation orders are breached.

My question to the minister would be this: is the department considering -- or will they consider -- probation orders that should be more focused on the healing point of view and not the punitive?

Hon. Ms. Horne: To reply to your first question on the increasing number of First Nation persons incarcerated -- the numbers going up -- I think if we look at the facts, under

the territorial legislation, only 56 of 1,175 summary convictions had probation orders. That's a very minuscule amount in that number -- so 4.8 percent of that number have probation orders. That more or less confirms that the numbers will not go up a great amount in the Correctional Centre.

Of course, the First Nations programming is very important to our Correctional Centre. We do have things in place for that. One revision proposed was that the probation order be explained to the offender so that it would be less likely that the offender would breach it. Since this is already the current practice in the courts, the Department of Justice has incorporated this revision into the revised amendment.

The other revision proposed that, instead of the prosecutor proving that the defendant wilfully breached the probation order, the defendant could offer a reasonable excuse for having done so, which the judge would take into account. The Department of Justice has also incorporated this suggestion into the revised amendment.

Mr. Edzerza: I still want to focus a little more on increased incarceration. It says that there were just 50 probation orders. Now that the territorial Crown will be responsible to prosecute breaches, does the minister not feel that they won't hand out more probations?

Hon. Ms. Horne: I think that we should bear in mind that it is the territorial Crown and not the federal Crown that will be prosecuting in this case. Since it's going to be explained fully and carefully to the individual, the numbers at Whitehorse Correctional Centre will not be increasing. Hopefully, they will be going down once this is explained more fully. That is one of the reasons for the change.

Our approach to the offenders is one of the basic changes in our *Corrections Act*. We are making changes to the redevelopment strategic plan, which calls for a new approach to offender programs. We have individual counselling, solstice gatherings and feasts, traditional parenting and elders counselling. We now have a council of elders at the Correctional Centre to give help to the workers and guards there to make sure that our First Nations' culture is integrated into the centre.

We have traditional crafts. We have the Skookum Jim Friendship Centre and the Council of Yukon First Nations involved in the programming at Whitehorse Correctional Centre, and I mentioned the elders advisory group. They have been appointed to provide advice to the operations in ensuring that the First Nation traditions and values are reflected throughout. As I'm sure you know, our government is committed to making programming available to all offenders.

Mr. Edzerza: It has been historical knowledge that for people who are put on probation -- as I stated earlier -- with all their social problems, probation has never worked. Maybe the minister ought to talk to her colleague, the Health and Social Services minister and get very serious about developing, in partnership, a land-based treatment centre with a First Nation. I know that the First Nation that I come from, which is the largest in Yukon, has an excellent facility that is

empty today simply because of the lack of funding for O&M, which is unbelievable.

When the government talks about wanting to deal with offenders and probation, it could be an excellent thing for people who have a probation order, for a condition of it to be to spend a length of time dealing with the social problems that they have, rather than putting conditions on them that have almost a 100-percent possibility of being broken.

One other question that I have here has to do with probation officers. Are there any probation officers in the smaller communities? We know that quite often a probation order is placed on someone in a smaller community, and they don't necessarily have to move to Whitehorse to be on probation. I know that quite often they are in Watson Lake, Ross River, Carmacks or Dawson City. Does the department have enough probation workers who can travel to these communities, or has the department ever thought of training local citizens to fill that capacity?

Hon. Ms. Horne: This will probably be an issue with the administration of justice negotiations that are now ongoing. They are looking at all areas of probation, corrections and everything in the *Corrections Act*. It's a good suggestion to look into the training of local people. We now have probation officers in Watson Lake who cover the southern Yukon, and in Dawson City, covering northern Yukon, and in Whitehorse, as the member said. We could use them in the smaller communities as well.

We have -- I think we mentioned this earlier -- the northern institute of justice. This government is addressing the chronic shortage of qualified people to work in the justice system and related fields across the north. This would fall into this program at Yukon College. It is, again, part of our commitment to increase the safety and security of Yukoners. We have had discussions about this project with a number of Yukon First Nations and we plan to continue involving them in this project, as it proceeds.

Mr. Edzerza: I know that on more than one occasion the community of Kwanlin Dun had citizens return from the federal penitentiary without any notification whatsoever. One day, the people were told that they should be aware that they were going to have someone who spent 22 years in the Sault jail released to their community as of tomorrow. Needless to say, the community was actually really fear-stricken, because they had no prior knowledge of why this individual had spent 22 years in the Sault. It was a real shock.

The question I have for the minister is this: even in the Yukon Territory, there are some horrendous crimes committed -- sexual offences, armed robbery. In one very recent case, the individual in question only got a year in jail and is on probation for two years in the territory.

The communities are not really free of the fear that someone who may have committed a horrendous crime is going to do probation in their community. The question I have for the minister is this: before anyone is placed on probation in the community, does the department notify the community and have discussions about the possible risks of having this person doing probation in their community?

Hon. Ms. Horne: I'm not sure of the question the member opposite is asking, but there is a community notification protocol established, which includes a community notification of high-risk offenders. This protocol was jointly developed and signed by the Yukon departments of Justice and Health and Social Services, the RCMP and the federal Department of Justice.

These types of protocols are in place in most jurisdictions in Canada. The purpose of the protocol is to enhance public safety through the lawful and appropriate release of information where there is a reasonable belief that a high-risk offender poses a significant risk of harm to an individual, group or the community at large.

This protocol focuses on all high-risk offenders who commit acts of sexual violence, who have committed a serious, violent crime against another person, or who may pose a significant risk of harm or threat to the safety of others. It provides principles and options for notification.

You were mentioning earlier and asking questions on the land-based therapeutic centre. We are working with Kwanlin Dun as part of our strategic plan to develop a land-based treatment centre. A feasibility study is being drafted in cooperation between Kwanlin Dun and the Department of Justice. I am looking forward to getting the results of this study because we are well aware that we do need a treatment centre in the Yukon.

Mr. Edzerza: As of my last discussions with individuals from Kwanlin Dun leadership, there hadn't been any discussions about a land-based treatment centre. I believe there was some interest in talking about healing at the new correctional facility, but that's not the same as a land-based treatment centre. The last thing we want to produce in the Yukon is for a person to have to commit a crime to get some counselling. If the best treatment facility in the territory is in the correctional facility, then there is going to be a problem with that.

I'm saying that, in order to do any kind of prevention within the justice area, it's almost paramount that there be a land-based treatment centre that can work with individuals for up to three or more years. I believe that five weeks is more or less just a teaser and it's very ineffective in dealing with people who have a lot of issues and end up in conflict with the law.

I was talking earlier about notifying the community about someone being on probation. I believe that the concern I heard from some of the people who live in the communities is whether or not the order is reasonable. I guess they should be concerned about it. I know that there is a real lack of services in the communities with regard to probation. I understand the problems that come with providing that service. I sincerely hope that the government doesn't use financial reasons as a barrier to increasing staff in the justice area. I believe that the Education department was able to grow substantially financially. I sincerely hope that the government will do the same in the area of justice, and let loose some of the multi-millions that they have cached away somewhere. They are always saying that they have a surplus of \$5 mil-

lion. If that's the case, I believe that the justice area really needs a closer look to ensure it is not underfunded.

I don't have any more questions, but I would just like to close by saying that treatment, counselling and rehabilitation services should be readily available to probation officers. A healing plan should always be a part of probation orders. The more the department goes in that direction, the better chance the territory is going to have to make citizens who keep getting into conflict with the law more productive.

With that closing remark, I will just thank the minister and her department for the answers that they provided, and good luck.

Thank you.

Hon. Ms. Horne: The money is flowing from the northern strategy for the study on this land-based treatment centre. We do realize that it is essential and that it will not be solely for the Correctional Centre. We would hope to use this for any type of counselling, for anybody who needs counselling, for families.

I really appreciate the comments the member has made, and I am well aware of these problems. I assure you that we are working on them and it is of the utmost importance to us.

I don't think the member actually asked a question; it was more advice. We certainly take that into consideration and I thank you.

Chair: Is there any further debate?

Seeing none, we will proceed with clause-by-clause reading of Bill No. 48.

On Clause 1

Clause 1 agreed to

On Clause 2

Clause 2 agreed to

On Title

Title agreed to

Hon. Mr. Cathers: Mr. Chair, I move that Bill No. 48, *Act to Amend the Summary Convictions Act*, be reported without amendment.

Chair: It has been moved by Mr. Cathers that Bill No. 48, *Act to Amend the Summary Convictions Act*, be reported without amendment.

Motion agreed to

Chair: Committee will now consider Bill No. 47, *Miscellaneous Statute Law Amendment Act, 2008*.

Bill No. 47 -- Miscellaneous Statute Law Amendment Act, 2008

Chair: We will now proceed with general debate.

Hon. Ms. Horne: As I mentioned earlier, this is to correct inadvertent errors in several statutes. This set of amendments does not make actual substantive changes to the statutes. The correction of errors in legislation enables greater clarity in Yukon laws. This will address errors in the following acts: a drafting error in the *Ombudsman Act*; an omission in the *Personal Property Security Act*; a numbering error in the *Economic Development Act*; a drafting error in

the *Legal Profession Act*; a drafting error in the *Employment Standards Act*.

As I said, this is a housekeeping amendment. These errors were very minor, but the public expects that this government will keep its statutes in good order.

Thank you.

Mr. Edzerza: The third party recognizes that this is just housekeeping and cleaning up a few little errors. We will just support the legislation.

Chair: Is there any further general debate?

Seeing none, we will proceed clause by clause on Bill No. 47.

On Clause 1

Clause 1 agreed to

On Clause 2

Clause 2 agreed to

On Clause 3

Clause 3 agreed to

On Clause 4

Clause 4 agreed to

On Clause 5

Clause 5 agreed to

On Title

Title agreed to

Hon. Mr. Cathers: I move that Bill No. 47, *Miscellaneous Statute Law Amendment Act, 2008*, be reported without amendment.

Chair: Mr. Cathers has moved that Bill No. 47, *Miscellaneous Statute Law Amendment Act, 2008*, be reported without amendment.

Motion agreed to

Hon. Mr. Cathers: I move that the Speaker do now resume the Chair.

Chair: It has been moved by Mr. Cathers that the Speaker do now resume the Chair.

Motion agreed to

Speaker resumes the Chair

Speaker: I will now call the House to order.

May the House have a report from the Chair of Committee of the Whole?

Chair's report

Mr. Nordick: Committee of the Whole has considered Bill No. 48, *Act to Amend the Summary Convictions Act*, and directed me to report it without amendment.

Committee of the Whole has also considered Bill No. 47, *Miscellaneous Statute Law Amendment Act, 2008*, and directed me to report it without amendment.

Speaker: You have heard the report of the Chair of Committee of the Whole. Are you agreed?

Some Hon. Members: Agreed.

Speaker: I declare the report carried.

Hon. Mr. Cathers: I move that the House do now adjourn.

Speaker: It has been moved by the Government House Leader that the House do now adjourn.

Motion agreed to

Speaker: This House now stands adjourned until 1:00 tomorrow.

The House adjourned at 5:19 p.m.

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The following Sessional Paper was tabled April 1, 2008:

08-1-65

Highways and Public Works: 2007-2008 Progress Report on Recommendations from the Auditor General and the Public Accounts Committee, Spring 2008 (dated March 2008) (Lang)